

1 **BY AUTHORITY**

2 ORDINANCE NO.  
3 SERIES OF 2016

COUNCIL BILL NO. 16-1123  
COMMITTEE OF REFERENCE:  
Finance and Governance

5 **A BILL**

6 **For an ordinance amending the 1963 Retirement Plan with regard to**  
7 **definitions, retirement board, contributions; payroll deductions,**  
8 **retirement categories, retirement benefits, joint and survivor benefits,**  
9 **death benefits, anti-alienation provision, and obligation of city.**  
10

11 **WHEREAS**, under Section 18-405(g) of the Code, the Retirement Board is  
12 responsible for making recommendations to the City for amendments to the Denver  
13 Employees Retirement Plan (the "Plan") when in the judgment of the Board such changes  
14 are necessary; provided that such recommendations are accompanied by a report of the  
15 Plan's actuary setting forth the effect of such amendments; and,

16 **WHEREAS**, the Board believes it is prudent to adjust the interest rate applied to  
17 the refund of contributions from a fixed rate to an annually variable rate; and,

18 **WHEREAS**, in order to avoid a situation where an active or deferred member's  
19 benefit (or employee contributions as the case may be), upon the active or deferred  
20 member's death, reverts to the Plan, the Board believes the Ordinance should be  
21 amended to allow an active or deferred member to name a contingent beneficiary in the  
22 same manner as a primary beneficiary is designated; to authorize the Plan to pay benefits  
23 to a deferred member's beneficiary or contingent beneficiary should the deferred member  
24 die prior to retirement and without having a spouse, a child or children under the age of  
25 21, or a spousal equivalent; and, to authorize the Plan, if a beneficiary or contingent  
26 beneficiary designation fails, to refund any employee contributions to the member's  
27 estate; and,

28 **WHEREAS**, while in the process of administering the Plan, it has been determined  
29 that the clarification of various procedures or legal requirements applicable to the Plan,  
30 as well as the removal of obsolete language, has become necessary to assist the Plan in

1 explaining the benefits available to members and their beneficiary, as well as to ensure  
2 uniformity in the application of terms within the Ordinance.

3  
4 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY**  
5 **OF DENVER:**

6  
7 **Section 1.** That Section 18-402(1) (sometimes known and cited as Section 402,  
8 Subsection (1), Chapter 18) of the Revised Municipal Code, relating to definitions be  
9 amended by deleting the language stricken and adding the language underlined as  
10 follows:

11  
12 **Sec. 18-402. Definitions.**

13 Terms used in this article or in the plan not defined generally in the Code shall have those  
14 meanings set forth specifically in definitions found in various sections of this division or in  
15 the administrative rules and regulations duly adopted by the board. As used in this  
16 division, the following words and phrases (and their declensional, inflected and  
17 conjugated forms) shall have the meanings in this section ascribed to them, unless it  
18 appears from the context that such word or term shall have been used in another sense:

19  
20 (1) *Accumulated contributions* shall mean, for employees employed prior to January  
21 1, 1979, or employees not yet vested in the plan, the sum of a regular member's employee  
22 contributions to the plan, together with interest at ~~the~~ a rate set annually by the Retirement  
23 Board, with a minimum rate of one (1) percent, not to exceed of three (3) percent, per  
24 annum, compounded annually as of June ~~thirtieth~~ 30<sup>th</sup> of each year.

25  
26 **Section 2.** That Section 18-405(c)(4) (sometimes known and cited as Section 405,  
27 Subsection (c)(4), Chapter 18) of the Revised Municipal Code, relating to the retirement  
28 board be amended by deleting the language stricken and adding the language underlined  
29 as follows:

30  
31 **Sec. 18-405. Retirement board.**

32  
33 (c) *Meetings and notices.*

34  
35 (4) All meetings of the retirement board shall be public and shall be held in the  
36 offices of the retirement plan unless another location within the city is selected  
37 by the board by giving notice thereof in advance. All notices shall be published  
38 and provided in accordance with the open meetings laws and shall be ~~sent to~~  
39 each city department posted on the Plan's internet website at least one (1)  
40 week before each meeting indicating the time and place of the meeting. Three

1 (3) members of the retirement board shall constitute a quorum at any meeting,  
2 and each member shall be entitled to one (1) vote. Annually the retirement  
3 board shall elect one (1) of its members to preside over the board and its  
4 meetings as chairperson, and to perform such related duties as may be  
5 required by the retirement board. The retirement board shall also elect another  
6 member as vice-chair to perform those duties in the absence of the member  
7 routinely presiding.  
8

