



ADMINISTRATIVE RULES

&

PROCEDURES

IMPORTANT NOTICE: The Administrative Rules & Procedures are being amended due to benefit changes approved by the Fort Worth City Council in April 2011. Updated Administrative Rules & Procedures will be posted as soon as possible. If you were hired by the City of Fort Worth on or after July 1, 2011, please call the Fort Worth Employees' Retirement Fund at 817-632-8900 for details of your retirement benefits.

Amended August 25, 2010

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RULE 1

ESTABLISHMENT OF THE PLAN; NAME; ADMINISTRATION

1.101 General

- A. A retirement system for the employees of the City of Fort Worth was established by the Fort Worth City Charter and Ordinance as the Employees' Retirement Fund of the City of Fort Worth ("fund"). The fund was placed under the exclusive administration and management of a board of trustees by Article 6243i of the Texas Revised Civil Statutes for the purpose of providing retirement benefits pursuant to the provisions of these rules.
- B. The fund shall be the successor to all rights, privileges and obligations of any repealed ordinances and there shall be no gap between the rules establishing this fund and any other prior ordinances.
- C. Authority for the adoption of these rules is pursuant to Article 6243i, Texas Revised Civil Statutes.

1.102 Administration of the Fund

- A. The sole and exclusive administration of and responsibility for the proper and effective operation of the retirement fund and for implementing the provisions of these rules is vested in a board of trustees.
- B. The board of trustees shall consist of thirteen (13) persons who shall be selected as follows:
 - 1. *Trustees elected by employees.* Four (4) trustees who are vested, participating members of the Fund, as defined by Article 6243i of the Texas Revised Civil Statutes, shall be elected by the employees of the city, who are also members of the fund; said trustees shall serve in Places 1, 2, 3, and 4 respectively. Each of the trustees shall be elected by one of the employee groups as follows:
 - a. *Place 1.* The trustee for Place 1 shall be elected from Group A, which shall consist of those members of the fund who are employed as police officers as defined by Rule (JJ). Only members of the fund who qualify for Employee Group A shall be eligible to vote for a nominee for Place 1. Only members of the fund who qualify for Employee Group A shall be eligible to serve on Place 1 of the board.
 - b. *Place 2.* The trustee for Place 2 shall be elected from Group B, which shall consist of those members of the fund who are employed as firefighters. Only members of the fund who qualify for Employee Group B shall be eligible to vote for a nominee for Place 2. Only members of the fund who qualify for Employee Group B shall be eligible to serve on Place 2 of the board.
 - c. *Place 3.* The trustee for Place 3 shall be elected from Group C, which shall consist of those members of the fund who are

assigned to work in the following departments: Water, Waste Water, Reprographics, Planning, Budget & Management Service, City Manager, City Secretary, Development, Engineering, Finance, Human Resources, Internal Audit, Legal, Municipal Court, including the Marshal's Office, and the Zoo. Group C shall also include members of the fund assigned to work in the Police Department who are not eligible to vote in Place 1. Only members of the fund who qualify for Employee Group C shall be eligible to vote for a nominee for Place 3. Only members of the fund who qualify for Employee Group C shall be eligible to serve on Place 3 of the board.

d. *Place 4.* The trustee for Place 4 shall be elected from Group D, which shall consist of those members of the fund who are assigned to work in the following departments: IT Solutions, Community Relations, Economic Community Development, Housing, Library, Parks and Community Service, Public Events, Public Health, Aviation, Code Compliance, Environmental Management, Equipment Services, Transportation and Public Works. Group D shall also include members of the fund assigned to work in the Fire Department who are not eligible to vote in Place 2. Only members of the fund who qualify for Employee Group D shall be eligible to vote for a nominee for Place 4. Only members of the fund who qualify for Employee Group D shall be eligible to serve on Place 4 of the board.

(i) *Term.* In accordance with the nomination and election procedures prescribed in this section, trustees shall be elected to Places 1, 2, 3, and 4, and shall serve for a two (2) year term, subject to the following provisions. Trustees for Places 1 and 3 shall be elected every odd numbered year beginning in 2007, and shall serve from September 1 of such odd numbered year through August 31 of the next odd numbered year. Trustees for Places 2 and 4 shall be elected in 2007 to serve a term from September 1, 2007 through August 31, 2008. Thereafter, the Trustees for Place 2 and 4 shall be elected every even numbered year and shall serve from September 1 of such even numbered year through August 31 of the next even numbered year. Should the employment status of any employee elected trustee change so that said trustee is no longer a member of the employee group from which the trustee was elected, then said trustee shall automatically forfeit the office of trustee. Should a vacancy occur, for whatever reason, in Place 1, 2, 3, or 4, during the term thereof, then a majority of all trustees remaining on the board shall appoint to the board a qualified employee from the employee group whose place has been vacated, which qualified employee shall serve the remainder of the unexpired term; provided, however, that if, at the time the vacancy arises, more than one (1) year remains in the unexpired term, then in lieu of the board appointing a replacement trustee, there shall be an election pursuant to the nomination and election provisions set

forth below, with the board making reasonable modifications in the dates and time frames for the nomination and election in light of the time of the vacancy.

- (ii) *Method of nominating members for election.* Nominations of members for election to the board of trustees shall be by petition only. Before May 31 of each election year, the executive director shall make available to employees of each employee group eligible to vote in the scheduled election petition forms with written instructions. Petitions containing the names of nominees shall be returned to the executive director prior to July 1 of said election year. Nominees may use copies of the petition form or may create their own petition forms, provided each page of each returned petition shall identify the name of the nominee, the department in which the nominee is employed, the employee group of which the nominee is a member, and the place on the board of trustees for which the employee is being nominated. No person's name shall be placed upon the official ballot as a nominee unless that person is nominated by petition. Said nominating petition must contain the signature and employee number of at least seventy-five (75) members of the employee group who are qualified to vote for said place on the date said petition is submitted to the executive director. Only those employees who are members of the fund shall be entitled to be listed upon the official ballot as a nominee. No person's name shall be placed upon the official ballot as a nominee for Place 1 unless that person is a member of Employee Group A. No person's name shall be placed upon the official ballot as a nominee for Place 2 unless that person is a member of Employee Group B. No person's name shall be placed upon the official ballot as a nominee for Place 3 unless that person is a member of Employee Group C. No person's name shall be placed upon the official ballot as a nominee for Place 4 unless that person is a member of Employee Group D.

- (iii) *Method of electing member trustees.* The executive director shall provide for an election procedure as authorized by the board, including but not limited to voting by mail, telephone, and electronic means, and which may be conducted by a third-party voting service. The executive director shall prepare an official ballot for each place, listing in alphabetical order according to surname the nominees for election to that place. If, however, there is only one (1) nominee for any place, there shall be no election for that place, and such nominee shall automatically be elected to the board of trustees. Only the names of those persons who are nominated by petition as prescribed herein shall be placed upon the official ballot. No person shall be elected as a trustee whose name does not appear upon the official ballot as a nominee. Ballots shall be made available to the members no later than July 20 of the election year. Each employee qualified to vote in said election shall vote for one (1) nominee only. Any

ballot containing votes of two (2) or more persons, or for persons who are not nominees as prescribed herein, shall be declared invalid, and shall not be counted. All ballots must be cast no later than August 15. Votes cast by written ballot must be returned no later than August 15 of the election year. If the ballot is returned by mail, the envelope must be postmarked by August 15 of the election year. The executive director or a designated third party shall tabulate all votes for all nominees. The nominee for each place who receives a majority of the votes cast for that place shall be declared elected to the board of trustees. Following the tabulation of votes, the executive director shall submit the results to the board of trustees at a meeting to be held before September 1 of said election year, at which time the board shall canvass the results of said election and certify which nominees are elected to the board of trustees. If, at the time of canvassing said results, the nominee receiving the majority of votes for said place is no longer eligible to serve on the place to which that nominee was elected, then the nominee finishing second in the election shall be certified by the board as elected to the board of trustees.

If there is more than one (1) nominee and no nominee receives a majority of the votes cast for any one (1) place, or if there is a tie for any one (1) place, then a run-off election shall be held, with ballots made available to the members qualified to vote for that place no later than September 1 of the election year, and in the same manner as prescribed for the first election. Only the names of candidates who tied for the highest number of votes cast for that place in the first election, or the two (2) candidates who received the highest number of votes with neither having a majority of votes cast for that place, shall be printed on the ballot for the run-off election. All ballots for the second election must be cast by September 20 of the election year. Votes cast by written ballot must be returned by September 20. If a ballot is returned by mail, the envelope must be postmarked by September 20. The executive director or a designated third party shall tabulate the votes for the candidates in the run-off election. The candidate receiving the highest number of votes cast for that place in the run-off election shall be declared elected to the board of trustees.

In the event of a tie vote at the second election, the candidates who tie shall cast lots in the presence of the board of trustees to determine which one (1) shall be declared elected. Following the tabulation of votes in the run-off election, and the casting of lots in case of ties, the executive director shall submit the results of same to the board of trustees at a meeting to be held before November 1 of said election year, at which time the board shall canvass the results of the run-off election and certify which nominees are elected to the board of trustees. If, at the time of canvassing the results of the run-off election, the nominee

elected to serve on said board is no longer eligible to serve on the place to which he or she was elected, then the nominee finishing second in the election shall be certified by the board as elected to the board of trustees.

2. Trustees elected by retired members.

a. *Place 5.* The trustee for Place 5 shall be elected by Retiree Group B, which shall consist of those retired members of the fund from Employee Group B. Only members of the fund who qualify for Retiree Group B shall be eligible to vote for a nominee for Place 5. Only members of the fund who qualify for Retiree Group B shall be eligible to serve on Place 5 of the board.

b. *Place 6.* The trustee for Place 6 shall be elected by Retiree Group A, which shall consist of those retired members of the fund from Employee Group A. Only members of the fund who qualify for Retiree Group A shall be eligible to vote for a nominee for Place 6. Only members of the fund who qualify for Retiree Group A shall be eligible to serve on Place 6 of the board.

c. *Place 7.* The trustee for Place 7 shall be elected by Retiree Group C, which shall consist of those retired members of the fund from Employee Groups C and D. Only members of the fund who qualify for Retiree Group C shall be eligible to vote for a nominee for Place 7. Only members of the fund who qualify for Retiree Group C shall be eligible to serve on Place 7 of the board.

(i) *Term.* In accordance with the nomination and election procedures prescribed in this section, a trustee shall be elected to Places 5, 6 and 7, and shall serve for a two-year term. The Trustee for Place 6 shall be elected to serve a term from September 1, 2007 through August 31, 2008. Thereafter, the Trustee for Place 6 shall be elected every even number year and shall serve from September 1 of such even numbered year through August 31 of the next even numbered year. Trustees for Places 5 and 7 shall be elected every odd numbered year beginning in 2007, and shall serve from September 1 of such odd numbered year through August 31 of the next odd numbered year. Should a trustee for Place 5, 6, or 7 return to city employment and again become an employee member of the fund, the trustee shall automatically forfeit the office of trustee for Place 5, 6, or 7. Should a vacancy occur in Places 5, 6 or 7, during the term thereof, then a majority of all trustees remaining on the board shall appoint to the board a retired member of Retiree Group A if the vacancy occurs in Place 6, a retired member of Retiree Group B if the vacancy occurs in Place 5, or a retired member of Retiree Group C if the vacancy occurs in Place 7, to serve the remainder of the unexpired term.

(ii) *Nomination of retiree members for election.* Nomination of the retired members for election to the board shall be by letter of nomination. Before May 31 of each election year, the executive director shall make available to retired members official letter of nomination forms with written instructions. Copies of the letter of nomination may be used. Completed letters of nomination shall be returned to the executive director prior to July 1 of each election year. Each returned letter of nomination shall identify the retired member being nominated, the place for which the retired member is being nominated and must contain the signature(s) and the last four digits of the Social Security Number(s) of the retired member(s) making the nomination. Any member of Retiree Group A receiving at least twenty-five nominations from Retiree Group A shall be considered a nominee for election to Place 5 on the board. Any retired member of Retiree Group B receiving at least twenty-five (25) nominations from Retiree Group B shall be considered a nominee for election to Place 6 on the Board. Any member of Retiree Group C receiving at least twenty-five (25) nominations from Retiree Group C shall be considered a nominee for election to Place 7 on the board. No person shall be placed on the ballot as a nominee unless the person is a retired member who is nominated by the process detailed above.

(iii) *Election of retiree board members.* The executive director shall provide for an election procedure as authorized by the board, including but not limited to voting by mail, telephone, and electronic means, and which may be conducted by a third-party voting service. The executive director shall prepare official ballots for the election of the retiree board members, listing the nominees in alphabetical order by surname. Ballots for election of the retiree board members shall be made available to all retired members in Retiree Group A, B and C no later than July 20. If there is only one (1) nominee for Place 5, there shall be no election for Place 5, and the one (1) nominee shall automatically be elected to the board of trustees. If there is only one (1) nominee for Place 6, there shall be no election for Place 6, and the one (1) nominee shall automatically be elected to the board of trustees. If there is only one (1) nominee for Place 7, there shall be no election for Place 7, and the one (1) nominee shall automatically be elected to the board of trustees. No person shall be elected as trustee whose name does not appear on the official ballot as a nominee. To be considered valid, a ballot must be cast no later than August 15 of the election year. Votes cast by written ballot must be returned no later than August 15 of the election year. If the ballot is returned by mail, the envelope must be postmarked by August 15 of the election year. Each retired member qualified to vote in the election shall vote for one (1) nominee only. Any ballot containing votes for two (2) or more persons, or for persons who are not nominees as provided herein, shall be declared invalid and shall not be counted. The executive

director or a designated third party shall tabulate all votes for all nominees. The nominees for each place receiving a majority of votes cast shall be declared elected to the board of trustees. Following the tabulation of votes, the executive director shall submit the results of same to the board of trustees meeting to be held before September 1 of the election year, at which time the board shall canvass the results of the election and certify which nominees are elected to the board of trustees. If, at the time of canvassing the results, a nominee receiving the majority of votes is no longer eligible to serve, then the retiree receiving the second highest number of votes from the appropriate Retiree Group will fill Place 5, 6 or 7 on the board. That member shall serve from September 1 of the election year through August 31 of the next election year for that Place.

