EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.

INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: The Council President
At the request of: The Administration (Department of Finance)

A BILL ENTITLED

AN ORDINANCE concerning
Change to Grow: 10-Year Plan - Retirement Savings Plan

FOR the purpose of establishing a new tax-qualified defined contribution plan (the "Retirement Savings Plan of the City of Baltimore") for the benefit of certain employees initially employed or reemployed by the City of Baltimore on or after a certain date; providing for the administration of the Plan; requiring Plan members and the City to make certain contributions to the Plan each payroll period; permitting Plan members to select from among various investment options; imposing certain vesting rules for City contributions; providing that a member's account balance will be distributed upon certain events; defining certain terms; correcting, clarifying, and conforming related provisions; providing for a special effective date; and generally relating to the Retirement Savings Plan of the City of Baltimore.

BY adding
New Article 22A - Retirement Savings Plan
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, with amendments
Article 22 - Retirement Systems
Sections 2, 5(b)(5)(ii)1, and 33(b)(9)(ii)1
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

ARTICLE 22A. RETIREMENT SAVINGS PLAN

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS

§ 1-1. DEFINITIONS.

(A) IN GENERAL.

IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) ACCOUNT.

"ACCOUNT" MEANS THE SEPARATE BOOKKEEPING ACCOUNT ESTABLISHED AND MAINTAINED ON BEHALF OF EACH MEMBER UNDER § 6-1 {"ACCOUNTS: ESTABLISHMENT"} OF THIS ARTICLE.

(C) BENEFICIARY.

"BENEFICIARY" MEANS ANY PERSON ENTITLED UNDER § 9-4 {"DISTRIBUTABLE EVENTS - DEATH"} OF THIS ARTICLE TO RECEIVE THE VALUE OF A MEMBER'S ACCOUNT ON THE DEATH OF THAT MEMBER.

(D) BOARD OF TRUSTEES; BOARD.

"BOARD OF TRUSTEES" OR "BOARD" MEANS THE BOARD OF TRUSTEES ESTABLISHED BY THIS ARTICLE.

(E) CITY OF BALTIMORE; CITY.

"CITY OF BALTIMORE" OR "CITY" MEANS THE MAYOR AND CITY COUNCIL OF BALTIMORE.

(F) DEFERRED COMPENSATION PLAN.

"DEFERRED COMPENSATION PLAN" MEANS THE CITY OF BALTIMORE DEFERRED COMPENSATION PLAN.

(G) EARNABLE COMPENSATION.

(1) IN GENERAL.

"EARNABLE COMPENSATION" MEANS THE ANNUAL SALARY AUTHORIZED FOR A MEMBER.

(2) EXCLUSIONS.

"EARNABLE COMPENSATION" DOES NOT INCLUDE OVERTIME PAY, DIFFERENTIAL PAY, ENVIRONMENTAL PAY, HAZARDOUS DUTY PAY, PAY FOR CONVERSION OF LEAVE OR OTHER FRINGE BENEFITS, OR ANY LIKE ADDITIONAL PAYMENTS.

(H) EMPLOYEE.

(1) IN GENERAL.

"EMPLOYEE" MEANS ANY OF THE FOLLOWING, IF IN A JOB CLASSIFICATION THAT REQUIRES AT LEAST 500 HOURS PER YEAR:

(I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY PERMANENT OFFICER OR EMPLOYEE OF THE MAYOR AND CITY COUNCIL OF BALTIMORE, INCLUDING ANY OFFICER OR EMPLOYEE OF AN AGENCY, DEPARTMENT, UNIT, SUBDIVISION, OR INSTRUMENTALITY OF THE MAYOR AND CITY COUNCIL; AND

(II) ANY EMPLOYEE OF THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM WHO IS NOT ELIGIBLE TO PARTICIPATE IN THE MARYLAND STATE RETIREMENT AND PENSION SYSTEM.

(2) EXCLUSIONS.

"EMPLOYEE" DOES NOT INCLUDE:

(I) ANY "ELECTED OFFICIAL", AS DEFINED IN CITY CODE ARTICLE 22, § 17A(2), FOR PURPOSES OF MEMBERSHIP IN THE ELECTED OFFICIALS' RETIREMENT SYSTEM OF THE CITY OF BALTIMORE; OR

(II) ANY "EMPLOYEE", AS DEFINED IN CITY CODE ARTICLE 22, § 30(2), FOR PURPOSES OF MEMBERSHIP IN THE FIRE AND POLICE EMPLOYEES' RETIREMENT SYSTEM OF THE CITY OF BALTIMORE.

(3) IN CASE OF DOUBT.

(I) IN ALL CASES OF DOUBT, THE BOARD OF TRUSTEES DETERMINES WHO IS AN "EMPLOYEE" UNDER THIS ARTICLE.

(II) A DETERMINATION BY THE BOARD UNDER THIS PARAGRAPH IS FINAL AND BINDING ON ALL PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND REVIEW UNDER § 2-17 {"ADMINISTRATIVE APPEAL"} AND § 2-18 {"JUDICIAL AND APPELLATE REVIEW"} OF THIS ARTICLE.

(I) INCLUDES; INCLUDING.

"INCLUDES" OR "INCLUDING" MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF LIMITATION.

(J) IRC.

"IRC" MEANS THE INTERNAL REVENUE CODE, AS AMENDED FROM TIME TO TIME.

(K) MEMBER.

"MEMBER" MEANS AN EMPLOYEE WHO IS A MEMBER OF THE PLAN.

(L) MILITARY SERVICE.

"MILITARY SERVICE" MEANS "SERVICE IN THE UNIFORMED SERVICES", AS THAT PHRASE IS DEFINED IN 38 U.S.C. § 4303(13) OR ANY SUCCESSOR LAW.

(M) NORMAL RETIREMENT AGE.

"NORMAL RETIREMENT AGE" MEANS AGE 65.

(N) PARTICIPATING EMPLOYER; EMPLOYER.

"PARTICIPATING EMPLOYER" OR "EMPLOYER" MEANS:

(1) THE MAYOR AND CITY COUNCIL OF BALTIMORE; AND

(2) THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM.

(O) PLAN YEAR.

"PLAN YEAR" MEANS THE 12-MONTH PERIOD BEGINNING ON JULY 1 OF EACH YEAR AND ENDING ON JUNE 30 OF THE FOLLOWING YEAR, BOTH DATES INCLUSIVE.

(P) RETIREMENT SAVINGS PLAN; PLAN.

"RETIREMENT SAVINGS PLAN" OR "PLAN" MEANS THE RETIREMENT SAVINGS PLAN OF THE CITY OF BALTIMORE ESTABLISHED BY THIS ARTICLE.

(Q) SERVICE.

"SERVICE", AS APPLIED TO AN EMPLOYEE'S SERVICE WITH A PARTICIPATING EMPLOYER, HAS THE MEANING STATED IN § 4-1 {" 'SERVICE' DEFINED"} OF THIS ARTICLE.

(R) TRUSTEE.

"TRUSTEE" MEANS A MEMBER OF THE BOARD OF TRUSTEES.

(S) USERRA.

"USERRA" MEANS THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994, AS AMENDED, 38 U.S.C. §4301 ET SEQ.

(T) VALUE.

"VALUE", AS APPLIED TO A MEMBER'S ACCOUNT OR SUB-ACCOUNT, MEANS THE TOTAL VALUE OF THAT ACCOUNT OR SUB-ACCOUNT, AS DETERMINED UNDER § 6-3(B) {"VALUE OF FUNDS AND ACCOUNTS"} OF THIS ARTICLE.

(U) VESTED ACCOUNT.

"VESTED ACCOUNT" MEANS THE AGGREGATE OF THE FOLLOWING VESTED SUB-ACCOUNTS:

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(1) A MEMBER'S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT;

(2) A MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT, IF VESTED UNDER § 72{"VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT"} OF THIS ARTICLE; AND

(3) IF APPLICABLE, A MEMBER'S ROLLOVER CONTRIBUTION SUB-ACCOUNT.

§ 1-2. RULES OF CONSTRUCTION.

(A) IN GENERAL.

IN INTERPRETING AND APPLYING THIS ARTICLE, THE FOLLOWING RULES OF CONSTRUCTION APPLY.

(B) CAPTIONS OR HEADINGS.

THE CAPTIONS OR HEADINGS OF THE VARIOUS SECTIONS AND SUBSECTIONS:

(1) ARE FOR CONVENIENCE OF REFERENCE ONLY, INTENDED TO SUMMARIZE THE STATUTORY PROVISIONS THAT FOLLOW; AND

(2) ARE NOT LAW AND ARE NOT TO BE TAKEN AS AFFECTING THE MEANING OR EFFECT OF THE LAW.

(C) GENDER.

WORDS DENOTING ONE GENDER INCLUDE AND APPLY TO THE OTHER GENDERS AS WELL.

(D) MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.

(1) MANDATORY TERMS.

"MUST" AND "SHALL" ARE EACH MANDATORY TERMS USED TO EXPRESS A REQUIREMENT OR TO IMPOSE A DUTY.

(2) PROHIBITORY TERMS.

"MUST NOT", "MAY NOT", AND "NO ... MAY" ARE EACH MANDATORY NEGATIVE TERMS USED TO ESTABLISH A PROHIBITION.

(3) PERMISSIVE TERMS.

"MAY" IS PERMISSIVE.

(E) NUMBER.

THE SINGULAR INCLUDES THE PLURAL AND VICE VERSA.

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(F) REFERENCES TO OTHER LAWS.

WHENEVER A PROVISION OF THIS ARTICLE REFERS TO ANY PART OF THE CITY CODE OR TO ANY OTHER LAW, THE REFERENCE APPLIES TO ANY SUBSEQUENT AMENDMENT OF THE LAW REFERRED TO, UNLESS THE REFERRING PROVISION EXPRESSLY PROVIDES OTHERWISE.

(G) SEVERABILITY.

ALL PROVISIONS OF THIS ARTICLE ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

(H) TIME COMPUTATIONS.

(1) COMPUTATION OF TIME AFTER AN ACT, EVENT, OR DEFAULT.

(I) IN COMPUTING ANY PERIOD OF TIME PRESCRIBED BY THIS ARTICLE, OR BY A RULE OR REGULATION ADOPTED UNDER THIS ARTICLE, THE DAY OF THE ACT, EVENT, OR DEFAULT AFTER WHICH THE DESIGNATED PERIOD OF TIME BEGINS TO RUN IS NOT INCLUDED.

(II) IF THE PERIOD OF TIME ALLOWED IS MORE THAN 7 DAYS, INTERMEDIATE SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS ARE COUNTED.

(III) IF THE PERIOD OF TIME ALLOWED IS 7 DAYS OR LESS, INTERMEDIATE SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS ARE NOT COUNTED.

(IV) THE LAST DAY OF THE PERIOD SO COMPUTED IS INCLUDED UNLESS IT IS A SATURDAY, SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE PERIOD RUNS UNTIL THE END OF THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY.

(2) COMPUTATION OF TIME BEFORE A DAY, ACT, OR EVENT.

(I) IN DETERMINING THE LATEST DAY FOR PERFORMING AN ACT THAT THIS ARTICLE, OR A RULE OR REGULATION ADOPTED UNDER THIS ARTICLE, REQUIRES TO BE PERFORMED A PRESCRIBED NUMBER OF DAYS BEFORE A CERTAIN DAY, ACT, OR EVENT, ALL DAYS PRECEDING THAT DAY, INCLUDING INTERVENING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, ARE COUNTED IN THE NUMBER OF DAYS SO PRESCRIBED.

(II) THE LATEST DAY IS INCLUDED IN THE DETERMINATION UNLESS IT IS A SATURDAY, SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE LATEST DAY IS THE FIRST PRECEDING DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY.

§ 1-3. {RESERVED}

§ 1-4. PLAN ESTABLISHED.

THE RETIREMENT SAVINGS PLAN OF THE CITY OF BALTIMORE IS ESTABLISHED, EFFECTIVE AS OF

JANUARY 1, 2014, FOR THE PURPOSE OF PROVIDING RETIREMENT BENEFITS FOR ELIGIBLE EMPLOYEES.

§ 1-5. QUALIFICATION UNDER INTERNAL REVENUE CODE.

(A) IN GENERAL.

THE RETIREMENT SAVINGS PLAN IS INTENDED TO BE:

(1) QUALIFIED UNDER IRC § 401(A); AND

(2) A "GOVERNMENTAL PLAN" UNDER IRC § 414(D).

(B) CONSTRUCTION OF ARTICLE.

ACCORDINGLY, ANY PROVISION OF THIS ARTICLE THAT IS SUBJECT TO MORE THAN ONE CONSTRUCTION OR INTERPRETATION MUST BE RESOLVED IN FAVOR OF THE CONSTRUCTION OR INTERPRETATION THAT IS CONSISTENT WITH THE REQUIREMENTS OF IRC § 401(A) AND § 414(D).

§ 1-6. LIMITATIONS ON LIABILITY.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE:

(1) NO MEMBER IS, BY VIRTUE OF MEMBERSHIP IN THE RETIREMENT SAVINGS PLAN, CONSIDERED TO HAVE ENTERED INTO A CONTRACT AT ANY TIME WITH THE MAYOR AND CITY COUNCIL OF BALTIMORE;

(2) THE MAYOR AND CITY COUNCIL OF BALTIMORE DOES NOT GUARANTEE THE PAYMENT OF ANY BENEFIT UNDER THE PLAN; AND

(3) ANY PERSON CLAIMING A BENEFIT UNDER THE PLAN MUST LOOK SOLELY TO PLAN ASSETS.

§ 1-7. EXCLUSIVE BENEFIT.

(A) IN GENERAL.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, OTHER THAN SUBSECTION (B) OF THIS SECTION, NO PART OF THE ASSETS OF THE RETIREMENT SAVINGS PLAN MAY BE USED FOR OR DIVERTED TO ANY PURPOSES OTHER THAN FOR THE EXCLUSIVE BENEFIT OF MEMBERS AND BENEFICIARIES.

