

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2017

COUNCIL BILL NO. CB17-1007
COMMITTEE OF REFERENCE:
4 Finance & Governance

5 **A BILL**

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

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

12 **WHEREAS**, a consequence of the lower interest rate used for the actuarial assumption of
13 investment return is an increase in the actuarially required contribution (“ARC”); and,

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

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

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

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

28 **WHEREAS**, while in the process of administering the Plan, it has been determined that the
29 clarification of various procedures applicable to the Plan, as well as the removal of obsolete

1 language, has become necessary to assist the Plan in explaining the benefits available to members
2 and their beneficiary, as well as to ensure uniformity in the application of terms within the Ordinance.

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

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

8 **Sec. 18-402. Definitions.**

9 (9) Credited service shall mean the number of years and months of service for which
10 contributions on behalf of the member were received by the plan based on the member's
11 compensation, and the number of years and month of permissive service credit (subject to
12 the terms provided in this division) obtained by the member prior to the retirement date and
13 credited to such member by the retirement board. The use of permissive service in the
14 calculation of credited service shall only be for the calculation of benefits and shall not entitle
15 a member to the receipt of a particular benefit, nor shall it entitle a member to vest in a
16 particular benefit.

17 d. Subject to eligibility requirements, credited service shall include the aggregate of periods
18 of current service commencing with an employee's first day of employment or
19 reemployment and ending on the date a break in service begins, or the date an employee
20 terminates employment with the employer. Service credit for properly authorized leave of
21 absence without pay can be obtained upon payment by the member into the trust fund of
22 an amount equal to the employee contribution, if any, and the employer contribution for
23 the complete period of the leave of absence. Partial paybacks for a leave of absence shall
24 not be allowed. Unpaid disciplinary leave or an unpaid disciplinary suspension are not
25 authorized leaves of absence and a member is prohibited from purchasing or receiving
26 credited service for any period of unpaid disciplinary leave or suspension. Any payment
27 for an authorized leave of absence must be completed prior to the member's termination
28 from employment. No payment shall be allowed to be made to the Plan for a purchase of
29 service credit following a member's termination of employment. If payment is made for
30 an authorized leave of absence within twenty-four (24) months following a member's return

1 to work the cost shall be calculated based upon the required contributions plus interest to
2 the date of repayment at the rate of three (3) percent per annum, compounded annually
3 as of June 30th of each year. The cost for a member wishing to receive credited service
4 for an authorized leave of absence who does not repay the required contributions, with
5 interest, within twenty-four (24) months following the employee's return to work, shall be
6 calculated at the full actuarial cost for such service in accordance with Section 18-
7 415(c)(2). The hours of service credited shall be those which would normally have been
8 credited but for such absence, or, in any case in which the plan is unable to determine
9 such hours normally credited, eight (8) hours of service per day of absence.

10 **Section 2.** That Section 18-405(c)(1), Section 18-405(h)(1), Section 18-405(h)(2) and Section 18-
11 405(h)(3) (sometimes known and cited as Section 405, Subsections (c)(1), (h)(1), (h)(2) and (h)(3)
12 Chapter 18) of the Revised Municipal Code, relating to the retirement board be amended by deleting
13 the language stricken and adding the language underlined as follows:

14 **Sec. 18-405. Retirement board.**

15 (c) *Meetings and notices.*

16 (1) Regular meetings of the retirement board shall be held ~~once a month~~ on a regular
17 business days₂ chosen by the retirement board.

18 (h) *Reports.*

19 (1) The retirement board shall submit a quarterly report, on a timely basis, to the mayor and
20 to the city council. ~~This report shall contain, at least,~~ on the financial status of the trust
21 fund, ~~a listing of all assets showing both cost and market value,~~ and a summary of any
22 important decisions made by the retirement board during the quarter, including
23 membership changes in the board or the advisory committee,

24 ~~(2) Twice a year, the retirement board shall submit a report to the mayor and to the city~~
25 ~~council on~~ the performance of the trust fund's investments, and on the performance of
26 the trustees or investment managers. This report shall be compiled by a consultant who
27 is an expert in the area of investment performance reporting. ~~Upon direction of the board,~~
28 ~~the expense of this report may be paid by commissions generated by the purchase and~~
29 ~~sale of the plan's assets by the plan trustees or investment managers.~~

