

City of Meriden

Fire Employees Pension Plan Part II Special Acts

Division 1 Pensions

As Amended and Restated Effective July 1, 2006
(including amendments through October 1, 2022)

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MERIDEN CODE

SPECIAL ACTS
Division 1 Pensions

General References

- Article III The Firemen's Pension and Relief Fund, (Sp. Acts 166, 1907)
- Article IV. Pensions to Widows, (Sp. Acts 129, 1949)
- Article V. Retirement and Pension Funds of the Fire and Police Departments, (Sp. Acts 229, 1949)
- Article VI. Appointment and Mandatory Retirement Age, (Sp. Acts 237, 1949)

Statutory References

- Establishment of system - See C.G.S. § 7-450 et seq.
- Actuarial evaluation - See C.G.S. § 7-450a.

**CITY OF MERIDEN FIRE EMPLOYEES PENSION PLAN
PART II SPECIAL ACTS**

DIVISION 1 PENSIONS

Preamble

WHEREAS, the City of Meriden, Connecticut (the “City”), established the Special Reserve Fund for Police and Fire Employees for eligible employees, effective June 6, 1913, and subsequently amended from time to time.

WHEREAS, the Board of Public Safety, in accordance with its authority granted under the Ordinances of the City of Meriden, Connecticut and the Plan does hereby amend and restate the Plan in its entirety effective July 1, 2006, unless otherwise indicated by legislation or as set forth in the Plan.

NOW, THEREFORE, the Plan, as amended and restated effective July 1, 2006, is hereby adopted by the City of Meriden as an Ordinance, amending and restating the City of Meriden Police and Fire Employees Pension Plan as a separate plan for Fire Employees and a Separate Plan for Police Employees, as established under the Meriden City Code Special Acts Division II Pensions. This Plan has been amended to comply with the following legislation and to incorporate benefit changes pursuant to collective bargaining agreements ratified on March 21, 2003 between the City and its Employees: Tax Reform Act of 1986 (TRA ‘86), the Omnibus Budget Reconciliation Act of 1986 (OBRA ‘86), the Omnibus Reconciliation Act of 1987 (OBRA ‘87), the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), the Omnibus Budget Reconciliation Act of 1989 (OBRA ‘89), the Unemployment Compensation Act of 1992 (UCA ‘92), the Omnibus Budget Reconciliation Act of 1993 (OBRA ‘93), the Family and Medical Leave Act, the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Small Business Job Protection Act of 1996 (SBJPA ‘96) and the Taxpayer Relief Act of 1997 (TRA ‘97), the Community Renewal Tax Relief Act of 2000 and the Economic Growth and Tax Relief Act of 2001 (EGTRRA).

Each provision in this revised document is deemed to be effective as of the effective date required by each respective and applicable law unless otherwise stated in the Plan. Eligibility for and amount of benefit payments for any Member or former Member or Employee who retired, died or terminated employment prior to July 1, 2006 shall be determined in accordance with the applicable provisions of the Special Acts or applicable collective bargaining agreement or other governing agreements in effect at the time of such retirement, death or termination of employment.

The adoption of this ordinance shall not appeal, amend or replace, or affect the continuance of, the pension or retirement system established under Special Act

referenced above as amended, and said Special Act and amendments shall remain in full force and effect until repealed or amended by the Connecticut General Assembly or as provided by Chapter 99 of the General Statutes.

For purposes of the Employee Retirement Income Security Act of 1974 (ERISA), this Retirement Plan is a governmental plan within the meaning of Section 3(32) of ERISA. Accordingly, the Retirement Plan is not subject to the requirements of ERISA.

Article I – DEFINITIONS

For purposes of this ordinance, the following terms shall have the definitions set forth below unless otherwise provided under the terms of this Plan.

1.1 City

The City of Meriden

1.2 Emoluments

An Emolument regardless of individual achievement or pursuit includes longevity payments, holiday pay, life insurance and health insurance minus cost share at the value afforded to current employees year to year by contract for as long as these items remain in the collective bargaining agreement. Emoluments do not include educational bonuses/incentive pay, tuition reimbursements and the like or other items not agreed to by the City as an Emolument.

Notwithstanding anything contained in this Section to the contrary, with respect to non-bargaining unit employees who are Members of the Plan, the amount of holiday pay is already included within the members salary so therefore such member will not be entitled to receive any additional holiday emolument. Holiday emoluments for any year shall be zero and all provisions of the Plan shall be interpreted based on the amount of such holiday emoluments being zero for that Member.

1.3 Employees

Employees shall mean all regular full-time firefighters hired, elected or appointed prior to March 18, 2003 and covered under the IAFF, Local 1148 collective bargaining agreement.