(B) EXCEPTION FOR MISTAKE OF FACT.

(1) AN EMPLOYER CONTRIBUTION MADE BY MISTAKE OF FACT MAY BE RETURNED TO THE APPROPRIATE PARTICIPATING EMPLOYER WITHIN, BUT NOT LATER THAN, 1 YEAR AFTER PAYMENT OF THE MISTAKEN CONTRIBUTION.

(2) THE AMOUNT RETURNED:

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(I) MUST BE REDUCED BY ITS PROPORTIONATE SHARE OF LOSSES AND EXPENSES; AND

(II) MAY NOT BE INCREASED BY ANY GAINS.

SUBTITLE 2. ADMINISTRATION

§ 2-1. BOARD ESTABLISHED.

THERE IS A BOARD OF TRUSTEES OF THE RETIREMENT SAVINGS PLAN.

§ 2-2. BOARD COMPOSITION.

(A) IN GENERAL.

(1) THE BOARD CONSISTS OF 12 TRUSTEES.

(2) OF THESE:

(I) 9 TRUSTEES SERVE WITH VOTING PRIVILEGES ("VOTING TRUSTEES"); AND

(II) 3 TRUSTEES SERVE IN AN ADVISORY CAPACITY ONLY, WITHOUT VOTING PRIVILEGES ("NON-VOTING TRUSTEES").

(B) VOTING TRUSTEES.

(1) IN GENERAL.

THE 9 VOTING TRUSTEES ARE:

(I) THE DIRECTOR OF FINANCE OR THE DIRECTOR'S DESIGNATED REPRESENTATIVE, WHO MUST BE EITHER THE DEPUTY DIRECTOR OF FINANCE OR THE BUDGET DIRECTOR;

(II) THE CITY COMPTROLLER;

(III) THE DIRECTOR OF HUMAN RESOURCES;

(IV) THE CITY LABOR COMMISSIONER;

(V) THE EXECUTIVE DIRECTOR OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE CITY OF BALTIMORE; AND

(VI) 4 RESIDENTS AND REGISTERED VOTERS OF THE CITY OF BALTIMORE, TO BE APPOINTED BY THE MAYOR IN ACCORDANCE WITH CITY CHARTER ARTICLE IV, § 6.

(2) APPOINTED TRUSTEES - QUALIFICATIONS.

(I) THE 4 VOTING TRUSTEES APPOINTED UNDER PARAGRAPH (1)(VI) OF THIS SUBSECTION

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MUST EACH HAVE AT LEAST 10 YEARS OF RELEVANT INSTITUTIONAL INVESTMENT MANAGEMENT EXPERTISE.

(II) NONE OF THESE APPOINTED TRUSTEES MAY BE AN OFFICIAL OR EMPLOYEE OF THE CITY AT THE TIME OF HIS OR HER APPOINTMENT OR DURING THE ENTIRE TERM OF OFFICE.

(3) APPOINTED TRUSTEES - TERM OF OFFICE.

(I) EACH OF THE 4 TRUSTEES APPOINTED UNDER PARAGRAPH (1)(VI) OF THIS SUBSECTION SERVES FOR A TERM OF 4 YEARS, CONCURRENT WITH THE TERM OF THE MAYOR.

(II) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(III) A TRUSTEE APPOINTED TO FILL A VACANCY IN AN UNEXPIRED TERM SERVES ONLY FOR THE REMAINDER OF THAT TERM.

(C) NON-VOTING TRUSTEES.

THE 3 NON-VOTING TRUSTEES ARE:

(1) THE PRESIDENT OF AFSCME LOCAL 44;

(2) THE PRESIDENT OF THE CITY UNION OF BALTIMORE ("CUB"); AND

(3) THE PRESIDENT OF THE MANAGERIAL AND PROFESSIONAL SOCIETY OF BALTIMORE, INC. ("MAPS").

(D) SERVICE WITHOUT REGARD TO POLITICAL AFFILIATION.

NOTWITHSTANDING CITY CHARTER ARTICLE IV, § 8, TRUSTEES MAY BE APPOINTED OR HOLD THEIR POSITIONS WITHOUT REGARD TO POLITICAL AFFILIATION.

§ 2-3. BOARD FUNCTIONS.

(A) IN GENERAL.

THE BOARD OF TRUSTEES SERVES BOTH:

(1) IN AN ADMINISTRATIVE CAPACITY, AS DESCRIBED IN SUBSECTION (B) OF THIS SECTION; AND

(2) AS TRUSTEE OF PLAN ASSETS, AS DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

(B) ADMINISTRATIVE CAPACITY.

SUBJECT TO § 2-8 {"RETENTION OF SERVICES; RIGHT OF RELIANCE"} OF THIS SUBTITLE, THE BOARD IS RESPONSIBLE FOR:

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(1) THE GENERAL ADMINISTRATION AND PROPER OPERATION OF THE PLAN; AND

(2) EFFECTUATING THE PROVISIONS OF THIS ARTICLE.

(C) TRUSTEE OF PLAN ASSETS.

(1) THE BOARD IS THE TRUSTEE OF THE PLAN ASSETS.

(2) SUBJECT TO § 2-8 {"RETENTION OF SERVICES; RIGHT OF RELIANCE"} OF THIS SUBTITLE, THE BOARD IS RESPONSIBLE FOR:

(I) DETERMINING THE MANNER OF INVESTING EMPLOYER CONTRIBUTION SUB-ACCOUNTS THAT HAVE NOT VESTED UNDER § 7-2 {"VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT"} OF THIS ARTICLE;

(II) SELECTING INVESTMENT FUNDS (INCLUDING A DEFAULT INVESTMENT FUND) UNDER § 6-2 {"ACCOUNTS: INVESTMENTS"} OF THIS ARTICLE;

(III) MONITORING THESE INVESTMENT FUNDS ON AN ONGOING BASIS; AND

(IV) ADDING OR REPLACING THESE INVESTMENT FUNDS AS THE BOARD CONSIDERS PRUDENT.

§ 2-4. {RESERVED}

§ 2-5. OATH OF OFFICE.

EACH TRUSTEE MUST TAKE AN OATH OF OFFICE AS REQUIRED BY CITY CHARTER ARTICLE IV, § 6 (I), OR OTHER APPLICABLE LAW.

§ 2-6. OFFICERS.

(A) CHAIR.

THE DIRECTOR OF FINANCE (OR THE DIRECTOR'S DESIGNATED REPRESENTATIVE) SERVES AS CHAIR OF THE BOARD.

(B) VICE-CHAIR.

THE VOTING TRUSTEES MAY ELECT A VOTING TRUSTEE TO SERVE AS VICE-CHAIR OF THE BOARD.

(C) SECRETARY.

(1) IF AN EXECUTIVE DIRECTOR HAS BEEN APPOINTED BY THE BOARD UNDER § 2-8(A) {"SERVICES"} OF THIS SUBTITLE, THE EXECUTIVE DIRECTOR SERVES AS THE BOARD'S SECRETARY.

(2) IF NO EXECUTIVE DIRECTOR HAS BEEN APPOINTED, THE VOTING TRUSTEES MAY ELECT A VOTING TRUSTEE TO SERVE AS THE BOARD'S SECRETARY.

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§ 2-7. MEETINGS; VOTING; RECORDS.

(A) MEETINGS.

(1) THE BOARD OF TRUSTEES MUST MEET ONCE DURING EACH CALENDAR QUARTER, UNLESS THE CHAIR DETERMINES THAT ADDITIONAL MEETINGS ARE REQUIRED.

(2) ALL MEETINGS OF THE BOARD MUST BE CONDUCTED IN ACCORDANCE WITH THE STATE OPEN MEETINGS ACT (STATE GOVERNMENT ARTICLE, TITLE 10, SUBTITLE 5).

(B) VOTING.

(1) EACH VOTING TRUSTEE IS ENTITLED TO 1 VOTE ON THE BOARD.

(2) 5 VOTING TRUSTEES CONSTITUTE A QUORUM.

(3) AN AFFIRMATIVE VOTE BY THE MAJORITY OF A QUORUM IS NEEDED FOR ANY ACTION BY THE BOARD OF TRUSTEES.

(C) RECORDS.

(1) THE BOARD MUST KEEP A RECORD OF ALL OF ITS PROCEEDINGS.

(2) THESE RECORDS ARE OPEN TO PUBLIC INSPECTION IN ACCORDANCE WITH THE STATE PUBLIC INFORMATION ACT (STATE GOVERNMENT ARTICLE, TITLE 10, SUBTITLE 6, PART III).

§ 2-8. RETENTION OF SERVICES; RIGHT OF RELIANCE.

(A) SERVICES.

(1) FROM TIME TO TIME, AS THE BOARD OF TRUSTEES DETERMINES NECESSARY FOR THE EFFICIENT ADMINISTRATION OF THE RETIREMENT SAVINGS PLAN, THE BOARD MAY:

(I) RETAIN THE SERVICES OF A THIRD-PARTY ADMINISTRATOR TO PROVIDE ADMINISTRATIVE AND RECORDKEEPING SERVICES FOR THE PLAN;

(II) RETAIN THE SERVICES OF 1 OR MORE INVESTMENT ADVISORS TO PROVIDE INVESTMENT ASSISTANCE AND ADVICE;

(III) RETAIN THE SERVICES OR SECURE THE ADVICE OF ANY OTHER PERSON OR ENTITY; AND

(IV) APPOINT AN EXECUTIVE DIRECTOR FOR THE PLAN AND DELEGATE TO THE EXECUTIVE DIRECTOR AND THE EXECUTIVE DIRECTOR'S STAFF ANY OF THE BOARD'S DUTIES OR RESPONSIBILITIES UNDER THIS SUBTITLE.

(2) THE RETENTION OF THESE SERVICES IS SUBJECT TO THE APPROVAL OF THE BOARD OF ESTIMATES IF THE FEES FOR THE SERVICES EXCEED THE DOLLAR THRESHOLD THAT GENERALLY REQUIRES BOARD OF ESTIMATES APPROVAL.

(B) RELIANCE.

(1) THE BOARD OF TRUSTEES IS ENTITLED TO RELY CONCLUSIVELY ON, AND IS FULLY PROTECTED IN ANY ACTION OR OMISSION TAKEN BY IT IN GOOD FAITH RELIANCE ON, THE ADVICE OF ANY PERSON OR ENTITY.

(2) THE BOARD IS NOT LIABLE FOR ANY ACT OR OMISSION OF ANY PERSON TO WHOM THE BOARD HAS DELEGATED ANY OF ITS DUTIES OR RESPONSIBILITIES.

§ 2-9. RULES AND REGULATIONS.

SUBJECT TO ANY LIMITATIONS IMPOSED BY THIS ARTICLE, THE BOARD OF TRUSTEES MAY ADOPT RULES AND REGULATIONS FOR THE EFFICIENT ADMINISTRATION OF THE RETIREMENT SAVINGS PLAN.

§ 2-10. COMPENSATION; EXPENSES.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH TRUSTEE SERVES WITHOUT COMPENSATION.

(B) STIPEND FOR APPOINTED TRUSTEES.

(1) EACH TRUSTEE APPOINTED UNDER § 2-2(B)(1)(VI) OF THIS SUBTITLE IS ENTITLED TO A STIPEND, IN AN AMOUNT DETERMINED BY THE BOARD OF ESTIMATES, FOR ATTENDING MEETINGS OF THE BOARD OF TRUSTEES.

(2) THE BOARD OF TRUSTEES MAY ESTABLISH MEETING-ATTENDANCE STANDARDS THAT APPOINTED TRUSTEES MUST SATISFY TO BE ELIGIBLE FOR THE STIPEND.

(C) EXPENSES

ALL VOTING AND NON-VOTING TRUSTEES ARE ENTITLED TO REIMBURSEMENT OF REASONABLE AND NECESSARY EXPENSES INCURRED THROUGH THEIR SERVICE ON THE BOARD.

§ 2-11. LEGAL ADVISOR.

THE CITY SOLICITOR IS THE LEGAL ADVISOR TO THE BOARD.

§ 2-12. FIDUCIARY STANDARDS; INDEMNIFICATION; INSURANCE.

(A) "ACTING AS A FIDUCIARY ..." DEFINED.

FOR PURPOSES OF THIS SECTION, A PERSON IS "ACTING AS A FIDUCIARY WITH RESPECT TO THE PLAN" TO THE EXTENT THAT THE PERSON:

(1) EXERCISES ANY DISCRETIONARY AUTHORITY OR DISCRETIONARY CONTROL RESPECTING MANAGEMENT OF THE RETIREMENT SAVINGS PLAN;

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(2) EXERCISES ANY DISCRETIONARY AUTHORITY OR DISCRETIONARY CONTROL RESPECTING MANAGEMENT OR DISPOSITION OF PLAN ASSETS; OR

(3) HAS ANY DISCRETIONARY AUTHORITY OR DISCRETIONARY RESPONSIBILITY IN ADMINISTERING THE PLAN.

(B) FIDUCIARY STANDARDS.

THE TRUSTEES AND EVERY OTHER PERSON "ACTING AS A FIDUCIARY WITH RESPECT TO THE PLAN" MUST DISCHARGE THEIR DUTIES WITH RESPECT TO THE PLAN:

(1) SOLELY IN THE INTEREST OF MEMBERS AND BENEFICIARIES AND FOR THE EXCLUSIVE PURPOSE OF PROVIDING BENEFITS TO MEMBERS AND BENEFICIARIES AND DEFRAYING REASONABLE EXPENSES OF ADMINISTERING THE PLAN;

(2) WITH THE CARE, SKILL, PRUDENCE, AND DILIGENCE UNDER THE CIRCUMSTANCES THEN PREVAILING THAT A PRUDENT PERSON ACTING IN A LIKE CAPACITY AND FAMILIAR WITH THOSE MATTERS WOULD USE IN THE CONDUCT OF AN ENTERPRISE OF A LIKE CHARACTER AND WITH LIKE AIMS; AND

(3) IN ACCORDANCE WITH THIS ARTICLE AND WITH THE DOCUMENTS AND INSTRUMENTS GOVERNING THE PLAN.

