

BILL NO. 1030-C.S.
ORDINANCE NO. -C.S.

**AN ORDINANCE OF THE CITY OF EUREKA AMENDING TITLE III, CHAPTER 34:
PERSONNEL POLICIES SECTIONS 34.05 THROUGH 34.86
BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:**

Section 1.

The following sections is hereby amended to Title III, Chapter 34: Sections 34.05 Through 34.86

CHAPTER 34: PERSONNEL POLICIES

Personnel System

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- 34.02 Definitions
- 34.03 Equal employment opportunity
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PERSONNEL SYSTEM

§ 34.01 ADOPTION OF SYSTEM.

Pursuant to the provisions of City Charter, Art. VII and the authority therein granted to the Council, and in order to establish an equitable and uniform procedure for dealing with personnel matters, to attract to the municipal service the best and most competent persons available, to assure that appointments and promotions of employees will be based on merit and fitness as determined by competitive test, to provide a reasonable degree of security for qualified employees, and to provide a fair and just approach to municipal employment, giving due consideration to the relative interests of the city as an employer and of its employees so as not to impair the efficiency of the municipal service, there is hereby established a personnel system in the city, a Personnel Board with powers and duties as set forth in this subchapter, the office of Personnel Director, and the authority to adopt and maintain Personnel Rules and Regulations.

§ 34.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPOINTING AUTHORITY. That person responsible for making appointments within the competitive service, in all cases, the City Manager or Council.

BOARD. The Personnel Board of the city.

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CHARTER. The Charter of the City of Eureka.

CITY. The City of Eureka, California.

COMPENSATION PLAN. The system of compensation covering all classes and positions within the city service and intended to provide fair compensation for all classes in the position classification plan with the range of compensation of each class being relative to all other classes.

COMPETITIVE SERVICE. The positions and employment which are included or which may hereafter be included under the personnel system by the provisions of this subchapter or the personnel rules and regulations.

COUNCIL. The City Council of the City of Eureka.

DAY. Calendar day unless otherwise stated.

PROBATIONARY PERIOD. A working test period during which an employee is required to demonstrate ~~his~~their fitness for the duties to which ~~they are~~he or she is appointed by the actual performance of the duties of the position, and prior to attaining permanent status.

SUSPENSION. The temporary removal from duty of an employee without pay for disciplinary reasons.

§ 34.03 EQUAL EMPLOYMENT OPPORTUNITY.

No question in any test, or in any application form, or by any interviewer or appointing authority during any personnel proceedings shall be so framed as to attempt to elicit information concerning the race, color, ancestry, national origin, age, physical or mental disabilities, or political or religious opinions of applicants. No person in the employ of the city, or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against, based on race, color, creed, sex, marital status, age, national origin, physical or mental disability, medical condition or ancestry, or any other consideration made unlawful by federal, state or local laws.

§ 34.04 PERSONNEL DIRECTOR.

The City Manager shall be ex officio Personnel Director. The City Manager may delegate any of the powers and duties conferred upon ~~him~~them as Personnel Director pursuant to the provisions of this subchapter to any other officer or employee of the city, or may recommend that such powers and duties be performed under contract as provided in § 34.09 of this subchapter. The City Manager shall:

(A) Attend all meetings of the Personnel Board and serve as its secretary. If the City Manager appoints another person to the position of Personnel Director, the Personnel Director shall attend the meetings of the Personnel Board when requested by the Personnel Board;

(B) Administer all the provisions of this subchapter and of the Personnel Rules and Regulations not specifically reserved to the Council or to the Personnel Board;

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(C) Prepare and recommend to the Council revisions and amendments to the Personnel Rules and Regulations. The City Attorney shall approve the legality of such revisions and amendments prior to their submission to the Council;

(D) Prepare a position classification plan, including new class specifications and revisions of the plan. The plan, new classifications, and any major revisions to the plan, shall become effective upon approval by the Council. Minor revisions to individual class specifications that do not change the character or the salary of the class may be made by the Personnel Director. The plan shall follow those guidelines set forth in the personnel rules and regulations; and,

(E) Prepare a plan of compensation, and revisions thereof, covering all classifications in the competitive service as described in the Personnel Rules and Regulations. The plan, and any revisions thereof, shall become effective upon approval by the Council.

§ 34.05 PERSONNEL BOARD.

(A) Creation; membership. There is hereby created a Personnel Board to consist of five members, who shall serve without compensation, who are known to be in sympathy with the merit system principles, and who shall be appointed by the Mayor with the approval of the Council. The members of the Personnel Board, [heretofore created by the provisions of Section 3 of Ordinance No. 2832](#), shall continue to serve as members of the Board until their successors are appointed and qualified. Except as otherwise provided in this subchapter, the Board shall be organized and governed as to procedure in accordance with the provisions of §§ 33.001 through 33.013 of this title.

(B) Council liaison representative. The Council shall appoint one of its members to act as a liaison representative to the Personnel Board. Such liaison representative shall attend the meetings of the Personnel Board, advise the Council of the background, attitudes, and reasoning behind decisions and recommendations of the Personnel Board, and, on the request of any member of the Personnel Board, advise the Personnel Board of the policies, procedures, and decisions of the Council which may bear on matters under discussion by the Personnel Board. The Council liaison representative shall be without power to vote.

(C) Meetings. The Personnel Board shall meet upon notification of pending appeals or personnel administration matters, or upon call by the Chairperson or three members of the Board.