1.4 Members

An Employee, who as of December 1, 2003, elected not to participate in the Municipal Employees Pension Plan (the “City Pension Plan”) who has met the participation requirements of Article VI, 1. Firefighters newly hired, elected or appointed on or after March 18, 2003 shall participate exclusively in the City Pension Plan.

1.5 Pension

A payment made to a Member who retires according to the provisions of this ordinance other than a return of contributions.

1.6 Base Rate of Pay

- (1) The annual pay as fixed from time to time by the collective bargaining agreement or the City Manager, (if applicable). Base Rate of Pay plus Emoluments also shall include salary reduction deferrals within the meaning of Sections 402(g), 125, 414(h) and 457 of the Internal Revenue Code. Base Rate of Pay shall not include any additional salary including, but not limited to, add pays, overtime, private duty, civil defense pay, holiday pay and education incentive pay.
- (2) Effective January 1, 2007, any firefighter who must retire due to the age sixty-five (65) retirement rule during contract negotiations where their salary would have been increased prior to retirement had they been allowed to stay, may have their retirement and any payout retroactively increased by any raises for the time they would have been working prior to retirement (*i.e.*, an employee retired in September and raises are granted for the prior January and July, the firefighter may have such raise as increases for his retirement salary retroactively. This language will be appended to the retirement agreement.
- (3) Notwithstanding any other provisions of law, effective July 1, 1996, the amount of Pay used to determine the retirement benefit of an Employee who becomes a Member on or after July 1, 1996 for purposes of this chapter shall be limited to a maximum of \$150,000 in a calendar year, or such other amount as prescribed by the Secretary of the Treasury pursuant to Internal Revenue Code Section 401(a)(17). For Plan Years beginning after December 31, 1997, for purposes of applying the limitations under Section 415 of the Code, Pay also shall include salary reduction deferrals within the meaning of Sections 402(g), 125 and 457 of the Internal Revenue Code. For Plan years beginning on or after January 1, 2001, for purposes of applying the limitations under Section 415 of the Code, Compensation paid or made available during such Plan Year shall include elective amounts that are not included in the income of the employee by reason of Section 132(f)(4) of the Code.
 - (a) **Increase in Limit.** The annual Pay of each Participant taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001 shall not exceed \$200,000. For this purpose, annual Pay means Pay during the Plan Year or such other consecutive 12-month period over which Pay is determined under the Plan (the “determination period”). For purposes of determining benefit accruals in a Plan Year beginning after December 31, 2001, Pay for any prior determination period shall be limited as provided in subsection (c) below.
 - (b) **Cost-of-Living Adjustment.** The \$200,000 limit on annual Pay in subsection (a) above shall be adjusted for cost-of-living increases in

accordance with the Internal Revenue Code §401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual Pay for the determination period that begins with or within such calendar year.

- (c) **Compensation Limit for Prior Determination Periods.** In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual Pay limit in subsection (a) above, for determination periods beginning before January 1, 2002, shall be \$ 200,000.

1.7 Regular Interest

Interest at the rate determined from time to time by the Retirement Board. Interest shall only be applied to contributions that are considered “pre-tax” in accordance with Section 4.5.

1.8 Retirement Board

The Board as described in §35-2 of the City of Meriden Municipal Employees Pension Plan, that was created for the administration of the Retirement System.

1.9 Retirement Fund

The Retirement Fund of the City of Meriden derived from contributions made as herein provided for the payment of Pensions to Firefighters who retire under this ordinance and the Plan.

1.10 Retirement Plan

The City of Meriden Fire Employees Pension Plan as established by The Meriden City Code.

ARTICLE II - RETIREMENT AND PENSION FUNDS OF THE FIRE DEPARTMENT

2.1 Retirement Board

The Retirement Fund shall be managed by the Board as described in §35-2 of the City of Meriden Municipal Employees Pension Plan that was created for the administration of the Retirement System.

2.2 Retirement Board Powers and Duties

- (a) Said Retirement Board shall be trustee of the Retirement Fund and shall have full control and management of all its securities and assets with power to invest and reinvest the same in accordance with the provisions of the General Statutes governing the investment of trust funds; or the Retirement Board may provide, by trust agency, custodian or other agreement with a cooperate fiduciary or any insurance company for the custody, safekeeping, handling, investment and reinvestment of the fund's assets.
- (b) The Retirement Board shall submit annually to the City, a schedule of estimated appropriations of money necessary for the administration of this chapter, and it shall receive, control, manage and expend all of said fund, according to the provisions of the ordinance, including any moneys contributed by Employees, with the same powers of investment and reinvestment as herein provided.
- (c) Said Retirement Board shall determine the eligibility of an Employee and his rights and the rights of the City under the Special Acts; shall make by-laws and regulations not inconsistent with the law for administration of the ordinances and collective bargaining agreements; and shall do all things necessary and proper toward carrying out the purposes for which the Retirement Plan is created. It shall hire and dismiss any consultants or professional service providers necessary for the proper administration of this ordinance and fix their compensation, and shall engage expert actuarial auditing and medical service when in the judgment of the Retirement/Pension Board, it is advisable.