(C) INDEMNIFICATION.

(1) TO THE EXTENT ALLOWABLE BY APPLICABLE LAW, THE CITY MAY INDEMNIFY EVERY PERSON WHO IS MADE OR IS THREATENED TO BE MADE A PARTY TO ANY ACTION, SUIT, OR PROCEEDING, INCLUDING ANY ADMINISTRATIVE OR INVESTIGATIVE PROCEEDING, BY REASON OF "ACTING AS A FIDUCIARY WITH RESPECT TO THE PLAN".

(2) THIS INDEMNIFICATION MAY COVER THOSE EXPENSES ACTUALLY AND REASONABLY INCURRED IN CONNECTION WITH THE ACTION, SUIT, OR PROCEEDING, INCLUDING ATTORNEY'S FEES, JUDGMENTS, FINES, AND AMOUNTS PAID IN SETTLEMENT.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, INDEMNIFICATION MAY NOT BE MADE WITH RESPECT TO:

(I) ANY ACTION, SUIT, OR PROCEEDING AS TO WHICH THE PERSON ACTED WITH GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR

(II) AN INDEPENDENT CONTRACTOR PROVIDING SERVICES TO THE PLAN.

(D) FIDUCIARY INSURANCE.

THE CITY MAY PROVIDE INSURANCE OR SELF-INSURANCE TO COVER POTENTIAL LIABILITY RESULTING FROM AN ACT OR FAILURE TO ACT ON THE PART OF ANY PERSON "ACTING AS A FIDUCIARY WITH RESPECT TO THE PLAN".

(E) FAILURE TO INDEMNIFY OR ADEQUATELY INSURE.

IF THE CITY FAILS TO INDEMNIFY OR PROVIDE ADEQUATE INSURANCE FOR ANY PERSON "ACTING AS A FIDUCIARY WITH RESPECT TO THE PLAN", THE CITY ASSUMES ALL LIABILITY RESULTING FROM THAT PERSON'S ACT OR FAILURE TO ACT.

§ 2-13. PLAN EXPENSES.

EXCEPT FOR INVESTMENT FUND FEES AND EXPENSES PAID UNDER § 6-2(E) {"INVESTMENTS: FUND FEES AND EXPENSES"} OF THIS ARTICLE, ALL EXPENSES INCURRED IN THE ADMINISTRATION OF THE RETIREMENT SAVINGS PLAN AND IN THE MANAGEMENT OF PLAN ASSETS MAY ONLY BE PAID AS FOLLOWS:

(1) FIRST, OUT OF FORFEITURES UNDER SUBTITLE 8 {"FORFEITURES"} OF THIS ARTICLE; AND

(2) THEN, TO THE EXTENT EXPENSES REMAIN UNPAID, BY THE CITY.

§ 2-14. RECOVERY OF OVERPAYMENTS.

IF THE BOARD OF TRUSTEES DETERMINES THAT A MEMBER OR BENEFICIARY HAS RECEIVED FROM THE RETIREMENT SAVINGS PLAN A DISTRIBUTION THAT EXCEEDS THE AMOUNT TO WHICH THE MEMBER OR BENEFICIARY WAS ENTITLED, THE BOARD MUST TAKE ALL NECESSARY STEPS TO RECOVER THE OVERPAYMENT.

§§ 2-15 AND 2-16. {RESERVED}

§ 2-17. ADMINISTRATIVE APPEAL.

(A) RIGHT OF APPEAL.

ANY PERSON AGGRIEVED BY A DETERMINATION MADE OR ACTION TAKEN WITH RESPECT TO A PERSON'S ELIGIBILITY FOR MEMBERSHIP IN OR BENEFITS UNDER THE RETIREMENT SAVINGS PLAN MAY APPEAL THAT DETERMINATION OR ACTION TO THE BOARD OF TRUSTEES.

(B) WHEN AND HOW TAKEN.

A NOTICE OF APPEAL MUST BE FILED WITH THE BOARD WITHIN 1 YEAR OF THE DETERMINATION OR ACTION IN QUESTION.

(C) HEARING.

(1) ON RECEIPT OF A NOTICE OF APPEAL, THE BOARD MUST HOLD A HEARING ON THE APPEAL AS SOON AS ADMINISTRATIVELY PRACTICABLE.

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR BY RULE OR REGULATION OF THE BOARD:

(I) THE HEARING MUST BE CONDUCTED IN AN ORDERLY BUT INFORMAL MANNER; AND

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(II) FORMAL RULES OF EVIDENCE AND TRIAL PROCEDURES DO NOT APPLY.

(D) COUNSEL.

(1) THE PERSON FILING THE APPEAL MAY BE REPRESENTED BY COUNSEL AT THE HEARING.

(2) THE PLAN WILL BE REPRESENTED BY THE CITY SOLICITOR OR THE SOLICITOR'S DESIGNEE.

(E) WITNESSES.

ALL WITNESSES TESTIFYING AT THE HEARING MUST DO SO UNDER OATH OR BY AFFIRMATION, SUBJECT TO THE PENALTIES OF PERJURY.

(F) DECISION.

(1) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE HEARING, THE BOARD MUST RENDER ITS DECISION AND NOTIFY THE PERSON FILING THE APPEAL OF THAT DECISION.

(2) IN ITS DECISION, THE BOARD MAY AFFIRM, MODIFY, OR REVERSE THE DETERMINATION OR ACTION FROM WHICH THE APPEAL WAS TAKEN.

§ 2-18. JUDICIAL AND APPELLATE REVIEW.

(A) JUDICIAL REVIEW.

A PARTY AGGRIEVED BY A FINAL DECISION OF THE BOARD OF TRUSTEES UNDER § 2-17 {"ADMINISTRATIVE APPEAL"} OF THIS SUBTITLE MAY SEEK JUDICIAL REVIEW OF THAT DECISION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

(B) APPELLATE REVIEW.

A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

§ 2-19. {RESERVED}

§ 2-20. CONFLICTS OF INTEREST.

(A) APPLICATION OF CITY ETHICS CODE.

(1) THE BOARD OF TRUSTEES IS AN "AGENCY" AND "BOARD" WITHIN THE MEANING OF AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE BALTIMORE CITY PUBLIC ETHICS LAW (CITY CODE ARTICLE 8).

(2) EACH TRUSTEE IS A "PUBLIC SERVANT" AND AN "OFFICIAL" WITHIN THE MEANING OF AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE BALTIMORE CITY PUBLIC ETHICS LAW.

(3) EACH EMPLOYEE OF THE BOARD IS A "PUBLIC SERVANT" AND AN "EMPLOYEE" WITHIN THE MEANING OF AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE BALTIMORE CITY PUBLIC ETHICS LAW.

(B) ADDITIONAL STANDARDS AND REQUIREMENTS.

(1) IN GENERAL.

IN ADDITION TO THE STANDARDS AND REQUIREMENTS CONTAINED IN THE BALTIMORE CITY PUBLIC ETHICS LAW, TRUSTEES AND BOARD EMPLOYEES MAY NOT ENGAGE IN ANY OF THE FOLLOWING ACTIVITIES OR HOLD ANY OF THE FOLLOWING INTERESTS, AS THESE ACTIVITIES OR INTERESTS ARE DEFINED IN THE BALTIMORE CITY PUBLIC ETHICS LAW.

(2) BUSINESS WITH CITY BENEFIT PLAN.

NO TRUSTEE OR BOARD EMPLOYEE MAY DO BUSINESS WITH ANY SYSTEM, PLAN, OR TRUST ADMINISTERED BY ANY OF THE FOLLOWING (COLLECTIVELY, "THE CITY BENEFIT PLANS"):

(I) THE BOARD OF TRUSTEES OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE CITY OF BALTIMORE;

(II) THE BOARD OF TRUSTEES OF THE FIRE AND POLICE EMPLOYEES' RETIREMENT SYSTEM OF THE CITY OF BALTIMORE;

(III) THE BOARD OF TRUSTEES OF THE ELECTED OFFICIALS' RETIREMENT SYSTEM OF THE CITY OF BALTIMORE;

(IV) THE BOARD OF TRUSTEES OF THE RETIREMENT SAVINGS PLAN OF THE CITY OF BALTIMORE; AND

(V) THE COMMITTEE OF THE CITY OF BALTIMORE DEFERRED COMPENSATION PLAN.

(3) EMPLOYMENT BY OR INTEREST IN PERSON SEEKING BUSINESS WITH CITY BENEFIT PLAN.

NO TRUSTEE OR BOARD EMPLOYEE MAY BE EMPLOYED BY OR HAVE A FINANCIAL INTEREST IN ANY PERSON OR ENTITY DOING BUSINESS OR SEEKING TO DO BUSINESS WITH ANY CITY BENEFIT PLAN.

(4) GIFTS, PAYMENTS, FREE ADMISSIONS, EXPENSE REIMBURSEMENTS.

(I) NOTWITHSTANDING CITY CODE ARTICLE 8 {"ETHICS"}, § 6-28(3) {"GIFTS: QUALIFIED EXEMPTIONS; TRAVEL, ETC., EXPENSES"} OR § 6-30 {"HONORIA"}, NO TRUSTEE OR BOARD EMPLOYEE MAY ACCEPT ANY GIFT OR ANY PAYMENT, FREE ADMISSION, OR EXPENSE REIMBURSEMENT FOR ATTENDANCE AT A CONFERENCE, SEMINAR, OR SIMILAR MEETING, OR FOR RELATED FOOD, TRAVEL, LODGING, OR ENTERTAINMENT, IF THE GIFT OR THE PAYMENT, FREE ADMISSION, OR REIMBURSEMENT IS, DIRECTLY OR INDIRECTLY, FROM:

(A) ANY PERSON OR ENTITY ENGAGED IN AN ACTIVITY OR PROVIDING A PRODUCT OR SERVICE THAT THE TRUSTEE KNOWS OR HAS REASON TO KNOW HAS BEEN MARKETED TO A CITY BENEFIT

PLAN OR IS OF A TYPE THAT THE TRUSTEE REASONABLY WOULD EXPECT TO BE MARKETED TO A CITY BENEFIT PLAN; OR

(B) ANY TRADE,PROFESSIONAL, OR OTHER ASSOCIATION THAT HAS MEMBERS ENGAGED IN AN ACTIVITY OR PROVIDING A PRODUCT OR SERVICE THAT THE TRUSTEE KNOWS OR HAS REASON TO KNOW HAS BEEN MARKETED TO A CITY BENEFIT PLAN OR IS OF A TYPE THAT THE TRUSTEE REASONABLY WOULD EXPECT TO BE MARKETED TO A CITY BENEFIT PLAN.

(II) SUBPARAGRAPH (I) OF THIS PARAGRAPH (4) DOES NOT PRECLUDE APPLICATION OF THE QUALIFIED EXEMPTIONS CONTAINED IN CITY CODE ARTICLE 8, § 628(1) {"FOOD OR BEVERAGES ? CONSUMED ? IN? PRESENCE ? OF DONOR"}, § 6-28(2) {"GIFT ? [OF] INSIGNIFICANT VALUE"}, § 6-28 (5) {"GIFT ? [EXEMPTED BY] ETHICS BOARD"}, OR § 628(6) {"GIFT FROM A SPOUSE, PARENT, CHILD, OR SIBLING"}, SUBJECT TO THE QUALIFICATIONS OF § 6-29 {"EXEMPTION LIMITATIONS"}.

(5) USING PLAN ASSETS FOR CONFERENCES, ETC.

NO ASSETS OF THE RETIREMENT SAVINGS PLAN OR OF ANY SYSTEM, PLAN, OR TRUST ADMINISTERED BY THE BOARD OF TRUSTEES OF THE PLAN MAY BE USED TO PAY FOR THE ATTENDANCE OF A TRUSTEE OR BOARD EMPLOYEE AT ANY CONFERENCE, SEMINAR, OR SIMILAR MEETING, OR FOR RELATED FOOD, TRAVEL, LODGING, OR ENTERTAINMENT, UNLESS THAT ATTENDANCE HAS FIRST BEEN APPROVED BY THE BOARD OF ESTIMATES IN ACCORDANCE WITH THE ADMINISTRATIVE MANUAL OF BALTIMORE CITY, AM240-3 {"BOARD OF ESTIMATES APPROVAL"}.

(6) LOBBYING ACTIVITIES.

NO TRUSTEE OR BOARD EMPLOYEE MAY ENGAGE IN ANY ACTIVITY THAT REQUIRES REGISTRATION AS A LOBBYIST WITH THE CITY ETHICS BOARD.

(C) ADMINISTRATION AND ENFORCEMENT.

THE CITY ETHICS BOARD ADMINISTERS AND ENFORCES THIS SECTION IN ACCORDANCE ITH THE ADMINISTRATIVE AND ENFORCEMENT PROVISIONS OF THE BALTIMORE CITY PUBLIC ETHICS LAW.

SUBTITLE 3. PLAN MEMBERSHIP

§ 3-1. MEMBERSHIP MANDATORY.

ANY EMPLOYEE WHO IS INITIALLY EMPLOYED OR REEMPLOYED BY A PARTICIPATING EMPLOYER ON OR AFTER JANUARY 1, 2014, IS A MEMBER OF THE RETIREMENT SAVINGS PLAN AS A CONDITION OF THAT EMPLOYMENT.

§ 3-2. COMMENCEMENT OF PARTICIPATION.

(A) INITIAL EMPLOYMENT.

AN EMPLOYEE INITIALLY EMPLOYED BY A PARTICIPATING EMPLOYER ON OR AFTER JANUARY 1,

2014, COMMENCES PARTICIPATION IN THE PLAN AS OF THE DATE ON WHICH THAT INITIAL EMPLOYMENT BEGINS.