(D) Powers and duties. The powers and duties of the Personnel Board shall be as follows:

(1) As provided by this subchapter and by the personnel rules and regulations, to hear appeals submitted by any person in the competitive service relative to conditions of employment, disciplinary actions, dismissals, demotions, suspensions, or alleged violations of the provisions of this subchapter or the personnel rules and regulations, and to certify its findings as provided in this subchapter;

(2) Except in matters of employee appeals in regard to those matters set forth in division (D)(1) of this section, the authority of the Personnel Board shall be advisory only and not controlling as to any other phase of the personnel operations of the city;

(3) In any investigation or hearing conducted by the Personnel Board, to have the power to examine witnesses under oath and to compel their attendance or the production of evidence by subpoenas issued in the name of the city and attested by the City Clerk. It shall be the duty of the Chief of Police to cause all such subpoenas to be served, and the refusal of a person to attend or to testify in answer to such a subpoena shall subject the person to prosecution in the same manner set forth by law for failure to appear before the Council in response to a subpoena issued by the Council. Each member of the Board shall have the power to administer oaths to witnesses; and

(4) When requested by the Council or the City Manager, to hold hearings and make recommendations on any matters of personnel administration or policy within the limits of a request of the Council or the City Manager.

§ 34.06 COMPETITIVE SERVICE.

The merit system of the city shall include all officers and employees in the city government except:

(A) Offices required by the Charter to be filled by election or appointment by the Mayor or Council;

~~(B) One assistant and one secretary to the City Manager, one secretary to the Mayor, and one secretary to the Council;~~

~~(B)-(C)~~ Offices required by the Charter to be filled by appointment by the City Manager subject to the approval of the Council;

~~(C)-(D) Temporary, extraTemporary, extra-help~~ and seasonal employees employed in other than Council allocated regular positions. These positions are intended to be occupied on less than a year-round basis to cover seasonal peak work loads, unanticipated workloads or limited duration, and normal relief work situations; and,

~~(D)(E)~~ Those persons engaged by contract for special services of a professional, scientific, or technical nature or where the service is essentially nonpersonal in character.

§ 34.07 PERSONNEL RULES AND REGULATIONS.

(A) Procedures and regulations. Personnel rules and regulations, prepared by the City Manager subject to the provisions of this subchapter and to revision by the Council, shall be adopted by resolution by the Council. The personnel rules and regulations shall establish specific procedures and regulations governing the personnel system, including, but not limited to:

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(1) The preparation, installation, revision, and maintenance of a position classification plan covering all positions in the competitive service, including employment standards and qualifications for each class;

(2) The preparation, revision, and administration of a plan of compensation, directly correlated with the position classification plan, providing a rate or range of pay for each class;

(3) The public announcement of all tests and the acceptance of applications for employment;

(4) The preparation and conduct of competitive tests and examinations and the establishment and use of resulting employment lists containing the names of persons eligible for appointment. Such tests and examinations shall consist of job-related test instruments such as, but not limited to, written tests, oral examinations, physical agility tests, performance tests, the evaluation of daily performance, work samples or any combination of these which will, in the opinion of the Personnel Director, test fairly the qualifications of candidates for appointment or promotion. Physical and medical tests may be given as a part of any pre-employment offer. The Personnel Director may include, in addition to competitive tests, qualifying tests to establish minimum standards;

(5) The certification and appointment of persons from employment lists and the making of temporary and emergency appointments;

(6) The establishment of probationary periods and the evaluation of employees during the probationary period;

(7) The transfer, promotion, demotion, and reinstatement of employees in the competitive service;

(8) The separation of employees from the city service through layoffs, suspensions, and dismissals;

(9) The standardization of hours of work, attendance and leave regulations, working conditions, and the development of employee morale, welfare, and training;

(10) Suitable provisions for orderly and equitable presentations to the City Manager and to the Council by employees or their representatives relating to general conditions of employment;

(11) The contents, maintenance, and use of personnel records and forms;

(12) The establishment of appeal procedures concerning the interpretation or application of the provisions of this subchapter and any rules adopted hereunder; and,

(13) Such other matters as may be necessary and proper to carry out the intent and purpose of this subchapter.

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(B) Supplemental provisions. The personnel rules and regulations establishing specific procedures and regulations governing the personnel system of the city shall be deemed to be supplemental to the provisions of this subchapter.

§ 34.08 APPOINTMENTS.

(A) Basis for appointments. Appointments to vacant positions in the competitive service shall be made in accordance with the personnel rules and regulations. Appointments and promotions shall be based on merit and fitness. Merit and fitness shall be ascertained in competitive examinations as defined in the personnel rules and regulations and in § 34.07(A) of this subchapter.

(B) Appointing authority. The City Manager, who shall be known as the appointing power or authority, shall make all appointments within the competitive service following the procedures set forth in the personnel rules and regulations.

(C) Appointment of ~~department heads~~department directors. Department ~~heads~~directors shall be appointed by the City Manager pursuant to the provisions of Charter, Art. VI, § 602(f) and with due regard for the provisions of this subchapter and the personnel rules and regulations.

(D) Appointments subject to other laws. The Council, the City Manager, and any officer in whom is vested the power to appoint, make transfers, promotions, demotions, reinstatements, layoffs, and suspend or dismiss employees shall retain such power, subject to the provisions of the Charter, this subchapter, and the personnel rules and regulations.

§ 34.09 CONTRACTS FOR SPECIAL SERVICES.