Article III - LIABILITY OF THE CITY

3.1 Liability of the City

The City shall be liable to the Retirement/Pension Board for such an amount on account of future Pensions representing service of Members covered by the Retirement Plan, as shall be determined by the Board on sound actuarial principals.

Article IV - EMPLOYEE CONTRIBUTIONS

4.1 Amount of Employees' Contribution

Effective April 1, 2003, each Member shall contribute to the Retirement Plan an amount equal to a uniform rate of six and one-half percent (6½%) of his Base Rate of Pay plus Emoluments except for Health Insurance and Life Insurance. An additional contribution of one percent (1%) of his Base Rate of Pay plus Emoluments shall be contributed to the Retiree Health Insurance Fund for Employees.

Prior to July 1, 2003, each Member shall contribute to the Retirement Plan an amount equal to a uniform rate of five percent (5%) of his Base Rate of Pay.

4.2 Termination of Employment Prior to Completion of Twenty-Five Years of Service

Upon termination of employment with the City, prior to completion of twenty-five (25) years of service, the Retirement/Pension Board shall pay the Member an amount equal to his or her contributions under this section in a lump sum payment. Payments made after April 1, 2003 shall include interest determined at a rate established by the Retirement Board.

Effective for distributions to a terminated Employee in accordance with this Section 4.2 made on and after March 28, 2005, if the amount of a Member's contributions exceeds \$1,000, then the Member shall be required to complete an application for benefits with the City, requesting a distribution of his Member contributions, and directing the City of his/her intent to either rollover such amounts in accordance with Section 11.3, or receive a lump sum payment. In the event the Member fails to apply for a return of his Member contributions, such contributions shall be retained by the Plan and paid to the Member or his or her beneficiary in accordance with the provisions of Section 9.3.

4.3 Termination of Employment After Completion of Twenty-five Years of Service

Upon termination of employment with the City, after completion of twenty-five (25) Years of Service, the Member may elect to receive a normal retirement benefit upon approval from the Retirement Board.

4.4 Employer Pick-Up Contributions

Effective April 1, 2003, pursuant to §414(h)(2) of the Internal Revenue Code, the City shall pick-up and pay the contributions that otherwise would be payable by each Employee. The contributions so "picked-up" shall be treated as Employer contributions for purposes of determining the amounts of federal income taxes to withhold from each Employee's Base Rate of Pay.

Employee contributions picked-up by the City shall be paid from the same source of funds used for the payment of salaries to Employees. A deduction shall be made from each Employee's Pay equal to the amount of the Employee contributions picked-up by the City, provided that such deduction shall not reduce the Employee's Base Rate of Pay for purposes of computing benefits under this Plan.

Employee contributions picked-up by the City shall be credited to a separate account for each Employee, so that Employee Contributions made prior to April 1, 2003 may be distinguished from the Employee contributions picked-up by the City on and after April 1, 2003.

4.5 Retiree Health Insurance Fund

A percentage of each Employee's contributions, in accordance with Section 4.1, or as modified by the Collective Bargaining Agreement or such other Agreement with the City, shall be made to fund the Retiree Health Insurance Fund to pay for retiree health insurance coverage in accordance with the terms of the Collective Bargaining Agreement between the City and the Union then in effect, when the Member retired. Such Fund is a separate bookkeeping account maintained to comply with Internal Revenue Code §401(h) to which are credited Employee contributions and Employer contributions for medical benefits and earnings on the foregoing, and which is charged with medical premiums and other payments, including administrative expenses.

- (a) Medical benefits provided through the Retiree Health Insurance Fund shall be determined in accordance with the Collective Bargaining Agreement applicable to a respective member as agreed to between the Union and the City from time to time.
- (b) The aggregate contributions to provide medical benefits under the Retiree Health Insurance Fund shall not exceed twenty-five percent (25%) of the actual contributions to fund retirement benefits under the Plan.
- (c) Prior to the satisfaction of all liabilities under the Plan to pay medical benefits, no amount credited to the Retiree Health Insurance Fund may be used for or diverted to any purpose other than the providing of such benefits (including the necessary plan administration expenses associated with the Retiree Health Insurance Fund).