9 **Section 3.** That Section 18-407(f)(2) (sometimes known and cited as Section 407,  
10 Subsection (f)(2), Chapter 18) of the Revised Municipal Code, relating to contributions;  
11 payroll deductions, be amended by deleting the language stricken and adding the  
12 language underlined as follows:  
13

14 **Sec. 18-407. Contributions; payroll deductions.**  
15

16 (f) *Employee contributions.* Each active member shall contribute to the trust fund, by  
17 means of payroll deductions which shall be withheld by the manager of finance or  
18 contractual entity and transferred each payroll period directly to the trust, the  
19 following amounts:  
20

21 (2) For the employee contributions required under paragraph (1) above and  
22 subject to the requirements of section 414(h) of the Internal Revenue Code the  
23 employer shall pick-up the designated employee contributions as an employer  
24 pick-up of the contributions. If an active member terminates employment prior  
25 to being vested, upon request of the member, the plan shall refund to the  
26 terminated employee in a lump sum the employee contribution plus interest at  
27 a rate set annually by the Retirement Board, with a minimum rate of one (1)  
28 percent, not to exceed three (3) percent, per annum, compounded annually as  
29 of June 30<sup>th</sup> of each year, simple interest attributable to the employee's  
30 contributions to the trust fund. Employee contributions attributable to an  
31 employee who is vested or eligible to receive a retirement benefit from the plan,  
32 shall not be considered "accumulated contributions" as that term is defined in  
33 this division, and shall not be refunded to the employee at any time but shall  
34 remain a part of the trust fund and used to fund, but not increase, retirement  
35 benefits.  
36

37 **Section 4.** That Section 18-408(j)(4), (sometimes known and cited as Section 408,  
38 Subsection (j)(4), Chapter 18) of the Revised Municipal Code, relating to retirement  
39 categories be amended by adding the language underlined as follows:  
40

41 **Sec. 18-408. Retirement categories.**

1 (j) *Re-employment by the employer.* Unless a member meets the requirements set  
2 forth below in paragraph (7) of this subsection 18-408(j), the following shall apply:  
3

4 (4) A non-vested member, upon termination, shall have the option of either leaving  
5 the member's accumulated contributions, if any, in the trust fund for use if the  
6 member resumes service with the employer, or receiving a refund of the  
7 member's accumulated contributions. If such non-vested member leaves the  
8 accumulated contributions in the trust fund and returns to the service of a  
9 covered employer before the member applies for and receives a retirement  
10 benefit from the plan, or before the member reaches an age in which required  
11 minimum distributions must begin to be paid by the plan (which for a non-vested  
12 member is a complete refund of contributions), the credited service which the  
13 member had prior to termination shall, upon re-employment, be reinstated to  
14 the member and the member shall only be required to complete the remaining  
15 amount of credited service required to vest in the plan that is set forth in the  
16 Ordinance at the time of the member's re-employment. If such member leaves  
17 the accumulated contributions in the trust fund and does not return to the  
18 service of the employer before the member's normal retirement date, the  
19 accumulated contributions, as of the member's normal retirement date, shall  
20 then be paid to the member. If such a member should die before the  
21 accumulated contributions are paid, there shall be paid to the beneficiary  
22 designated by the member, if such beneficiary is living, otherwise to the  
23 member's contingent beneficiary, if such contingent beneficiary is living,  
24 otherwise to the member's estate, the amount of accumulated contributions, if  
25 any, as of the date of the member's death.  
26

27 **Section 5.** That Section 18-409(e)(3) (sometimes known and cited as Section 409,  
28 Subsection (e)(3), Chapter 18) of the Revised Municipal Code, relating to retirement  
29 benefits be amended by adding the language underlined as follows  
30

31 **Sec. 18-409. Retirement benefits.**  
32

33 (e) *Deferred retirement.*  
34

35 (3) Any non-vested member, upon termination from employment, who is not  
36 eligible for the benefits described in (e)(1) of this section, shall have the option  
37 of leaving the member's accumulated contributions, if any, in the trust fund for  
38 use if the member resumes service with the employer, or receiving a refund of  
39 the member's accumulated contributions. If such member leaves the  
40 accumulated contributions in the trust fund and does not return to the service  
41 of the employer before the normal retirement date, the accumulated  
42 contributions as of the member's normal retirement date shall then be paid to

1 the member. If such member should die before the accumulated contributions  
2 are paid, there shall be paid to the beneficiary designated by the member, if  
3 such beneficiary is living, otherwise to the member's contingent beneficiary, if  
4 such contingent beneficiary is living, otherwise to the member's estate, the  
5 amount of accumulated contributions, if any, as of the date of the member's  
6 death.