The City Manager shall consider and make recommendations to the Council regarding the extent to which the city should contract for the performance of technical services in connection with the establishment or operation of the personnel system. The Council may contract with any qualified person or agency for the performance of all or any of the following responsibilities and duties imposed by the provisions of this subchapter:

(A) The preparation of the personnel rules and regulations and subsequent revisions;

(B) The preparation of a position classification plan and subsequent revisions and amendments thereof;

(C) The preparation of a plan of compensation and subsequent revisions and amendments thereof;

(D) The preparation, conduct, and grading of competitive tests; and,

(E) Special and technical services of an advisory or informational character on matters relating to personnel administration.

§ 34.10 DISMISSALS, DEMOTIONS, AND SUSPENSIONS.

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(A) Generally. Any person holding a position of employment in the competitive service or under the jurisdiction of the City Manager may be suspended without pay, demoted, or removed from ~~his~~their position for those reasons provided in the personnel rules and regulations.

(B) Authority of City Manager to suspend employees. The City Manager may suspend any person holding a position of employment in the competitive service or under ~~his~~their jurisdiction for a period not to exceed 30 days as provided in the personnel rules and regulations.

(C) Authority of department ~~heads~~directors to suspend employees. A department ~~head~~director shall have the authority to suspend without pay any person under ~~his~~their jurisdiction for a period not to exceed 15 days as provided in the personnel rules and regulations.

(D) Requests for hearings and filing answers. Any officer or employee of the city in the competitive service and any other permanent employee not excluded by the provisions of Charter, § 800 who shall be demoted, dismissed, or suspended shall have the right to receive a written notice to appeal such action and to file an answer to such charges as provided in the personnel rules and regulations.

(E) Removal or suspension of officers appointed by the Council or City Manager. Any officer of the city appointed by the Council, or appointed by the City Manager subject to the approval of the Council, who shall be removed or suspended by the Council or the City Manager shall have a written notice of the cause of ~~his or her~~their removal or suspension from duty, and ~~he or she~~they shall have the opportunity to be heard on the cause of the suspension or removal before a public hearing of the Council.

§ 34.11 RIGHT TO APPEAL.

Any officer or employee in the competitive service and any other permanent employee not excluded by the provisions of Charter, § 800 shall have the right to appeal to the Personnel Board relative to any situation affecting ~~his~~their employment status or conditions of employment as provided in the personnel rules and regulations.

§ 34.12 PROBATIONARY PERIOD.

All regular appointments, including promotional appointments, shall be for a probationary period of not less than six months nor more than two years as provided in the personnel rules and regulations.

§ 34.13 ADMINISTRATIVE LEAVES OF ABSENCE.

The City Manager, when ~~he~~they deems it necessary in the interests or protection of the city, shall have the authority to grant an administrative leave of absence with or without pay to any permanent employee or officer of the city, for a period not to exceed 30 working days. The Council shall have the authority to grant such leave for a period not to exceed 90 working days by any one Council action.

§ 34.14 ABOLITION OF POSITIONS AND LAYOFFS.

Whenever in the judgment of the Council it becomes necessary in the interests of economy or because the necessity for the position or employment no longer exists, the Council may abolish any position or employment in the competitive service as provided in the personnel rules and regulations.

§ 34.15 RIGHT TO STRIKE.

City of Eureka employees are essential to the continuity of operations and maintenance of systems and infrastructure that sustain public health and safety.—No employee shall have the right to strike against the city or refuse to take any action required to be taken in the course of the performance of ~~his~~their required duties. Such strike by any city employee shall be considered an unauthorized leave of absence and shall be grounds for dismissal.

§ 34.16 APPLICABILITY OF ATTENDANCE AND LEAVE OF ABSENCE PROVISIONS.

The provisions of the Personnel Rules and Regulations relating to attendance and leaves of absence shall apply to the incumbents of full-time positions not within the competitive service.

§ 34.17 SOLICITATION OF CONTRIBUTIONS.

No officer, agent, clerk, or employee of the city and no candidate for any city office shall, directly or indirectly, solicit or receive, or be in any manner concerned with soliciting or receiving, any assessment, subscription, contribution, or political service, whether voluntary or involuntary, for any political purpose whatsoever from anyone on the employment list or holding any position pursuant to the provisions of this subchapter.

§ 34.18 POLITICAL ACTIVITIES.

The political activities of city employees shall conform to the provisions of Cal. Gov't Code Title 1, Div. 4, Chapter 9.5, and other applicable provisions of state laws, as the same now exist or may hereafter be amended or superseded.

§ 34.19 CRIMINAL CONDUCT.

(A) No person convicted (including pleas of guilty and nolo contendere), of a felony or a misdemeanor involving moral turpitude shall be eligible for employment by any department of the city; provided, however, that the appointing authority may disregard such conviction if it is found and determined by such appointing authority that mitigating circumstances exist, such as, but not limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of such person at the time of conviction, or the fact that the classification applied for is unrelated to such conviction.

(B) The City Manager, Assistant to the City Manager, Personnel Director, Chief of Police, City Attorney, and each department head of the city, are hereby authorized to have access to the "State Summary Criminal History Information" as provided for in Cal. Penal Code §

11105 when it is required to assist such individual to fulfill employment responsibilities set forth in this section.

§ 34.20 UNFAIR LABOR PRACTICES.