If there is more than one (1) nominee for a place and no nominee receives a majority of the votes cast, or if there is a tie, then a run-off election shall be held, with ballots made available to the retired members for that place no later than September 1 of the election year and in the same manner as prescribed for the first election. Only the names of candidates who tied for the highest number of votes cast for that place in the first election, or the two (2) candidates who received the highest number of votes with neither having a majority of votes cast, shall be printed on the ballot for the run-off election. All ballots for the second election must be cast by September 20 of the election year. Votes cast by written ballot must be returned by September 20 of the election year. If a ballot is returned by mail, the envelope must be postmarked by September 20 of the election year. The executive director or a designated third party shall tabulate the votes for the candidates in the run-off election. The candidate receiving the highest number of votes cast in the run-off election shall be declared elected to the board of trustees. In the event of a tie vote at the second election, the candidates who tie shall cast lots in the presence of the board of trustees to determine which one (1) shall be declared elected.

Following the tabulation of votes in the run-off election, and the casting of lots in case of ties, the executive director shall submit the results of same to the board of trustees at a meeting to be held before November 1 of said election year, at which time the board shall canvass the results of the run-off election and certify which nominees are elected to the board of trustees. If, at the time of canvassing the results of the run-off election, the nominee elected to serve on said board is no longer eligible to serve, then the retiree receiving the second highest number of votes from the appropriate Retiree Group will fill Place 5, 6 or 7 on the board. That member shall serve from September 1 of the election year through August 31 of the next election year for that Place.

3. Board members appointed by the city council
- a. *Place 8.* The trustee for Place 8 shall be a resident of the City of Fort Worth. A person appointed under this subsection may not be a member of the city council. The trustee for Place 8 shall be appointed by a majority vote of the city council to serve a term initially commencing September 1, 2007 and ending August 31, 2008. Thereafter, the person appointed by City Council shall serve a term of two (2) years (unless removed sooner by a majority vote of the city council) commencing on September 1 of every even numbered year and ending August 31 of the next even numbered year. Should a vacancy occur in Place 8, then city council, by majority vote, shall appoint another eligible resident of the City of Fort Worth to serve the remainder of the unexpired term.
 - b. *Place 9.* The trustee for Place 9 shall be a resident of the City of Fort Worth. A person appointed under this subsection may not be a member of the city council. The trustee for Place 9 shall be appointed by a majority vote of the city council to serve a term of two (2) years (unless removed sooner by a majority vote of the city council) commencing on September 1 of every odd numbered year through August 31 of the next odd numbered year. Should a vacancy occur in Place 9, then city council, by a majority vote, shall appoint another eligible resident of the City of Fort Worth to serve the remainder of the unexpired term.
 - c. *Place 10.* The trustee for Place 10 shall be a resident of the City of Fort Worth. A person appointed under this subsection may not be a member of the city council. The trustee for Place 10 shall be appointed by a majority vote of the city council to serve a term initially commencing on September 1, 2007, and ending August 31, 2008. Thereafter, the person appointed by City Council shall serve a term of two (2) years (unless removed sooner by a majority vote of the city council) commencing on September 1 of every even numbered year through August 31 of the next even numbered year. Should a vacancy occur in Place 10, then city council, by a majority vote, shall appoint another eligible resident of the City of Fort Worth to serve the remainder of the unexpired term.
 - d. *Place 11.* The trustee for Place 11 shall be a resident of the City of Fort Worth. A person appointed under this subsection may not be a member of the city council. The trustee for Place 11 shall be appointed by a majority vote of the city council to serve a term of two (2) years (unless removed sooner by a majority vote of the city council) commencing on September 1 of every odd numbered year through August 31 of the next odd numbered year. Should a vacancy occur in Place 11, then city council, by a majority vote, shall appoint another eligible resident of the City of Fort Worth to serve the remainder of the unexpired term.
 - e. *Place 12.* The trustee for Place 12 shall be a resident of the City of Fort Worth. A person appointed under this subsection may not be a member of the city council. The trustee for Place 12 shall be appointed by a majority vote of the city council to serve a term initially commencing September 1, 2007, and ending August 31, 2008. Thereafter, the person

appointed by City Council shall serve a term of two (2) years (unless removed sooner by a majority vote of the city council) commencing on September 1 of every even numbered year and ending on August 31 of the next even numbered year. Should a vacancy occur in Place 12, then city council, by a majority vote, shall appoint another eligible resident of the City of Fort Worth to serve the remainder of the unexpired term.

- f. *Place 13.* The trustee for Place 13 shall be the chief financial officer of the City of Fort Worth. Should a vacancy occur in Place 13, then city council, by a majority vote, shall appoint a qualified person to serve until a new chief financial officer is appointed.
- C. All trustees shall serve without compensation, but they shall be reimbursed from the fund for all necessary expenses authorized by the board, including, but not limited to, reimbursement for leave time used for educational conferences and other meetings approved by the board. Reimbursement of leave time applies only to those trustees who are employees of the city. The board shall establish a uniform procedure for the reimbursement of travel expenses by board members and fund staff.
- D. The board of trustees shall annually select a chairperson, vice-chairperson and secretary. Each of these officers shall have the individual authority to execute all documents on behalf of the board. The board secretary shall be deemed the custodian of records of the fund and shall have the authority to delegate the day-to-day responsibilities for record maintenance to members of the fund staff. The board may appoint the Executive Director to serve as secretary, but such appointment shall not give the Executive Director any voting rights on the board. Election of board officers shall take place in September of each year. The chairperson shall have the power to call a meeting at any time necessary to carry out the business of the fund and shall have the authority to direct the activities of fund staff, consistent with the provisions of these rules, between sessions of the board.
- E. Seven (7) members of the board shall constitute a quorum to transact any business of the fund, unless there are vacancies, in which event the quorum shall be reduced by the number of vacancies existing. Every matter before the board for a vote shall require for final passage the affirmative vote of a majority vote of the trustees of the fund, as reduced by any vacancies on the board, without regard to the number of trustees present at a board meeting, except for the following matters:
 - (a) a different number for the vote is required by Art. 6243i of the Texas Revised Civil Statutes; or
 - (b) the matter under consideration by the board is a recommendation from a standing committee of the board, which then the vote required for passage of the recommendation by the standing committee may be by a majority of the members present at the board meeting.
- F. The board shall keep minutes of all public meetings and a record of any action taken by the board shall be kept in written form and maintained by the board. The board shall have the authority to take such action as it deems necessary to carry out the provisions of the fund and all decisions of the board, made in good faith, shall be final, binding and conclusive on all parties.

- G. The board shall be deemed the named fiduciary of the fund and shall discharge its responsibilities solely in the interest of the members and beneficiaries of the fund for the exclusive purpose of providing benefits to the members and their beneficiaries and to defray the reasonable expenses of the fund. The trustees shall exercise those fiduciary responsibilities with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a similar character and with similar aims. The trustees shall act, at all times, consistent with the Texas Constitution (Article XVI, Section 67), the Texas Government Code (Chapter 802), and the Texas Trust Code (Chapters 117 and 121) as those provisions may be applicable to a governmental retirement plan.
- H. The board of trustees shall have the following administrative duties:
1. To maintain such records as are necessary for calculating and distributing retirement benefits;
 2. To maintain such records as are necessary for financial accounting and reporting of the assets of the fund;
 3. To maintain such records as are necessary for actuarial valuation of the fund, including investigations into mortality, service and compensation experience of its members and beneficiaries;
 4. To compile such other administrative and investment information as is necessary for the management of the fund;
 5. To process, certify and/or respond to all correspondence, bills and statements received by the fund, as well as applications submitted to the board for retirement benefits;
 6. To establish and maintain communication with city departments and other agencies of government as is necessary for the management of the fund, including preparing, filing and distributing such reports and information as may be required by law to be prepared, filed or distributed on behalf of the fund; including notices from the City of personnel actions such as terminations, reinstatements and reclassifications affecting contributions and benefits accrued or payable from the Fund;
 7. To determine all questions relating to applications for eligibility, participation and benefits;
 8. To distribute at regular intervals to employees, a comprehensive summary plan description and periodic reports regarding the financial and actuarial status of the fund;
 9. To retain and compensate such employees as it deems necessary to fulfill its fiduciary responsibilities, including but not limited to, an executive director and such other professional and clerical employees as the board, in its sole discretion, deems necessary for the efficient operation of the fund. The salaries and benefits paid to all employees of the fund shall be paid from the assets of the fund and such persons, if employed on a full-time basis by the fund, shall be eligible for

membership in a separate fund established solely for the fund staff employees, which will be commingled for investment purposes;

10. To report semi-annually to the city council on the financial condition of the fund;
 11. To assure the prompt deposit of all member contributions, city contributions and investment earnings;
 12. To establish a uniform set of rules and regulations for the management of the fund, consistent with state law;
 13. To provide for the amendment of these rules and the terms of the plan, consistent with the provisions of Section 6243(i), Texas Civil Statutes;
 14. To take such other action as the board shall deem, in its sole and exclusive discretion, as being necessary for the efficient management of the fund.
- I. The board shall have the authority to retain its own legal counsel, accountants, actuaries and other professional advisors to assist the board in the performance of its duties. The board may act without independent investigation upon the professional advice of the advisors so retained. All attorneys, accountants, actuaries or other professional advisors shall report solely to the board and the executive director.
 - J. The board is authorized to prosecute and defend all actions, claims and proceedings of any nature or kind for the protection of the fund assets and for the protection of the board and staff in the performance of their duties.
 - K. Consistent with the provisions of state law, neither the board nor any of its individual members or the retirement staff shall have any personal liability for any action taken in good faith. The trustees and staff shall be entitled to such sovereign and governmental immunity as provided by law. The board shall be authorized to purchase from the assets of the fund, errors and omissions insurance to protect the fund, the trustees and staff in the performance of their duties. Such insurance shall not provide against a trustee or staff member's intentional misrepresentation, willful misconduct or gross negligence.
 - L. If the insurance policies described by Subsection (K) of this section, or if any of protections provided for by law are unavailable, insufficient, inadequate, or otherwise not in effect to protect any trustee, officer or fund staff employee, the board may indemnify a trustee, officer, or fund staff employee for liability imposed as damages caused by, and for reasonable costs and expenses incurred by the individual in defense of, an alleged act, error, or omission committed by the trustee, officer, or fund staff employee who believed in good faith, at the time, to be the trustee's, officer's, or fund staff employee's official capacity. The board may not indemnify a trustee, officer, or fund staff employee for the amount of a loss that results from the trustee's, officer's, or fund staff employee's willful and malicious misconduct or gross negligence.
 - M. No trustee or staff member shall be responsible, at his or her own expense, to take legal action to correct the misconduct of any other member of the board of trustees or staff. A trustee or staff member shall have an affirmative obligation, however, to publicly reveal any misfeasance, malfeasance or nonfeasance by a co-trustee or staff member, and upon

making such revelation to the rest of the Board in a public meeting, shall be relieved of further individual responsibility of the actions of that co-trustee or staff member.

- N. Consistent with state law, no proposed change in the rules affecting benefits of the system shall be adopted or submitted for a vote to the members or to the city without the actuarial impact of said proposed change being calculated and reported to all affected parties.
- O. The board of trustees shall appoint an executive director of the fund who shall have demonstrated experience in the management of a governmental retirement plan and who shall supervise and be responsible to the board for the administrative affairs of the fund and to carry out the business of the fund as directed by the board. The executive director shall appoint all other employees of the fund as he or she deems necessary for the efficient operation of the fund. The executive director and such other employees shall be employees of the Retirement Fund. Unless otherwise delegated to the executive director, the board shall have the ultimate authority to retain, classify, compensate, discipline and terminate the employment of any person selected under this section. The Board shall have the power, by separate instrument, to adopt a retirement plan, insurance program, and other employee benefit arrangements for its employees. Any such retirement plan shall be managed by the Board of Trustees of the Fund and may be co-mingled for investment purposes with the Fund. All benefit programs established for employees of the Fund shall be consistent with the terms of the Internal Revenue Code and applicable state law. No provision of these rules is intended to create any expectation of continued employment unless otherwise provided in a written contract of employment, approved by the board.

1.103 Appointment of Actuary; Annual Valuation

The Board shall appoint an actuary, meeting the standards of an enrolled actuary as that term is defined in the Employee Retirement Income Security Act of 1974 (ERISA) for the purpose of providing an annual valuation of the Fund. The Actuary shall also serve as a technical advisor of the Fund. The actuary shall also serve as a technical advisor to the Board and the Executive Director regarding the actuarial operations of the Fund. The actuarial assumptions and tables used by the actuary shall assume costs, liabilities, rates of interest, mortality, turnover and other factors as are reasonable, taking into account the experience of the Fund and reasonable expectations. All actuarial assumptions and methodologies shall be adopted by the Board upon the advice of the actuary. At least thirty (30) days before the date that the Board adopts actuarial assumptions to be used by the Fund, the Board shall submit to the City Council the detailed report regarding the proposed actuarial assumptions. The report must include the fiscal impact of the proposed actuarial assumptions on the Fund.