7  
8 **Section 6.** That Section 18-410(a)(4), Section 18-410(a)(5), Section 18-410(a)(6)(c),  
9 and Section 18-410(a)(6)(d) (sometimes known and cited as Section 410, Subsections  
10 (a)(4), (a)(5), (a)(6)(c), and (a)(6)(d), Chapter 18) of the Revised Municipal Code, relating  
11 to joint and survivor benefits be amended by deleting the language stricken and adding  
12 the language underlined as follows:

13  
14 **Sec. 18-410. Joint and survivor benefits.**

15  
16 (a) *Spousal consent, incidental benefit requirements and required distributions.*

17  
18 (4) Death of spouse or named beneficiary. If the designated beneficiary or spouse  
19 dies prior to the annuity starting date and no new beneficiary is duly designated  
20 in accordance with the terms of the plan, and the member does not marry or  
21 remarry prior to the annuity starting date, the retirement benefit shall be paid  
22 ~~as if no joint and survivor benefit had been selected by the member~~ increased  
23 to the full single straight life annuity for the member's life with no further benefit  
24 to be paid upon the member's death. If the spouse or designated beneficiary  
25 dies after the actual retirement date of such member, a new beneficiary may  
26 not be designated and the benefit paid to the member shall, commencing on  
27 the payment date of the month immediately next following the month of the  
28 beneficiary's death, be increased to the full single straight life annuity for the  
29 remainder of the member's life with no further benefit to be paid upon the  
30 member's death.

31  
32 (5) Disability survivor annuity. Unless the member and his spouse consent in  
33 writing to the maximum benefit provided for in subsections 18-409(c) or 18-  
34 409(d), the member and the member's spouse will receive such disability  
35 retirement benefit on an actuarially equivalent basis for the life of the member  
36 and the member's spouse and, following the member's death, a retirement  
37 benefit to the member's spouse, if living at the time of the member's death, in  
38 the same amount (a full joint and survivor annuity of one hundred (100)  
39 percent), or seventy-five (75) percent, or fifty (50) percent of this amount. If the  
40 spouse or designated beneficiary dies after the actual disability retirement date  
41 of such member, a new beneficiary may not be designated, and the benefit paid  
42 to the member shall, commencing on the payment date of the month

1 immediately next following the month of the death of the spouse or designated  
2 beneficiary, be the benefit as would have been paid under subsections 18-  
3 409(c) or 18-409(d) ~~if no joint and survivor benefit had been selected as the full~~  
4 single straight life annuity for the member's life with no further benefit to be paid  
5 upon the member's death. No joint and survivor optional benefits shall be  
6 permitted under this subsection unless the total monthly payment amounts to  
7 more than forty dollars (\$40.00).  
8

9 (6) Minimum distribution requirements. Notwithstanding any other provision of the  
10 plan, the entire interest of a member under the plan, including incidental death  
11 benefits and any other non-retirement benefits provided under the plan, shall  
12 be paid in accordance with the minimum distribution requirements of section  
13 401(a)(9) of the Internal Revenue Code, including those provisions pertaining  
14 to non-spousal beneficiaries, to the extent such requirements are applicable to  
15 governmental plans. Pursuant to such requirements, the interest of each  
16 member in the plan must be distributed beginning not later than the member's  
17 required beginning date, if such date is earlier than the date on which benefits  
18 otherwise would begin under the terms of this plan. The required beginning  
19 date of a member is the April 1 of the calendar year following the calendar year  
20 in which the member attains age seventy and one-half (70 ½) or retires,  
21 whichever is later.  
22

23 (c) *Designation of beneficiary.* Notwithstanding other provisions of the Code,  
24 and except as otherwise provided in Section 18-411 of the Code, a member  
25 can designate any person to receive, upon the member's death, the benefits  
26 set forth herein. A member may designate only one person as a beneficiary.  
27 An active or deferred member may designate a contingent beneficiary who  
28 shall become the primary designated beneficiary if the primary designated  
29 beneficiary predeceases the active or deferred member, and the active or  
30 deferred member does not submit a new beneficiary designation form to the  
31 plan prior to the active or deferred member's death. If a member designates  
32 more than one person as either a beneficiary or a contingent beneficiary,  
33 the beneficiary designation shall fail and shall be treated as if the member  
34 has no beneficiary on file with the plan. If a member is married, the spouse  
35 must be designated as the beneficiary, unless the spouse waives, in writing,  
36 his/her right to these benefits. A member must name an individual and may  
37 not designate a fictional or artificial person as a beneficiary. Section 18-418  
38 of the Code prohibits a member from transferring or assigning benefits, thus  
39 the member cannot designate a trust as his/her beneficiary. Retired  
40 members may not designate a contingent beneficiary.  
41