(B) REEMPLOYMENT.

AN EMPLOYEE WHO WAS EMPLOYED BY A PARTICIPATING EMPLOYER ON OR BEFORE DECEMBER 31, 2013, AND WHO, AFTER HAVING TERMINATED THAT EMPLOYMENT, IS REEMPLOYED BY THAT OR ANOTHER PARTICIPATING EMPLOYER ON OR AFTER JANUARY 1, 2014, COMMENCES PARTICIPATION IN THE PLAN AS OF THE DATE ON WHICH THAT REEMPLOYMENT BEGINS.

(C) BREAKS IN SERVICE.

A PLAN MEMBER WHO TERMINATES EMPLOYMENT WITH A PARTICIPATING EMPLOYER AND IS SUBSEQUENTLY REEMPLOYED BY THAT OR ANOTHER PARTICIPATING EMPLOYER RECOMMENCES PARTICIPATION IN THE PLAN AS OF THE DATE ON WHICH THAT REEMPLOYMENT BEGINS.

§ 3-3. DUAL MEMBERSHIPS PRECLUDED.

EXCEPT FOR PARTICIPATION IN THE CITY'S DEFERRED COMPENSATION PLAN, A MEMBER OF THE RETIREMENT SAVINGS PLAN MAY NOT, WHILE A MEMBER OF THE RETIREMENT SAVINGS PLAN, MAKE CONTRIBUTIONS TO, RECEIVE BENEFITS FROM, OR ACCRUE SERVICE CREDIT UNDER ANY OTHER RETIREMENT SYSTEM SPONSORED BY THE CITY OF BALTIMORE.

§ 3-4. TERMINATION OF PARTICIPATION.

A MEMBER'S PARTICIPATION IN THE RETIREMENT SAVINGS PLAN TERMINATES ON THE COMPLETE DISTRIBUTION TO THE MEMBER OR THE MEMBER'S BENEFICIARY OF THE MEMBER'S VESTED ACCOUNT.

SUBTITLE 4. SERVICE

§ 4-1. "SERVICE" DEFINED.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, "SERVICE" MEANS THE SUM OF EACH PERIOD OF A MEMBER'S EMPLOYMENT WITH A PARTICIPATING EMPLOYER.

(B) EXCLUSIONS.

"SERVICE" DOES NOT INCLUDE ANY PERIOD THAT:

(1) HAS BEEN CREDITED AS SERVICE UNDER ANY OTHER RETIREMENT SYSTEM SPONSORED BY THE CITY OF BALTIMORE; AND

(2) WAS USED BY THAT SYSTEM FOR CALCULATING A RETIREMENT BENEFIT OR A DEFERRED VESTED RETIREMENT BENEFIT.

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§ 4-2. APPLICABILITY.

A MEMBER'S SERVICE IS USED TO DETERMINE WHETHER THE MEMBER IS VESTED IN HIS OR HER EMPLOYER CONTRIBUTION SUB-ACCOUNT.

§ 4-3. MILITARY SERVICE.

TO THE EXTENT REQUIRED BY USERRA, THE SERVICE OF A MEMBER RETURNING FROM AN UNPAID LEAVE OF ABSENCE ON ACCOUNT OF MILITARY SERVICE INCLUDES THE PERIOD OF THE MEMBER'S LEAVE OF ABSENCE.
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§ 4-4. DETERMINATION FINAL AND BINDING.

THE DETERMINATION OF A MEMBER'S SERVICE:

(1) IS MADE BY THE BOARD OF TRUSTEES; AND

(2) IS FINAL AND BINDING ON ALL PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND REVIEW UNDER § 217 {"ADMINISTRATIVE APPEAL"} AND § 2-18 {"JUDICIAL AND APPELLATE REVIEW"} OF THIS ARTICLE.

SUBTITLE 5. CONTRIBUTIONS

§ 5-1. TYPES OF CONTRIBUTIONS.

THE FOLLOWING CONTRIBUTIONS ARE MADE TO THE RETIREMENT SAVINGS PLAN:

(1) MANDATORY EMPLOYEE CONTRIBUTIONS MADE UNDER§ 5-2 {"MANDATORY EMPLOYEE CONTRIBUTIONS"} OF THIS SUBTITLE;

(2) EMPLOYER CONTRIBUTIONS MADE UNDER § 5-3 {"EMPLOYER CONTRIBUTIONS"} OF THIS SUBTITLE; AND

(3) ROLLOVER CONTRIBUTIONS MADE UNDER § 5-4 {"ROLLOVER CONTRIBUTIONS"} OF THIS SUBTITLE.

§ 5-2. MANDATORY EMPLOYEE CONTRIBUTIONS.

(A) IN GENERAL.

BEGINNING WITH THE FIRST FULL PAYROLL PERIOD THAT STARTS ON OR AFTER THE DATE A MEMBER COMMENCES PARTICIPATION IN THE RETIREMENT SAVINGS PLAN AND CONTINUING THROUGH THE LAST FULL PAYROLL PERIOD ENDING ON OR BEFORE TERMINATION OF EMPLOYMENT WITH A PARTICIPATING EMPLOYER:

(1) FOR EACH PAYROLL PERIOD, THE MEMBER MUST CONTRIBUTE TO THE PLAN 5% OF THE MEMBER'S EARNABLE COMPENSATION FOR THAT PAYROLL PERIOD;

(2) FOR EACH PAYROLL PERIOD, THE DEPARTMENT OF FINANCE WILL CAUSE THE CONTRIBUTION TO BE DEDUCTED FROM THE MEMBER'S EARNABLE COMPENSATION FOR THAT PAYROLL PERIOD; AND

(3) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE DEDUCTION IS TAKEN, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER'S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT.

(B) "PICKED-UP" STATUS.

(1) (I) THE CONTRIBUTIONS DESCRIBED IN SUBSECTION (A) OF THIS SECTION ARE INTENDED TO BE TREATED AS BEING "PICKED UP" BY THE PARTICIPATING EMPLOYER WITHIN THE MEANING OF IRC § 414(H)(2).

(II) THE AMOUNT OF EACH MANDATORY EMPLOYEE CONTRIBUTION IS PAID BY THE EMPLOYER IN LIEU OF CONTRIBUTIONS BY MEMBERS, AND MEMBERS MAY NOT RECEIVE THOSE AMOUNTS DIRECTLY. BECAUSE THE MANDATORY EMPLOYEE CONTRIBUTIONS ARE PAID BY THE EMPLOYER, THEY MUST BE TREATED AS EMPLOYER CONTRIBUTIONS IN DETERMINING THEIR FEDERAL INCOME TAX TREATMENT.

(2) THE PICKED-UP CONTRIBUTIONS MAY NOT BE EXCLUDED IN COMPUTING ANY OTHER BENEFIT PAID IN CONNECTION WITH THE MEMBER'S EMPLOYMENT WITH A PARTICIPATING EMPLOYER.

(3) (I) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER ENACTMENT OF THIS ARTICLE, THE CITY WILL REQUEST A PRIVATE LETTER RULING FROM THE INTERNAL REVENUE SERVICE TO THE EFFECT THAT THE CONTRIBUTIONS SO PICKED UP BY THE EMPLOYER ON BEHALF OF MEMBERS WILL BE TREATED AS EMPLOYER CONTRIBUTIONS UNDER IRC § 414(H)(2) AND WILL NOT BE INCLUDIBLE IN THE MEMBER'S GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES FOR THE YEAR IN WHICH THEY ARE CONTRIBUTED.

(II) IF THE INTERNAL REVENUE SERVICE RULES THAT THE PICK UP OF CONTRIBUTIONS DOES NOT SATISFY THE REQUIREMENTS OF IRC § 414(H)(2), OR IF IRC § 414(H)(2) IS REPEALED, THE CONTRIBUTIONS REQUIRED UNDER THIS SECTION WILL REMAIN IN EFFECT, BUT THE CONTRIBUTIONS MAY NO LONGER BE TREATED AS PICKED UP AND INSTEAD WILL BE TREATED AS PAID DIRECTLY BY THE MEMBER.

§ 5-3. EMPLOYER CONTRIBUTIONS.

(A) IN GENERAL

EMPLOYER CONTRIBUTIONS MUST BE MADE TO THE RETIREMENT SAVINGS PLAN AS PROVIDED IN THIS SECTION.

(B) ALL MEMBERS.

(1) FOR EACH PAYROLL PERIOD IN WHICH A MEMBER MAKES A MANDATORY EMPLOYEE CONTRIBUTION UNDER § 5-2 {"MANDATORY EMPLOYEE CONTRIBUTIONS"} OF THIS SUBTITLE,

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THE MEMBER'S EMPLOYER MUST CONTRIBUTE TO THE RETIREMENT SAVINGS PLAN AN AMOUNT EQUAL TO 4% OF THE EMPLOYEE'S EARNABLE COMPENSATION FOR THAT PAYROLL PERIOD.

(2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE EMPLOYER CONTRIBUTION IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT.

(C) MEMBERS ALSO CONTRIBUTING TO DEFERRED COMPENSATION PLAN.

(1) FOR EACH PAYROLL PERIOD IN WHICH A MEMBER MAKES A VOLUNTARY DEFERRAL TO THE CITY'S DEFERRED COMPENSATION PLAN, THE MEMBER'S EMPLOYER MUST CONTRIBUTE TO THE RETIREMENT SAVINGS PLAN AN AMOUNT EQUAL TO 50% OF THE FIRST 2% OF COMPENSATION DEFERRED BY THE MEMBER FOR THAT PAYROLL PERIOD.

(2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THIS EMPLOYER CONTRIBUTION IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT.

§ 5-4. ROLLOVER CONTRIBUTIONS.

(A) IN GENERAL.

(1) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, A MEMBER MAY MAKE 1 OR MORE ROLLOVER CONTRIBUTIONS TO THE RETIREMENT SAVINGS PLAN.

(2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER A ROLLOVER CONTRIBUTION IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER'S ROLLOVER CONTRIBUTION SUB-ACCOUNT.

(B) REQUIRED SUBMISSIONS.

A MEMBER WHO WISHES TO MAKE A ROLLOVER CONTRIBUTION MUST:

(1) FILE A REQUEST WITH THE BOARD OF TRUSTEES IN THE FORM REQUIRED BY THE BOARD; AND

(2) ESTABLISH TO THE SATISFACTION OF THE BOARD THAT AMOUNTS INTENDED TO BE ROLLED OVER SATISFY THE CONDITIONS OF SUBSECTION (C) OF THIS SECTION.

(C) CONDITIONS OF ROLLOVER.

EVERY ROLLOVER CONTRIBUTION MUST BE:

(1) AN "ELIGIBLE ROLLOVER DISTRIBUTION", AS DEFINED IN IRC § 402(F)(2)(A);

(2) MADE SOLELY IN CASH;

(3) DISTRIBUTED FROM:

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(I) A QUALIFIED PLAN UNDER IRC § 401(A) OR §403(A), EXCEPT THAT AMOUNTS ROLLED OVER MAY NOT INCLUDE NONDEDUCTIBLE OR AFTER-TAX CONTRIBUTIONS;

(II) A TAX-SHELTERED ANNUITY UNDER IRC § 403(B);

(III) AN ELIGIBLE PLAN UNDER IRC § 457(B) THAT IS MAINTAINED BY A STATE, A POLITICAL SUBDIVISION OF A STATE, OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF A STATE; OR

(IV) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER IRC § 408(A) OR AN INDIVIDUAL RETIREMENT ANNUITY UNDER IRC § 408(B), EXCEPT THAT AMOUNTS ROLLED OVER MAY NOT INCLUDE NONDEDUCTIBLE OR AFTER-TAX CONTRIBUTIONS; AND

(4) EITHER TRANSFERRED DIRECTLY TO THE RETIREMENT SAVINGS PLAN OR, WITHIN 60 DAYS OF ITS RECEIPT, CONTRIBUTED TO THE PLAN BY THE MEMBER.

§ 5-5. MAKEUP CONTRIBUTIONS AFTER MILITARY LEAVE.

(A) IN GENERAL.

(1) (I) TO THE EXTENT REQUIRED BY USERRA, A MEMBER RETURNING FROM AN UNPAID LEAVE OF ABSENCE ON ACCOUNT OF MILITARY SERVICE MAY MAKE A 1-TIME IRREVOCABLE ELECTION TO MAKE UP ALL OR PART OF THE MANDATORY EMPLOYEE CONTRIBUTIONS THE MEMBER WOULD HAVE BEEN REQUIRED TO MAKE UNDER § 52 {"MANDATORY EMPLOYEE CONTRIBUTIONS"} OF THIS SUBTITLE HAD HE OR SHE REMAINED ACTIVELY EMPLOYED BY A PARTICIPATING EMPLOYER.

(II) THE MEMBER'S MAKEUP CONTRIBUTION IS BASED ON WHAT THE MEMBER'S EARNABLE COMPENSATION WOULD HAVE BEEN HAD THE MEMBER REMAINED ACTIVELY EMPLOYED.

(2) THE ELECTION MUST:

(I) BE MADE BY FILING WITH THE BOARD OF TRUSTEES IN THE FORM REQUIRED BY THE BOARD; AND

(II) INCLUDE THE AMOUNT OF MANDATORY EMPLOYEE CONTRIBUTIONS THE MEMBER WISHES TO MAKE UP AND THE PERIOD (NOT TO EXCEED THE LESSER OF 3 TIMES THE LENGTH OF THE LEAVE OF ABSENCE OR 5 YEARS) OVER WHICH THE CONTRIBUTIONS WILL BE MADE.

