

1 **BY AUTHORITY**

2 ORDINANCE NO.  
3 SERIES OF 2017

COUNCIL BILL NO.  
COMMITTEE OF REFERENCE:

4  
5 **A BILL**

6 **For an ordinance amending the 1963 Retirement Plan with regard to**  
7 **definitions, retirement board, eligibility, contributions; payroll**  
8 **deductions, retirement categories, and retirement benefits.**  
9

10 **WHEREAS**, subsequent to consideration of information provided by the Denver  
11 Employee Retirement Plan's ("Plan") investment consultant, the Retirement Board  
12 ("Board") believes it is prudent to lower the interest rate used for the actuarial assumption  
13 of investment return; and,

14 **WHEREAS**, a consequence of the lower interest rate used for the actuarial  
15 assumption of investment return is an increase in the actuarially required contribution  
16 ("ARC"); and,

17 **WHEREAS**, the City has determined that the most practical manner in which to  
18 ensure payment to the Plan of the entire ARC is by a contribution increase; and,

19 **WHEREAS**, under Section 18-405(g) of the Code, the Retirement Board is  
20 responsible for making recommendations to the City for amendments to the Plan when in  
21 the judgment of the Board such changes are necessary; provided that such  
22 recommendations are accompanied by a report of the Plan's actuary setting forth the  
23 effect of such amendments; and,

24 **WHEREAS**, Section 18-407(a) of the Revised Municipal Code of the City and  
25 County of Denver states that the employer intends to continue the plan and to contribute  
26 regularly to the trust each payroll period for each member such amounts as are necessary  
27 to maintain or assist in maintaining the plan on a sound actuarial basis as prescribed by  
28 applicable law and, particularly, the Internal Revenue Code for defined benefit pension  
29 plans qualified under section 401(a) thereof; and,

1           **WHEREAS**, it is in the judgment of the City that, in order to maintain the Plan on  
2 a sound actuarial basis, the sponsoring employers shall each have their contributions to  
3 the Plan increased by one percent (1.0%); and,

4           **WHEREAS**, while in the process of administering the Plan, it has been determined  
5 that the clarification of various procedures applicable to the Plan, as well as the removal  
6 of obsolete language, has become necessary to assist the Plan in explaining the benefits  
7 available to members and their beneficiary, as well as to ensure uniformity in the  
8 application of terms within the Ordinance:

9  
10 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY**  
11 **OF DENVER:**

12  
13 **Section 1.** That Section 18-402(9)(d) (sometimes known and cited as Section 402,  
14 Subsection (9)(d), Chapter 18) of the Revised Municipal Code, relating to definitions be  
15 amended by adding the language underlined as follows:

16  
17 **Sec. 18-402. Definitions.**

18  
19 (9) Credited service shall mean the number of years and months of service for which  
20 contributions on behalf of the member were received by the plan based on the member's  
21 compensation, and the number of years and month of permissive service credit (subject  
22 to the terms provided in this division) obtained by the member prior to the retirement date  
23 and credited to such member by the retirement board. The use of permissive service in  
24 the calculation of credited service shall only be for the calculation of benefits and shall not  
25 entitle a member to the receipt of a particular benefit, nor shall it entitle a member to vest  
26 in a particular benefit.

- 27  
28       d. Subject to eligibility requirements, credited service shall include the aggregate of  
29 periods of current service commencing with an employee's first day of employment  
30 or reemployment and ending on the date a break in service begins, or the date an  
31 employee terminates employment with the employer. Service credit for properly  
32 authorized leave of absence without pay can be obtained upon payment by the  
33 member into the trust fund of an amount equal to the employee contribution, if any,  
34 and the employer contribution for the complete period of the leave of absence.  
35 Partial paybacks for a leave of absence shall not be allowed. Unpaid disciplinary  
36 leave or an unpaid disciplinary suspension are not authorized leaves of absence  
37 and a member is prohibited from purchasing or receiving credited service for any

1 period of unpaid disciplinary leave or suspension. Any payment for an authorized  
2 leave of absence must be completed prior to the member's termination from  
3 employment. No payment shall be allowed to be made to the Plan for a purchase  
4 of service credit following a member's termination of employment. If payment is  
5 made for an authorized leave of absence within twenty-four (24) months following  
6 a member's return to work the cost shall be calculated based upon the required  
7 contributions plus interest to the date of repayment at the rate of three (3) percent  
8 per annum, compounded annually as of June 30<sup>th</sup> of each year. The cost for a  
9 member wishing to receive credited service for an authorized leave of absence  
10 who does not repay the required contributions, with interest, within twenty-four (24)  
11 months following the employee's return to work, shall be calculated at the full  
12 actuarial cost for such service in accordance with Section 18-415(c)(2). The hours  
13 of service credited shall be those which would normally have been credited but for  
14 such absence, or, in any case in which the plan is unable to determine such hours  
15 normally credited, eight (8) hours of service per day of absence.