42 (d) *Changes in designated beneficiary.* A member may change a designated

1 beneficiary or, in the case of an active or deferred member, a contingent  
2 beneficiary only prior to the actual retirement date ~~in which case a new~~  
3 ~~beneficiary may be designated~~; provided, that such new designation must  
4 be made in the same manner as provided above for the filing of the written  
5 election. Once benefit payments commence, neither the retirement benefit  
6 nor the beneficiary may be changed. If the designated beneficiary,  
7 contingent beneficiary, or spouse dies prior to the actual retirement date of  
8 such member and no new beneficiary or contingent beneficiary is duly  
9 designated, the retirement benefit shall be paid under subsections 18-  
10 409(a), 18-409(b), 18-409(c) or 18-409(d) of this article, as if ~~no joint and~~  
11 ~~survivor benefit had been selected by the member~~ a single straight life  
12 annuity for the member's life with no further benefit to be paid upon the  
13 member's death. If the designated beneficiary or spouse dies after the  
14 actual retirement date of such member, a new beneficiary may not be  
15 designated and the benefit paid to the member shall, commencing on the  
16 payment date of the month immediately next following the month of the  
17 beneficiary's death, be the full benefit as would have been paid had the  
18 maximum retirement benefit available under subsections 18-409(a), 18-  
19 409(b), 18-409(c) or 18-409(d) been in effect and no joint and survivor  
20 benefit been selected.

21  
22 **Section 7.** That Section 18-411(a) through Section 18-411(h) (sometimes known and  
23 cited as Section 411, Subsections (a) through (h), Chapter 18) of the Revised Municipal  
24 Code, relating to death benefits be amended by deleting the language stricken and adding  
25 the language underlined as follows:

26  
27 **Sec. 18-411. Death benefits.**

28  
29 ~~(a) *Death prior to eligibility.* If an active member of the plan, who was employed~~  
30 ~~prior to January 1, 1979, dies prior to being eligible for benefits under~~  
31 ~~subsections (c) or (d) of this section, there shall be paid to the beneficiary~~  
32 ~~designated by the member if the beneficiary is living, otherwise to the member's~~  
33 ~~estate, the amount of the accumulated contributions, if any, as of the date of~~  
34 ~~death, provided, however, that if a benefit is elected by the spouse under~~  
35 ~~subsections (c) or (d) of this section, no payment shall be made under this~~  
36 ~~subsection. The surviving spouse, if designated as beneficiary, may elect to~~  
37 ~~receive in lieu hereof the benefits provided in subsection (c) or (d) of this~~  
38 ~~section. Election and receipt of the benefit provided in subsection (a) of this~~  
39 ~~section shall be final and conclusive, and the surviving spouse shall have no~~  
40 ~~right to later claim the benefit provided herein.~~

41  
42 ~~(b)~~ *Termination of benefits prior to receiving all contributions on deposit.* For

1 members employed prior to January 1, 1979, if, upon the termination of  
2 retirement benefit payments, a retired member and the retired member's  
3 beneficiary have not received in the form of retirement benefits an amount  
4 equal to the member's accumulated contributions, if any, which the member  
5 had on deposit at the date of retirement, the beneficiary, the member's estate,  
6 or the beneficiary's estate shall be paid such difference.