(A) (1) During the meet and confer process for adoption for a Memorandum of Understanding, it shall be an unfair labor practice for an elected city official or any employee, in a management/confidential classification, or any person who might reasonably be inferred to be a representative thereof other than the individual designated by the city's Employee Relations Officer to discuss, attempt to discuss, consult, advocate or meet and confer with an employee organization representative or a person who might reasonably be inferred to be a representative thereof on any matter within the scope of representation regarding wages, hours, and other terms and conditions of employment at other than a public meeting of the City Council.

(2) It shall, however, not be an unfair labor practice for the city to distribute information on its positions in meetings and conferring to its managers and other employees.

(B) (1) During the meet and confer process for the adoption of a Memorandum of Understanding, it shall be an unfair labor practice for an employee organization representative or a member of such employee organization or a person who might reasonably be inferred to be a representative thereof to discuss, attempt to discuss, consult, advocate, or meet and confer with an elected city official or any employee in a management/confidential classification or any person who might reasonably be inferred to be a representative thereof other than the individual designated by the city's Employee Relations Officer on any matter within the scope of representation regarding wages, hours, and other terms and conditions of employment at other than a public meeting of the City Council.

(2) The provisions of this division (B) shall not apply to an employee, an employee organization, an employee representative or any person who might reasonably be inferred to be a representative thereof who desires to communicate with any elected city official or any employee in a management/confidential classification during the meet and confer process and does so in writing with the request that the Mayor, all members of the Council, and the city's Employee Relations Officer be provided with copies of the communication.

COMPENSATION AND BENEFITS

§ 34.30 INITIAL SALARIES.

The initial compensation to be paid for employment shall be as provided in the personnel rules and regulations.

§ 34.31 TEMPORARY DUTY ASSIGNMENTS.

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(A) Compensation, generally. Whenever the City Manager assigns duties and responsibilities to an employee which are in addition to the duties and responsibilities assigned to and customarily performed by the employee in ~~his~~^{their} position of employment, and such assignment of additional duties and responsibilities is for a period in excess of 30 days, the City Manager, ~~with the approval of the Council~~, may authorize the payment of additional compensation, not to exceed 10% above the employee's base monthly salary, for each month during which the employee is assigned to perform and performs such additional duties and responsibilities. This provision shall not apply to those employees who are compensated in accordance with a current Memorandum of Understanding.

(B) Police officer temporary duty assignments; compensation. Any police officer below the rank of sergeant who is assigned to the temporary duty position of investigator, training officer, or motorcycle officer, or other specialist assignment, shall receive additional compensation as provided by the applicable Memorandum of Understanding during the period such officer is assigned to such temporary duty position.

~~(63 Code, § 2-5.34.32304.2)~~

~~—(C) Retirement credit for police temporary duty assignment. Any member of the Police Department who on or after November 14, 1975, was assigned to and who at the time of service or disability retirement was serving in a temporary duty position under division (B) of this section, and who was as of said date of retirement an active member of the Firemen's and Policemen's Retirement System of the city, shall be entitled to have the compensation payable under division (B) of this section taken into account for purposes of calculating member contributions and benefits under §§ 34.55 through 34.73 of this chapter.~~

~~(63 Code, § 2-5.304.3)~~

~~(Ord. 175-C.S., passed 10-22-71; Am. Ord. 258-C.S., passed 11-14-75; Am. Ord. 297-C.S., passed 10-17-78; Am. Ord. 609-C.S., passed 9-3-96)~~

§ 34.32 SALARY RANGES.

(A) Employees under five-step salary schedules.

(1) Generally. Except for Council appointed positions, all officers and employees of the city shall be assigned to a salary range schedule consisting of five steps within each range. Changes in the salary range schedule shall be approved by resolution by the City Council.

(2) General service employees. General service employees represented by the Eureka City Employees' Association (E.C.E.A.) shall be assigned to a salary range schedule consisting of five steps within each range. Changes in the salary range schedule shall be approved by resolution by the City Council.

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(3) Management staff assignments. Except for Council appointed positions, management, professional, technical and confidential employees shall be assigned to a salary range consisting of five steps within each range. Changes in the salary range schedule shall be approved by resolution by the City Council.

~~(4) Firefighters' Local No. 652. Employees represented by the Eureka Firefighter Local No. 652 (E.F.L.) shall be assigned to a salary schedule consisting of five steps within each range. Those employees who are part of the Local Employees' Retirement System may have a salary schedule consisting of six steps within each range. Changes in the salary range schedule shall be approved by resolution by the City Council.~~

(5) Employees represented by the Eureka Police Officers' Association. Employees represented by the Eureka Police Officers' Association (E.P.O.A.) shall be assigned to a salary schedule consisting of five steps within each range. ~~Those employees who are part of the Local Employees' Retirement System may have a salary schedule consisting of six steps within each range.~~ Changes in the salary range schedule shall be approved by resolution by the City Council.

(B) Temporary, seasonal and extra help positions. Those persons employed by the city on a temporary, seasonal or extra help basis shall be paid on an hourly basis. Employees shall be assigned to an hourly salary range schedule consisting of five steps. Changes in the hourly salary range schedule shall be approved by resolution by the City Council.

(C) City Manager. The salary of the City Manager shall be established by resolution approved by the City Council. Changes in the salary of the City Manager shall be approved by resolution by the City Council.

(D) City Attorney. The salary of the City Attorney shall be established by resolution approved by the City Council. Changes in the salary of the City Attorney shall be approved by resolution by the City Council.