Article V – SERVICE CREDITING

5.1 Continuous Service

- (a) The term “Continuous Service” shall mean uninterrupted employment of an Employee with the City which shall not result in a break-in-service resulting in a Member’s termination of participation in the Plan. Continuous Service with the City shall not be broken in the event of an approved absence with the consent of the City during any period. Such service may not necessarily count as Years of Service for benefit accrual, vesting and eligibility for pensions, except as set forth in Section 5.2 below.
- (b) In interpreting this section, the Retirement Board and the City will apply uniform rules in a like manner to all Employees under similar circumstances.

5.2 Years of Service

- (a) In computing Years of Service to determine eligibility for retirement, vesting and amount of benefit, no year shall be included in which the Employee has not been in actual service or has made his required contributions, except as otherwise expressly provided in paragraphs (b) or (c). For purposes of this paragraph only, completed whole Years of Service will be counted.
- (b) Time spent under leave of absence in military or naval forces of the United States in time of war or for compulsory service in the military or naval forces of the United States in time of peace shall be included, provided that the Employee has received an honorable discharge or certificate of satisfactory completion of service and has been reemployed by the City within ninety (90) days after such discharge or completion of service. No provision herein shall be construed in a manner that is contrary to the special rules relating to veterans’ reemployment rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA) as reflected in Section 414(u) of the Internal Revenue Code. To the extent that any provision of this Plan is inconsistent with the rights conferred on Members by USERRA, the terms of USERRA shall govern.
- (c) For Members whose disability pension benefits were ceased and such Member was restored to duty all of the time for which a disability pension benefit was received, shall, for all pension purposes, be included when computing his Years of Service.

Article VI - BENEFITS

6.1 Eligibility for Normal Retirement Benefits

Upon proper application, a Member shall be eligible for a normal retirement, subject to the following terms, if the Member:

- (a) Completed twenty-five (25) Years of Service; or if later
- (b) Attained the age of sixty-five (65) years. An Employee who attains age 65 shall be retired automatically on a pension by the City, effective the first day of the month following his sixty-fifth birthday. Such pension shall be based only on the amount of benefit accrued to him as of his date of retirement.

6.2 Amount of Normal Retirement Benefit

The Retirement Board shall pay on a monthly basis, to each Member who has been retired under this section, a Normal Retirement benefit that is equal to the following:

For active Members retiring on or after March 18, 2003, there shall be a monthly benefit equal to (a) multiplied by (b); multiplied by (c); plus (d); and divided by (e):

- (a) two and two tenths percent (2.2%); multiplied by
- (b) the Base Rate of Pay a Member was receiving at the time of retirement; multiplied by
- (c) Years of Service with the Fire Department Service of the City, to a maximum of thirty (30) years; plus
- (d) Fifty percent (50%) of the Emoluments as defined in Section 1.2 that current Members are receiving; divided by
- (e) Twelve (12).

For Members who retired prior to March 18, 2003, Fire Department Members shall be paid an amount equal to fifty percent (50%) of the Member's Base Rate of Pay, plus Emoluments, at retirement. This amount shall be adjusted on an annual basis and paid in equal monthly amounts for his lifetime.

6.3 Eligibility for Disability Benefit

(a) Service Related Disability

A Member who shall become permanently disabled from performing his regular duties by reason of injury, illness or infirmity suffered in the performance of his duties during his employment in the Fire Department

with the City regardless of his number of Years of Service, shall be retired on a Service Related Disability Pension.

(b) **Non-Service Related Disability**

Employees hired after July 1, 1971, who become permanently disabled from performing his regular duties by reason of injury, illness, or infirmity not suffered in the performance of his duties shall receive a Non-Service Related Disability Pension for non-job related injury or disability if he has completed a minimum of ten (10) Years of Service with the Fire Department Service as determined in accordance with Section 5.1 and 5.2.

(c) **Definition of Permanent Disability**

Permanent disability shall be defined as a medical determination that the firefighter is no longer fit to perform firefighting duties and is precluded from engaging in firefighter duties for the foreseeable future, defined as a minimum of two (2) years. Each employee who is retired on pension because of permanent disability on or after July 1, 1971, shall submit to such physical examinations as the Retirement Board may from time to time require or at the employee's request, provided however, no such retiree may be required to submit such physical examination more often than once every year for the first five (5) years following retirement and thereafter no more often than once every three (3) years, or after the time when he would have completed twenty-five (25) years of service, if he had continued his employment instead of being so retired. Such physical examination shall be arranged and paid for by the City and shall be scheduled at times and places reasonably convenient to such retiree.

6.4 Amount of Disability Benefit

A Member shall be paid a Disability Pension for both a Service Related and Non-Service Related Disability in an amount equal to but not less than fifty percent (50%) of his Base Rate of Pay plus such other Emoluments as granted to active Members, so long as such items remain under the Collective Bargaining Agreement, received by the Member at the time of the disability.