7 *(eb) Death of an active member incurred in the performance of service duty.*

8 Upon death incurred as a result of the performance of service duty, the active  
9 member's surviving spouse, if any, shall be entitled to receive the retirement  
10 benefit to which the member would have been entitled based on the higher of  
11 fifteen (15) years' credited service or actual credited service plus five (5) years  
12 but in either case not to exceed the credited service the member would have  
13 earned to age sixty-five (65). The active member shall be deemed to have  
14 retired on the first day of the month following the month in which death occurs.  
15 If it is determined that, notwithstanding the above-listed calculation where  
16 additional service is credited to the member, the surviving spouse would have  
17 received a larger benefit under the 100% joint and survivor annuity option (with  
18 no additional service being credited to the member), then the surviving spouse  
19 shall receive the larger 100% joint and survivor benefit. The retirement benefits  
20 to the surviving spouse shall terminate upon the surviving spouse's death. ~~The~~  
21 ~~surviving spouse, if designated as beneficiary, may elect to receive in lieu~~  
22 ~~hereof the benefits provided in subsection (a) of this section. Election and~~  
23 ~~receipt of the benefit provided in subsection (a) shall be final and conclusive,~~  
24 ~~and the surviving spouse shall have no right to later claim the benefit provided~~  
25 ~~herein.~~

26 *(ec) Death of an active member not incurred in the performance of service duty.*

27 Upon death not resulting from service duty, the active member's surviving  
28 spouse, if any, shall be entitled to receive seventy-five (75) percent of the  
29 benefit calculated in accordance with subsection (eb) of this section. The active  
30 member shall be deemed to have retired on the first day of the month following  
31 the month in which death occurs. The retirement benefit payments to the  
32 surviving spouse shall cease upon the surviving spouse's death. ~~The surviving~~  
33 ~~spouse, if designated as beneficiary, may elect to receive in lieu hereof the~~  
34 ~~benefit provided in subsection (a) of this section. Election and receipt of the~~  
35 ~~benefit provided in subsection (a) shall be final and conclusive, and the~~  
36 ~~surviving spouse shall have no right to later claim the benefit provided herein.~~  
37 If it is determined that, notwithstanding the above-listed calculation where  
38 additional service is credited to the member, the surviving spouse would have  
39 received a larger benefit under the 100% joint and survivor annuity option (with  
40 no additional service being credited to the member), then the surviving spouse  
41 shall receive the larger 100% joint and survivor benefit.  
42

1 A member who dies while performing qualified military service [defined in IRC  
 2 Section 401(u)] shall be considered to have resumed employment on the day  
 3 preceding the death, and then terminated employment due to the death on the  
 4 actual date of death, and therefore said member's surviving spouse, if any, or  
 5 other qualified beneficiary as set forth in this Section 411, shall be entitled to a  
 6 death benefit calculated in accordance with this subsection (~~ec~~).

7 (ed) *Single lump-sum payment.* Upon the death of a retired member, a single  
 8 lump-sum payment shall be paid, if the member retired within one (1) month  
 9 after the date of the member's termination of employment, to the beneficiary  
 10 designated by the member if the beneficiary is living, otherwise to the member's  
 11 estate. The benefit payment shall be made in accordance with the following  
 12 schedule:

13  
 14 (1) For members employed before July 1, 2011, for normal retirement except  
 15 where the member has fewer than five (5) years of credited service:  
 16 \$5,000.00. No death benefit shall be paid to a member that is age sixty-five  
 17 (65) or older who retires having less than five (5) years of credited service.  
 18 For members first employed on or after July 1, 2011, no death benefit shall  
 19 be paid to a member that has not vested in the plan. Members first  
 20 employed on or after July 1, 2011, who vest with the plan and who are  
 21 awarded a normal retirement, shall receive a death benefit of \$5,000.00. If  
 22 a member is re-employed pursuant to section 18-408(j) the member shall  
 23 not be entitled to a subsequent single lump-sum death benefit payment for  
 24 the re-employment period. The single lump-sum death benefit payment  
 25 sum calculated at the time of the original retirement shall be the death  
 26 benefit to which the re-employed member is entitled.

27 (2)  
 28 a. For members employed before July 1, 2011, for early retirement at age:

|               |               |
|---------------|---------------|
| 64 \$4,750.00 | 59 \$3,500.00 |
| 63 4,500.00   | 58 3,250.00   |
| 62 4,250.00   | 57 3,000.00   |
| 61 4,000.00   | 56 2,750.00   |
| 60 3,750.00   | 55 2,500.00   |

30  
 31 b. For members first employed on or after July 1, 2011 for early retirement  
 32 at age:

|               |
|---------------|
| 64 \$4,500.00 |
| 63 4,000.00   |
| 62 3,500.00   |
| 61 3,000.00   |

60 2,500.00

1  
2 (3) For temporary early retirement pending approval of disability application,  
3 limited to three (3) years after the effective date of the temporary early  
4 retirement: the amount which is calculated for an early retirement pursuant  
5 to section 18-411(~~ed~~)(2)(a) or section 18-411(~~ed~~)(2)(b).