1.104 Fund Management and Investments

- A. The fund is hereby established, pursuant to the authority granted by Texas law as an irrevocable trust into which shall be deposited all assets of the fund of every kind of description.
- B. The actual custody and supervision of the fund shall be vested in the board. The board shall keep accurate accounts of all assets in the fund regarding the following:
 - 1. Current amounts of accumulated contributions of members, both on an individual and aggregate basis;

2. Receipts and disbursements;
 3. Benefit payments;
 4. All contributions from the city;
 5. All interest, dividends, gains and losses from investments;
 6. Such other entries as may be required for a clear, complete financial report of the status of the fund;
- C. The fund shall establish a written investment policy, with the advice and counsel of such investment advisors as the board deems necessary, and said investment policy shall set forth the types of securities and other types of investments into which shall be placed the assets of the fund. The policy shall further set forth appropriate limitations on those investments including, but not limited to, anticipated rate of return, quality of investment, class of investment and acceptable risk. The board shall have the sole authority to invest and reinvest the assets of the fund in such securities or property, real or personal, as the board deems appropriate, provided the investment is consistent with the investment policy adopted by the board. The board shall give notice to the city of any proposed change in the investment policy within ten (10) business days from the meeting where such proposed changes were adopted by the board. .
- D. The board may determine the percentage of each type of investment to be held.
- E. The board shall be authorized to retain one or more asset managers for the management of property held in the fund and the board shall convey property of the fund to such money managers for investment or reinvestment in accordance with the terms of these rules and the investment policy established by the board. Any such money manager contracting with the board for the investment of its assets shall be deemed a fiduciary of the fund.
- F. The board shall have a continuing duty to observe and evaluate the performance of any money manager retained by the board. The board shall, in selecting a money manager or other investment counsel, exercise all judgment and care in the circumstances then prevailing with persons of prudence, discretion and intelligence, exercise in the management under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a similar character and with similar aims.
- G. The board shall require that any money manager agent who has custody or control of any property of the fund keep accurate and detailed accounts of all investments, receipts, disbursements and other transactions pertaining to such trust property, and the board shall further require that all accounts, books, and records pertaining thereto be open to inspection and audit at all reasonable times by the board, the city, or their designees.
- H. The board shall keep accurate and detailed accounts of all investments, receipts, disbursements or other transactions relating to trust property and all accounts, books, and records pertaining thereto shall be open for inspection and audit at all reasonable times by the board, the city, or its designees.

- I. The Board shall appoint a custodial institution for the purpose of holding in trust all assets of the Funds. The custodian appointed shall have demonstrated experience in the custody of public employee retirement plan assets. The custodian shall be responsible for the performance of all banking and trust duties, as assigned by the Board. The Board shall also be authorized to engage in a program of securities lending with the custodian. The custodian shall provide a monthly report of all transactions and shall further provide online access to the Fund to permit continuous review of Fund financial transactions. Within forty-five (45) days of the end of the Fund year, the custodian shall provide an annual report summarizing all transactions for the preceding twelve-month period.

1.105 Compliance with the Internal Revenue Code

- A. It is the intention of the board that the fund remain at all times a qualified plan, as that term is defined under the Internal Revenue Code. To the extent applicable to the Fund, the Code provisions set forth in this section shall govern.
- B. Notwithstanding any other provision of these Rules, the annual benefit provided with respect to any member may not exceed the benefits allowed for a governmental defined benefit plan qualified under Section 401 of the Code. The maximum benefits allowed under this Section shall increase each year to the extent permitted by annual cost-of-living increase adjustments announced by the Secretary of the Treasury under Section 415(d) of the Code and the increased benefit limits shall apply to members who have terminated employment, including members who have commenced to receive benefits, before the effective date of the adjustment.
- C. Unless the member is still employed with the city or the board, a member's retirement benefit may not be delayed beyond the later of April 1st following the calendar year in which the member attains age 70-1/2, or such later date as may be set by terms of the Internal Revenue Code, or April 1st of the year following the calendar year in which the member retires. When a distribution of participant's entire interest is not made in a lump sum, the distribution shall be made in one or more of the following ways:
 1. Over the life of the participant and designated beneficiary;
 2. Over a period certain not extending beyond the life expectancy of the participant;
 3. Over a period certain not extending beyond the joint life and last survivor expectancy of the participant and designated beneficiary.
- D. If the distribution has commenced before the participant's death, the remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the participant's death.
- E. The method of distribution if the participant dies before distribution is commenced, must satisfy the following requirements:
 1. Any remaining portion of the participant's interest that is not payable to a beneficiary designated by the participant will be distributed within five (5) years of participant's death;

2. Any portion of the participant's interest that is payable to a beneficiary designated by the participant will be distributed either:
 - a. within five (5) years after the participant's death; or
 - b. over the life of the beneficiary, or over a period certain not extending beyond the life expectancy of the beneficiary, commencing not later than the end of the calendar year following the calendar year in which the participant died (or, if a designated beneficiary is the participant's surviving spouse, commencing no later than the end of the calendar year following the calendar year in which the participant would have attained age 70-1/2).
- F. A distributee may elect, at the time and in the manner prescribed by the Board of Trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this subsection:
1. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
 - a. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made over the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary;
 - b. any series of payments for a specified period of ten years or more;
 - c. any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; or
 - d. the portion of any distribution that is not includable in gross income (unless the distributee directs that the eligible rollover distribution be transferred directly to a qualified trust that is part of a defined contribution plan that agrees to separately account for the portion that is includable in gross income and the portion that is not, or to an individual retirement account or individual annuity).
 2. An "eligible retirement plan" is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, a qualified trust described in Section 401(a) of the Code, an eligible deferred compensation plan described in Section 457(b) which is maintained by an eligible employer described in Section 457(e)(1)(A) of the Code, or an annuity contract described in Section 403(b) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a designated beneficiary who is not the surviving spouse, or the spouse or former spouse under a qualified domestic relations order, an eligible retirement plan is an individual retirement account or individual retirement annuity only.

3. A “distributee” includes an employee or former employee. In addition, the employee’s or former employee’s surviving spouse or designated beneficiary is a distributee, and the employee’s or former employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, is a distributee with regard to the interest of the spouse or the former spouse.
 4. A “direct rollover” is a payment by the retirement system to the eligible retirement plan specified by the distributee.
- G. If the combined benefits from two or more defined benefit plans sponsored by the city would otherwise exceed the limits imposed by Rule 1.105 B. and Section 415(b) of the Code, the benefits provided under this Plan shall be reduced to the extent necessary to comply with those requirements.
- H. Except as otherwise provided herein, the actuarial assumptions used for this Plan shall be set forth in a separate schedule which shall be attached hereto and is incorporated by reference. Earnings and mortality assumptions shall be consistent with the requirements of Internal Revenue Service guidelines.
- I. Forfeitures resulting from a termination of employment or a withdrawal of a member’s own contributions may not be used to increase benefits to remaining members. This shall not preclude an increase in benefits by amendment to the benefit formula made possible by favorable investment results or for any other reason.
- J. If a member dies while performing qualified military service, the beneficiaries of the member are entitled to any additional benefits (other than benefit accruals relating to the qualified military service) that would have been provided if the member had returned from the military leave of absence and then terminated employment on account of death.
- K. In the case of public safety officers as defined in the Code, up to \$3,000.00 per year of distributions may be used for the payment of health care for the retiree, the retiree’s spouse or dependents as provided by law. Such payment shall be made directly by the fund to an insurer or health plan and shall not be deemed taxable income to the member.

RULE 2

ADMINISTRATIVE RULES DEFINITIONS

2.101 Definitions

The following words, terms and phrases, when used in these rules, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The masculine pronouns, wherever used herein, shall include both male and female persons.

- A. Accumulated Contributions shall mean the sum of all amounts deducted or picked up from a member's compensation.
- B. Active Membership shall mean membership in the fund as an employee.
- C. Actuarial Equivalent and Actuarially Equivalent shall mean a quality and value of the aggregate amounts expected to be received under different forms of payment based upon actuarial factors and assumptions used by the actuary and adopted by the board.
- D. Actuarial Tables shall mean such tables of mortality, interest rates, turnover discounts, salary scales, etc. as used by the actuary with the approval of the board.
- E. Actuary shall mean the technical advisor regarding the operations which are based on mortality, service and compensation experience, who makes periodic valuations of the assets and liabilities of the fund and other evaluations as requested by the board.
- F. Administrative Rules shall mean the rules adopted to govern the retirement system, including rules regarding the participation in, contributions to, and benefits from the retirement fund.
- G. Alternative Pension Benefit shall have the meaning set forth in Rules 8.101(B) and 8.102(B) and shall have the conjunctive meaning.
- H. Base Pension shall mean an annual life pension a member receives pursuant to Sections 8.101(A) and 8.102(A) of these rules, prior to any cost-of-living adjustment pursuant to Section 8.105. If a member elects an alternative pension benefit pursuant to Rules 8.101(B) and 8.102(B), or participates in DROP pursuant to Rule 8.104, the member's base pension shall not include the lump sum amount or the DROP account.
- I. Beneficiary shall mean any person in receipt of a retirement benefit or any other benefit provided under these rules.
- J. Benefit shall mean a retirement allowance or other payment provided by the fund, but shall not include a benefit disbursement procedure.
- K. Board or Board of Trustees shall mean the board of trustees of the Employees' Retirement Fund of the City of Fort Worth.
- L. City shall mean the City of Fort Worth, Texas.

- M. Code shall mean the United States Internal Revenue Code of 1986, as amended, and any successor thereto.
- N. Compensation Base shall have the meaning set forth in Rule 5.
- O. Credited Service shall mean membership credit upon which a member's eligibility to receive benefits from the retirement fund is based, or upon which the amount of such benefits is to be determined. For the purposes of this plan, credited service shall be expressed in years, treating each completed month of service as 1/12 of a year. Credited service shall include unused accumulated sick leave and major medical leave as provided by Rule 3.104(B). Service for fifteen (15) or more calendar days in any month shall constitute a complete month of service. Service for less than fifteen (15) calendar days in any month shall constitute a complete month of absence. The period of time following a member's effective DROP election shall not be included when determining a member's credited service, provided the member completes at least one (1) year of service with the city from the date of the effect of DROP election to his or her actual separation from service. A member may also acquire credited service through the purchase of permissive service credits as provided in Rule 3.104(C).
- P. Custodial Agreement shall mean any agreement entered into between the board and a custodian as such agreement may be amended from time to time.
- Q. DROP shall mean the deferred retirement option program set forth in Rule 8.104.
- R. DROP Account shall mean the account created pursuant to Rule 8.104(D) for a member who has made an effective DROP election.
- S. DROP Election shall mean the election made by a member pursuant to Rule 8.104(B) to participate in the deferred retirement option program.
- T. Earned Income shall mean wages, salaries, tips, commissions, monetary bonuses, professional fees or other amounts received as compensation for personal services actually rendered including any compensation deferred under a deferred compensation program.
- U. Earnings shall mean the amount actually paid to an employee for services rendered during the calendar year, plus overtime, acting, assignment, holiday, longevity, educational incentive, safety award, incentive and shift differential pay, as reported on the member's W-2 Form. "Earnings" shall also include weekly Worker's Compensation benefits (currently referred to as temporary income benefits). Regardless of the fact that the following payments may be shown upon a member's W-2 Form, earnings shall not include
1. any non-salary allowance (such as uniform reimbursement, automobile allowance or mileage, etc);
 2. lump sum payments received at time of termination for unused vacation leave, sick leave and personal leave;
 3. any award by a court, administrative body, or settlement agreement in excess of earnings, and

4. any amount paid to an employee for which the city does not contribute to the fund.

An employee participating in a city-sponsored deferred compensation plan shall have the amount of any deferred compensation credited to that employee during the calendar year added to earnings reported on the employee's W-2 Form to arrive at total earnings for retirement fund matters. Mandatory member contributions that are picked up by the city and excluded from a member's W-2 Form shall also be included as part of earnings. Notwithstanding the foregoing, earnings in excess of the amount permitted in Section 401(a)(17) of the Code shall be disregarded for all purposes of this definition. Notwithstanding the preceding provisions of this section, earnings shall not include any amounts paid following a member's effective DROP election, provided the member completes at least one (1) year of service from the date of the effective DROP election to the member's actual separation from service.

- V. Employee shall mean a person employed by the city or the fund and for whom contributions are being made to the fund.
- W. ERISA shall mean the Employee Retirement Income Security Act of 1974, as amended, and any successor thereto.
- X. Executive Director shall mean the individual appointed by the board of trustees to supervise the administrative affairs of the fund and to carry out the business of the fund.
- Y. Fiscal Year shall mean the period from October 1 of one year through September 30 of the following year.
- Z. Fund or Plan shall mean the Employees' Retirement Fund of the City of Fort Worth, Texas, which also may be designated by the Board through a properly filed assumed name certificate as the Fort Worth Employees' Retirement Fund.
- AA. Legitimate Children shall mean those children legitimate to their respective parent(s), as legitimacy is defined by the Texas Family Code or the Texas Probate Code, Texas Civil Statutes, as amended.
- BB. May shall mean a permissive term.
- CC. Member shall mean a participating member as defined by Section 1.02(4) of Article 6243(i) of the Texas Civil Statutes.
- DD. Net Earnings from Self-Employment shall constitute, for purposes of Rule 9.108, the net earnings from self-employment as reflected upon the Internal Revenue Form Schedule SE and its successors, which schedule is attached to Internal Revenue Form 1040 and its successors.
- EE. Normal Retirement Date shall have the meaning set forth in Rule 4(A).
- FF. Notice shall mean delivery by electronic mail with confirmation of the receipt of the electronic mail, delivery by certified or personal mail, delivery by overnight mail, or delivery by personal service.