6.5 Discontinuance of Disability Benefits

In the event any such physical examination as described in Section 6.3 shall establish that such a retiree has recovered and is no longer permanently disabled from performing his regular duties, the Retirement Board may order him to be restored to duty in the classification which he held at the time of his retirement. When such a retiree is restored to duty, his pension shall cease. The Retirement Board may likewise order such pension to cease if he fails to return to duty when so ordered. All of the time for which such a retiree is restored to duty received a disability retirement pension shall, for all pension purposes, be included when computing his length of service.

The Retirement Board may from time to time, call for medical evidence that the Employee continues to be totally disabled. If the Retirement Board concludes upon medical evidence that the disability for which the Employee is receiving a Pension no longer exists or if the Board in its discretion determines that such Employee is engaged in gainful employment, the Retirement Board shall thereupon order a discontinuance of the Pension payable to such Employee.

6.6 Maximum Benefit

Benefits with respect to a Participant may not exceed the maximum benefits specified under Section 415 of the Internal Revenue Code for governmental plans as now in effect or hereafter amended.

6.7 Maximum Salary

The Base Rate of Pay plus Emoluments considered for purposes of benefit determination under Sections 6.2, and 6.4, shall not exceed the amount permitted under Section 401(a)(17) of the Internal Revenue as described below:

Notwithstanding any other provisions of law, effective July 1, 1996, the amount of pay used to determine the retirement benefit of an Employee who becomes a Member on or after July 1, 1996 for purposes of this chapter, shall be limited to a maximum of \$150,000 in a calendar year or such other amount as prescribed by the Secretary of the Treasury pursuant to Internal Revenue Code Section 401(a)(17). For Plan Years beginning after December 31, 1997, for purposes of applying the limitations under Section 415 of the Code, Pay also shall include salary reduction deferrals within the meaning of Sections 402(g), 125 and 457 of the Internal Revenue Code. For Plan years beginning on or after January 1, 2001, for purposes of applying the limitations under Section 415 of the Code, Compensation paid or made available during such Plan Year shall include elective amounts that are not included in the income of the employee by reason of Section 132(f)(4) of the Code.

(a) Increase in Limit

The annual Pay of each Member taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001 shall not exceed \$200,000. For this purpose, annual Pay means Pay during the Plan Year or such other consecutive 12-month period over which Pay is determined under the Plan (the “determination period”). For purposes of determining benefit accruals in a Plan Year beginning after December 31, 2001, Pay for any prior determination period shall be limited as provided in subsection (c) below.

(b) **Cost-of-Living Adjustment**

The \$200,000 limit on annual Pay in subsection (a) above shall be adjusted for cost-of-living increases in accordance with the Internal Revenue Code §401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual Pay for the determination period that begins with or within such calendar year.

(c) **Compensation Limit for Prior Determination Periods**

In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual Pay limit in subsection (a) above, for determination periods beginning before January 1, 2002, shall be \$ 200,000.

Article VII - PAYMENT OF BENEFITS

7.1 Normal Form of Retirement Benefit

The Normal form of retirement benefit is a single life benefit payable for the lifetime of the Member only.

7.2 Cost of Living Adjustments

Effective March 18, 2003, and only for those Members retiring on or after April 1, 2003, on a Disability Retirement or Regular Retirement with twenty-five (25) years or more of service shall receive a cost of living adjustment (COLA) to begin one year after retirement. The cost of living adjustment (COLA) shall be equal to three percent (3%) per year.

Article VIII - DEATH BENEFITS

8.1 Pre-Retirement Death Benefit

Service Related Death Benefit

Effective March 18, 2003, when an active Member dies before his twenty-fifth employment anniversary date, and whose death was the result of a service related injury, illness or infirmity, the Member's surviving spouse shall receive until such twenty-fifth anniversary date, or until her death or remarriage, whichever comes sooner, the full pension to which the Member was entitled to if he had retired at such time. If such spouse has not remarried prior to the Member's twenty-fifth employment anniversary date, her pension shall be reduced to one-half of such full pension and shall continue thereafter until her death or remarriage whichever comes sooner.

8.2 Post-Retirement Death Benefit

The surviving spouse of a Member who dies after he has retired shall receive an annual amount, payable monthly, equal to one-half of the amount the Member was receiving at the time of his death. Prior to March 21, 2003, the surviving spouse of a Member who dies after he has retired shall receive an annual amount, payable monthly, equal to one-half of the amount which the Member would have received upon his retirement from active service.

If said surviving spouse dies or remarries, said pension payments shall cease. The rights of a spouse to a portion of a Member's Post-Retirement Death Benefit under this section shall end upon a divorce and shall not be subject to the terms of a qualified domestic relations order.