6 (4) For disability retirement at or after age sixty-five (65): \$5000.00.

7 (5) For disability retirement before age sixty-five (65) a sum equal to one and  
8 one-half (1.5) times the member's annualized average monthly salary,  
9 limited to fifty thousand dollars (\$50,000.00). This amount shall be reduced  
10 to five thousand dollars (\$5,000.00) upon the date the disabled member  
11 reaches age sixty-five (65). This benefit under this subsection (~~ed~~) is in  
12 addition to all other benefits listed within this article.  
13

14 In lieu of the single lump-sum payment of this subsection (~~ed~~) that would be  
15 paid upon death, except for a member who is receiving a temporary early  
16 retirement, a retired member may elect to receive the appropriate death  
17 benefit limited to five thousand dollars (\$5,000.00) in the form of periodic  
18 payments. These payments shall be based on one-fiftieth (0.02) or one-  
19 one-hundredth (0.01) of the appropriate amount as elected by the member.  
20 In the event of the member's death before the amount has been paid out,  
21 the balance remaining shall thereupon be paid within sixty (60) days of  
22 death to the surviving spouse, if any, in lump sum, or, if there is no surviving  
23 spouse, to the member's designated beneficiary. If the member leaves  
24 neither a spouse nor a named beneficiary, the balance shall be paid to the  
25 decedent's estate. The payments may be started upon any regular  
26 retirement check payment date as selected by the member. The payments  
27 may be changed or stopped once each calendar year. These payments  
28 shall be added to the member's regular retirement benefit, and the dates for  
29 making payment of retirement benefits shall govern the payment of any  
30 combined benefit. The option to receive periodic payments of this benefit  
31 shall not be available to an applicant for disability retirement receiving an  
32 early retirement pending approval of his or her disability application.

33 (~~fe~~) *Death with surviving children under twenty-one (21) and no surviving*  
34 *spouse.* If a member of the plan dies without a surviving spouse, but has  
35 children under age twenty-one (21), then any benefit payable to a spouse or a  
36 surviving spouse under subsections (~~eb~~) or (~~ec~~) of this section shall be paid to  
37 the guardian or other legal representative for the children under age twenty-  
38 one (21) at the date of the member's death. Monthly benefit payments shall  
39 continue unabated, per stirpes, for those children under age twenty-one (21)  
40 until the end of the month in which the youngest child becomes age twenty-one  
41 (21), at which time all benefits shall cease.

1 (gf) *Death of a deferred member.* If a deferred member, first employed before  
2 July 1, 2011, having such credited service as required in this article dies before  
3 applying for retirement benefits as provided for in section 409(e), there shall be  
4 paid to the surviving spouse, if living at the time the member reached or would  
5 have reached age fifty-five (55) (the earliest date the member would have been  
6 eligible to receive benefits under this division), a survivor annuity calculated in  
7 accordance with this section 18-411 for the life of the surviving spouse. If a  
8 deferred member, first employed on or after July 1, 2011, having such credited  
9 service as required in this article dies before applying for retirement benefits as  
10 provided for in section 409(e), there shall be paid to the surviving spouse, if  
11 living at the time the member reached or would have reached age sixty (60)  
12 (the earliest date the member would have been eligible to receive benefits  
13 under this division), a survivor annuity calculated in accordance with this  
14 section 18-411 for the life of the surviving spouse.  
15

16 If a member under this section dies without a surviving spouse, but has children  
17 under the age of twenty-one (21) at the time of death, then any benefit which  
18 would have been payable to the member under this section shall be paid  
19 beginning the month following the member's death to the guardian or other  
20 legal representative for the children under age twenty-one (21) at the date of  
21 the member's death. For members first employed before July 1, 2011, the  
22 survivor's benefit for children under the age of twenty-one (21) shall be equal  
23 to the sum which the member would have received if the member had attained  
24 the age of fifty-five (55). For members first employed on or after July 1, 2011,  
25 the survivor's benefit for children under the age of twenty-one (21) shall be  
26 equal to the sum which the member would have received if the member had  
27 attained the age of sixty (60). Monthly benefits shall continue, unabated, per  
28 stirpes, for those children under age twenty-one (21) until the end of the month  
29 in which the youngest child becomes age twenty-one (21), at which time all  
30 benefits shall cease.  
31