- GG. Pension shall mean a series of periodic payments payable in monthly installments.
- HH. Pension Office shall mean the administrative office of the Employees' Retirement Fund of the City of Fort Worth.
- II. Permissive Service Credits shall mean a member's voluntary purchase of additional periods of credited service pursuant to Rule 3.104(C).
- JJ. Pick Up Amount shall mean employer contributions derived from a member's earnings through a reduction in the member's earnings. For the purposes of this plan, amounts so picked up shall be deemed employer contributions for the purposes provided for in Section 414(h)(2) of the Code but shall remain the employee's contribution for the purposes of property rights of the members under Texas law.
- KK. Police Officer shall mean a member of the City of Fort Worth Police Department who has acquired civil service status as well as a beginning employee currently serving a one-year probationary period pursuant to Chapter 143, Local Government Code, Revised Civil Statutes of Texas, as amended.
- LL. Price Index shall mean the annual average for each year, ending September 30, of the Consumer Price Index (all items United States city average) published monthly by the Bureau of Labor Statistics, U.S. Department of Labor, or its successor in function.
- MM. Regular Interest shall mean interest compounded bi-weekly which shall be equal to but not exceed the effective annual rate of 5.25% computed on a calendar year basis on and after the effective date of these rules.
- NN. Retirement shall mean a member's withdrawal from active membership with a benefit granted to the member pursuant to the provisions of these rules.
- OO. Retirement Benefit shall mean a pension for life, as provided in these rules, payable each year in 12 equal monthly installments, beginning as of the date fixed by the board in accordance with the provisions of these rules.
- PP. Rule Amendment shall include any amendment of, repeal of, addition to, deletion of, modification of, or change to an administrative rule.
- QQ. Service means active service as an employee.
- RR. Shall indicates an action that is mandatory.
- SS. Special Retirement Date shall have the meaning set forth in Rule 4(B).
- TT. Spouse shall mean the lawfully married husband or wife of a member.
- UU. Standard Pension Benefit shall have the meaning set forth in Rule 8.101(A) or 8.102(A), whichever applies.
- VV. Summary Plan Description shall mean a document created by the board containing a brief description of the benefits offered by the plan. In the case of a conflict between these rules and the summary plan description, the terms of these rules shall prevail.

- WW. Termination of Employment shall mean complete severance of employment of any member as an employee of the city or of the fund by any act or means except death, disability or retirement.
- XX. Trustee shall mean the board of trustees of the retirement fund.
- YY. Vacancy or vacancies shall mean the resignation or termination of a board member of their Place on the board and that particular Place has not been filled by a subsequent election or appointment.
- ZZ. Vested shall mean the rights accrued under these rules by a member with five (5) years or more of credited service, or who has attained his or her retirement date as described in Rule 4(C). Such rights shall also accrue to members of the fund at the time of termination of the fund, at the time of any complete discontinuance of city contributions to the fund, and the members affected at the time of any partial termination of the fund, but only to the extent that the benefits of such members have been funded.
- AAA. Vested Termination Date shall have the meaning set forth in Rule 4(C).
- BBB. Vested Termination Pension shall have the meaning set forth in Rule 6.102.
- CCC. Vested Separated Member shall mean a person who has earned a vested benefit and who has separated from employment but has not commenced the receipt of benefits.

RULE 3

MEMBERSHIP; CONTRIBUTIONS; CREDITED SERVICE

3.101 Membership

- A. A person shall become a participating member of the fund on the date employed by the city.
- B. The following persons shall not be eligible for membership:
 - 1. An independent contractor or employee of an independent contractor doing work for the city;
 - 2. An elected officer or a non-salaried, appointed member of an administrative board or a commission of the city, except an employee who serves as a member of the board or commission;
 - 3. An employee serving on a part-time basis of less than one-half the time required to serve as a full-time employee. The city shall determine the definition of full-time employment.
 - 4. An employee who is paid in part by the city and in part by a county, state or other governmental agency; or
 - 5. A temporary employee, as determined by the city.
- C. In the case of any dispute concerning eligibility for participation, the board of trustees' determination regarding eligibility shall be final, binding and conclusive.

3.102 Member Contributions

- A. Commencing on the effective date of membership and continuing until the date of actual retirement the contribution rate for a police officer shall be eight and seventy-three one hundredths percent (8.73%) of earnings. The contribution rate for all other members of the fund shall be eight and twenty-five one hundredths percent (8.25%) of earnings. All contributions shall be picked up by the city or by the fund in the case of the fund's own employees rather than deducted and shall be deemed employer contributions as provided in Section 414(h)(2) of the Code. Such sums so picked up shall be counted as earnings for the purpose of calculating benefits under these rules.
- B. If, following a member's involuntary termination from employment, the member is reinstated, the City shall cause there to be picked up from the member's pay the amount of contributions which would have been made had the member remained continuously employed, less interim earnings, if any. The City shall have a continuing duty to inform the Fund of any personnel action affecting the accrual or payment of benefits, or the collection and transmission of contributions payable to the Fund.
- C. Contributions picked up on behalf of members reinstated following a military leave of absence are governed by the provisions of the Uniformed Services Employment and Reemployment Act. Said contributions shall be picked up rather than deducted from a

member's pay and said pick up shall be made even if to do so would reduce a member's net cash compensation below the minimum wage prescribed by law.

- D. By accepting employment with the city or the fund, each member shall be deemed to consent and agree to contributions being picked up through a reduction in the member's compensation and payments to all such members of compensation, less the amount picked up, shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such member during the period covered by such payment, except as to benefits provided by the fund.
- E. The contributions of members may be raised at any time from the amount provided for in this section to a higher amount in accordance with the procedures provided by law.

3.103

City Contributions

- A. City contributions for police officers shall be sixteen and forty-six one hundredths percent (16.46%) of earnings. For all other members, the city contribution shall be fifteen and seventy-four one hundredths percent (15.74%). Notwithstanding the foregoing, the city contributions to the fund shall be reduced for each fiscal year by the amount of benefits paid by the city, if any, under the supplemental retirement ordinance. Nothing in this rule shall prevent the city from contributing an additional amount over and above the member contributions in accordance with Article 6243(i), Texas Civil Statutes.
- B. If, following a member's involuntary termination from employment, the city or the fund is required to reinstate the member's employment, the city or the fund shall make the contribution described in this section based on the member's back pay, without reduction for any interim earnings. In addition, the city shall, on behalf of the member, make the member's contribution on any interim earnings deducted from any back pay award.
- C. In the case of a member whose employment is reinstated following a military leave of absence and who is eligible for reinstatement to the fund under the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §4301-33, contributions shall be made by the city on behalf of the said members as provided for in these rules.
- D. Contributions shall be made on behalf of members, as well as city contributions, shall be paid by the city based on weekly Worker's Compensation benefits (currently referred to as temporary income benefits) paid to those members for such amounts received by plan members on or after the effective date of these rules.
- E. Amendments concerning contributions by the city
 - 1. An amendment to the administrative rules governing municipal contributions, including an amendment to the rate or manner of making contributions, may be made only if:
 - a. a qualified actuary performs an actuarial analysis of the fiscal impact of the proposed amendment;

- b. the board of trustees or the governing body, by majority vote, calls a special election of all participating members to approve the amendment;
 - c. the amendment is approved by a majority of the participating members eligible to vote in the special election; and
 - d. the amendment is approved by a majority vote of:
 - (i) the board of trustees, if the city council called the special election
 - (ii) the city council, if the board of trustees called the special election
2. The board of trustees or the city council, as applicable, shall approve or reject the proposed amendment by the 90th day after the date the votes of the special election are canvassed.
 3. The pension office shall conduct a special election by secret ballot. The board of trustees shall canvass the vote.
 4. A person who is a participating member on the date of the special election is eligible to vote in the special election.
 5. Unless otherwise provided by the proposed amendment, an amendment to the administrative rules becomes effective on approval by the board of trustees or the city council.
 6. Notwithstanding Subsections (1) through (5) of this section, only the city council may adopt an amendment to the administrative rules that increases municipal contributions.

F. Amendments by the City in Event of a Fiscal Emergency

1. Notwithstanding Section 3.103(E), in the event the City has a fiscal emergency that requires an amendment to the administrative rules governing municipal contributions, the City may amend the administrative rules to address the emergency if the City:
 - a. determines that the emergency exists and approves the proposed amendment by the unanimous vote of all members of the city council; and
 - b. provides written notice to the Executive Director of the retirement fund at least five business days before the date the proposed amendment takes effect.
2. On the 90th day after the date an amendment under this section takes effect and for each subsequent 90-day period while the amendment is in effect, the city council shall determine whether the emergency continues to exist. If the city council does not determine by a unanimous vote that the emergency continues to

exist or if the city council fails to vote on whether the emergency exists as required by this subsection, the amendment automatically expires on the date the vote is taken or on the date the vote should have been taken, as applicable.

3.104 Credited Service; Service Breaks; Permissive Service Credits

A. Service Breaks

Pension credits shall be granted for all credited service for which a member of the fund receives employment compensation from the city, subject to the following regulations pertaining to service breaks:

1. Authorized service breaks of ninety (90) or less consecutive calendar days without pay shall not be deducted from credited service.
2. Except as provided below, periods of absence in excess of ninety (90) consecutive calendar days without pay shall be deducted from credited service, and no contributions shall be made by members or by the city during such periods.
3. An absence of any period shall be permitted without loss of prior service credits, unless the member receives a distribution of his or her total contributions, plus regular interest; any period of absence shall cancel all prior service if the member receives a distribution of the member's total contributions, plus regular interest; however, if a member is absent, the member may regain prior service credits by repaying the total amount of all contributions withdrawn, plus regular interest thereon (at the regular interest rate in effect on the date of repayment) from the date of withdrawal to the date of repayment, pursuant to policies adopted by the board under one (1) of the two (2) following options:
 - a. Repay in a single lump sum payment within ninety (90) days of reemployment, or
 - b. Repay through a payroll deduction payback plan which commences within ninety (90) days of reemployment, and provides that regular interest will be charged throughout the payback period and that the repayment period will not exceed seven (7) years.

A rehired member who does not timely elect one (1) of these two (2) options and timely repay the prior contributions (plus regular interest) will waive his or her right to prior service credits. An existing rehired member on the date this provision is added to the retirement ordinance shall have until October 31, 1999 to elect one (1) of the above repayment options or waive his or her right to prior service credits.

A member who begins to repurchase service credit but does not complete making all payments will be awarded prorated service based upon the ratio of the amount repaid to the total contributions withdrawn.

4. Effective on or after December 12, 1994, any member who is reemployed by the city upon completion of service in the uniformed services (within the time frame

provided under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended), shall be granted service credit for such uniformed service, provided the member makes the contributions (with no interest) to the fund that the member would have been required to contribute if the member had remained continuously employed by the city throughout the period of uniformed service. Such payment must be made during the period which commences with the date of reemployment by the city and whose duration is three (3) times the period of the member's service in the uniformed services, not to exceed five (5) years. If a reemployed member makes such contributions, the city shall also make its corresponding contributions to the fund. This provision shall be construed consistently with the requirements of the Uniformed Services Employment and Reemployment Act of 1994, as amended.

5. Any member whose employment was terminated involuntarily and was thereafter reinstated as the direct result of an appeal or suit arising from the involuntary termination shall be granted all service credits for the period of absence.

B. Accumulated sick leave and major medical leave.

At retirement and in calculating a vested termination pension, a member shall have added to his or her credited service, as defined herein and subject to the provisions of section 3.104, any hours of accumulated sick leave and/or unused major medical leave, as recorded in the official personnel records of the city, for which that employee has not received compensation. Notwithstanding the preceding sentence, accumulated sick leave and/or unused major medical leave shall not be taken into account to increase the pension of a member receiving an in-line-of-duty disability pension under section 9.105. For credited service purposes, such accumulated sick leave hours and/or unused major medical leave for which a member shall not receive compensation shall be converted into months using the following formula: total number of hours accumulated uncompensated sick leave and/or unused major medical leave divided by the member's total scheduled hours of work for the year and multiplied by twelve (12). The resulting product represents the number of months in whole numbers and/or a decimal fraction of a month; any whole number shall constitute that number of months to be added to credited service. If the resulting product contains a decimal value that is less than five tenths (0.50), then no addition to credited service shall be made with respect to such decimal value, however, if the resulting product contains a decimal value that is five tenths (0.50) or greater, then an additional month of credited service shall be provided for such decimal value. The addition of such accumulated sick leave and/or unused major medical leave to credited service shall not be applied toward determination of retirement eligibility, but only toward calculation of retirement benefits.

C. Permissive service credits.

1. *General.* Effective on or after October 1, 2002, a member who has earnings from the city for the then current year may elect to purchase permissive service credits and have his or her period of credited service increased for purposes of calculating the member's retirement benefit, normal retirement date, and special retirement date, pursuant to the provisions of Rule 4. The actuary shall prepare factors which shall be used to determine the voluntary additional contributions that a member must make to purchase permissive service credits, provided, however, that in no event shall a member be required to contribute an amount

that exceeds the amount necessary to fund the benefit attributable to the additional credited service that is purchased.

2. *Limitations.* A member cannot purchase more than five (5) years of permissive service credits that are attributable to non-qualified service, and a member cannot purchase any permissive service credits for non-qualified service prior to completion of five (5) years of participation as a member.
3. *Non-qualified service.* For purposes of this subsection, the term “non-qualified service” means service for which permissive service credit is allowed other than (i) service (including parental, medical, sabbatical, and similar leave) as an employee of the government of the United States, any state or political subdivision thereof, or any agency instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of the repayment described in section 415(k)(3) of the Code), (ii) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (i) above) of an education organization described in section 170(b)(1)(A)(ii) of the Code which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), as determined under state law, (iii) service as an employee of an association of employees who are described in clause (i) above, or (iv) military service (other than qualified military service under section 414(u) of the Code) recognized by such governmental plan. In the case of service described in clauses (i), (ii), or (iii) above, such service will be non-qualified service if recognition of such service would cause a member to receive retirement benefits for the same service under more than one (1) plan.
4. *Purchase of permissive service credits.* A member may purchase permissive service credits pursuant to the rules, procedures and forms as may be adopted and amended by the board in its complete discretion, which shall be uniform and nondiscriminatory and which shall be interpreted in a manner that is consistent with the provision of the retirement ordinance and applicable law. Permissive service credits may be purchased by a member’s direct payment to the trustee of the amount determined by the factors provided by the actuary, or through a trustee to trustee transfer of such amount from the member’s account under an eligible deferred compensation plan (as defined in Code section 457) or a qualified plan within the meaning of Code section 401(a), including a 401(k) plan, or the member’s annuity contract meeting the requirements of Code section 403(b).