(3) (I) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE BOARD RECEIVES THE MEMBER'S ELECTION, THE DEPARTMENT OF FINANCE WILL CAUSE THE AMOUNT OF MAKEUP CONTRIBUTIONS TO BE DEDUCTED FROM THE MEMBER'S EARNABLE COMPENSATION PRO-RATA FOR EACH PAYROLL PERIOD DURING THE PERIOD ELECTED (BUT NOT BEYOND THE LAST FULL PAYROLL PERIOD ENDING ON OR BEFORE THE MEMBER'S TERMINATION OF EMPLOYMENT WITH AN EMPLOYER).

(II) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER EACH AMOUNT IS DEDUCTED, THE AMOUNT WILL BE CREDITED TO THE MEMBER'S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT.

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(4) MAKEUP CONTRIBUTIONS MADE UNDER THIS SUBSECTION WILL BE TREATED AS BEING "PICKED UP" TO THE SAME EXTENT AS MANDATORY EMPLOYEE CONTRIBUTIONS ARE TREATED AS BEING "PICKED UP" UNDER § 5-2(B) {"MANDATORY EMPLOYEE CONTRIBUTIONS: 'PICKED-UP' STATUS"} OF THIS SUBTITLE.

(B) ALL MEMBERS.

(1) FOR EACH PAYROLL PERIOD IN WHICH A MEMBER ELECTS TO MAKE UP MANDATORY EMPLOYEE CONTRIBUTIONS UNDER SUBSECTION (A) OF THIS SECTION, THE MEMBER'S EMPLOYER MUST MAKE A CORRESPONDING CONTRIBUTION TO THE PLAN IN AN AMOUNT EQUAL TO 80% OF THE EMPLOYEE'S MANDATORY EMPLOYEE CONTRIBUTION FOR THAT PAYROLL PERIOD (AS DETERMINED UNDER SUBSECTION (A) OF THIS SECTION).

(2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE CORRESPONDING CONTRIBUTION IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT.

(C) MEMBERS ALSO CONTRIBUTING TO DEFERRED COMPENSATION PLAN.

(1) FOR EACH PAYROLL PERIOD IN WHICH A MEMBER ELECTS TO MAKE UP VOLUNTARY DEFERRALS TO THE CITY'S DEFERRED COMPENSATION PLAN, THE MEMBER'S EMPLOYER MUST MAKE A CORRESPONDING CONTRIBUTION TO THE PLAN IN AN AMOUNT EQUAL TO 50% OF THE FIRST 2% OF COMPENSATION DEFERRED BY THE MEMBER AS A MAKEUP CONTRIBUTION FOR THAT PAYROLL PERIOD.

(2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THIS CORRESPONDING CONTRIBUTION IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT.

§ 5-6. MAXIMUM ANNUAL ADDITIONS.

(A) DEFINITIONS.

(1) IN GENERAL.

IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(2) "ANNUAL ADDITIONS".

(I) IN GENERAL.

"ANNUAL ADDITIONS" MEANS THE SUM OF THE FOLLOWING AMOUNTS CREDITED TO A MEMBER'S ACCOUNT FOR THE LIMITATION YEAR:

(A) MANDATORY EMPLOYEE CONTRIBUTIONS MADE UNDER§ 5-2 {"MANDATORY EMPLOYEE CONTRIBUTIONS"} OF THIS SUBTITLE; AND

(B) EMPLOYER CONTRIBUTIONS MADE UNDER§ 5-3 {"EMPLOYER CONTRIBUTIONS"} OF THIS

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SUBTITLE.

(II) INCLUSIONS.

"ANNUAL ADDITIONS" INCLUDES MAKEUP CONTRIBUTIONS MADE UNDER § 5-5 {"MAKEUP CONTRIBUTIONS AFTER MILITARY LEAVE"} OF THIS SUBTITLE FOR THE LIMITATION YEAR TO WHICH THE CONTRIBUTIONS RELATE (NOT FOR THE LIMITATION YEAR IN WHICH THE CONTRIBUTIONS ARE MADE).

(III) EXCLUSIONS.

"ANNUAL ADDITIONS" DOES NOT INCLUDE ROLLOVER CONTRIBUTIONS MADE UNDER § 5-4 {"ROLLOVER CONTRIBUTIONS"} OF THIS SUBTITLE.

(3) "LIMITATION YEAR".

"LIMITATION YEAR" MEANS A CALENDAR YEAR.

(4) "SECTION 415 COMPENSATION".

(I) IN GENERAL.

(A) "SECTION 415 COMPENSATION" MEANS WAGES, WITHIN THE MEANING OF IRC § 3401, PLUS AMOUNTS THAT WOULD BE INCLUDED IN WAGES BUT FOR AN ELECTION UNDER IRC § 125, § 132 (F)(4), § 402(E)(3), § 402(H)(1)(B), § 402(K), OR § 457(B), AND ALL OTHER PAYMENTS OF COMPENSATION TO AN EMPLOYEE BY A PARTICIPATING EMPLOYER FOR WHICH THE EMPLOYER IS REQUIRED TO FURNISH THE EMPLOYEE A WRITTEN STATEMENT UNDER IRC § 6041(D), § 6051(A)(3), OR § 6052.

(B) SECTION 415 COMPENSATION MUST BE DETERMINED WITHOUT REGARD TO ANY RULES UNDER IRC § 3401 THAT LIMIT THE REMUNERATION INCLUDED IN WAGES BASED ON THE NATURE OR LOCATION OF THE EMPLOYMENT OR THE SERVICES PERFORMED (SUCH AS THE EXCEPTION FOR AGRICULTURAL LABOR IN IRC § 3401(A)(2)).

(C) SECTION 415 COMPENSATION FOR A LIMITATION YEAR IS THE SECTION 415 COMPENSATION ACTUALLY PAID OR MADE AVAILABLE IN GROSS INCOME FOR THAT LIMITATION YEAR.

(II) INCLUSIONS.

"SECTION 415 COMPENSATION" INCLUDES THE FOLLOWING AMOUNTS PAID AFTER AN EMPLOYEE'S SEVERANCE FROM EMPLOYMENT WITH A PARTICIPATING EMPLOYER, IF THOSE AMOUNTS WOULD HAVE BEEN INCLUDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (4) HAD THEY BEEN PAID BEFORE SEVERANCE AND IF THOSE AMOUNTS ARE PAID TO THE EMPLOYEE BEFORE THE LATER OF 2½ MONTHS AFTER SEVERANCE OR THE END OF THE CALENDAR YEAR IN WHICH THE SEVERANCE BECOMES EFFECTIVE:

(A) REGULAR PAYMENTS MADE AFTER SEVERANCE, IF:
1. THE PAYMENTS ARE:
A. COMPENSATION FOR SERVICES DURING THE EMPLOYEE'S REGULAR WORKING HOURS;

B. COMPENSATION FOR SERVICES OUTSIDE THE EMPLOYEE'S REGULAR WORKING HOURS (SUCH AS OVERTIME OR SHIFT DIFFERENTIAL); OR
C. COMMISSIONS, BONUSES, OR OTHER SIMILAR PAYMENTS; AND
2. THE PAYMENTS WOULD HAVE BEEN PAID TO THE EMPLOYEE BEFORE SEVERANCE HAD THE EMPLOYEE CONTINUED TO BE EMPLOYED BY THE EMPLOYER; AND
(B) PAYMENTS MADE AFTER SEVERANCE FOR ACCRUED AND UNUSED BONA FIDE SICK, VACATION, OR OTHER LEAVE , IF THE EMPLOYEE WOULD HAVE BEEN ABLE TO USE THAT LEAVE HAD THE EMPLOYEE CONTINUED TO BE EMPLOYED BY THE EMPLOYER.

(III) EXCLUSIONS.

"SECTION 415 COMPENSATION" FOR A LIMITATION YEAR DOES NOT INCLUDE COMPENSATION IN EXCESS OF THE COMPENSATION LIMIT APPLICABLE TO THAT LIMITATION YEAR UNDER IRC § 401 (A)(17) .

(B) LIMITATION ON ANNUAL ADDITIONS.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, TO THE EXTENT REQUIRED UNDER THE INTERNAL REVENUE CODE, THE ANNUAL ADDITIONS THAT ARE CREDITED TO THE ACCOUNT OF ANY MEMBER IN ANY LIMITATION YEAR MAY NOT EXCEED THE LESSER OF:

(1) $40,000, AS ADJUSTED BY COST-OF-LIVING INCREASES UNDER IRC § 415(D); OR

(2) 100% OF THE MEMBER'S SECTION 415 COMPENSATION FOR THE LIMITATION YEAR.

(C) CORRECTING EXCESS ANNUAL ADDITIONS.

IF, FOR ANY LIMITATION YEAR, THE ANNUAL ADDITIONS THAT ARE CREDITED TO THE ACCOUNT OF A MEMBER EXCEED THE LIMITATION SET FORTH IN SUBSECTION (B) OF THIS SECTION, THE CITY MUST FOLLOW ANY APPLICABLE CORRECTION METHODOLOGY AUTHORIZED BY THE INTERNAL REVENUE SERVICE UNDER THE EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM ("EPCRS") OR OTHERWISE.

§ 5-7. COMPENSATION LIMIT.

PURSUANT TO IRC § 401(A)(17) AND THE REGULATIONS ADOPTED UNDER THAT SECTION, THE ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT IN DETERMINING THE AMOUNT OF CONTRIBUTIONS UNDER THE RETIREMENT SAVINGS PLAN MAY NOT EXCEED $200,000, AS ADJUSTED BY COST-OF-LIVING INCREASES UNDER IRC § 415(D).

SUBTITLE 6. ACCOUNTS

§ 6-1. ESTABLISHMENT.

(A) IN GENERAL.

(1) A SEPARATE ACCOUNT ON BEHALF OF EACH MEMBER WILL BE ESTABLISHED AND MAINTAINED UNDER THE RETIREMENT SAVINGS PLAN.

(2) THE ESTABLISHMENT AND MAINTENANCE OF AN ACCOUNT IS FOR BOOKKEEPING PURPOSES ONLY AND DOES NOT REQUIRE OR PERMIT ASSETS HELD IN ANY ACCOUNT TO BE SEGREGATED FOR INVESTMENT PURPOSES.

(B) SUB-ACCOUNTS.

(1) A MEMBER'S ACCOUNT CONSISTS OF THE FOLLOWING SUB-ACCOUNTS:

(I) A MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT;

(II) AN EMPLOYER CONTRIBUTION SUB-ACCOUNT; AND

(III) IF APPLICABLE, A ROLLOVER CONTRIBUTION SUB-ACCOUNT.

(2) TO EACH OF THESE SUB-ACCOUNTS:

(I) CONTRIBUTIONS ARE CREDITED UNDER § 52 {"MANDATORY EMPLOYEE CONTRIBUTIONS"}, § 53 {"EMPLOYER CONTRIBUTIONS"}, OR § 5-4 {"ROLLOVER CONTRIBUTIONS"} OF THIS ARTICLE, RESPECTIVELY;

(II) GAINS AND LOSSES ARE ALLOCATED UNDER § 6-2(D) {"INVESTMENTS: FUND GAINS AND LOSSES"} OF THIS SUBTITLE; AND

(III) FEES AND EXPENSES ARE CHARGED UNDER§ 6-2(E) {"INVESTMENTS: FUND FEES AND EXPENSES"} OF THIS SUBTITLE.

§ 6-2. INVESTMENTS.

(A) BOARD TO SELECT AVAILABLE INVESTMENT FUNDS.

(1) THE BOARD OF TRUSTEES MUST SELECT:

(I) 1 OR MORE SEPARATE INVESTMENT FUNDS IN WHICH A MEMBER MAY ELECT TO HAVE THE MEMBER'S VESTED ACCOUNT INVESTED; AND

(II) A DEFAULT INVESTMENT FUND FOR THE AUTOMATIC INVESTMENT OF THE VESTED ACCOUNT OF A MEMBER WHO FAILS TO MAKE AN AFFIRMATIVE INVESTMENT ELECTION UNDER SUBSECTION (B) OF THIS SECTION.

(2) FROM TIME TO TIME, THE BOARD MAY CHANGE ANY OR ALL OF THE INVESTMENT FUNDS OR THE DEFAULT INVESTMENT FUND. ANY CHANGE MUST BE COMMUNICATED TO MEMBERS BEFORE ITS EFFECTIVE DATE.

(B) MEMBERS' INVESTMENT ELECTIONS.

(1) EACH MEMBER WILL BE PROVIDED A LIST THAT IDENTIFIES THE AVAILABLE INVESTMENT FUNDS (INCLUDING THE DEFAULT INVESTMENT FUND) WHEN COMMENCING PARTICIPATION IN THE RETIREMENT SAVINGS PLAN.

(2) IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE BOARD, EACH MEMBER MAY AFFIRMATIVELY ELECT TO HAVE THE MEMBER'S VESTED ACCOUNT INVESTED IN 1 OR MORE OF THE LISTED INVESTMENT FUNDS.

(3) AN AFFIRMATIVE INVESTMENT ELECTION REMAINS IN EFFECT UNTIL THE MEMBER CHANGES IT BY MAKING A NEW ELECTION IN ACCORDANCE WITH THE BOARD'S PROCEDURES. A NEW ELECTION REVOKES ALL PRIOR ELECTIONS.

(4) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER A MEMBER'S AFFIRMATIVE INVESTMENT ELECTION IS RECEIVED, THE MEMBER'S VESTED ACCOUNT MUST BE INVESTED IN ACCORDANCE WITH THAT ELECTION.

(C) DEFAULT INVESTMENTS.

UNLESS AND UNTIL A MEMBER MAKES AN AFFIRMATIVE INVESTMENT ELECTION UNDER SUBSECTION (B) OF THIS SECTION, THE MEMBER IS DEEMED TO HAVE MADE AN ELECTION TO HAVE THE MEMBER'S VESTED ACCOUNT INVESTED AUTOMATICALLY IN THE DEFAULT INVESTMENT FUND.

(D) FUND GAINS AND LOSSES.