32 If a member under this section dies without a surviving spouse and without  
33 children under the age of twenty-one (21), but who during the course of covered  
34 employment had a committed partner as that term is defined in Section 28-200  
35 (sometimes known and cited as Section 200, Chapter 28) of the Revised  
36 Municipal Code, or had a spousal equivalent as that term is defined in Section  
37 18-171 (sometimes known and cited as Section 171, Chapter 18) of the  
38 Revised Municipal Code, and submits a copy of the certified certificate of  
39 committed partnership or the affidavit of spousal equivalency previously filed  
40 with the employee benefits section of the Career Service Authority to the Plan  
41 and named the committed partner or spousal equivalent as the member's  
42 named beneficiary, and had not terminated the committed partnership or

1 spousal equivalency and continued to be in the relationship with the committed  
2 partner or spousal equivalent at the time of the member's death, then there  
3 shall be paid to the committed partner or spousal equivalent, if, for members  
4 first employed before July 1, 2011, the individual is living at the time the  
5 member reached or would have reached age fifty-five (55), or if, for members  
6 first employed on or after July 1, 2011, the individual is living at the time the  
7 member would have reached age sixty (60) (the earliest date the member  
8 would have been eligible to receive benefits under this division), a survivor  
9 annuity calculated in accordance with this section 18-411 for the life of the  
10 committed partner. For members employed prior to January 1, 1979, if  
11

12 If there is no surviving spouse, or children under the age of twenty-one (21), or  
13 a committed partner or spousal equivalent, there shall be paid to the beneficiary  
14 designated by the member, if the beneficiary is living at the time the member  
15 would have reached the earliest date to have been eligible to receive benefits  
16 under this division, otherwise to the member's contingent beneficiary, if such  
17 contingent beneficiary is living at the time the member would have reached the  
18 earliest date to have been eligible to receive benefits under this division, a  
19 survivor annuity calculated in accordance with this section 18-411 for the life of  
20 the beneficiary or contingent beneficiary. For members first employed before  
21 July 1, 2011, the earliest date to have been eligible to receive benefits under  
22 this division is age fifty-five (55), and for members first employed on or after  
23 July 1, 2011, the earliest date to have been eligible to receive benefits under  
24 this division is age sixty (60). estate, the amount of accumulated contributions  
25 paid by the member to the plan prior to January 1, 1979, if any, as of the  
26 applicable date of death.  
27

28 ~~If a deferred member under this section dies without a surviving spouse, without~~  
29 ~~children under the age of twenty-one (21) and without a committed partner or~~  
30 ~~spousal equivalent, there shall be no benefit paid from the Plan to anyone.~~

31 (hg) *Unmarried active members.* Unmarried active members may designate a  
32 beneficiary, or contingent beneficiary who shall become the primary designated  
33 beneficiary if the primary designated beneficiary predeceases the active  
34 member and the active member does not designate a new primary beneficiary,  
35 who shall be eligible to receive an equivalent benefit available to surviving  
36 spouses, subject to the requirements of the Internal Revenue Code, under the  
37 terms of this section. However, such designation of a beneficiary or contingent  
38 beneficiary by an unmarried active member shall be void for all purposes  
39 should the member die with a surviving spouse. And, further, this subsection  
40 (hg) shall not apply to members who die without leaving a surviving spouse but  
41 who die leaving surviving children any one (1) of whom is under the age of  
42 twenty-one (21) at the date of the member's death, except that such beneficiary

1 may serve as the guardian or the legal representative for such children as  
2 provided in subsection (f) of this section.

- 3 (h) Death of an active or deferred member with no beneficiary or contingent  
4 beneficiary. If there is no surviving spouse or children under the age of twenty-  
5 one (21), and the active or deferred member either failed to name a beneficiary  
6 or contingent beneficiary, or the named beneficiary and contingent beneficiary,  
7 if any, have predeceased the active or deferred member, and the active or  
8 deferred member failed to name a new beneficiary or contingent beneficiary,  
9 there shall be paid to the active or deferred member's estate, the amount of  
10 accumulated employee contributions paid by the active or deferred member to  
11 the plan, as of the applicable date of death.

12  
13 **Section 8.** That Section 18-418(b)(4) (sometimes known and cited as Section 418,  
14 Subsection (b)(4), Chapter 18) of the Revised Municipal Code, relating to the anti-  
15 alienation provision be amended by deleting the language stricken and adding the  
16 language underlined as follows:

17  
18 **Sec. 18-418. Anti-alienation provision.**

- 19  
20 (b) *Domestic relations orders (DRO).* The plan shall permit the division of a  
21 member's retirement benefit through a DRO which meets all the requirements  
22 set forth in this subsection.