RULE 4

RETIREMENT DATE

A. Normal retirement date.

A member shall be eligible for pension benefits on or after the member's normal retirement date which shall be the last day of the month in which the earliest of the following occurs:

1. The member's years of age and years of credited service total eighty (80); or
2. The later of
 - a. the date on which the member reaches age sixty-five (65) or
 - b. the fifth anniversary of the date the member joined the fund.

B. Special retirement date.

A police officer member shall be eligible for pension benefits on or after such member's special retirement date which shall be the last day of the month in which such member's years of credited service total twenty-five (25).

C. Vested retirement date.

A vested member who is voluntarily or involuntarily separated from the service of the city shall be eligible for pension benefits on or after such member's vested termination date which shall be the last day of the month in which the member reaches age fifty (50), or, if earlier, the last day of the month in which the member would have attained his or her normal retirement date had the member remained employed by the city.

RULE 5

COMPENSATION BASE FOR DETERMINING BENEFITS

- A. Pension, death, disability and vested termination benefits shall be based upon the member's compensation base which shall mean the average earnings which were paid to the member by the city for employment with the city during any five (5) calendar years in which he or she had the highest earnings. If a member's last day of employment with the city is on or after January 1, 1999, "three (3)" shall be substituted for "five (5)" in the preceding sentence. If a member has less than five (5) (or, if applicable, three (3)) calendar years of employment, the member's compensation base shall be determined by the executive director under uniform, non-discriminatory procedures that are consistently applied. For compensation base purposes, any lump sum payments of earnings for any prior time period, whether awarded to the member by a court, administrative body or settlement agreement, shall be retroactively attributed to the calendar year in which it would otherwise have been received by the employee from the city for services rendered. For purposes of computing the compensation base for a member who has completed at least one (1) year of service following the making of an effective DROP election, the member's compensation base shall be calculated using the member's earnings prior to the effective date of the DROP election.
- B. For employees hired after October 23, 2007, and employees who had less than five years of service as of October 23, 2007, a member's compensation base shall be calculated as follows:
1. The fund shall determine the four (4) calendar years in which the member had the highest annual earnings. Of such four (4) years, the year in which the member had the lowest annual earnings shall serve as the base year. The base year shall not be included as one (1) of the three (3) calendar years for purposes of the compensation base calculation.
 2. The first annual earnings to be used in the calculation of the member's compensation base shall be the actual annual earnings from the calendar year with the third highest annual earnings of the four (4) calendar years identified in subsection (1) of this section B, provided that if such annual earnings are from a calendar year beginning on or after January 1, 2008, the amount to be used in the calculation of the compensation base for the first year shall not exceed one hundred twelve (112) percent of the annual earnings for the base year.
 3. The second annual earnings to be used in the calculation of the member's compensation base shall be the actual annual earnings from the calendar year with the second highest annual earnings of the four (4) calendar years identified in subsection (1) of this section B provided that if such annual earnings are from a calendar year beginning on or after January 1, 2008, the amount to be used in the calculation of the compensation base for the second year shall not exceed one hundred twelve (112) percent of the annual earnings used that are attributable to the year described in in section subsection 2 of section B of this Rule.
 4. The third annual earnings to be used in the calculation of the member's compensation base shall be the actual annual earnings from the calendar year

with the highest annual earnings of the four (4) calendar years identified in subsection (1) of this section 2.207(b), provided that if such annual earnings are from a calendar year beginning on or after January 1, 2008, the amount to be used in the calculation of the compensation base for the third year shall not exceed one hundred twelve (112) percent of the annual earnings used that are attributable to the year described in subsection 3 of section B of this Rule.

5. The average of the three (3) amounts determined in accordance with subsections (2) through (4) of subsections 2 through 4 of section B of this Rule will be the average annual earnings for purposes of the member's compensation base.

RULE 6

TERMINATION BENEFITS AND VESTING

6.101 Contribution Refund Prior to Vesting

Any member who is voluntarily or involuntarily separated from the service of the City before the member is vested shall be entitled to receive the amount of the member's contributions plus regular interest (defined as the regular interest rate in effect on the day of such payment) less any amount previously paid to the member from the Fund. Interest will be paid only for the time of employment with the City, and no interest shall be paid for the time between termination of employment and distribution of the refund.

6.102 Vested Termination Pension

- A. A vested member who is voluntarily or involuntarily separated from the service of the city shall be entitled to receive a vested termination pension payable: (i) in full on the date when the member would have otherwise attained normal retirement date had the member remained employed by the city, or (ii) in a reduced amount commencing on or after age fifty (50). A member must file a request for the commencement of the vested termination pension by completing such forms and following such procedures as are established by the board. A vested termination pension shall be payable monthly on the first business day of each month commencing with the month following approval of the member's vested termination pension by the board.
- B. A vested termination pension shall be an annual life pension, the amount of which shall be the specified percentage of the member's compensation base multiplied by the member's total years of credited service to date of such voluntary or involuntary separation from the service of the city. For purposes of the preceding sentence, the specified percentage of the member's compensation base shall be two and seventy-five one-hundredths (2.75) percent, unless the member has attained his or her normal retirement date prior to the date the member's pension payments begin, in which case the specified percentage shall be three (3.0) percent. A vested termination pension shall be calculated using the "multiplier" ("specified percentage") in effect at the time the vested termination pension commences (rather than at the time the member's employment with the city terminates).
- C. The amount of reduction for early commencement of a vested termination pension prior to the member's normal retirement date shall be five-twelfths (5/12) percent for each month by which commencement of the pension antedates the member's normal retirement date had the member remained employed by the city.

6.103 Contribution Refund After Vesting in Lieu of Vested Termination Pension

Any member who is voluntarily or involuntarily separated from the service of the City may elect to receive a refund of the member's contributions, plus regular interest (at the rate in effect on the date of such payment) less any payment previously paid to the member from the Fund either of the date such separation or at any time thereafter prior to commencement of the retirement income. No interest shall be paid between the date of separation from the City and the date of distribution. Any member accepting a contribution refund in lieu of vested termination pension shall forfeit all rights under the Fund and shall thereafter be entitled to no further benefits from the Fund and shall release the Fund, the Trustees, and the

City from any and all liability associated with the Fund other than the return of contributions as provided in this paragraph.

RULE 7

PAYMENT OF BENEFITS; PAYMENTS TO MINORS; REEMPLOYMENT OF RETIRED MEMBERS; ROLLOVER DISTRIBUTIONS

7.101 Payments to Minors

In the event that payments provided for under this Plan are due to be paid to a minor, or to a person who has been legally determined to lack legal capacity to deal with his or her own affairs, or to an individual whom the Board has actual knowledge is incapable of accepting and providing of receipt for monies paid, the Board shall make payments to the guardian of such person's estate upon presentation of proper proof of guardianship. In the absence of a duly appointed guardian, the Board shall have the authority to withhold payments and to make application to a court of competent jurisdiction for the appointment of a guardian for such person. Prior to the withholding of any payments, the Board shall give written notice of its intent to withhold and shall provide a meaningful opportunity for the person whose payments are being withheld to establish entitlement and capacity to said benefits.

7.102 Suspension of Payments Upon Reemployment

In the event that a retired employee in receipt of benefits from the Fund is reemployed by the City as an employee in a covered position, that person's pension benefits shall be suspended upon the date of reemployment. The member shall again become an active participant of the Plan and shall earn credited service for the period of reemployment. Such additional credited service shall be added to service accrued during the prior period of employment, and upon final separation from the City, a new pension benefit shall be calculated taking into account the member's total years of credited service. The compensation base shall be recalculated taking into account compensation paid during the period of reemployment. In no event shall the member's monthly pension benefit be reduced due to periods of reemployment.

7.103 Distributee of an Eligible Rollover Distribution

If the distributee of an eligible rollover distribution as defined in the Internal Revenue Code elects to have such distribution paid directly to an eligible retirement plan and specifies prior to the distribution being made on a form acceptable to the Board the name of the eligible retirement plan to which such distribution is to be made, the distribution shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan so specified. The Board shall be the sole judge of the eligibility of the receiving plan to receive a rollover distribution and the eligibility of a distributee for a rollover distribution.

RULE 8

RETIREMENT PENSION

8.101 Commencement of Retirement Pensions and Adjustment to Prior Pensions

A. Standard pension benefit.

A vested member who retires on or after the member's normal retirement date and requests commencement of the member's pension, or a member who terminates employment prior to the member's normal retirement date and who waits until such normal retirement date to apply for a pension, shall receive an annual life pension, the amount of which shall be three (3.0) percent of the member's compensation base multiplied by the member's total years of credited service to date of actual retirement, payable monthly on the first business day of each month commencing with the month following the board's approval of the member's pension. This pension benefit shall be called the "standard pension benefit."

B. Alternative pension benefit.

In lieu of the standard pension benefit, a member may irrevocably elect with his or her spouse's consent (where applicable), in advance of his or her retirement and pursuant to regulations and requirements the board in its discretion may adopt, to receive an "alternative pension benefit" which shall be actuarially equivalent to the member's standard pension benefit and which shall be payable in two (2) parts: (i) one (1) part in a lump sum amount not less than five (5) percent nor greater than twenty-five (25) percent of the actuarial equivalent of the member's standard pension benefit, which lump sum shall be payable on the date benefits commence under (ii); and (ii) the remainder in an annual life pension, payable monthly on the first business day of each month commencing with the month following the board's approval of the member's pension.

C. Limitation on alternative pension benefit.

Notwithstanding any other provision in these rules to the contrary, the option to elect an alternative pension benefit shall not be available for any disability benefits under Rule 9, death benefits under Rule 10, or termination benefits under Rule 6, nor shall it be available to any retired employee who is receiving pension benefits hereunder as of the effective date of the alternative pension benefit provisions of this rule, nor shall it be available upon re-retirement to any retired employee who becomes re-employed by the city.

8.102 Pensions Commencing Upon Special Retirement Date

A. Standard pension benefit.

A vested police officer member who retires on or after the member's special retirement date and requests commencement of the member's pension shall receive an annual life pension, the amount of which shall be three (3.0) percent of the member's compensation base multiplied by the member's total years of credited service to date of actual retirement, payable monthly on the first business day of each month commencing with

the month following the board's approval of the member's pension. This pension benefit shall be called the "standard pension benefit."

B. Alternative pension benefit.

In lieu of the standard pension benefit, a member may irrevocably elect with his or her spouse's consent (where applicable), in advance of his or her retirement and pursuant to regulations and requirements the board in its discretion may adopt, to receive an "alternative pension benefit" which shall be actuarially equivalent to his or her standard pension benefit and which shall be payable in two (2) parts: (i) one (1) part in a lump sum amount not less than five (5) percent nor greater than twenty-five (25) percent of the actuarial equivalent of the member's standard pension benefit, which lump sum shall be payable on the date benefits commence under (ii); and (ii) the remainder in an annual life pension, payable monthly on the first business day of each month commencing with the month following the board's approval of the member's pension.

C. Limitation on alternative pension benefit.

Notwithstanding any other provision in this division to the contrary, the option to elect an alternative pension benefit shall not be available for any disability benefits under Rule 9, death benefits under Rule 10, or termination benefits under Rule 6, nor shall it be available to any retired employee who is receiving pension benefits hereunder as of the effective date of the alternative pension benefit provisions of this division, nor shall it be available upon re-retirement to any retired employee who becomes reemployed by the city.

8.103 Pensions Commencing Prior to October 1, 1996

Effective October 1, 1996, each member previously receiving pension benefits hereunder shall have the member's calculation for base pension benefits adjusted. For members whose pension was calculated on or after the member attained normal retirement date or special retirement date, or who were receiving pension benefits prior to October 1, 1993, the new base pension shall be three (3.0) percent of the member's compensation base multiplied by the member's total years of credited service to date of actual retirement. For all other members, the new base pension shall be two and seventy-five one-hundredths (2.75) percent of the member's compensation base multiplied by the member's total years of credited service to date of actual retirement. For all members, all prior cost-of-living increases from the date the member's pension benefits commenced shall be added to the new base pension to determine total benefits to be paid.

8.104 Deferred Retirement Option Program

A. General

In lieu of the standard pension benefit or the alternative pension benefit, a member who has attained normal retirement eligibility or who has reached the special retirement date may elect to remain in active service with the City or the Fund and to participate in the deferred retirement option program ("DROP"). By making an election to participate in DROP (DROP election), the member's commencement of retirement pension benefits will be deferred until the member's actual separation from service and the member will receive a lump sum payment (unless the member elects installment payments pursuant to this section at the time of the member's actual separation from service). At the time of separation from service, the member also has the option of converting part, or all, of the lump sum amount

into an actuarially-equivalent lifetime monthly benefit. No interest or earnings shall be paid during the DROP accumulation. Once a member makes a DROP election and the DROP election is approved by the Board, said election is irrevocable and is effective as long as the member remains in active service. Distribution of a member's DROP account will not be made, and distribution of the member's retirement pension benefits will not begin until the member actually separates from service. DROP shall be administered in accordance with the provisions of this rule and such administrative procedures as the Board, in its discretion, shall adopt. Such rules shall be uniform and non-discriminatory and shall be interpreted in a manner that is consistent with provisions of these rules and the applicable law. DROP is a benefit distribution methodology within the sole administration of the board and is not a benefit as defined by these rules.