(E) City Clerk. The salary of the City Clerk shall be established by resolution approved by the City Council. Changes in the salary of the City Clerk shall be approved by resolution approved by the City Council.

§ 34.33 INCREASES IN SALARIES.

(A) Conformity with rules and regulations. All increases in salary shall be made in accordance with the applicable provisions of the personnel rules and regulations.

(B) Accelerated increases in salaries. The City Manager may accelerate the step advancement of any employee pursuant to the provisions of the personnel rules and regulations.

§ 34.34 ADVANCES IN CLASSIFICATION.

When an employee is advanced from one classification to a higher classification, the employee shall be placed in the step for which the salary is at least one step higher than the

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salary paid to such employee in the lower classification, or as provided by the applicable Memorandum of Understanding.

§ 34.35 GROUP INSURANCE AND RETIREMENT.

All appointive officers and [full time](#) employees of the city, in addition to other compensation provided, may receive the benefits to be derived from any group insurance plan or retirement system which is, or may be, authorized by the Council and under which a portion of the cost may be paid by the city.

§ 34.36 UNCLASSIFIED POSITIONS.

Whenever the Council determines that the creation of an office or employment is necessary, the Council is hereby authorized to establish such office or employment and to provide for the powers, duties, and compensation thereof by resolution. In the event such office or employment is not classified under the provisions of this chapter, the Council shall by resolution assign such position a salary range number.

§ 34.37 VACATION AND SICK LEAVES.

The provisions of this chapter shall be subject to such vacation and sick leave allowances as may be authorized from time to time by the Council, and the privileges granted by the provisions of this chapter are or shall be included within the remuneration established by the applicable Memorandum of Understanding.

§ 34.38 HOLIDAYS.

The provisions of this chapter shall be subject to such holiday leave as provided by the Personnel Rules and Regulations, or by the applicable Memorandum of Understanding.

§ 34.39 UNIFORM ALLOWANCES.

Whenever an officer or employee of the city is required to have, or while on duty to wear, a full distinctive uniform, the Council is hereby authorized to establish a schedule of allowances to be paid to such officer or employee for the maintenance, repair, and replacement of such distinctive uniform. Such payments for uniform allowances shall be deemed to be made solely for the benefit of the city and in no case shall be deemed compensation for services rendered.

§ 34.40 OVERTIME.

Overtime shall be authorized in a manner to conform with the provisions of the personnel rules and regulations and applicable federal, state and local laws.

§ 34.41 NUMBER OF EMPLOYEES AUTHORIZED.

The number of persons who may be employed in any of the offices or employments of the city shall be determined in the preparation of the annual budget. Such determination, however, shall not preclude the employment of such additional persons during the fiscal

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year as may be needed in the service of the city provided the necessary funds to cover the expense of such employment are transferred from one of the existing appropriations, or from the unappropriated reserve, to the appropriation applicable to such employment. The Council is hereby authorized to provide for such employment by resolution or motion and shall be deemed to have done so in the resolution adopting the annual budget.

§ 34.42 CLASS TITLES.

The class title of each position as classified by this subchapter shall be used to designate such position in all budget estimates, payrolls, and other official records, documents, vouchers, and communications and in all personnel matters.

§ 34.43 SEVERANCE PAY.

The Council shall have the authority to grant severance pay to any officer of the city who is dismissed, asked to resign, or laid off from the city service. The Council shall also have the authority to establish a program of severance pay for permanent employees laid off, asked to resign, or dismissed from the city service.

§ 34.44 PERSONNEL RULES AND REGULATIONS.

Personnel rules and regulations establishing specific procedures and regulations governing the personnel system of the city and adopted by the Council pursuant to the provisions of this chapter shall be deemed supplemental to the provisions of this chapter.

~~RETIREMENT OF FIRE AND POLICE DEPARTMENT MEMBERS~~

~~§ 34.55 DEFINITIONS.~~

~~—For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—FIRE DEPARTMENT and POLICE DEPARTMENT. Applies only to full-time, paid firefighters and police officers and shall not apply to part-time or voluntary firefighters or police officers or to those persons paid by business or industrial plants.~~

~~—RETIREMENT FUND. The Firemen's and Policemen's Retirement Fund.~~

~~(63 Code, § 2-5.401) (Ord. 2262, passed ---; Am. Ord. 442-C.S., passed 3-6-86)~~

~~§ 34.56 APPLICATION AND PURPOSE OF PROVISIONS.~~

~~—(A) Application. The provisions of this subchapter shall apply only to the full-time, paid members of the Fire Department and Police Department, including the Chief Engineer,~~

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~~when a full time paid Chief Engineer shall be employed, and the Chief of Police, so long as he remains and is a full time paid Chief of Police.~~

~~(63 Code, § 2-5.416)~~

~~—(B) Purpose. It is the intent and purpose of this subchapter that each person entitled to the benefits provided by this subchapter has a property interest therein for purposes of withdrawal and an estate to his dependents and heirs in a sum equivalent to the amount he shall have contributed, plus a reasonable rate of interest, less any deductions provided, and for disability and retirement payments to the full extent of the provisions of this subchapter.~~

~~(63 Code, § 2-5.419)~~

~~(Ord. 2262, passed —)~~

~~§ 34.57 POWERS AND DUTIES OF COUNCIL.~~

~~—(A) The Council shall have the sole power and authority under such general laws as may be adopted by the Council to hear and determine all facts pertaining to applications for and awards of any benefits under the Retirement Fund System, or any matters pertaining to the administration thereof. The Council shall have exclusive control of the administration and investment of the retirement funds subject to the terms, limitations, and restrictions imposed by the laws of the state upon investments of savings banks or upon the investment of the Public Employees' Retirement Systems Funds, whichever shall be the least restrictive.~~