8.3 Modified Cash Refund

If a Member dies and the death benefits and/or pension payments do not exceed the Member's accumulated Contributions, then the amount by which the accumulated contributions exceed the death benefits and/or pension payments payable, as determined by the Plan's actuary, shall be paid to the Member's duly designated beneficiary, or other executor or administrator of the Member's estate.

Article IX - APPLICATION FOR BENEFIT AND BENEFIT PAYMENTS

9.1 Applications

- (a) A retirement benefit must be applied for in writing to the Retirement Board on a form and in a manner prescribed by the Retirement Board. Such application shall be duly attested, and it shall set forth the date that the Member desires to be retired, but such retirement date shall be subsequent to the date of filing thereof, and not less than sixty (60) days subsequent to the date of filing. In no event will a retroactive benefit payment be made.

9.2 Pension Payments

- (a) All Pension payments shall represent completed months of retirement and shall become due and payable to the persons entitled thereto on the last day of each calendar month, provided that the initial Pension payment to a retired Member shall be computed as the pro rata amount of his regular monthly Pension corresponding to the fraction of the month elapsed since the effective date of his retirement.
- (b) Any Member not retiring when he is first eligible shall continue to be a Member, shall continue to make contributions and shall accrue additional benefits subject to the maximum Pension determined in accordance with Article VI.
- (c) The Member's entire interest in the Plan must be distributed over the life of the Participant or the lives of the Member and a designated beneficiary, over a period not extending beyond the life expectancy of the Member or the life expectancy of the Member and designated beneficiary.
- (d) When a Member dies after distribution of benefits has begun, the remaining portion of the Member's interest shall be distributed at least as rapidly as under the method of distribution prior to the Member's death.
- (e) When a Member dies before distribution of benefits has begun, the entire interest of the Member shall be distributed within five years of the Member's death. The five year payment rule does not apply to any portion of the Member's interest which is payable to a:
 - (i) Designated beneficiary over the life or life expectancy of the beneficiary and which begins within one year after the date of the Member's death;
 - (ii) Surviving spouse payable over the life or life expectancy of the spouse which begins no later than the date the Member would have reached age 65.

- (f) All benefits payable under this Plan must meet the minimum distribution incidental benefit requirements of Internal Revenue Code Section 401(a)(9).

9.3 Minimum Distribution Requirements

The provisions of this Sections 9.3 through 9.6 will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year. Requirements of Treasury Regulations Incorporated. All distributions required under this Article will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Internal Revenue Code.

Time and Manner of Distribution

- (a) **Required Beginning Date.** The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's Required Beginning Date.
- (b) **Death of Member Before Distributions Begin.** If the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - (i) If the Member's surviving spouse is the Member's sole designated beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age 70½, if later.
 - (ii) If the Member's surviving spouse is not the Member's sole designated beneficiary, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died.
 - (iii) If there is no designated beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.
 - (iv) If the Member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this paragraph (b), other than section paragraph (b)(i) will apply as if the surviving spouse were the Member.

For purposes of this paragraph (b) and Section 9.5, distributions are considered to begin on the Member's required beginning date (or, if paragraph (b)(iv) applies, the date distributions are required to begin to the surviving spouse under paragraph (b)(i). If annuity payments irrevocably commence to the Member before the Member's required beginning date (or to the Member's surviving spouse before the

date distributions are required to begin to the surviving spouse under paragraph(b)(i)), the date distributions are considered to begin is the date distributions actually commence.

- (c) **Form of Distribution.** Unless the Member's interest is distributed in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 9.4 and 9.5.

9.4 Determination of Amount to be Distributed Each Year

- (a) **General Annuity Requirements.** If the Member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:
 - (i) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 - (ii) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted; and
 - (iii) Payments will either be non-increasing or increase only as follows:
 - (1) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - (2) To the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period dies or is no longer the Member's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p);
 - (3) To provide cash refunds of employee contributions upon the Member's death; or
 - (4) To pay increased benefits that result from a plan amendment.

- (b) **Amount Required to be Distributed by Required Beginning Date.** The amount that must be distributed on or before the Member's Required Beginning Date, or, if the Member dies before distributions begin, the date distributions are required to begin under Section 9.3(b)(i) and (ii) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received *e.g.*, bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's Required Beginning Date.
- (c) **Additional Accruals After First Distribution Calendar Year.** Any additional benefits accruing to the Member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

9.5 Requirements for Minimum Distributions Where Member Dies Before Date Distributions Begin

- (a) **Member Survived by Designated Beneficiary.** If the Member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in Section 9.3(b)(i) or (ii), over the life of the designated beneficiary or over a period certain not exceeding:
 - (i) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death; or
 - (ii) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.
- (b) **No Designated Beneficiary.** If the Member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.
- (c) **Death of Surviving Spouse Before Distributions to Surviving Spouse Begin.** If the Member dies before the date distribution of his or her interest

begins, the Member's surviving spouse is the Member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section 9.5 will apply as if the surviving spouse were the Member, except that the time by which distributions must begin will be determined without regard to Section 9.3(b)(i).