- 23  
24 (4) If the member dies prior to retirement the following terms shall govern regarding  
25 the DRO:

- 26  
27 a. If the member dies before reaching the age of fifty-five (55) for members  
28 first employed before July 1, 2011, or before reaching the age of sixty (60)  
29 for members first employed on or after July 1, 2011, and the member has  
30 no current spouse, no children under age 21, and had not yet named a  
31 beneficiary or contingent beneficiary, there will be no retirement benefit  
32 payment made by the plan, thus, as there is no payable benefit to divide,  
33 no payment will be made to the former spouse, from the amount of  
34 accumulated employee contributions to be paid to the member's estate,  
35 only if the parties opted to have the former spouse paid a percentage of the  
36 retirement benefit earned during marriage. Payment shall be made in a  
37 lump sum to the former spouse based on the percentage earned during the  
38 period of marriage as set forth in the DRO. No payment shall be made to  
39 the former spouse from the amount of accumulated employee contributions  
40 to be paid to the member's estate if the DRO orders that an exact amount  
41 of monthly retirement benefits be paid to the former spouse, as there will be  
42 no monthly retirement benefit payment to divide in such a manner.

1  
2 **Section 9.** That Section 18-419(a)(2)a. (sometimes known and cited as Section 419,  
3 Subsection (a)(2)a., Chapter 18) of the Revised Municipal Code, relating to the obligation  
4 of city be amended by deleting the language stricken and adding the language underlined  
5 as follows:  
6

7 **Sec. 18-419. Obligation of city.**  
8

9 (a) *General.* Nothing in this article is intended to nor shall it be construed to create  
10 a debt for any year which is a charge against the city's revenues for any future  
11 year. All benefits payable under the plan shall be payable from and only from  
12 the trust fund established in section 18-403. The plan is a determination of  
13 policy by the city, strictly of local and municipal concern, to enhance and  
14 stabilize its employer-employee relationship and will remain the policy until  
15 changed by city ordinance or amendment of the city Charter. The city reserves  
16 the right to change the operation of or to discontinue further city involvement in  
17 the operation of the system at any time and from time to time, subject only to  
18 the following limitations:  
19

20 (2) No reversion to employer. No alteration or amendment or complete or  
21 partial termination of the plan or any part thereof shall permit any part of the  
22 trust fund to revert to or be recoverable by the employer or be used or  
23 diverted to purposes other than for the exclusive benefit of eligible members  
24 or their beneficiaries under the plan. In the event of the discontinuance of  
25 city involvement in the plan, or the partial or complete termination of the  
26 plan, the proportionate interest of the members, and their beneficiaries,  
27 respectively, shall be determined by the plan's actuary and to the extent  
28 then funded shall become non-forfeitable. The assets of the trust shall be  
29 allocated to members, former members, retired members and their  
30 beneficiaries in the following order of preference:  
31

32 a. The current balance of the member's accumulated contributions, if any,  
33 with interest thereon at ~~the~~ a rate set annually by the Retirement Board,  
34 with a minimum rate of one (1) percent, not to exceed of three (3)  
35 percent, per annum, compounded each June 30th, as of the date of the  
36 termination of the plan. If the member has already retired, the amount  
37 payable under this subsection shall be the balance of the member's  
38 accumulated contributions, if any, with interest thereon, as of the  
39 member's effective date of retirement, less the total amount already  
40 received in retirement benefit payments, if any.  
41

42 COMMITTEE APPROVAL DATE: November 15, 2016

1 MAYOR-COUNCIL DATE: November 22, 2016

2

3 PASSED BY THE COUNCIL

4 December 5, 2016 \_\_\_\_\_ 2016

5 Alan B... \_\_\_\_\_ -PRESIDENT

6 APPROVED: [Signature] \_\_\_\_\_ -MAYOR Dec 6, 2016 2016

7 ATTEST: \_\_\_\_\_ -CLERK AND RECORDER,  
8 EX-OFFICIO CLERK OF THE  
9 CITY AND COUNTY OF  
10 DENVER

11  
12 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2016 \_\_\_\_\_ 2016

13

14 PREPARED BY: Victoria A. Hale, GENERAL COUNSEL,  
15 DENVER EMPLOYEES RETIREMENT PLAN,  
16 November 10, 2016

17

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

22

23 Kristin M. Bronson, City Attorney

24 BY: [Signature], Assistant City Attorney DATE: Nov 22, 2016 \_\_\_\_\_