ALL GAINS AND LOSSES OF AN INVESTMENT FUND IN WHICH A MEMBER'S VESTED ACCOUNT IS INVESTED WILL BE ALLOCATED TO THAT ACCOUNT BASED ON ESTABLISHED PROCEDURES APPLIED ON A UNIFORM AND NONDISCRIMINATORY BASIS.

(E) FUND FEES AND EXPENSES.

ALL FEES CHARGED AND EXPENSES INCURRED BY AN INVESTMENT FUND IN WHICH A MEMBER'S VESTED ACCOUNT IS INVESTED, INCLUDING SERVICING FEES PAID BY THE INVESTMENT FUND TO THE PLAN'S THIRD-PARTY ADMINISTRATOR, WILL BE CHARGED TO THAT ACCOUNT BASED ON ESTABLISHED PROCEDURES APPLIED ON A UNIFORM AND NONDISCRIMINATORY BASIS.

(F) NO LIABILITY FOR INVESTMENT ELECTIONS.

NEITHER THE CITY NOR THE BOARD OF TRUSTEES IS LIABLE TO A MEMBER, A BENEFICIARY, OR ANY OTHER PERSON FOR ANY LOSS RESULTING FROM:

(1) A MEMBER'S AFFIRMATIVE INVESTMENT ELECTION;

(2) A MEMBER'S FAILURE TO MAKE AN AFFIRMATIVE INVESTMENT ELECTION;

(3) A REASONABLE DELAY IN IMPLEMENTING AN AFFIRMATIVE INVESTMENT ELECTION; OR

(4) A REASONABLE DELAY IN IMPLEMENTING A DEFAULT INVESTMENT UNDER SUBSECTION (C) OF THIS SECTION.

(G) APPLICABILITY TO DEFERRED COMPENSATION PLAN.

VOLUNTARY DEFERRALS MADE BY A MEMBER TO THE CITY'S DEFERRED COMPENSATION PLAN

WILL BE INVESTED IN ACCORDANCE WITH THE MEMBER'S AFFIRMATIVE INVESTMENT ELECTION UNDER SUBSECTION (B) OF THIS SECTION OR THE MEMBER'S DEFAULT INVESTMENT UNDER SUBSECTION (C) OF THIS SECTION.

(H) NON-VESTED EMPLOYER CONTRIBUTION SUB-ACCOUNTS.

EMPLOYER CONTRIBUTION SUB-ACCOUNTS THAT HAVE NOT VESTED UNDER § 7-2 {"VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT"} OF THIS ARTICLE WILL BE INVESTED AS THE BOARD OF TRUSTEES, IN ITS SOLE DISCRETION, DETERMINES.

§ 6-3. VALUATIONS.

(A) "VALUATION DATE" DEFINED.

IN THIS SECTION,"VALUATION DATE" MEANS THE DATE, NO LESS FREQUENTLY THAN THE LAST DAY OF EACH CALENDAR QUARTER, FOR DETERMINING:

(1) THE FAIR MARKET VALUE OF EACH INVESTMENT FUND (INCLUDING THE DEFAULT INVESTMENT FUND);

(2) THE PORTION OF EACH MEMBER'S ACCOUNT INVESTED IN THAT FUND; AND

(3) THE TOTAL VALUE OF EACH MEMBER'S ACCOUNT.

(B) VALUE OF FUNDS AND ACCOUNTS.

THE FAIR MARKET VALUE OF EACH INVESTMENT FUND, THE PORTION OF EACH MEMBER'S ACCOUNT INVESTED IN THAT FUND, AND THE TOTAL VALUE OF EACH MEMBER'S ACCOUNT WILL BE DETERMINED AS OF EACH VALUATION DATE, BASED ON ESTABLISHED PROCEDURES APPLIED ON A UNIFORM AND NONDISCRIMINATORY BASIS.

(C) VALUE OF ACCOUNT ON DISTRIBUTABLE EVENT.

THE DATE AS OF WHICH A MEMBER'S ACCOUNT IS VALUED ON A DISTRIBUTABLE EVENT UNDER SUBTITLE 9 {"DISTRIBUTIONS"} OF THIS ARTICLE WILL BE DETERMINED ON THE BASIS OF ESTABLISHED PROCEDURES APPLIED ON A UNIFORM AND NONDISCRIMINATORY BASIS.

§ 6-4. PERIODIC STATEMENTS.

ON A PERIODIC BASIS, BUT NO LESS FREQUENTLY THAN QUARTERLY, A STATEMENT SHOWING THE VALUE OF A MEMBER'S ACCOUNT AS OF THE MOST RECENT VALUATION DATE WILL BE MADE AVAILABLE TO EACH MEMBER.

SUBTITLE 7. VESTING

§ 7-1. MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT.

A MEMBER'S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT IS IMMEDIATELY AND AT

ALL TIMES 100% VESTED AND NON-FORFEITABLE.

§ 7-2. EMPLOYER CONTRIBUTION SUB-ACCOUNT.

A MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT BECOMES 100% VESTED AND NON-FORFEITABLE ON THE EARLIEST OF:

(1) THE MEMBER'S ATTAINMENT OF NORMAL RETIREMENT AGE;

(2) THE MEMBER'S BEING CREDITED WITH 5 YEARS OF SERVICE;

(3) THE MEMBER'S PROVIDING THE BOARD OF TRUSTEES WITH AN SSA DETERMINATION OF DISABILITY UNDER § 9-3 {"DISTRIBUTABLE EVENTS - DISABILITY"} OF THIS ARTICLE;

(4) THE MEMBER'S DEATH WHILE AN EMPLOYEE;

(5) A PERMANENT DISCONTINUANCE OF CONTRIBUTIONS OR PLAN TERMINATION UNDER § 11-2 {"DISCONTINUANCE OF PAYMENTS; PLAN TERMINATION"} OF THIS ARTICLE; OR

(6) A "PARTIAL PLAN TERMINATION", AS DEFINED UNDER APPLICABLE LAW.

§ 7-3. ROLLOVER CONTRIBUTION SUB-ACCOUNT.

A MEMBER'S ROLLOVER CONTRIBUTION SUB-ACCOUNT IS IMMEDIATELY AND AT ALL TIMES 100% VESTED AND NON-FORFEITABLE.

SUBTITLE 8. FORFEITURES

§ 8-1. FORFEITURE OF NON-VESTED EMPLOYER CONTRIBUTIONS.

THE EMPLOYER CONTRIBUTION SUB-ACCOUNT OF A MEMBER WHO TERMINATES EMPLOYMENT WITH A PARTICIPATING EMPLOYER BEFORE THAT SUB-ACCOUNT IS VESTED UNDER § 7-2 {"VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT"} OF THIS ARTICLE IS FORFEITED AS OF THE DATE OF THE MEMBER'S TERMINATION OF EMPLOYMENT.

§ 8-2. FORFEITURE ACCOUNT.

FORFEITURES UNDER THIS SUBTITLE WILL BE HELD IN A SEPARATE FORFEITURE ACCOUNT FOR BOOKKEEPING PURPOSES.

§ 8-3. RESTORATION.

(A) IN GENERAL.

IF, FOLLOWING FORFEITURE OF A MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT, THE MEMBER PROVIDES THE BOARD WITH AN SSA DETERMINATION OF DISABILITY UNDER § 9-3 {"DISTRIBUTABLE EVENTS - DISABILITY"} OF THIS ARTICLE, THE EMPLOYER CONTRIBUTION SUB-ACCOUNT WILL BE RESTORED OUT OF THE FORFEITURE ACCOUNT AND DISTRIBUTED, WITHOUT

ANY ADJUSTMENT FOR EARNINGS OR LOSSES, TO THE MEMBER.

(B) EMPLOYER CONTRIBUTION.

IF THE FORFEITURE ACCOUNT HAS INSUFFICIENT FUNDS TO FULLY RESTORE THE EMPLOYER CONTRIBUTION SUB-ACCOUNT, THE APPROPRIATE EMPLOYER MUST MAKE A CONTRIBUTION IN THE AMOUNT NECESSARY FOR FULL RESTORATION.

§ 8-4. REMAINING AMOUNTS IN FORFEITURE ACCOUNT.

(A) TO DEFRAY REASONABLE PLAN EXPENSES.

AFTER THE END OF EACH PLAN YEAR, ANY AMOUNT REMAINING IN THE FORFEITURE ACCOUNT AFTER ALL EMPLOYER CONTRIBUTION SUB-ACCOUNTS ARE RESTORED UNDER § 8-3 {"RESTORATION"} OF THIS SUBTITLE WILL BE USED TO DEFRAY REASONABLE PLAN ADMINISTRATIVE EXPENSES.

(B) REDUCTION OF EMPLOYER CONTRIBUTION.

ANY AMOUNT REMAINING IN THE FORFEITURE ACCOUNT AFTER ALL REASONABLE PLAN ADMINISTRATIVE EXPENSES ARE DEFRAYED WILL BE USED TO REDUCE THE EMPLOYER CONTRIBUTION REQUIRED UNDER § 5-3 {"EMPLOYER CONTRIBUTIONS"} OF THIS ARTICLE FOR THE PLAN YEAR IN WHICH THE FORFEITURE OCCURRED.

SUBTITLE 9. DISTRIBUTIONS

§ 9-1. FORM OF PAYMENT.

DISTRIBUTIONS FROM THE RETIREMENT SAVINGS PLAN MAY ONLY BE MADE IN 1 LUMP -SUM CASH PAYMENT.

§ 9-2. DISTRIBUTABLE EVENTS - RETIREMENT.

A MEMBER WHO TERMINATES EMPLOYMENT ON OR AFTER THE MEMBER'S NORMAL RETIREMENT AGE IS ENTITLED TO RECEIVE, AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE TERMINATION, THE VALUE OF THE MEMBER'S:

(1) MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT;

(2) EMPLOYER CONTRIBUTION SUB-ACCOUNT; AND

(3) IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT.

§ 9-3. DISTRIBUTABLE EVENTS - DISABILITY.

(A) "SSA DETERMINATION OF DISABILITY" DEFINED.

"SSA DETERMINATION OF DISABILITY" MEANS A WRITTEN DETERMINATION, MADE BY A SOCIAL

SECURITY ADMINISTRATION'S DISABILITY DETERMINATION SERVICE, HEARING OFFICER, OR ADMINISTRATIVE LAW JUDGE, THAT A MEMBER IS DISABLED UNDER THE FEDERAL SOCIAL SECURITY ACT.

(B) IN GENERAL.

IF A MEMBER TERMINATES EMPLOYMENT AS A RESULT OF A DISABILITY INCURRED WHILE AN EMPLOYEE, THE MEMBER IS ENTITLED TO RECEIVE:

(1) THE VALUE OF THE MEMBER'S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT AND, IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT, AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE TERMINATION; AND

(2) THE VALUE OF THE MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT (DETERMINED AS OF THE DATE OF TERMINATION OF EMPLOYMENT), AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE MEMBER PROVIDES THE BOARD OF TRUSTEES WITH THE SSA DETERMINATION OF DISABILITY REQUIRED BY SUBSECTION (C) OF THIS SECTION.

(C) SSA DETERMINATION OF DISABILITY.

(1) A MEMBER WHO SEEKS TO RECEIVE A DISTRIBUTION OF HIS OR HER EMPLOYER CONTRIBUTIONSUB-ACCOUNT AS A RESULT OF A DISABILITY MUST PROVIDE THE BOARD OF TRUSTEES, IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE BOARD, WITH AN SSA DETERMINATION OF DISABILITY NO LATER THAN 36 MONTHS AFTER THE MEMBER'S TERMINATION.

(2) IF A DETERMINATION OF DISABILITY IS NOT PROVIDED BY THAT DEADLINE:

(I) THE MEMBER IS NOT ELIGIBLE TO RECEIVE THE DISTRIBUTION AS A RESULT OF A DISABILITY; BUT

(II) THE MEMBER MIGHT STILL BE ELIGIBLE FOR A DISTRIBUTION OF THAT SUB-ACCOUNT UNDER§ 9-2 {"DISTRIBUTABLE EVENTS - RETIREMENT"} OR § 95 {"DISTRIBUTABLE EVENTS - OTHER TERMINATION OF EMPLOYMENT"} OF THIS SUBTITLE.

(D) BOARD'S ADMINISTRATIVE DETERMINATION.

THE FINAL DETERMINATION OF WHETHER A MEMBER IS ELIGIBLE TO RECEIVE A DISTRIBUTION OF THE MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT AS A RESULT OF A DISABILITY:

(1) IS MADE BY THE BOARD OF TRUSTEES; AND

(2) IS FINAL AND BINDING ON ALL PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND REVIEW UNDER § 217 {"ADMINISTRATIVE APPEAL"} AND § 2-18 {"JUDICIAL AND APPELLATE REVIEW"} OF THIS ARTICLE.

§ 9-4. DISTRIBUTABLE EVENTS - DEATH.

(A) IN GENERAL.

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ON THE DEATH OF A MEMBER WHILE AN EMPLOYEE (OR BEFORE RECEIVING A DISTRIBUTION UNDER § 9-2 {"DISTRIBUTABLE EVENTS - RETIREMENT"}, § 93 {"DISTRIBUTABLE EVENTS - DISABILITY"}, OR § 9-5 {"DISTRIBUTABLE EVENTS - OTHER TERMINATION OF EMPLOYMENT"} OF THIS SUBTITLE), THE MEMBER'S BENEFICIARY IS ENTITLED TO RECEIVE, AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE BOARD OF TRUSTEES HAS DETERMINED THAT THE MEMBER HAS DIED, THE VALUE OF THE MEMBER'S:

(1) MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT;

(2) EMPLOYER CONTRIBUTION SUB-ACCOUNT; AND

(3) IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT.

(B) DESIGNATION OF BENEFICIARY.

(1) IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE BOARD, A MEMBER MAY DESIGNATE A BENEFICIARY TO RECEIVE DEATH BENEFITS FROM THE PLAN.