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

4 **Section 3.** That Section 18-406(b) and Section 18-406(d) (sometimes known and cited as Section
5 406, Subsections (b) and (d), Chapter 18) of the Revised Municipal Code, relating to eligibility be
6 amended by adding the language underlined as follows:

7 **Sec. 18-406. Eligibility.**

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

25 (d) *Leave of Absence.* Service credit for properly authorized leave of absence without pay can
26 be obtained upon payment by the member into the trust fund of an amount equal to the
27 employee contribution, if any, and the employer contribution for the complete period of the
28 leave of absence. Partial paybacks for a leave of absence shall not be allowed. Unpaid
29 disciplinary leave or an unpaid disciplinary suspension are not authorized leaves of absence
30 and a member is prohibited from purchasing or receiving credited service for any period of

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

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

20 **Sec. 18-407. Contributions; payroll deductions.**

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

29 (e) *Employer contributions.* From and after the date a person first becomes an active member,
30 and until the actual retirement date or prior termination of employment, the manager of finance

1 and each contractual entity shall transfer into the trust fund each payroll period from such
2 sources as shall, in the case of the city, be designated by ordinance, the amounts listed in
3 this section which have been determined, on an actuarial basis, to be sufficient to provide for
4 the benefits of eligible members.

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

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

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

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

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

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

27 (2) If an employee hired after January 1, 1979, has not received retirement or death benefits,
28 and returns to employment with the employer, he or she is entitled to restore credit for
29 the years and months of service for which employee contributions were refunded if the
30 amount, including interest to the date of repayment at the rate of three (3) percent per

1 annum, compounded annually as of June 30th of each year, is repaid to the trust within
2 twenty-four (24) months of the employee's re-employment date. A re-employed
3 employee who does not repay the refunded contributions, with interest, within twenty-
4 four (24) months of the employee's re-employment date, may still, upon repayment made
5 to the plan prior to termination from employment, receive credit for the years and months
6 of service for which his or her contributions were refunded, however, the repayment will
7 be calculated at the full actuarial cost for such service in accordance with Section 18-
8 415(c)(2). No repayment shall be allowed to be made to the Plan for a purchase of
9 refunded contributions following a member's termination of employment.

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

23 (6) If a member is re-employed by the employer or is considered reinstated by the employer
24 and the member receives back pay, remuneration or any compensation from the
25 employer following the member's initial retirement date and such compensation and re-
26 employment period overlaps or coincides with the payment of retirement benefits, the
27 member shall reimburse the plan for any amount the member has received in retirement
28 benefits. If payment is not made in full within one (1) year from re-employment or re-
29 instatement of the member, interest will accrue on the outstanding balance at a rate of
30 three (3) percent per annum compounded annually as of June 30th of each year. If

1 payment in full is not made prior to the member's subsequent retirement, the outstanding
2 balance owed plus such interest accrued on the balance will be withheld from the
3 member's subsequent retirement payments until the amount has been paid in full.

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

7 **Sec. 18-409. Retirement benefits.**

8 (h) Actuarial and other matters.

9 (1) Actuarial assumption and interest rates: Effective October 1, ~~2015~~2017, the interest rate
10 used for the actuarial assumption of investment return shall be seven and one-half three
11 ~~quarters (7.75~~7.50~~%) percent. For purposes of computing the actuarially equivalent~~
12 ~~present value of benefits, the interest rate shall be the applicable interest rate either~~
13 ~~prescribed or permitted under section 417(e)(3) of the Internal Revenue Code.~~

14 COMMITTEE APPROVAL DATE: September 12, 2017

15 MAYOR-COUNCIL DATE: September 19, 2017 by Consent

16 PASSED BY THE COUNCIL _____

17 _____ - PRESIDENT

18 APPROVED: _____ - MAYOR _____

19 ATTEST: _____ - CLERK AND RECORDER,
20 EX-OFFICIO CLERK OF THE
21 CITY AND COUNTY OF DENVER

22 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____;

23 PREPARED BY: Victoria A. Hale, GENERAL COUNSEL, DENVER EMPLOYEES
24 RETIREMENT PLAN

25
26 REVIEWED BY: T. Shaun Sullivan, Assistant City Attorney DATE: September 21, 2017

27
28 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
29 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
30 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
31 § 3.2.6 of the Charter.

32
33 Kristin M. Bronson, Denver City Attorney

34
35 BY: _____, Assistant City Attorney DATE: _____