16  
17 **Section 2.** That Section 18-405(c)(1), Section 18-405(h)(1), Section 18-405(h)(2) and  
18 Section 18-405(h)(3) (sometimes known and cited as Section 405, Subsections (c)(1),  
19 (h)(1), (h)(2) and (h)(3) Chapter 18) of the Revised Municipal Code, relating to the  
20 retirement board be amended by deleting the language stricken and adding the language  
21 underlined as follows:

22  
23 **Sec. 18-405. Retirement board.**

24  
25 (c) *Meetings and notices.*

26  
27 (1) Regular meetings of the retirement board shall be held ~~once a month~~ on a  
28 regular business days chosen by the retirement board.

29  
30 (h) *Reports.*

31  
32 (1) The retirement board shall submit a quarterly report, on a timely basis, to  
33 the mayor and to the city council. ~~This report shall contain, at least, on the financial~~  
34 ~~status of the trust fund, a listing of all assets showing both cost and market value,~~  
35 ~~and a summary of any important decisions made by the retirement board during~~  
36 ~~the quarter, including membership changes in the board or the advisory committee,~~  
37 ~~(2) Twice a year, the retirement board shall submit a report to the mayor and~~  
38 ~~to the city council on the performance of the trust fund's investments,~~ and on the  
39 performance of the trustees or investment managers. This report shall be compiled  
40 by a consultant who is an expert in the area of investment performance reporting.  
41 ~~Upon direction of the board, the expense of this report may be paid by~~

1 ~~commissions generated by the purchase and sale of the plan's assets by the plan~~  
2 ~~trustees or investment managers.~~

3 (32) The board shall cause to be made, once each year, a complete audit of the  
4 trust fund, including the health benefits account, and shall furnish to the mayor, the  
5 city council and the city auditor a written report showing the result of such audit.  
6

7 **Section 3.** That Section 18-406(b) and Section 18-406(d) (sometimes known and cited  
8 as Section 406, Subsections (b) and (d), Chapter 18) of the Revised Municipal Code,  
9 relating to eligibility be amended by adding the language underlined as follows:  
10

11 **Sec. 18-406. Eligibility.**

12  
13 (b) *Breaks in service.* If an employee has an interruption or break in service before  
14 satisfying a requirement under the plan for a particular benefit, or for being vested  
15 in or with regard to a particular benefit, service before such interruption or break in  
16 service shall not be taken into account except as expressly provided in this article  
17 in meeting eligibility or vesting requirements for the benefit. This section does not  
18 apply to a member who applies for and receives retirement benefits from the plan,  
19 nor does it apply to members re-employed under section 18-408(j)(1) after  
20 receiving retirement benefits from the plan. If the employee, who is not vested,  
21 returns to eligible employment with the employer, the employee shall be entitled to  
22 obtain credit for the years and months of service for which his or her contributions  
23 were refunded if the amount refunded, including interest accrued to the date of  
24 repayment at the rate of three (3) percent per annum, compounded annually as of  
25 June 30<sup>th</sup> of each year, is repaid to the trust within twenty-four months of the  
26 employee's re-employment date. A re-employed employee who does not repay the  
27 refunded contributions, with interest, within twenty-four months of the employee's  
28 re-employment date, may still, upon repayment, receive credit for the years and  
29 months of service for which his or her contributions were refunded; however, the  
30 repayment will be calculated at the full actuarial cost for such service in accordance  
31 with section 18-415(c)(2).  
32

33 (d) *Leave of Absence.* Service credit for properly authorized leave of absence without  
34 pay can be obtained upon payment by the member into the trust fund of an amount  
35 equal to the employee contribution, if any, and the employer contribution for the  
36 complete period of the leave of absence. Partial paybacks for a leave of absence  
37 shall not be allowed. Unpaid disciplinary leave or an unpaid disciplinary  
38 suspension are not authorized leaves of absence and a member is prohibited from  
39 purchasing or receiving credited service for any period of unpaid disciplinary leave  
40 or suspension. No payment shall be allowed to be made to the Plan for a purchase  
41 of service credit following a member's termination of employment. If payment for  
42 an authorized leave of absence is made within twenty-four (24) months following