9.6 Definitions

- (a) **Designated Beneficiary.** The individual who is designated as the beneficiary by the Member and is the Designated Beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- (b) **Distribution Calendar Year.** A Calendar Year for which a minimum distribution is required. For distributions beginning before the Member's death, the first distribution Calendar Year is the Calendar Year immediately preceding the Calendar Year which contains the Member's required beginning date. For distributions beginning after the Member's death, the first distribution Calendar Year is the Calendar Year in which distributions are required to begin pursuant to Section 10.3.
- (c) **Life Expectancy.** Life Expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.
- (d) **Required Beginning Date.** The Required Beginning Date for a Member shall in no event be later than the April 1st following the calendar year in which the Member attains age 70 ½.

Article X - AMENDMENTS TO AND DISCONTINUANCE OF PLAN

10.1 Amendment Right

The provisions of this plan may be amended at any time and from time to time by the City Council provided however, that no amendment shall cause or permit prior to the satisfaction of all liabilities of the plan, any part of the Fund to revert to or become the property of the City or to be diverted to purposes other than for the exclusive benefit of Members, retired Members, terminated Members with a vested interest, co-participants, beneficiaries of deceased Members and beneficiaries of deceased retired Members hereunder, nor shall any amendment affect adversely in any way any vested rights theretofore acquired by such Members, co-participants or beneficiaries, except as may otherwise be necessary to meet the requirements of the Internal Revenue Service or other government authority.

10.2 Termination Right

- (a) Although the City's intent is to continue the Retirement System and the contributions to the Board indefinitely, the City may by action of the City Council, terminate the Retirement System at any time. If the City temporarily discontinues its contributions or suspends them in whole or in part, and if such temporary discontinuance becomes a permanent discontinuance, such permanent discontinuance shall be deemed to constitute termination of the Retirement System as of the date the contributions were first discontinued.
- (b) If this Retirement System is terminated, the accrued benefit of each Member in the Retirement System shall immediately become 100% vested and nonforfeitable, to the extent that such benefit is funded in accordance with the requirements imposed by the Internal Revenue Code. In the event of a partial termination, the requirements of this provision shall be applied to the terminated portion of the Plan.

10.3 Allocation of Assets Upon Termination

(a) Allocation

In the event of termination of the Retirement System, the Board shall first allocate an amount of the Retirement Fund to each Member, retired Member, terminated Member with a vested interest, co-participant, beneficiary of a deceased Member, or beneficiary of a deceased retired Member equal to the amount of the contributions accumulated at Regular Interest standing to the credit of each Member as of the Retirement System's termination date, each terminated Member with a vested interest as of his termination date, each retired Member as of his retirement date, the beneficiary of a deceased Member as of the date of such Member's decrease

and the beneficiary or co-participant of a deceased retired Member as of such Member's retirement date, less all amounts received from the Retirement Fund by such Member, terminated Member, retired Member, deceased retired Member, beneficiary and/or co-participant. Such amounts so allocated shall be paid to the respective Members, retired Members, terminated Members with a vested interest, co-participant or beneficiaries unless a written election is made by such a person to have the amount to which he is so entitled held in the Retirement Fund and added to the amount if any, which shall be set aside for his benefit under the terms of the following sentence: The remaining net assets in the Retirement Fund after deduction of all termination expenses shall then be allocated by the Board in an equitable manner among the Members, retired Members, terminated Members with vested interest, co-participant and beneficiaries in the following order of precedence to provide for accrued benefits, which shall be one hundred percent (100%) vested as of the date of discontinuance, and such allocation shall be final.

(b) **Order of Precedence**

<i>Order of Precedence</i>	<i>Classification at Date of Termination</i>
Class I	(i) Retired Members; (ii) Co-participants; (iii) Beneficiaries of deceased Members or retired Members; (iv) Members eligible for normal retirement under § 35-7
Class II	(i) Terminated Members with a vested interest
Class III	All other Members

(c) **Disposition**

Disposition of assets after allocation shall be accomplished through either continuance of the Retirement Fund or a new Retirement Fund or purchase of insurance or annuity contracts (either group or individual) as the Board shall determine.