~~—(B) The Council shall, when necessary, employ a fellow of the Actuarial Society, who shall be a person skilled by training and experience in both the technical and administrative features of retirement systems, and such other professional consultants as it may deem necessary.~~

~~—(C) As of June 30, 1971, and thereafter at intervals of not to exceed three years, the Council shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries, and further, shall make an actuarial valuation of the assets and liabilities of the Retirement Fund System. Upon the basis of all or any of such investigations, valuations, and determinations, the Council shall make such revisions in the city's contributions to the Retirement Fund System as shall be deemed necessary to comply with the provisions of this subchapter.~~

~~(63 Code, § 2-5.402) (Ord. 2262, passed —; Am. Ord. 135 C.S., passed 12-19-69; Am. Ord. 449 C.S., passed 3-6-86)~~

~~§ 34.58 RECORDS; FINANCIAL AFFAIRS.~~

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~~—(A) (1) The Director of Finance shall be the custodian of the retirement funds, subject to the control of the Council as to the administration and investment of such funds. The disbursement of the retirement funds shall be made upon demands duly audited in the manner prescribed in the Charter and by law for the disbursement of public funds.~~

~~—(2) The Director of Finance shall keep in convenient form such data as shall be necessary for the actuarial valuation of the Retirement Fund System and, in addition to such other records and accounts as the Council may require, shall keep such records and accounts as shall be necessary to show at any time:~~

~~—(a) The total accumulated contributions of each active member;~~

~~—(b) The total accumulated contributions of all active members;~~

~~—(c) The total accumulated contributions of each retired member, less the accumulated benefit payments made to each such retired member or to a beneficiary of such retired member;~~

~~—(d) The total accumulated contributions of all retired members, less the accumulated benefit payments made to all retired members and to the beneficiaries of members;~~

~~—(e) The total accumulated contributions of the city held for the benefit of active or retired members or their beneficiaries on account of service credited to such members; and,~~

~~—(f) All other accumulated contributions of the city, which shall include the amounts available to meet the obligations of the city on account of benefits that have been granted to retired members or to beneficiaries of members.~~

~~—(B) The Council is authorized to appropriate funds from interest income from the Retirement Fund for the payment of the costs of the administration of the Retirement Fund System.~~

~~(63 Code, § 2-5.404) (Ord. 2262, passed ---; Am. Ord. 135-C.S., passed 12-19-69; Am. Ord. 262-C.S., passed 4-16-76; Am. Ord. 442-C.S., passed 3-6-86)~~

~~§ 34.59 RETIREMENT ELIGIBILITY.~~

~~—(A) Whenever any person shall have been duly appointed, hired, or selected, and whenever any such person, irrespective of age, shall have served as a member of the Fire Department or the Police Department, in any rank or capacity whatever, for a period of 25 years or more in the aggregate, the Council, upon the written application of any such firefighter or police officer, or upon such person reaching the age of 65 years, shall order and direct that such person be retired from further active service in the Fire Department or Police Department. From the date of making such order and direction, the active service of such person in the Fire Department or Police Department shall cease, and he shall thereafter be retired during his lifetime and shall be paid from the Retirement Fund a~~

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~~yearly pension, in semi-monthly installments, equal to one-half the amount of salary attached to the rank which he may have held in the Fire Department or Police Department for a period of one year next preceding the date of his retirement. The one-half payable shall be the basic rate and shall be determined by the Council in accordance with the amount of money in the fund. Any person appointed after July 1, 1948, to the Fire Department or the Police Department who has not worked the full period of 25 years before reaching the age of 65 years shall have the amount of the pension prorated according to the number of years he has worked in proportion to the period of 25 years of active service required for a pension by the provisions of this subchapter.~~

~~—(B) Notwithstanding anything to the contrary in this section, no member shall receive a pension which is in excess of that allowed by Internal Revenue Code Section 415.~~

~~(63 Code, § 2-5.405) (Ord. 2262, passed ---; Am. Ord. 2427, passed 5-18-48; Am. Ord. 409-C.S., passed 6-19-84; Am. Ord. 442 C.S., passed 3-6-86)~~

~~§ 34.60 DEATH OF PENSIONED MEMBERS.~~

~~—In the event of the death of any member of the Fire Department or Police Department who shall at the time of death be receiving a pension, or be eligible to receive a pension as provided in § 34.59 of this subchapter, the pension which such member was either receiving or was entitled to be receiving shall be paid as follows:~~

~~—(A) To the surviving spouse of such pensioner until her remarriage or death; provided, however, that such pensioner and spouse shall have been married at least one year previous to his retirement;~~

~~—(B) Upon the death of the surviving spouse qualified to participate in the funds, to the child or children issue of the body of such pensioner until such child or children shall have reached the age of 18 years or shall have married;~~

~~—(C) In the event such pensioner leaves no surviving spouse qualified to participate in the funds, but does leave surviving a child or children issue of his body, to such child or children until such child or children shall have reached the age of 18 years or shall have married;~~

~~—(D) In the event the pensioner shall leave surviving a spouse qualified to participate in the funds and more than one child issue of his body under the age of 18 years, upon the death of such spouse, and upon each child reaching the age of 18 years, the payments shall cease as to such child, but the full amount thereof shall be payable to the then remaining child or children issue of his body under the age of 18 years; and,~~