B. Procedure for DROP Election

A DROP election shall be made in accordance with the rules, procedures and forms (including spousal consent, where applicable) as may be adopted by the board. The election form adopted by the board may be amended by the board, and, except as otherwise provided by the board, the election form in effect at the time the member's DROP election is effective and shall control all DROP benefits the member may become entitled to receive upon retirement. A member shall not be subject to any fees, charges, or any other similar expenses in connection with a DROP election.

C. Timing and Irrevocability of DROP Election

A member may make a DROP election at any time on or after the date that is sixty (60) days prior to the date that the member will attain his or her normal retirement date or special retirement date. Once effective, a DROP election is irrevocable, provided, however, that a member's DROP election shall not be effective until the member attains his or her normal retirement date or special retirement date.

D. The DROP Account

A member's DROP account is an individual account established on behalf of the member into which a monthly amount will be credited once the DROP election is effective. The monthly amount credited to the member's DROP account will be equal to the monthly pension benefit that the member would have received if the member had separated from service and commenced receipt of pension benefits. Credit to a member's DROP account will continue to be made until the member's actual separation from service, provided, however, that a member may continue to participate in DROP and receive credits to the DROP account for a maximum period of five (5) years. No withdrawals may be made from the DROP account until actual separation from service. Upon separation from service, a member may receive the DROP account balance in a lump sum, in an actuarially-determined lifetime monthly benefit, in five (5) annual installments or by rollover to an eligible retirement plan in accordance with the provisions of the Internal Revenue Code, or any combination of the above methodologies. A member may elect, in the year prior to the maximum period of DROP participation, to receive the proceeds of the DROP account in a series of payments commencing at a date certain. During the period of DROP payout, the assets on deposit shall gain or lose net monthly earnings at the same rate as the retirement fund investment portfolio. Distribution of the DROP account must commence no later than the date provided in Section 401(a)(9) of the Internal Revenue Code.

E. Required Service to Receive DROP Amount

Unless a member is involuntarily terminated from the City, if a member makes a DROP election but fails to complete a full year of service with the city from the date the DROP election is effective to the member's actual retirement, the DROP election will be null and void and the member will only be entitled to the retirement benefits otherwise provided pursuant to the retirement ordinance and the member will not receive a distribution from his or her DROP account. If a member makes a DROP election and completes at least one (1) year of service from the date the DROP election is effective to the member's actual retirement, or the member is involuntarily terminated from the City prior to the completion of one (1) year of service from the DROP election, the member will be entitled to receive the amount credited to his or her DROP account, as provided above. In no event will a member's DROP account be credited with interest or earnings, nor will the amounts credited to a member's DROP account be subject to a cost-of-living adjustment.

F. Continued Contributions to the Fund

Once a DROP election is effective, both the member and the city shall continue to make the same contributions to the fund that would have been made if the member had not made a DROP election. Neither the member's nor the city's contributions to the fund will be credited to the member's DROP account and the additional contributions will not affect the member's monthly pension upon actual retirement.

G. Monthly Pension and Cost-of-Living Adjustments

Upon retirement following an effective DROP election, the member's base pension will be the monthly pension benefits that the member had earned at the time the DROP election became effective. Thus, the member's earnings and credited service following the DROP election will not be included in calculating the member's base pension and monthly pension benefits. Notwithstanding the preceding two (2) sentences, if a member fails to complete a full year of service with the city after the DROP election would otherwise be effective (and hence, the member's DROP election becomes null and void as provided above), the member will be credited with earnings and credited service through the member's actual retirement. Additionally, if (and only if) a member completes at least two (2) years of service with the city after his or her DROP election is effective, then the monthly pension benefit that the member initially receives upon retirement will be adjusted for intervening cost-of-living adjustments under section 8.105, as if the member's monthly pension benefit had commenced at the time the DROP election became effective. Further, such a member shall receive a cost-of-living adjustment on the following January 1, regardless of whether the member's pension benefits had commenced by September 30. Notwithstanding the preceding provisions of this section, when a member's monthly pension is initially scheduled to commence at retirement or death (following at least one (1) year of participation in DROP), the member's monthly pension (and base pension) shall be recalculated by adjusting the member's credited service for the member's then accumulated sick leave and major medical leave (if any) pursuant to section 3.104(B).

H. DROP Election and Death Benefits

If a member dies while his or her DROP election is in effect, the member's DROP account shall be paid to the member's spouse, or if there is no spouse, to the designated beneficiary, or if none, to the member's estate. The person eligible to receive the DROP account shall receive the DROP account in a lump sum distribution, unless such person elects installment payments pursuant to section 8.104(K). The remaining portion of the member's pension benefit shall be paid pursuant to the death benefit provisions of the retirement ordinance, with the amount determined as if the member had died at the time of the DROP election.

I. DROP Election and Disability Benefits

If a member makes a DROP election, the member will not be eligible to receive any disability benefits under the retirement ordinance. If a member does become disabled following an effective DROP election, the member may retire from the city and receive the amount that has been credited to the member's DROP account in a lump sum or in installment payments pursuant to section 8.104(K), and commence receipt of a monthly pension benefit, with the amount of the benefit calculated as if the member had retired at the time the DROP election became effective.

J. Alternative Pension Benefit

A member who has made a DROP election shall not be eligible to elect an alternative pension benefit (the actuarial equivalent of the member's standard pension benefit) pursuant to section 8.101(B) or 8.102(B).

K. Installment Payments

Notwithstanding the preceding provisions of section 8.104, a member who is entitled to receive a lump sum payment of his or her DROP account may elect to receive (on a form adopted by the board) the DROP account in five (5) substantially equal annual installment payments, rather than a lump sum. The first installment payment shall be made at the time the member's monthly pension benefits commence, and the other installments shall be made on or about the anniversary of the initial installment.

L. Actuarial Study

The Board shall have the continuing responsibility to study the DROP program to ensure it is actuarially neutral. In the event that the Board determines that the DROP program is actuarially adverse to the Plan, the Board may alter the terms of the DROP on a prospective basis; provided, however, that no person then enrolled in the DROP shall be affected by such change.

M. Benefit Enhancements

Any benefit enhancements that are adopted for the benefit of both active and retired members shall also apply to members of the DROP.

8.105 Cost-of-Living Adjustment

All members of the Fund who will have five years of service or more as of December 31, 2007, and all members and beneficiaries currently receiving benefits (including disability retirement), will make a onetime election, as to whether they want to receive an annual two (2) percent simple cost of living adjustment or be entitled to receive an ad hoc compounded cost of living adjustment to their pension benefit. The election will be administered by the Board of the Retirement Fund, and must be held prior to December 1, 2007. Once the member or beneficiary has made an election, the election is irrevocable and binding on the member, beneficiaries and any and all survivors and beneficiaries who may be entitled to benefits under this ordinance. Members and beneficiaries who fail to make an election will automatically receive the two (2) percent simple cost of living adjustment.

- A. For members with five years of service or more as of December 31, 2007, who elect the two (2) percent cost of living adjustment, for persons receiving benefits (including disability retirement) on December 31, 2007, under the Retirement Ordinance who elect the guaranteed simple two (2) percent cost of living adjustment, and for members and beneficiaries who fail to make an election:

Upon retirement, on the first day of each January a cost-of-living adjustment shall be made on the base pension of members of the fund who elected the 2% cost of living adjustment or who failed to make any election, and are receiving benefits (including disability retirement), and to their survivors (including children), by increasing the amount of the actual pension by two (2) percent of the base pension, unless otherwise provided herein. To be eligible for a cost-of-living adjustment for a particular year, either the member or any survivor must have been receiving benefits by September 30 of the prior year.

- B. For employees who begin service with the City after December 31, 2007, including members returning to service with the City of Fort Worth, members with less than five years of service with the City of Fort Worth on December 31, 2007, members with five years of service or more as of December 31, 2007, who elect the ad hoc cost of living adjustment, and for persons receiving benefits (including disability retirement) on December 31, 2007, under the Retirement Ordinance who elect the ad hoc cost of living adjustment:

Upon retirement, on the first day of each January thereafter, an ad hoc cost of living adjustment shall be made on the pension of members who are subject to the ad hoc cost of living adjustment pursuant to Section 2-210(b)(2). The decision to authorize an ad hoc cost of living adjustment will to be determined as follows:

Prior to December 31 of each year, the Fund's actuary shall make a written report to the Board certifying the amortization period required to pay off the unfunded actuarial accrued liability of the fund. Based on the information provided by the actuary, the Board shall:

1. grant a compounded cost of living adjustment of 4%, if the actuary certifies that the amortization period required to pay off the unfunded actuarial accrued liability of the fund, after granting the 4% cost of living adjustment, is 18.0 years or less;

2. grant a compounded cost of living adjustment of 3%, if the actuary certifies that the amortization period required to pay off the unfunded actuarial accrued liability of the fund, after granting the 3% cost of living adjustment, is between 18.1 and 24.0 years;
3. grant a compounded cost of living adjustment of 2%, if the actuary certifies that the amortization period required to pay off the unfunded actuarial accrued liability of the fund, after granting a 2% cost of living adjustment, is between 24.1 and 28.0 years;
4. grant no cost of living adjustment if the actuary certifies that the amortization period required to pay off the unfunded actuarial accrued liability of the fund is 28.1 years or more.

C. DROP and Cost of Living Adjustment.

1. If a member elects the ad hoc cost of living adjustment and by December 31, 2007, the member has completed at least two (2) years of service after making a DROP election, the member's initial pension benefit upon retirement will also receive a cost of living adjustment for the DROP period before the member made the ad hoc cost of living election as set forth in 8-105A. The ad hoc cost of living adjustment as set forth in 8-105B will apply for the member's remaining DROP period.
2. If a member elects the two (2) percent cost of living adjustment, and by December 31, 2007, the member has completed at least two (2) years of service after making the DROP election, the member's initial pension benefit upon retirement will also receive a cost of living adjustment for the entire DROP period as set forth in 8-105A.
3. A member who makes a DROP election but who does not complete at least two (2) years of service after making the DROP election will only be eligible to receive a cost of living adjustment after the member's retirement, based on the member's cost of living election as set forth in Section 8-105A or Section 8-105B.

- D. Annually, effective January 1, 2000, and on the first day of each January thereafter, a cost-of-living adjustment shall be made on all base pensions of all members of the fund who are receiving benefits (including disability retirement), and to their survivors (including children), by increasing the amount of the actual pension by two (2) percent of the base pension, unless otherwise provided herein. To be eligible for a cost-of-living adjustment for a particular year, either the member or survivor must have been receiving benefits by September 30 of the prior year. A surviving spouse of a retiree will continue to receive cost-of-living adjustments without having to wait any additional time. Notwithstanding the preceding sentence, if a member completes at least two (2) years of service after making a DROP election, the member's initial pension benefit upon retirement will also receive cost-of-living adjustments for the DROP period as set forth in section 8.105A or 8-105B, and the member will receive the annual cost-of-living adjustment thereafter regardless of the date his or her pension benefit commences. A member who makes a DROP election but who does not complete at least two (2) years

of service after making the DROP election will only be eligible to receive a cost-of-living adjustment after the member's retirement, and then only as provided above.

8.106 Commencement of Benefits

Notwithstanding any other provision of these rules, monthly benefit payments to a member shall commence not later than April 1 of the year following the year in which the member attains age 70-1/2 or, if later, April 1 of the year after the year in which the member actually separates from service. Monthly pension benefits payable to any eligible dependent of a deceased member or deceased retired member shall commence not later than one year after the death of such member or retired member.

RULE 9

DISABILITY PENSIONS

9.101 Definitions

- A. A member is disabled (or continues to be disabled) if, because of bodily injury, disease or mental illness, the member is permanently and totally incapable, in spite of reasonable accommodations by the city, from regularly and continuously performing the essential functions of the:
1. Trade, profession or occupation in the member's classification in which the member was employed by the city when the member suffered the bodily injury, disease or mental illness, and
 2. Any other position in the city within the member's classification which the board determines to be reasonably comparable to the position held by the member taking into account the member's education, qualifications, experience, salary and other factors which the board deems appropriate. A reasonably comparable position in the city does not have to be a vacant position.
- B. The term "regularly and continuously" as used in this definition shall not require that a member be able to perform all of the duties set forth in his or her job description.

9.102 Preexisting Conditions

No physical or mental condition existing at the time of entry into the Fund shall form a basis for a disability retirement prior to vesting.

9.103 General Provisions

- A. Such disability must exist for at least ninety (90) consecutive days prior to application for a disability pension.
- B. Such disability must not have been contracted, suffered or incurred while the member was engaged in, or did not result from the member having engaged in, a criminal enterprise, or from habitual drunkenness, addiction to narcotics, self-inflicted injury, or from voluntary or involuntary service in the Armed Forces of the United States (including the United States Merchant Marine), any of its allies or any other foreign country.
- C. Notwithstanding the provisions of section 9.105 and section 9.106 no disability pension shall, at the time of commencement, exceed the member's rate of earnings.
- D. To assist the board in making disability determinations, the city shall provide the executive director with city job descriptions and qualifications, related salary ranges, and other appropriate information as requested.

- E. Continuation of a disability pension, whether granted before or after the enactment of this division, shall be subject to all the provisions of this section 9.103, including review and determination of the member's eligibility for a disability pension.

