

1 **BY AUTHORITY**

2 ORDINANCE NO.
3 SERIES OF 2016

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

4
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~~ 30th 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 30th 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 (~~ed~~).

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:
29

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:
33

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 _____ 2016

5 _____ -PRESIDENT

6 APPROVED: _____ -MAYOR _____ 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: _____, Assistant City Attorney DATE: _____