(2) THE DESIGNATION REMAINS IN EFFECT UNTIL THE MEMBER CHANGES IT BY MAKING A NEW DESIGNATION IN ACCORDANCE WITH THE BOARD'S PROCEDURES. A NEW DESIGNATION REVOKES ALL PRIOR DESIGNATIONS.

(C) BENEFICIARY TO ESTABLISH MEMBER'S DEATH.

TO RECEIVE A DEATH BENEFIT UNDER THIS SECTION, THE MEMBER'S BENEFICIARY MUST ESTABLISH TO THE SATISFACTION OF THE BOARD THAT THE MEMBER HAS DIED.

(D) FAILURE TO DESIGNATE BENEFICIARY.

(1) IF THE BOARD DETERMINES THAT A MEMBER HAS DIED WITHOUT VALIDLY DESIGNATING A BENEFICIARY OR THAT NO VALIDLY-DESIGNATED BENEFICIARY IS STILL ALIVE, THE VALUE OF THE MEMBER'S ACCOUNT WILL BE PAID TO:

(I) THE MEMBER'S SURVIVING SPOUSE;

(II) IF THERE IS NO SURVIVING SPOUSE, TO THE MEMBER'S SURVIVING CHILDREN, IN EQUAL SHARES;

(III) IF THERE ARE NO SURVIVING CHILDREN, TO THE MEMBER'S SURVIVING PARENTS, IN EQUAL SHARES; AND

(IV) IF THERE ARE NO SURVIVING PARENTS, TO THE MEMBER'S ESTATE.

(2) IF THE MEMBER'S ESTATE WOULD BE ENTITLED TO RECEIVE THE DEATH BENEFIT UNDR PARAGRAPH (1) OF THIS SUBSECTION, BUT NO ESTATE IS OPENED WITHIN 1 YEAR OF THE MEMBER'S DEATH, THE AMOUNT OF THE DEATH BENEFIT IS FORFEITED AND WILL BE APPLIED IN ACCORDANCE WITH SUBTITLE 8 {"FORFEITURES"} OF THIS ARTICLE.

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(E) RESOLUTION OF DISPUTES.

(1) IF ANY QUESTION OR DISPUTE ARISES REGARDING PAYMENT OF A DEATH BENEFIT UNDER THIS SECTION, THE BOARD MAY:

(I) DISTRIBUTE THE DEATH BENEFIT TO THE MEMBER'S ESTATE;

(II) RETAIN THE DEATH BENEFIT UNTIL THE BOARD IS SATISFIED THAT THE RIGHT TO PAYMENT HAS BEEN FINALLY DETERMINED; OR

(III) DEPOSIT THE AMOUNT OF THE DEATH BENEFIT INTO ANY COURT OF COMPETENT JURISDICTION.

(2) A DETERMINATION BY THE BOARD UNDER THIS SECTION IS FINAL AND BINDING ON ALL PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND REVIEW UNDER § 217 {"ADMINISTRATIVE APPEAL"} AND § 2-18 {"JUDICIAL AND APPELLATE REVIEW"} OF THIS ARTICLE.

§ 9-5. DISTRIBUTABLE EVENTS - OTHER TERMINATION OF EMPLOYMENT.

IF A MEMBER TERMINATES EMPLOYMENT BEFORE THE MEMBER'S NORMAL RETIREMENT AGE AND NOT AS A RESULT OF DISABILITY OR DEATH, THE MEMBER IS ENTITLED TO RECEIVE THE FOLLOWING, AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE TERMINATION:

(1) THE VALUE OF THE MEMBER'S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT AND, IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT; AND

(2) IF VESTED UNDER § 7-2 {"VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT"} OF THIS ARTICLE, THE VALUE OF THE MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT.

§ 9-6. NO LOANS OR WITHDRAWALS.

NO LOAN AGAINST NOR IN-SERVICE WITHDRAWAL FROM ANY PART OF A MEMBER'S ACCOUNT IS PERMITTED.

§ 9-7. DIRECT ROLLOVERS.

(A) DEFINITIONS.

(1) IN GENERAL.

IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(2) "DISTRIBUTEE".

"DISTRIBUTEE" MEANS:

(I) AN EMPLOYEE OR FORMER EMPLOYEE;

(II) THE EMPLOYEE'S OR FORMER EMPLOYEE'S SPOUSE OR FORMER SPOUSE WHO IS THE

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ALTERNATE PAYEE UNDER A QUALIFIED DOMESTIC RELATIONS ORDER, AS DEFINED IN IRC § 414 (P), WITH REGARD TO THE INTEREST OF THE SPOUSE OR FORMER SPOUSE; OR

(III) THE EMPLOYEE'S OR FORMER EMPLOYEE'S NONSPOUSE DESIGNATED BENEFICIARY, IF THE DIRECT ROLLOVER IS MADE TO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY ("IRA") UNDER IRC § 408(A) OR § 408(B) THAT:

(A) IS ESTABLISHED ON BEHALF OF THE DESIGNATED BENEFICIARY; AND

(B) IS TREATED AS AN INHERITED IRA UNDER IRC § 402(C)(11).

(3) "ELIGIBLE RETIREMENT PLAN".

"ELIGIBLE RETIREMENT PLAN" MEANS ANY OF THE FOLLOWING THAT ACCEPTS A DISTRIBUTEE'S ELIGIBLE ROLLOVER DISTRIBUTION:

(I) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER IRC § 408(A);

(II) AN INDIVIDUAL RETIREMENT ANNUITY UNDER IRC § 408(B);

(III) A QUALIFIED PLAN UNDER IRC § 401(A);

(IV) AN ANNUITY PLAN UNDER IRC § 403(A);

(V) AN ELIGIBLE DEFERRED COMPENSATION PLAN UNDER IRC § 457(B) THAT IS MAINTAINED BY A STATE, A POLITICAL SUBDIVISION OF A STATE, OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF A STATE AND THAT AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS TRANSFERRED FROM THE RETIREMENT SAVINGS PLAN;

(VI) AN ANNUITY CONTRACT DESCRIBED IN IRC § 403(B); AND

(VII) A ROTH IRA DESCRIBED IN IRC § 408A.

(4) "ELIGIBLE ROLLOVER DISTRIBUTION".

(I) IN GENERAL.

"ELIGIBLE ROLLOVER DISTRIBUTION" MEANS ANY DISTRIBUTION OF ALL OR ANY PORTION OF THE BALANCE TO THE CREDIT OF THE DISTRIBUTEE.

(II) EXCLUSIONS.

"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 FOR 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, OR FOR A SPECIFIED PERIOD OF 10 YEARS OR MORE;

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(B) ANY DISTRIBUTION TO THE EXTENT THAT IT IS REQUIRED UNDER IRC § 401(A)(9);

(C) ANY DISTRIBUTION THAT IS MADE ON ACCOUNT OF HARDSHIP; AND

(D) SUBJECT TO SUBPARAGRAPH (III) OF THIS SUBSECTION (A)(4), THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDIBLE IN GROSS INCOME.

(III) QUALIFICATIONS FOR EXCLUSION UNDER SUBPARAGRAPH (II)(D).

(A) NOTWITHSTANDING SUBPARAGRAPH (II)(D) OF THIS SUBSECTION (A)(4), A PORTION OF A DISTRIBUTION DOES NOT FAIL TO BE AN "ELIGIBLE ROLLOVER DISTRIBUTION" MERELY BECAUSE THE PORTION CONSISTS OF AFTER-TAX EMPLOYEE CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN GROSS INCOME.

(B) SUB-SUBPARAGRAPH (A) OF THIS SUBSECTION (A)(4)(III) APPLIES ONLY IF THE PORTION IS TRANSFERRED TO:

1. A TRADITIONAL INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY UNDER IRC § 408(A) OR § 408(B) OR A ROTH INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY UNDER IRC § 408A; OR

2. A QUALIFIED PLAN UNDER IRC § 401(A) OR § 403(A) OR AN ANNUITY CONTRACT UNDER IRC§ 403(B), IF THE PLAN OR CONTRACT PROVIDES FOR:

A. SEPARATE ACCOUNTS FOR AMOUNTS SO TRANSFERRED (INCLUDING EARNINGS ON THE TRANSFERRED AMOUNTS); AND

B. SEPARATE ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE.

(B) DIRECT ROLLOVERS.

NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE THAT WOULD OTHERWISE LIMIT A DISTRIBUTEE'S ELECTION UNDER THIS SECTION, A DISTRIBUTEE MAY ELECT, AT THE TIME AND IN THE MANNER DIRECTED 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.

§ 9-8. MINIMUM DISTRIBUTION RULES.

(A) REASONABLE GOOD FAITH COMPLIANCE.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, DISTRIBUTIONS UNDER THIS ARTICLE MUST BE MADE IN ACCORDANCE WITH A REASONABLE GOOD FAITH INTERPRETATION OF IRC § 401(A)(9), AS APPLICABLE TO THE RETIREMENT SAVINGS PLAN.

(B) TIME AND MANNER OF DISTRIBUTION.

(1) REQUIRED {LATEST} BEGINNING DATE.

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THE MEMBER'S ENTIRE INTEREST MUST BE DISTRIBUTED TO THE MEMBER NO LATER THAN THE APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE LATER OF:

(I) THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS AGE 70½; OR

(II) THE CALENDAR YEAR IN WHICH THE MEMBER TERMINATES EMPLOYMENT WITH A PARTICIPATING EMPLOYER.

(2) DEATH OF MEMBER BEFORE DISTRIBUTION.

IF THE MEMBER DIES BEFORE DISTRIBUTION IS MADE, THE MEMBER'S ENTIRE INTEREST MUST BE DISTRIBUTED NO LATER THAN DECEMBER 31 OF THE CALENDAR YEAR IN WHICH THE 5TH ANNIVERSARY OF THE MEMBER'S DEATH OCCURS.

SUBTITLE 10. ANTI-ALIENATION PROVISIONS

§ 10-1. PROHIBITED ASSIGNMENTS, ATTACHMENTS, ETC.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN §§ 10-3 {"EXCEPTIONS - GENERAL APPLICABILITY"} THROUGH 1010 {"EXCEPTIONS - FUNERAL EXPENSES"} OF THIS SUBTITLE:

(1) ALL CURRENT AND FUTURE BENEFITS PROVIDED UNDER THE RETIREMENT SAVINGS PLAN AND ALL AMOUNTS THAT HAVE BEEN CREDITED TO A MEMBER'S ACCOUNT ARE UNASSIGNABLE; AND

(2) NO PERSON MAY ATTACH, EXECUTE, GARNISH, OR OTHERWISE SEIZE ANY CURRENT OR FUTURE BENEFIT PROVIDED UNDER THE RETIREMENT SAVINGS PLAN OR ANY AMOUNT THAT HAS BEEN CREDITED TO A MEMBER'S ACCOUNT.

§ 10-2. {RESERVED}

§ 10-3. EXCEPTIONS - GENERAL APPLICABILITY.

SUBJECT TO THE REQUIREMENTS OF § 10-12 {"EXCEPTIONS - NOTICE TO BOARD"} OF THIS SUBTITLE, THE EXCEPTIONS PROVIDED IN §§ 10-4 {"EXCEPTIONS - COURT ORDERS"} THROUGH 10-10 {"EXCEPTIONS - FUNERAL EXPENSES"} APPLY NOTWITHSTANDING § 10-1 {"PROHIBITED ASSIGNMENTS, ATTACHMENTS, ETC."} OF THIS SUBTITLE.

§ 10-4. EXCEPTIONS - COURT ORDERS.

(A) IN GENERAL.

ALL OR ANY PORTION OF A MEMBER'S VESTED ACCOUNT MAY BE ASSIGNED PURSUANT TO:

(1) A DECREE OR ORDER OF ALIMONY OR CHILD SUPPORT ISSUED BY A COURT OF COMPETENT JURISDICTION;

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(2) A COURT ORDER ISSUED BY A COURT OF COMPETENT JURISDICTION APPOINTING THE ASSIGNEE AS GUARDIAN OVER THE PROPERTY OF THE MEMBER; OR

(3) A DOMESTIC RELATIONS ORDER, AS DEFINED IN SUBSECTION (B) OF THIS SECTION.

(B) DOMESTIC RELATIONS ORDERS.

(1) "DOMESTIC RELATIONS ORDER" DEFINED.

IN THIS SECTION, "DOMESTIC RELATIONS ORDER" MEANS EITHER OF THE FOLLOWING THAT SATISFIES THE CONDITIONS OF PARAGRAPH (2) OF THIS SUBSECTION:

(I) A MEMBER'S COURT-APPROVED PROPERTY SETTLEMENT AGREEMENT INCIDENT TO A DIVORCE DECREE; OR

(II) A DIVISION OF MARITAL PROPERTY PURSUANT TO A COURT ORDER THAT:

(A) CREATES THE RIGHT OR RECOGNIZES THE EXISTENCE OF THE RIGHT OF AN ALTERNATE PAYEE (AS DEFINED IN IRC § 414(P)(8)) TO RECEIVE ALL OR A PORTION OF A MEMBER'S BENEFIT UNDER THE RETIREMENT SAVINGS PLAN; OR

(B) ASSIGNS TO AN ALTERNATE PAYEE THE RIGHT TO RECEIVE ALL OR A PORTION OF A MEMBER'S BENEFIT UNDER THE PLAN.

(2) CONDITIONS OF AGREEMENT OR ORDER.