9.104 Qualification for Disability Pension

- A. A member shall not qualify for a disability pension as hereinafter provided unless one (1) or more duly licensed and practicing physician(s) appointed by the executive director has determined that the member is not capable of performing the essential functions of the positions identified under section 9.101. Determination of the existence of disability shall not be made until ninety (90) days after the date such disability is alleged to have commenced, and benefits shall not commence before the first day of the month following the month in which such ninety-day period ends.
- B. The executive director shall have the appointed physician(s) conduct an annual medical examination after a disability pension has been granted (unless deemed not necessary by the executive director due to the member's medical condition) and at any other time deemed necessary by the board in order to determine whether the disability is continuing. The fund will pay the expenses for medical examinations directed by the executive director or board. To continue to receive a disability pension, the member shall submit to any medical examination required by the executive director or board.
- C. If at any time the board is in reasonable doubt as to whether the member is disabled as above defined, it may suspend the disability pension until the doubt is resolved, which shall occur within a reasonable time. Any disability pension shall be terminated upon the board's determination that the member is not disabled as defined in section 9.109.
- D. No disability pension coverage shall be provided during a service break in excess of ninety (90) consecutive days unless the service break was caused by sickness or accident leading to total disability.
- E. The disability pension specified herein shall not be payable during any period for which wages are received from the city, the State of Texas or any other division of government while performing the duties of a firefighter or peace officer.
- F. Falsification or omission on any part of the employment application of prior conditions or injuries for which a disability pension is or has been sought, falsification or omission on any part of the disability pension application, or falsification or omission in connection with the continuation of a disability pension shall constitute grounds for denial of a disability pension or for revocation of any disability pension previously granted.
- G. The board's determination on all matters concerning the granting, refusing or revoking of a disability pension shall be final and conclusive on all parties, and no appeal can be made there from. A member is entitled to a reasonable hearing (at which the member may appear in person, with or by a representative, or in writing) before the board makes its determination.
- H. No disability pension shall be granted (or continued) while the member is working for the city; provided however, a member may be granted a disability pension if the executive director or the board has been informed by the city that the member's

employment is about to be terminated by the city because of the member's inability to perform the essential functions of the member's position. Any such disability pension granted under this section shall not become effective until the month after the member has stopped working for the city.

- I. Except as otherwise provided by law, the Board may consider a member's failure to comply with the medical recommendations (including rehabilitation therapy and treatment) as prescribed by the member's treating physician(s) and/or the Texas Rehabilitation Commission in the Board's determination as to whether a member qualifies for a disability pension. To be eligible to continue receiving a disability pension, a member must comply with the medical recommendations (including rehabilitation therapy and treatment) as prescribed by the member's treating physician(s), the physician(s) appointed by the executive director, and/or the Texas Rehabilitation Commission.

9.105 Disability in the Line of Duty

- A. If a member, whether or not vested, becomes disabled as above defined while in line of duty, the member shall receive an annual life pension, the amount of which shall be the specified percentage of the member's compensation base multiplied by the member's total years of credited service which would have accrued if the member had worked to the member's normal retirement date, but not less than two hundred fifty dollars (\$250.00) per month. For purposes of the preceding sentence, the specified percentage of the member's compensation base shall be two and seventy-five one-hundredths (2.75) percent, unless the member is already eligible to retire on or after the member's normal retirement date, in which case the specified percentage shall be three (3.0) percent.
- B. As used in this section and section 9.106, "line of duty" means in the course of the operations usual to a member's employment, including all operations necessary, incident, or appurtenant thereto or connected therewith, whether such operations are conducted at the usual place of employment or elsewhere.

9.106 Disability not in the Line of Duty

If a vested member becomes disabled as above defined while not in line of duty, the member shall receive an annual life pension, the amount of which shall be the specified percentage of the member's compensation base multiplied by the member's total years of credited service to date of actual retirement. For purposes of the preceding sentence, the specified percentage of the member's compensation base shall be two and seventy-five one-hundredths (2.75) percent, unless the member is already eligible to retire on or after the member's normal retirement date, in which case the specified percentage shall be three (3.0) percent. If a member becomes disabled while not in the line of duty before the member is vested, then section 6.101 shall apply.

9.107 Recovery from Disability

If the board determines that a disabled member receiving a disability pension hereunder is no longer disabled as above defined, the member's disability pension shall immediately cease. If such member is re-employed by the city immediately following such determination by the board, the member's fund membership shall be reinstated as of the date of such re-employment, with full credited service to the date of disability. The member shall receive no additional credited service for the period of disability, provided however, that such period of disability shall be used to determine attainment of normal

retirement date and special retirement date. If such member is not re-employed by the city immediately following certification of recovery, the member shall be considered as a terminated fund member and shall have no further interest in the fund other than a refund of any excess of the member's total contributions, plus regular interest (at the regular interest rate in effect on the date of any refund), over the total of disability payments made to the member; provided, however, that if such member had a vested interest in pension credits as of the date of which the member was certified disabled, the member shall receive a vested termination pension from the later of the date of certification of recovery or attainment of the vested retirement date under this division equal to the amount which would have been payable under the provisions of section 6.102 had the member terminated employment on the date the disability pension began. Any death benefits thereafter shall be determined in accordance with section 10.104.

9.108 Report of Earned Income or Net Earnings from Self-Employment During Period of Disability

Any disabled member who has not attained normal retirement date or special retirement date and who is receiving a disability pension shall submit to the executive director prior to May 1, of each year following disability retirement, a copy of the member's signed income tax return filed for the preceding year, with all attachments thereto, along with all tax returns and attachments for all of the member's affiliated entities, including, but not limited to, partnerships, corporations or other entities in which the member, or any relative, owns any interest, including community or separate property, and for which the member performs any services, whether compensated or not, as proof of the member's earned income and net earnings from self-employment for that year obtained from any occupation or employment. At the end of the first year of disability retirement and by May 1 of each subsequent year, a disabled member shall also submit to the executive director an affidavit on the executive director's approved form swearing that the member's earned income and net earnings from self-employment are fully disclosed on the tax returns provided to the executive director and that the disabled member has not received any other compensation, directly or indirectly, for services rendered by the disabled member, nor performed any services for which the member received no compensation except as disclosed in the affidavit, including amounts paid to other affiliated entities for the benefit of the disabled member or to any relative of the disabled member. If the Internal Revenue Service has approved an extension to file a tax return and the tax return has not been filed by May 1, the member shall provide the executive director with a copy of the extension by May 1, and a copy of the tax return with all attachments and the related affidavit, within two (2) weeks after the tax return has been filed.

If the member's total receipt of earned income, net earnings from self-employment, and city disability retirement benefits exceeds the annualized base hourly rate of pay the member would have made during that same tax year had he or she remained employed by the City in the same position, then, as soon as practicable, the board shall reduce the amount of disability benefits to be paid to the member. In reducing a member's disability pension due to such excess earnings, the board shall consider the member's then current earnings, and attempt to recover the cumulative excess earnings and preclude excess earnings in the future. In the event that a member's disability pension is reduced in excess of the amount required, the board shall pay such excess to the member. For purposes of this section, base hourly rate of pay shall not include overtime, acting, assignment, holiday, longevity, educational incentive, safety award, incentive, shift differential or any other special or premium pay.

The board shall withhold a member's disability pension upon the member's failure to submit on a timely basis the required income tax returns with all attachments thereto and related documents. If the member subsequently provides the required documentation by the end of the calendar year in which the return was due, the board shall cause the member's disability pension to be reinstated, subject to the other provisions of this division and including the payment of any previously withheld amounts, without interest. If the member fails to provide the required documentation by the end of the calendar year in which the return

was due, the member's disability pension shall be terminated and the member shall not be entitled to any payment for the period during which the documentation was not provided.

For purposes of this section, any amounts paid to a member's affiliated entity in connection with the performance of services by the member shall constitute "earned income," and any attempt to circumvent the limitations under this division on earned income and net earnings from self-employment through the use of affiliated entities shall be grounds for the board to terminate the member's disability pension.

RULE 10

DEATH BENEFITS

10.101 Death Occurring in the Line of Duty

If a member dies before retirement while in line of duty and as a result of the performance of that member's duties, the surviving widow or widower shall be entitled to receive a monthly pension, the amount of which shall be seventy-five (75) percent of the member's pension, based on the number of years of credited service that would have accrued had the member lived to the member's normal retirement date, but not less than two hundred fifty dollars (\$250.00). Each dependent child of such member under age eighteen (18) shall be entitled to receive a monthly pension, the amount of which shall be one hundred dollars (\$100.00), provided however, that if no surviving widow or widower shall be entitled to receive a monthly pension pursuant to the terms of this division, all such dependent children shall share equally a monthly pension, the amount of which shall be seventy-five (75) percent of the member's pension, based on the number of years of credited service that would have accrued had the member lived to the member's normal retirement date, but not less than two hundred fifty dollars (\$250.00).

If a member dies while in line of duty and leaves no widow or widower or children eligible to receive a benefit hereunder, but is survived by a dependent parent or parents, such dependent parents or the surviving dependent parent shall be entitled to receive a monthly pension, the amount of which shall be seventy-five (75) percent of the member's accrued pension projected to the member's normal retirement date, but not less than two hundred fifty dollars (\$250.00).

For purposes of this section, a member's pension on or after normal retirement date shall be calculated using a multiplier of three (3.0) percent.

10.102 Death Occurring Not in the Line of Duty

- A. If a vested member dies prior to retirement from a cause not in the line of duty, the surviving spouse shall be entitled to receive a monthly pension, the amount of which shall be seventy-five (75) percent of the member's accrued benefit at the time of death but; not less than one hundred and fifty dollars (\$150.00) per month. If a member was not vested on the date of death, the surviving spouse shall be entitled to the return of all member contributions paid into the Fund during the member's life plus regular interest (at the rate in effect on the date of the member's death). Contributions of non-vested members who are unmarried at the time of their death will be refunded to the member's designated beneficiary, or the member's estate, if no beneficiary is named. The beneficiary shall be designated on a form prescribed by the Board and maintained by the Fund.
- B. Each dependent child under eighteen (18) years of age of such vested member shall be entitled to receive a monthly pension, the amount of which shall be one hundred dollars (\$100.00); provided, however, that if no surviving widow or widower shall be entitled to receive a monthly pension pursuant to the terms of this division, all such dependent children shall share equally a monthly pension, the amount of which shall be seventy-five (75) percent of the member's accrued pension, but not less than one hundred fifty dollars (\$150.00). If the widow or widower dies before the children reach eighteen (18) years of age, that seventy-five (75) percent benefit will be allocated equally among the dependent children.

- C. If a member dies while in line of duty and leaves no widow or widower or children eligible to receive a benefit hereunder, but is survived by a dependent parent or parents, such dependent parents or the surviving dependent parent shall be entitled to receive a monthly pension, the amount of which shall be seventy-five (75) percent of the member's accrued pension projected to the member's normal retirement date, but not less than two hundred fifty dollars (\$250.00).
- D. For purposes of this section, a member's accrued pension shall be calculated using a multiplier of two and seventy-five one-hundredths (2.75) percent, unless the member had reached the member's normal retirement date prior to death, in which event the multiplier shall be three (3.0) percent.

10.103 Death After Retirement

Upon the death of a retired member, the surviving widow or widower shall be entitled to receive a monthly pension, the amount of which shall be seventy-five (75) percent of the pension being paid to the member, provided that the member and surviving widow or widower had been married for at least one (1) year immediately prior to the member's retirement.

Notwithstanding the preceding sentence, a surviving widow or widower who was not married to the deceased member for at least one (1) year immediately prior to the member's retirement shall be eligible to receive a monthly pension if the member has elected to receive a reduced monthly pension, on a form and subject to procedures developed by the executive director, within six (6) months after the member's completion of two (2) years of marriage to the member's spouse. The member's reduced monthly pension shall be actuarially determined, based on actuarial tables in effect on the date of the member's election to receive a reduced monthly pension. If such an election has been made, the member's surviving widow or widower shall receive a monthly pension for life equal to seventy-five (75) percent of the member's reduced monthly pension. Any member who has retired prior to April 21, 1998 shall be eligible to complete such an election by October 28, 1998.

Each dependent child under eighteen (18) years of age of such deceased member shall be entitled to receive monthly pension, the amount of which shall be one hundred dollars (\$100.00); provided, however, that if no surviving widow or widower shall be entitled to a monthly pension pursuant to the terms of this division, all such dependent children shall share equally a monthly pension, the amount of which shall be seventy-five (75) percent of the pension being paid to the member at the time of his or her death.

10.104 Death After Vested Termination

If a terminated member entitled to a pension under the provisions of section 6.102 dies before the member's pension commences, the member's designated beneficiary, or if none, the member's estate shall receive an amount equal to the member's total contributions to the fund, plus regular interest (at the regular interest rate in effect on the date of such payment) If the vested member's years of age and years of credited service total at least sixty-five (65) as of the date of the member's termination, the member's eligible dependents shall receive the benefit specified under section 10.102, based on the pension to which the member would have been entitled as of the date of the member's death, in lieu of the payment of contributions plus regular interest. If the member's years of age and service did not total at least sixty-five (65) as of the date of the member's termination, the member's eligible dependents may choose between the refund of contributions, the payment of a survivor benefit at the date the member would have been able to draw the benefit, or an immediate benefit at an actuarially reduced rate.

If such terminated member dies after the member's pension commences, the member's eligible dependents shall receive the benefit specified under section 10.103.

10.105 General Provisions

If a deceased member leaves no widow, widower, children or dependent parents eligible to receive a benefit hereunder, the member's total contributions, plus regular interest (at the regular interest rate in effect on the date of any such payment) less any amount previously paid to him or her from the fund, shall be paid to the member's beneficiary, or if none, to the member's estate.

Payments to a child shall be made whether or not a widow or widower survives and shall continue after the death of a widow or widower, but shall cease upon the earliest of such child's death, marriage or attainment of age eighteen (18). Payments to a dependent parent shall cease upon such parent's death. For purposes of this rule, a parent will be deemed to be dependent if the member provides over half of the parent's support. Payments to a widow or widower shall continue after remarriage, but shall cease upon the death of the widow or widower. Payments to a widow or widower forfeited due to remarriage under prior provisions of this section will be reinstated upon written request by the widow or widower, but no retroactive payments can be made. After payments cease, any excess of the member's total contributions, plus regular interest at date of death over disability and/or death benefits paid shall be paid to the member's designated beneficiary, or if none, to the member's estate.