Article XI- MISCELLANEOUS

11.1 Exclusive Benefit

This Plan has been adopted for the exclusive benefit of certain Employees of the City and their beneficiaries. The City shall have no beneficial interest in the Retirement Fund or any part thereof, and no part of the Retirement Fund shall ever revert or be repaid to the City, either directly or indirectly, except for such part of the Retirement Fund if any, which remains in the Fund after satisfaction of all liabilities to persons entitled to benefits under the Plan and the payment of Plan expenses.

11.2 Limitations on Benefits

- (a) For the purpose of this Section, the term “plan date” means the effective date of the Retirement System and each later date as of which the Retirement System is amended so as to increase the benefits to be provided for highly compensated Employees by the City's contributions.
- (b) With respect to each plan date of the City, the term “restricted employee” means any of the twenty-five (25) highest paid Employees of the City on such date whose anticipated yearly amount of Pension provided by City contributions exceed one thousand five hundred dollars (\$1,500).
- (c) If at any time during the ten-year period beginning on a plan date the Retirement System is terminated, the City contributions which may be used for the benefit of a restricted Employee shall not exceed the greatest of the following amounts:
 - (i) Twenty thousands dollars (\$20,000);
 - (ii) An amount computed by multiplying twenty percent (20%) of the first fifty thousand (\$50,000) of the Employee's average regular annual compensation during his last five (5) years of service by the number of years for which full current costs of the Retirement System have been met since the plan date, plus if the plan date is after the effective date, the City contributions or funds attributable thereto, which would have been applied to provide benefits for the Employee if the Retirement System has terminated on the day before the plan date; and
 - (iii) If the plan date is after the effective date, the contributions or funds attributable thereto, which would have been applied to provide benefits for the Employee if the Retirement System as in effect on the day before the plan date had been continued without charge.

- (d) If at any time during the ten-year period beginning on a plan date, the full current costs of the Retirement System have not been met then, until the full current costs are funded for the first time thereafter, the benefits payable on the coverage of a restricted Employee shall not exceed the benefits that would have been payable on his coverage had the Retirement System been terminated when such costs were not met.
- (e) When the limitation on contributions is being terminated for more than one (1) plan date, the applicable limitation will be the smallest of the amounts determined for each plan date.
- (f) The foregoing conditions shall not restrict the current payment of full benefits called for by the Retirement System for an Employee while the Retirement System remains in effect and the full current costs have been met.
- (g) The foregoing conditions shall not restrict the full payment of any benefits called for by the Retirement System for the co-participant of an Employee who dies while the Plan remains in effect and full current costs have been met.
- (h) The terms of this Section shall prevail over any other terms of the Retirement System that may be inconsistent herewith.
- (i) No forfeitures shall be applied to increase the benefits any employee would otherwise receive under this Plan.
- (j) Notwithstanding anything in the Retirement System to the contrary, in the event that the Internal Revenue Service shall issue an adverse determination letter as to the initial qualification of the Retirement System under Section 401(a) of the Internal Revenue Code, then the City shall direct the Board to return to the City all contributions made to the Fund prior to the date of receipt of such determination letter, whereupon such contributions shall be so returned.

11.3 Direct Rollovers

This provision applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Retirement Plan to the contrary than would otherwise limit a distributee's election under this provision, a distributee may elect at the time and in the manner prescribed by the City 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 the purposes of this Section, the following definitions will apply:

(a) **Eligible Rollover Distributions**

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: 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 ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities).

Effective for distributions after December 31, 2001, an Eligible Rollover shall include after-tax employee contributions. For purposes of the Direct Rollover provisions of this Section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax Member Contributions which are not includible in gross income. However, such portion may only be paid to an individual retirement account or annuity described in Section 408(a) or (b) of the Code or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

A distribution of less than \$200 that would otherwise be an Eligible Rollover Distribution within the meaning of paragraph (a) shall not be an Eligible Rollover Distribution if it is reasonable to expect that all such distributions to the Distributee from the Plan during the same calendar year will total less than \$200.

(b) **Eligible Retirement Plan**

An eligible retirement plan is an individual retirement account described in Section 408(a) of the Internal Revenue Code, and individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Effective for distributions after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order as defined in Section 414(p) of the Code.

(c) **Distributee**

A Distributee includes a Member or former Member. In addition, the Member's or former Member's surviving spouse and the Member's former spouse who is the alternate payee under a state Domestic Relations Order determined by the City, based on written procedures to be a Qualified Domestic Relations Order, are distributees with regard to the interest of the spouse or former spouse.

(d) **Direct Rollover**

A direct rollover is a payment made by the Plan to the eligible retirement plan specified by the Distributee.

11.4 Rollovers to Plan

In no event shall the Plan accept Eligible Rollovers from any source.

11.5 Forfeitures

No forfeitures shall be applied to increase the benefits any Employee would otherwise receive under this Plan.