~~—(E) Should any member of the Police or Fire Department, who having passed a satisfactory physical examination before entering into service, die for any cause, other than by reason of the violation of any law on his part, prior to or after retirement and leave surviving a spouse or minor children under the age of 18 years the issue of the body of such decedent or dependent parents, such survivors shall stand in the shoes of such decedent~~

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and be entitled to the benefits of this subchapter the same as if such decedent had reached the age of retirement prior to death in the following manner:

~~—(1) Should such decedent leave surviving a spouse and such other minor children, all payments shall be made to such spouse for the benefit of such spouse and such minor children until such surviving spouse shall die or remarry and then thereafter proportionately to such minor children until the age of 18 years; and as each child reaches the age of 18 years, his proportionate share shall cease, and no further benefits shall be paid for or on account of such child.~~

~~—(2) Should such decedent leave surviving him only minor children and no spouse, such payment shall be made proportionately to such minor children until each such child reaches the age of 18 years and not thereafter.~~

~~—(3) Should such decedent leave surviving him dependent parents but no spouse and no minor children under the age of 18 years, such payments shall be made proportionately to such dependent parents, if any.~~

~~{63 Code, § 2-5.406} (Ord. 2262, passed —; Am. Ord. 2795, passed 5-6-59)~~

§ 34.61 DISABILITY RETIREMENT.

~~—(A) Manner of payment. Whenever any person, while serving as a member of the Fire Department or the Police Department, shall become physically disabled by reason of any injury, disease, or illness incurred in or as a result of the performance of his duty, the Council shall, upon his written request, or without such request if it shall be deemed by the Council to be for the good of the Fire Department or Police Department, retire such person from such department and order and direct that he shall be paid from the Retirement Fund as follows:~~

~~—(1) During his lifetime until he shall have reached the age of retirement or be entitled to retire on account of years of service, a yearly pension in semi-monthly installments equal to three-fourths the amount of salary attached to the rank which he held in such Fire Department or Police Department at the date of such retirement; provided, however, if such disability shall cease, no further payments of such pension shall be made, and such pensioner shall be restored to active service to the same rank and the same salary then paid at the time of restoration to members of his rank; and provided, further, that in the event such person shall be injured in the course of his employment and be covered by Worker's Compensation Insurance, the amount of Worker's Compensation (exclusive of medical) received by such pensioner shall be offset against the pension provided for in this subchapter, and such pensioner shall be entitled to the difference between such Worker's Compensation received and the amount of the pension provided for; and if such Worker's Compensation as received shall be less than the amount of pension provided to be paid, such person shall receive from the Retirement Fund not only such Worker's Compensation but, in addition thereto, sufficient money from the Retirement Fund in order that the sum of both payments will equal the pension such person would have received had there been~~

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~~no Worker's Compensation; and if the amount of Worker's Compensation received equals the amount of pension such person would have received if the injury or disability had occurred within the scope of his employment, such person shall be paid nothing from the Retirement Fund. If the Worker's Compensation Appeals Board shall determine that any such person has, in the course of his employment, suffered permanent disability and has made an award thereon in a lump sum, such person shall not be permitted to participate in payments from the Retirement Fund until the amount of such lump sum award shall have equalled the payments such person would have been entitled to receive pursuant to the provisions of this subchapter had he not been covered by Worker's Compensation Insurance, but thereafter he shall be entitled to receive semi-monthly pension payments from the Retirement Fund as provided for in this subchapter.~~

~~—(2) Whenever such person shall have reached the point of service retirement or retirement age, the payment of three-fourths of his salary shall be reduced so as subsequent to such service retirement or age retirement he shall be paid a pension of only 50% instead of 75%.~~

~~—(3) Notwithstanding anything contained in divisions (A)(1) and (2) of this section, whenever any person, while serving as a member of the Fire Department or the Police Department, shall become physically disabled by reason of any injury, disease, or illness incurred in or as the result of the performance of his duty, the Council may, at its option, in lieu of the benefits provided for in this section, require the city to retain such person for a period not to exceed one year from the date of such disability on the active rolls of the respective department, and in that event such person shall be paid his full salary for such period; provided, however, any payments made to such person on account of Worker's Compensation for temporary disability during such period shall be by such member paid over and into the general fund of the city. At the expiration of the period referred to, the Council shall reexamine the matter and determine what further benefits such person may be entitled to pursuant to the provisions of this chapter.~~

~~{63 Code, § 2-5.407}~~

~~—(B) Proof of disability. No person shall be retired pursuant to the provisions of division (A) of this section until there shall be filed with the Council certificates of disability which shall be subscribed and sworn to by the person claiming to be suffering such disability and by the city physician or two regularly licensed, practicing physicians in the city, and until he has provided such further proof of such disability as may be required by the Council; provided, however, should such person be suffering from a mental disability to such an extent that he would be incompetent to take an oath, any person interested in behalf of such disabled person may provide such proof and certificate on behalf of such mentally disabled person in the same manner as such person would were he competent.~~

~~{63 Code, § 2-5.408}~~

~~—(C) Death by non-disability causes. Whenever any member of the Fire Department or Police Department shall die from causes other than as a direct or indirect result of the actual performance of his duty as a firefighter or police officer, his widow or children, or if~~