Except as provided in section 10.104, death benefit coverage during service breaks in excess of ninety (90) consecutive calendar days shall be limited to members who are absent due to service-connected injury incurred while in the line of duty.

Benefits hereunder shall be payable on the first business day of each month commencing with the month following the one (1) in which the member's death occurs. The board shall determine all questions of dependency, and their determination shall be final and conclusive on all parties. All unmarried, legitimate and legally adopted children under the age of eighteen (18) years, in the absence of determination to the contrary, shall be considered dependent.

RULE 11

CODE OF ETHICS

11.101 General

The board adopted this Code of Ethics for individual board and staff members in order to comply with applicable state laws and to make sure that the highest ethical standards in the public retirement industry are followed. This policy is based upon the duty of loyalty that all trustees, as fiduciaries, owe to the members and retirees of the fund. It also demonstrates the board's commitment to fairness, openness and transparency in the governance of the fund. It is important to the board that it preserves the confidence of the membership, the city, local and state government officials, and the general public.

In adopting this code of ethics the board recognizes that compliance with any ethics policy may, at times, be confusing because ethical matters can be complex. The board also recognizes that not all situations involving ethical dilemmas can be specifically addressed in this policy. Because of this, trustees and staff members are strongly encouraged to seek the advice of the fund's fiduciary counsel whenever there is uncertainty about compliance with this rule.

This code of ethics will be thoroughly discussed with new trustees during orientation and will be reviewed annually during a regular meeting of the Board. It will be updated and revised as needed.

11.102 Definitions

As used in these rules, unless the context otherwise requires:

- A. "Business" means a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.
- B. "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.
- C. "Financial interest" means a substantial interest held by an individual which is:
 - 1. An ownership interest in a business;
 - 2. A creditor interest in an insolvent business;
 - 3. An employment or prospective employment for which negotiations have begun;
 - 4. An ownership interest in real or personal property;
 - 5. A loan or other debtor interest; or
 - 6. A directorship or officership in a business.

- D. “Official act” or “official action” means a vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

11.103 Rules of Conduct

A Board member or employee shall not:

- A. Disclose or use confidential information acquired in the course of his official duties in order to further substantially his personal financial interests; or
- B. Accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:
 - 1. Which would tend to improperly influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties; or
 - 2. Which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken; or
- C. Engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties; or
- D. Assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the Fund; or
- E. Assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any city agency or department; or
- F. Perform an official act which may have a direct economic benefit on a business or other undertaking in which the member has a direct or substantial financial interest, or is engaged as counsel, consultant, representative, or agent; or
- G. Initiate contact with any entity under consideration in final stages of a search process until the business is awarded. During this “no-contact” period, Board members and staff who are contacted by these entities for anything other than routine information should immediately inform them of the “no-contact” rule, and that any further contact could disqualify them from further consideration.

11.104 Limitations and Exceptions

- A. An economic benefit tantamount to a gift of substantial value includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services.
- B. The following shall not be considered gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of Rule 11(C)(2):

1. An occasional nonpecuniary (non-financial) gift, insignificant in value;
 2. A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;
 3. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which the trustee or employee is scheduled to participate, including educational conferences sponsored by independent educational organizations and business meetings conducted by fund managers;
 4. Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is offered to the trustee or employee which is not extraordinary when viewed in light of the trustee's or employee's position;
 5. Items of perishable or nonpermanent value including, but not limited to, meals or tickets to sporting, recreational, educational, or cultural events.
- C. Notwithstanding the exceptions in Rule 11(D)(2), a trustee or employee shall not solicit any gift, regardless of value, and including those items set forth in Rule 11(D)(2), from any person doing business with the fund, or seeking to do business with the fund.

11.105 Disclosure Requirements

Trustees must promptly disclose any conflict of interest or potential conflict of interest with respect to their fiduciary responsibility to the fund. They must also refrain from voting or attempting to influence the vote on any matter involving a conflict.

Additionally, each trustee and senior staff member shall annually file with the fund a Conflict of Interest Disclosure in a form prescribed by the fund. The form shall require disclosure of any relationships or situation which may impinge on the trustee's or employee's fiduciary duty, if any, and the public trust.

11.106 Ethical Principles

- A. A trustee or employee should not acquire or hold an interest in any business or undertaking which he has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the fund.
- B. A trustee or employee should not, during the term of his office or employment, obtain employment in which he will take direct advantage, unavailable to others, of matters with which he was directly involved during his term of membership or employment. These matters include rules, other than rules of general application, which he actively helped to formulate, and applications, claims, or contested cases in the consideration of which he was an active participant.
- C. A trustee who becomes employed with a service provider during or after his or her service on the Board shall not, either during or for a year following the end of Board service, solicit any business from the Retirement Fund.

- D. A trustee or employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking.
- E. A trustee, during and within 12 months following the termination of his office, shall be ineligible for employment as a member of the fund staff.

11.107 Special Rules Governing Contracts and Claims

- A. Trustees or employees shall not be interested in any contract made by them in their official capacity or by the fund.
- B. A former employee may not, within six months following the termination of his employment, contract or be employed by an employer who contracts with the fund involving matters with which he was directly involved during his employment.
- C. Trustees or employees shall not be vendors at any purchase made by them in their official capacity.

Appendix to the Code of Ethics

To assist with the application of the Code of Ethics and Standards of Professional Conduct, the board has considered certain specific activities and expenses which might arise in the course of dealing with third parties with whom the Fund does business or might do business in the future.

This Appendix sets forth guidelines concerning the appropriateness of those activities and expenses. This list is not intended to be complete or all-inclusive. Rather, the following are examples of appropriate and inappropriate activities and expenses. If questions arise about activities and expenses which are not included in this Appendix, the following examples should be used if possible for guidance as to whether an activity or expense is appropriate or not.

- A. Dealing with third parties **with whom the Fund currently does business.**
 - 1. Appropriate activities and expenses:
 - a. In general, it is permissible for Trustees, including members of their immediate families, to accept or participate in “reasonable entertainment,” which would include, among other things, an occasional meal, a ticket to a sporting event or the theater, or comparable entertainment, which is neither so frequent nor so excessive as to raise any question of propriety; attended by the person or company providing the entertainment, meal, or tickets; and not more frequent than once per quarter.
 - b. Acceptance of inexpensive gifts with a value under \$25.
 - c. Covering of reasonable expenses (lodging and meals) at business meetings conducted by the third party.

- d. Also appropriate are trips for educational purposes, including international trips, offered by independent educational groups and funded by investment managers with whom the fund may or may not currently be doing business.
 - 2. Inappropriate activities and expenses:
 - a. Solicitation of any recreational activity or gift of any kind.
 - b. Acceptance of any gift of substantial value offered by the third party.
- B. Dealing with third parties **with whom the Fund does not do business.**
 - 1. It is inappropriate to solicit or accept any activity or gift from a third party with whom the Fund does not do business. Any expenses (e.g. coffee or a meal) incurred in meeting with such third parties, if infrequent and reasonable, are permissible.
 - 2. Notwithstanding the foregoing, it is not a violation of this policy for a Board member or employee to attend a group meal or other group event of a social nature which is held in conjunction with an educational conference or seminar and which is sponsored by one or more persons who are not doing business with the Fund.

RULE 12

AMENDMENT; CHANGES IN BENEFITS

12.101 Amendments Increasing Benefits

Before taking effect, any amendment to the administrative rules proposed by the Board that increases the benefits provided by the Fund must be reviewed and approved by the City Council.

12.102 Amendments Reducing Benefits

- A. Only the City Council may adopt an amendment to the administrative rules that reduces a benefit provided by the Fund.
- B. At least ninety (90) days before the date the City Council is scheduled to vote on an amendment to the administrative rules that would reduce a benefit provided by the Fund, the City Council must give notice to the Board of Trustees of the City Council's intention to consider and vote on the amendment.

12.103 Rule Amendments Adopted by the Board of Trustees

- A. Except as otherwise provided by law, the Board of Trustees may adopt amendments to the administrative rules if:
 - 1. A qualified actuary performs an actuarial analysis on the fiscal impact of the proposed amendment and determines that the amendment will not impact the actuarial soundness of the Retirement Fund;
 - 2. The proposed amendment is placed on the agenda of the Board of Trustees for at least two (2) consecutive meetings of the Board that are not less than thirty (30) days apart for the purpose of giving participating members of the Fund an opportunity to comment on the proposed amendments; and
 - 3. The proposed amendment is approved by a majority vote of the full membership of the Board of Trustees.
- B. An amendment to the administrative rules adopted in accordance with this section becomes effective immediately unless otherwise provided by the amendment.

12.104 Emergency, routine, or statutorily required amendments by the Board.

Unless an amendment to the administrative rules requires adoption in accordance with Rule 12.101, the Board of Trustees may adopt emergency or routine amendments to the administrative rules for amendments that are required by federal or state law that the Board of Trustees, by unanimous vote of the members present and voting, agrees that the proposed amendment is an emergency, routine or statutorily required amendment and further approves the proposed amendment. Any such rule shall automatically be placed on the agenda for the next regular meeting of the Board and is subject to review, amendment or repeal at that meeting.

RULE 13

EXEMPTION OF BENEFITS FROM JUDICIAL PROCESS

13.101 Indemnification from the City

The city, pursuant to its policies, programs and applicable law, shall indemnify and hold harmless the board and its individual trustees against any and all loss, damage and expense, including court costs and attorney's fees, resulting from or arising out of the actions and inactions of the board and its trustees in connection with the performance of their duties under the retirement ordinance, provided, however, that such obligation of the city to indemnify and hold harmless shall not apply to any trustee of the board to the extent that the loss, damage or expense is attributable to such trustee's gross negligence or willful misconduct.

13.102 Court Orders Regarding the Fund

- A. No portion of this fund shall, at any time before or after its disbursement, be held, seized, taken, subjected to or detained or levied upon by virtue of any execution, attachment, garnishment, assignment, injunction or other writ, order or decree, or any process or proceedings whatsoever issued out of or by any court for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against any person entitled to a benefit from this fund, nor shall the fund, or any claim thereto, be directly or indirectly, assigned or transferred, and any attempt to transfer or assign same shall be void; provided that (1) nothing in this section shall prevent the deduction of the spouse's insurance premiums from the fund for the purpose of paying same, on behalf of the spouse, to the health and life insurance carrier for the city only, and (2) nothing shall prevent the fund from dividing a member's pension benefit between the member and a former spouse and/or children or other dependents of the member according to the terms of a valid court order from a court of competent jurisdiction.
- B. The court order must be a "qualified domestic relations order" within the meaning of section 414(p) of the Code. The maximum pension benefit that can be paid to a former spouse is fifty (50) percent of the member's pension benefit. The order must state a specific amount payable monthly or a percentage of the member's pension benefit to be divided between the member and the former spouse. Except as otherwise provided below with respect to the return of the member's contributions, no single sum payment shall be made to a former spouse.
 1. Upon the member's death, no further monthly pension benefit shall be paid to the former spouse. If, however, at the time of the member's death, the member and the former spouse had not yet received pension benefits from the fund in excess of the member's total contributions to the fund (plus regular interest), the member's remaining contributions (plus regular interest) shall be divided between the member and the former spouse according to (i) the ratio of the pension benefit payable to the former spouse divided by the pension benefit payable to the member but for the divorce, or (ii) the percentage used to calculate the pension benefit payable to the member and the former spouse. The former spouse shall receive his or her portion of the remaining contributions (plus regular interest) in a single sum distribution.

2. If such deceased member died with no dependent child, dependent parent, or surviving spouse to whom the member had been married for at least the one (1) year immediately prior to the member's retirement, the member's portion of the remaining contributions (plus regular interest) shall be paid in a single sum to the member's estate. If the deceased member died with a dependent child (or children), dependent parent (or parents), or a surviving spouse to whom the member had been married for at least the one (1) year immediately prior to the member's retirement, such person(s) shall be entitled to a monthly benefit under the terms of this division, but adjusted as provided below. Upon a single sum payment to the former spouse, such monthly pension benefit shall be reduced according to the following methodology:
 - a. Create a fraction, the numerator of which is the single sum amount paid to the former spouse and the denominator of which is the sum of the member's contributions (plus regular interest) and the city's contributions on behalf of the member;
 - b. Multiply that fraction by the monthly pension benefit which would otherwise be payable to the dependent child, parent or surviving spouse; and
 - c. The difference between the result of the second step and the monthly pension benefit which would otherwise be payable to the dependent child, dependent parent or surviving spouse is the monthly pension benefit which should be paid to the dependent child, dependent parent or surviving spouse.
3. Since any pension benefit payable to a former spouse is derived from the member's pension, a former spouse's pension benefit shall not commence until the member's pension benefit commences.
4. If a member with respect to whom a former spouse has obtained a domestic relations order purporting to be a qualified domestic relations order terminates employment with the city and receives a return of contributions (plus regular interest) rather than a pension benefit, the former spouse shall not receive a pension benefit, but shall instead receive a percentage (or fixed dollar amount) of the returned contributions (plus regular interest).

C. No court order shall be honored if it:

1. Provides for any form of benefit or option not otherwise provided by this rule;
2. Requires the fund to provide increased benefits determined on the basis of actuarial value; or
3. Requires the payment of benefits to a former spouse that are required to be paid to another former spouse.

13.103 Reduction of Pensions

Unless otherwise expressly provided for in these Rules, the board shall not reduce an individual pension.

13.104 Fund Corpus Shall Not Revert Back to the City

No part of the corpus or income of the fund shall ever revert to the city or be used for, or diverted to, any purpose other than for the exclusive purpose of providing benefits to members and their beneficiaries in accordance with the terms of these Rules.