THE PROPERTY SETTLEMENT AGREEMENT OR COURT ORDER:

(I) MAY NOT REQUIRE THE PLAN TO MAKE ANY DISTRIBUTION TO THE ALTERNATE PAYEE IN A FORM OF PAYMENT OTHER THAN AS REQUIRED BY § 9-1 {"FORM OF PAYMENT"} OF THIS ARTICLE;

(II) MAY NOT REQUIRE THE PLAN TO PROVIDE TO THE ALTERNATE PAYEE AN AMOUNT GREATER THAN THE VALUE OF THE MEMBER'S VESTED ACCOUNT;

(III) MAY NOT REQUIRE THE PAYMENT OF BENEFITS TO AN ALTERNATE PAYEE IF THE BENEFITS ARE REQUIRED TO BE PAID TO ANOTHER ALTERNATE PAYEE UNDER ANOTHER ORDER PREVIOUSLY ACCEPTED AS A DOMESTIC RELATIONS ORDER;

(IV) MUST CLEARLY SPECIFY THE PERCENTAGE OR AMOUNT OF THE MEMBER'S VESTED ACCOUNT TO BE DISTRIBUTED TO THE ALTERNATE PAYEE OR THE MANNER IN WHICH THE PERCENTAGE OR AMOUNT IS TO BE DETERMINED; AND

(V) MUST CLEARLY SPECIFY (OR, TO PROTECT THE PARTIES' PRIVACY, REQUIRE SUBMISSION BY SEPARATE WRITING OF) THE NAME, SOCIAL SECURITY NUMBER, BIRTH DATE, AND LAST KNOWN MAILING ADDRESS OF THE MEMBER AND THE ALTERNATE PAYEE.

(3) IMPLEMENTATION OF AGREEMENT OR ORDER.

FOLLOWING A DETERMINATION BY THE BOARD OF TRUSTEES THAT A PROPERTY SETTLEMENT

AGREEMENT OR COURT ORDER IS A DOMESTIC RELATIONS ORDER:

(I) A SEPARATE ACCOUNT MUST BE ESTABLISHED AND MAINTAINED ON BEHALF OF THE ALTERNATE PAYEE;

(II) THE ALTERNATE PAYEE MUST BE AFFORDED THE SAME RIGHTS WITH RESPECT TO THE ACCOUNT AS A MEMBER HAS UNDER THIS ARTICLE, INCLUDING THE RIGHT TO MAKE AN INVESTMENT ELECTION UNDER § 6-2 {"INVESTMENTS"} OF THIS ARTICLE; AND

(III) DISTRIBUTIONS TO THE ALTERNATE PAYEE MUST BE MADE AT THE TIME SPECIFIED IN THE DOMESTIC RELATIONS ORDER, WHICH MAY BE BEFORE THE MEMBER (TO WHOM THE DOMESTIC RELATIONS ORDER RELATES) HAS A DISTRIBUTABLE EVENT UNDER SUBTITLE 9 {"DISTRIBUTIONS"} OF THIS ARTICLE.

§ 10-5. EXCEPTIONS - TAX LIENS.

ALL OR ANY PORTION OF A MEMBER'S VESTED ACCOUNT MAY BE PAID IN SATISFACTION OF A FEDERAL OR STATE TAX LIEN.

§ 10-6. EXCEPTIONS - POWERS OF ATTORNEY.

THE AMOUNT OTHERWISE DUE A MEMBER OR BENEFICIARY MAY BE PAID TO THE MEMBER'S OR BENEFICIARY'S ATTORNEY-IN-FACT, AS AGENT OF THE MEMBER OR BENEFICIARY, IF THE MEMBER OR BENEFICIARY HAS PROPERLY DESIGNATED THE ATTORNEY-IN-FACT TO ACT AS AGENT UNDER A DULY-EXECUTED DURABLE POWER OF ATTORNEY.

§ 10-7. EXCEPTIONS - CUSTODIAN UNDER UNIFORM TRANSFERS TO MINORS ACT.

THE AMOUNT OTHERWISE DUE A MINOR BENEFICIARY MAY BE PAID TO A CUSTODIAN VALIDLY APPOINTED FOR THE MINOR UNDER THE MARYLAND UNIFORM TRANSFERS TO MINORS ACT (STATE ESTATES AND TRUSTS ARTICLE, TITLE 13, SUBTITLE 3) OR SIMILAR PROVISIONS OF ANOTHER JURISDICTION.

§ 10-8. EXCEPTIONS - TRUSTEE.

THE AMOUNT OTHERWISE DUE A MEMBER OR BENEFICIARY MAY BE PAID TO THE MEMBER'S OR BENEFICIARY'S TRUSTEE, IF THE TRUSTEE WAS DESIGNATED TRUSTEE OF THE MEMBER OR BENEFICIARY UNDER AN ENFORCEABLE INTER VIVOS OR TESTAMENTARY TRUST AGREEMENT.

§ 10-9. EXCEPTIONS - REPRESENTATIVE PAYEE.

THE AMOUNT OTHERWISE DUE A MEMBER OR BENEFICIARY MAY BE PAID TO THE MEMBER'S OR BENEFICIARY'S SOCIAL SECURITY "REPRESENTATIVE PAYEE" PURSUANT TO THE SOCIAL SECURITY ACT, 42 U.S.C. § 405(J).

§ 10-10. EXCEPTIONS - FUNERAL EXPENSES.

ALL OR ANY PORTION OF A MEMBER'S VESTED ACCOUNT THAT IS PAYABLE ON ACCOUNT OF A MEMBER'S DEATH MAY BE PAID TO A FUNERAL ESTABLISHMENT PROVIDING FUNERAL SERVICES

TO THE DECEASED MEMBER, IF THE MEMBER'S BENEFICIARY FILES WITH THE BOARD OF TRUSTEES, IN THE FORM REQUIRED BY THE BOARD, THE BENEFICIARY'S CONSENT TO THAT PAYMENT.

§ 10-11 {RESERVED}

§ 10-12. EXCEPTIONS - NOTICE TO BOARD.

AN ASSIGNMENT UNDER §§ 10-4 {"EXCEPTIONS - COURT ORDERS"} THROUGH 10-10 {"EXCEPTIONS - FUNERAL EXPENSES"} OF THIS SUBTITLE MAY BE MADE ONLY AFTER THE BOARD OF TRUSTEES RECEIVES:

(1) A COPY, AS APPROPRIATE, OF THE COURT ORDER OR DECREE, NOTICE OF TAX LIEN, POWER OF ATTORNEY, CUSTODIAL DESIGNATION, TRUST DOCUMENT, CERTIFICATION OF REPRESENTATIVE PAYEE, OR CONSENT TO ASSIGNMENT TO FUNERAL ESTABLISHMENT; AND

(2) ANY ADDITIONAL DOCUMENTS OR INFORMATION THAT THE BOARD REQUIRES.

§ 10-13. {RESERVED}

§ 10-14. FRAUD OR MISUSE.

IF THE BOARD, THE SOCIAL SECURITY ADMINISTRATION, OR A COURT OF COMPETENT JURISDICTION DETERMINES THAT ANY AMOUNT PAID UNDER §§ 10-4 {"EXCEPTIONS - COURT ORDERS"} THROUGH 10-10 {"EXCEPTIONS - FUNERAL EXPENSES"} OF THIS SUBTITLE WAS OBTAINED BY FRAUD OR MISUSED, THE BOARD MUST TAKE ALL NECESSARY STEPS TO RECOVER THAT AMOUNT.

SUBTITLE 11. PLAN MODIFICATIONS

§ 11-1. PLAN AMENDMENT.

(A) IN GENERAL.

SUBJECT TO THE LIMITATIONS OF SUBSECTION (B) OF THIS SECTION, THE MAYOR AND CITY COUNCIL OF BALTIMORE RESERVES THE RIGHT, AT ANY TIME BY ORDINANCE, TO AMEND ANY PROVISION OF THIS ARTICLE.

(B) LIMITATIONS.

NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, NO AMENDMENT MAY CAUSE ANY VESTED CONTRIBUTIONS MADE BEFORE THE AMENDMENT'S EFFECTIVE DATE TO BECOME FORFEITABLE.

§ 11-2. DISCONTINUANCE OF PAYMENTS; PLAN TERMINATION.

(A) IN GENERAL.

THE MAYOR AND CITY COUNCIL RESERVES THE RIGHT, AT ANY TIME BY ORDINANCE, TO PERMANENTLY DISCONTINUE CONTRIBUTIONS TO THE PLAN OR TO TERMINATE THE PLAN.

(B) EFFECT OF DISCONTINUANCE OR TERMINATION.

ON THE EFFECTIVE DATE OF A PERMANENT DISCONTINUANCE OF CONTRIBUTIONS OR A PLAN TERMINATION, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE:

(1) NO PERSON WHO IS NOT ALREADY A MEMBER MAY BECOME A MEMBER;

(2) NO FURTHER CONTRIBUTIONS MAY BE MADE TO THE PLAN; AND

(3) THE EMPLOYER CONTRIBUTION SUB-ACCOUNT OF ANY MEMBER THAT IS NOT ALREADY 100% VESTED AND NON-FORFEITABLE BECOMES 100% VESTED AND NON-FORFEITABLE.

(C) DISTRIBUTION OF ACCOUNTS.

AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE EFFECTIVE DATE OF A PERMANENT DISCONTINUANCE OF CONTRIBUTIONS OR A PLAN TERMINATION, THE VALUE OF EACH MEMBER'S ACCOUNT MUST BE PAID TO THE MEMBER IN 1 LUMP-SUM CASH PAYMENT.

§ 11-3. PLAN MERGER, CONSOLIDATION, OR TRANSFER.

IN THE CASE OF A MERGER OR CONSOLIDATION OF THE RETIREMENT SAVINGS PLAN WITH, OR A TRANSFER OF PLAN ASSETS OR LIABILITIES TO, ANY OTHER PLAN, EACH MEMBER OF THE RETIREMENT SAVINGS PLAN IS ENTITLED TO RECEIVE, IMMEDIATELY AFTER THE MERGER, CONSOLIDATION, OR TRANSFER (AS IF THE OTHER PLAN HAD THEN TERMINATED), A BENEFIT THAT IS EQUAL TO OR GREATER THAN THE BENEFIT THE MEMBER WOULD HAVE BEEN ENTITLED TO RECEIVE IMMEDIATELY BEFORE THE MERGER, CONSOLIDATION, OR TRANSFER (AS IF THE RETIREMENT SAVINGS PLAN HAD THEN TERMINATED).

Article 22 - Retirements Systems

Subtitle - Employees' Retirement System

§ 2. Name and date operative; NEW MEMBERS CUTOFF.

(A) NAME AND DATE OPERATIVE.

(1) A retirement system is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances, pensions and other incidental benefits under the provisions of this subtitle for employees of the City of Baltimore who become members of this retirement system.

(2) [It] THIS SYSTEM shall be known as the "Employees' Retirement System of the City of Baltimore".

(3) The [Retirement System] SYSTEM so created [shall begin] BEGAN operation as of January 1, 1926.

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(B) NO NEW MEMBERS ON OR AFTER JANUARY 1, 2014.

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SUBTITLE:

(1) NO PERSON WHO FIRST BECOMES AN EMPLOYEE ON OR AFTER JANUARY 1, 2014, MAY BECOME A MEMBER OF THIS SYSTEM; AND

(2) NO FORMER ACTIVE MEMBER OF THIS SYSTEM WHO AGAIN BECOMES AN EMPLOYEE ON OR AFTER JANUARY 1, 2014, MAY AGAIN BECOME AN ACTIVE MEMBER OF THIS SYSTEM.

§ 5. Administration; Board of Trustees.

(b) Members.

(5) (ii) In addition to the standards and requirements contained in the Baltimore City Public Ethics Law, Trustees and Board employees may not engage in any of the following activities or hold any of the following interests, as these activities or interests are defined in the Baltimore City Public Ethics Law[:].

1. No Trustee or Board employee may do business with any system, plan, or trust administered by [the City's Deferred Compensation Plan, by the Board of Trustees of this System, by] ANY OF THE FOLLOWING (COLLECTIVELY, THE "CITY BENEFIT PLANS"):

A. the Board of Trustees of the Employees' Retirement System OF THE CITY OF BALTIMORE[,]; [or by]

B. the Board of Trustees of the [City's] Fire and Police Employees' Retirement System OF THE CITY OF BALTIMORE;

C. THE BOARD OF TRUSTEES OF THE ELECTED OFFICIALS' RETIREMENT SYSTEM OF THE CITY OF BALTIMORE;

D. THE BOARD OF TRUSTEES OF THE RETIREMENT SAVINGS PLAN OF THE CITY OF BALTIMORE; AND

E. THE COMMITTEE OF THE CITY OF BALTIMORE DEFERRED COMPENSATION PLAN.

[(collectively, the "City Benefit Plans").]

Subtitle - Fire and Police Employees' Retirement System

§ 33. Administration.

(b) Members.

(9) (ii) In addition to the standards and requirements contained in the Baltimore City Public Ethics Law, Trustees and Board employees may not engage in any of the following activities or hold any of the following

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interests, as these activities or interests are defined in the Baltimore City Public Ethics Law[:].

1. No Trustee or Board employee may do business with any system, plan, or trust administered by [the City's Deferred Compensation Plan, by the Board of Trustees of this System, by] ANY OF THE FOLLOWING (COLLECTIVELY, THE "CITY BENEFIT PLANS"):

A. the Board of Trustees of the [City's] Employees' Retirement System OF THE CITY OF BALTIMORE[,]; [or by]

B. THE BOARD OF TRUSTEES OF THE FIRE AND POLICE EMPLOYEES' RETIREMENT SYSTEM OF THE CITY OF BALTIMORE;

C. the Board of Trustees of the Elected Officials' Retirement System OF THE CITY OF BALTIMORE;

D. THE BOARD OF TRUSTEES OF THE RETIREMENT SAVINGS PLAN OF THE CITY OF BALTIMORE; AND

E. THE COMMITTEE OF THE CITY OF BALTIMORE DEFERRED COMPENSATION PLAN.

[(collectively, the "City Benefit Plans").]

SECTION 2. AND BE IT FURTHER ORDAINED, That the initial Plan Year under this Ordinance is the 6-month period commencing on January 1, 2014 and ending on June 30, 2014, both dates inclusive.

SECTION 3. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 4. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

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