1 a member's return to work, the cost shall be calculated based upon the required  
2 contributions plus interest to the date of repayment at the rate of three (3) percent  
3 per annum, compounded annually as of June 30<sup>th</sup> of each year. The cost for a  
4 member wishing to receive credited service for an authorized leave of absence  
5 who does not repay the required contributions, with interest, within twenty-four (24)  
6 months following the employee's return to work, shall be calculated at the full  
7 actuarial cost for such service in accordance with Section 18-415(c)(2). The  
8 election to purchase service credit for a properly authorized leave of absence shall  
9 be irrevocable and no refund shall be made to a member for any amount paid to  
10 the Plan to purchase service credit. The hours of service credited shall be those  
11 which would normally have been credited but for such absence, or, in any case in  
12 which the plan is unable to determine such hours normally credited, eight (8) hours  
13 of service per day of absence.

14  
15 **Section 4.** That Section 18-407(d), Section 407(e)(1) and Section 18-407(f)(1)  
16 (sometimes known and cited as Section 407, Subsections (d), (e)(1) and (f)(1), Chapter  
17 18) of the Revised Municipal Code, relating to contributions; payroll deductions, be  
18 amended by deleting the language stricken and adding the language underlined as  
19 follows, with the contribution percentages to be effective with the first paycheck issued to  
20 employees in January, 2018:

21  
22 **Sec. 18-407. Contributions; payroll deductions.**

23  
24 (d) *Insufficient employee contributions.* The plan shall notify members, at least  
25 annually, of insufficient payroll deductions for mandatory and elective employee  
26 contributions and shall require payment of the amount of the deficiency. If the back  
27 payment is not made within one (1) year after notification, interest shall accrue at  
28 the rate of three (3) percent per annum, compounded annually as of June 30<sup>th</sup> of  
29 each year from the date of the employee contribution error. If the back payment is  
30 not made by the member's date of retirement, the full amount due including interest  
31 shall be withheld from the member's retirement benefit payments using a schedule  
32 approved or directed by the plan.

33  
34 (e) *Employer contributions.* From and after the date a person first becomes an active  
35 member, and until the actual retirement date or prior termination of employment,  
36 the manager of finance and each contractual entity shall transfer into the trust fund  
37 each payroll period from such sources as shall, in the case of the city, be  
38 designated by ordinance, the amounts listed in this section which have been  
39 determined, on an actuarial basis, to be sufficient to provide for the benefits of  
40 eligible members.

41  
42 (1) For each active member, including each elected official ~~and each participant of~~

1 ~~the deferred retirement option plans (DROP and DROP II) under divisions 3~~  
2 ~~and 4 of this article,~~ the employer shall contribute ~~eleven and one-half (11.5)~~  
3 twelve and one-half (12.5) percent of the member's gross salary. In the case of  
4 a contractual entity, the employer shall, as a condition necessary to becoming  
5 or remaining a contractual entity, also make any actuarially determined  
6 supplemental contributions necessary to fund the current cost of benefits  
7 available under the plan payable to current and future employees of the  
8 contractual entity.

9  
10 (f) *Employee contributions.* Each active member shall contribute to the trust fund, by  
11 means of payroll deductions which shall be withheld by the manager of finance or  
12 contractual entity and transferred each payroll period directly to the trust, the  
13 following amounts:

14  
15 (1) For each active member, including each elected official ~~and each participant of~~  
16 ~~the deferred retirement option plans (DROP and DROP II) under divisions 3~~  
17 ~~and 4 of this article,~~ the employee shall contribute eight (8.0) percent of his or  
18 her gross salary to the trust fund.

19  
20 **Section 5.** That Section 18-408(j)(2), Section 18-408(j)(3), and Section 18-408(j)(6)  
21 (sometimes known and cited as Section 408, Subsections (j)(2), (j)(3) and (j)(6), Chapter  
22 18) of the Revised Municipal Code, relating to retirement categories be amended by  
23 adding the language underlined as follows:

24  
25 **Sec. 18-408. Retirement categories.**

26  
27 (j) *Re-employment by the employer.* Unless a member meets the requirements set  
28 forth below in paragraph (7) of this subsection 18-408(j), the following shall apply:

29  
30 (2) If an employee hired after January 1, 1979, has not received retirement or  
31 death benefits, and returns to employment with the employer, he or she is  
32 entitled to restore credit for the years and months of service for which employee  
33 contributions were refunded if the amount, including interest to the date of  
34 repayment at the rate of three (3) percent per annum, compounded annually  
35 as of June 30<sup>th</sup> of each year, is repaid to the trust within twenty-four (24) months  
36 of the employee's re-employment date. A re-employed employee who does not  
37 repay the refunded contributions, with interest, within twenty-four (24) months  
38 of the employee's re-employment date, may still, upon repayment made to the  
39 plan prior to termination from employment, receive credit for the years and  
40 months of service for which his or her contributions were refunded, however,  
41 the repayment will be calculated at the full actuarial cost for such service in  
42 accordance with Section 18-415(c)(2). No repayment shall be allowed to be

1 made to the Plan for a purchase of refunded contributions following a member's  
2 termination of employment.

3  
4 (3) If a member, hired before January 1, 1979, receives a refund pursuant to  
5 section 18-409(e)(2) and later resumes covered service under the plan, the  
6 member is entitled to restore credit for the years and months of service for  
7 which employee contributions were refunded if the amount, including interest  
8 to the date of repayment at the rate of three (3) percent per annum,  
9 compounded annually as of June 30<sup>th</sup> of each year, is repaid to the trust within  
10 twenty-four (24) months of the employee's re-employment date. A re-employed  
11 employee who does not repay the refunded contributions, with interest, within  
12 twenty-four (24) months of the employee's re-employment date, may still, upon  
13 repayment made to the plan prior to termination from employment, receive  
14 credit for the years and months of service for which his or her contributions  
15 were refunded, however, the repayment will be calculated at the full actuarial  
16 cost for such service in accordance with Section 18-415(c)(2). No payment  
17 shall be allowed to be made to the Plan for a purchase of refunded contributions  
18 following a member's termination of employment.

19  
20 (6) If a member is re-employed by the employer or is considered reinstated by the  
21 employer and the member receives backpay, remuneration or any  
22 compensation from the employer following the member's initial retirement date  
23 and such compensation and re-employment period overlaps or coincides with  
24 the payment of retirement benefits, the member shall reimburse the plan for  
25 any amount the member has received in retirement benefits. If payment is not  
26 made in full within one (1) year from re-employment or re-instatement of the  
27 member, interest will accrue on the outstanding balance at a rate of three (3)  
28 percent per annum compounded annually as of June 30<sup>th</sup> of each year. If  
29 payment in full is not made prior to the member's subsequent retirement, the  
30 outstanding balance owed plus such interest accrued on the balance will be  
31 withheld from the member's subsequent retirement payments until the amount  
32 has been paid in full.

33  
34 **Section 6.** That Section 18-409(h)(1) (sometimes known and cited as Section 409,  
35 Subsection (h)(1), Chapter 18) of the Revised Municipal Code, relating to retirement  
36 benefits be amended by deleting the language stricken and adding the language  
37 underlined as follows:

38  
39 **Sec. 18-409. Retirement benefits.**

40  
41 (h) Actuarial and other matters.  
42

1 (1) Actuarial assumption and interest rates: Effective October 1, ~~2015~~2017, the  
2 interest rate used for the actuarial assumption of investment return shall be seven and  
3 one-half three quarters (7.757.50%) percent. ~~For purposes of computing the actuarially~~  
4 ~~equivalent present value of benefits, the interest rate shall be the applicable interest rate~~  
5 ~~either prescribed or permitted under section 417(e)(3) of the Internal Revenue Code.~~  
6

7 COMMITTEE APPROVAL DATE:

8 MAYOR-COUNCIL DATE:

9  
10 PASSED BY THE COUNCIL

11 \_\_\_\_\_ 2017  
12 \_\_\_\_\_ -PRESIDENT

13 APPROVED: \_\_\_\_\_ -MAYOR \_\_\_\_\_ 2017

14 ATTEST: \_\_\_\_\_ -CLERK AND RECORDER,  
15 EX-OFFICIO CLERK OF THE  
16 CITY AND COUNTY OF  
17 DENVER  
18

19 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2017 \_\_\_\_\_ 2017

21 PREPARED BY: Victoria A. Hale, GENERAL COUNSEL,  
22 DENVER EMPLOYEES RETIREMENT PLAN,  
23 September 1 , 2017  
24

25 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the  
26 office of the City Attorney. We find no irregularity as to form, and have no legal objection  
27 to the proposed ordinance. The proposed ordinance is not submitted to the City Council  
28 for approval pursuant to §3.2.6 of the Charter.  
29

30 Kristin M. Bronson, City Attorney

31 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_