~~there shall be no widow or children, his mother or father or other heirs, shall be entitled to receive the total contributions made by such member, plus a reasonable rate of interest to be set by the Council, less one half that amount received as a pension before death. In the event any fire fighter or police officer shall die without heirs, the amount collectible by him shall remain in the Retirement Fund.~~

~~(63 Code, § 2-5.409)~~

~~—(D) Physical examinations. Any person retired from the service by reason of disability may be summoned before the Council at any time and shall submit himself thereto, if physically able, for examination as to his fitness for service and shall submit such medical proof as required by the Council. Such person shall abide by the decision of the Council after such proof required by it has been submitted. Any child or other person claiming the benefits from the Retirement Fund may be called before the Council for examination to determine his age, marriage, or right to participate in the Retirement Fund.~~

~~(63 Code, § 2-5.410)~~

~~(Ord. 2262, passed —; Am. Ord. 2795, passed 5-6-59; Am. Ord. 442 C.S., passed 3-6-86)~~

~~§ 34.62 RETIREMENT FUND.~~

~~—(A) Contributions. The Retirement Fund shall be established and maintained in the following manner: There shall be deducted from the regular monthly salary of each member of the Fire Department and Police Department 7% thereof, as a basic rate, to be placed in the Retirement Fund. The Council shall place in the Retirement Fund from any suitable funds available a sum not less than the amount contributed each month by each member of the Fire Department and Police Department. The deduction of 7%, as a basic rate, shall be made from each payment of salary. A copy of the payroll of all members of the Fire Department and Police Department, showing the amounts of deductions from each member's salary, shall be kept by the Department of Finance. Any contributions made, either by gift, devise, or from any other source, for the purpose of adding to such Retirement Fund shall be received and placed therein without any deductions from the salaries of the members of either department or contribution by the city to match the same. The Retirement Fund shall not be used for any other purpose than as provided in this subchapter, and funds therefrom shall not be transferred to any other fund.~~

~~(63 Code, § 2-5.411)~~

~~—(B) Insufficient money. In the event there shall not be sufficient money in the Retirement Fund provided by the donations, contributions, deductions from the salaries of the members of the departments, and contributions by the city, the amount of deductions from the salaries of the members may be increased by a majority vote of the members of the Fire Department, Police Department, and Council and shall be matched by a similar increase by the city. Each department shall hold a secret vote separate from the other, and the Council shall vote separate from either department. The increase to be effective shall have a~~

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majority vote in each department and in the Council. If no increase is voted and there shall not be sufficient money in the Retirement Fund to make the payments provided for, such payments shall be reduced pro rata to such an amount that payments can be made from the Retirement Fund. Such pro rata reduction in the pensions or payments shall only be made by a majority vote of the members of each department and the Council and only in an amount agreed upon by such vote. Each shall hold a separate vote.

{63 Code, § 2-5.412}

{Ord. 2262, passed ---; Am. Ord. 2795, passed 5-6-59; Am. Ord. 442-C.S., passed 3-6-86}

§ 34.63 SEPARATION FROM SERVICE.

~~—In the event any member of the Fire Department or the Police Department shall be permanently separated from the service in such department, either voluntarily or involuntarily, for any reason whatsoever, and shall not be entitled to retirement benefits pursuant to the provisions of this subchapter, all money theretofore paid into the Retirement Fund by such member shall be returned to him, if alive, or, if deceased, to his widow, if any, and if there shall be no widow, to his child or children, if any, and if there shall be no widow or children, to his parents, and if there shall be no parents, to his heirs at law. Such sum shall bear a reasonable rate of interest which shall be set by the Council. In the event such member shall die without heirs, the deductions theretofore made from his salary shall remain in the Retirement Fund.~~

~~{63 Code, § 2-5.413} {Ord. 2262, passed ---; Am. Ord. 442-C.S., passed 3-6-86}~~

§ 34.64 ACCELERATED CONTRIBUTIONS FOR CERTAIN MEMBERS.

~~—All members of the Fire Department and the Police Department who were over the age of 40 years on June 21, 1943, shall pay, in addition to the 7% provided for in § 34.62(A) of this subchapter, a sum equal to one fifth of 1% for each year such member was over the age of 40 years at the time of entering such service, which payments shall continue until such time as such member shall be eligible for retirement.~~

~~{63 Code, § 2-5.414} {Ord. 2262, passed ---; Am. Ord. 2806, passed 7-7-59}~~

§ 34.65 CONTROL AND INVESTMENT OF FUNDS.

~~—(A) As provided in § 34.57 of this subchapter, the Council shall have exclusive control of the administration and investment of the Retirement Fund, subject to the terms, conditions, limitations, and restrictions imposed by the laws of the state upon investments of savings banks or upon the investment of the Public Employees' Retirement Systems Funds, whichever shall be the least restrictive.~~

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~~—(B) The Council may deposit cash belonging to the Retirement Fund System in any licensed national bank or banks in the state or in any bank or banks authorized or licensed to do a banking business and organized under the laws of this state.~~

~~—(C) Interest on any cash or on any investments constituting a part of such fund shall be paid into such fund as received.~~

~~—(D) Except as otherwise provided in this subchapter, no member or employee of the Council or employee of the city, shall have any interest, direct or indirect, in the making of any investments or in the gains or profits accruing therefrom. No member of the Retirement System and no member or employee of the Council, or employee of the city, directly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or in any manner use the same except to make such current and necessary payments as are authorized by the Council; nor shall any member or employee of the Council, or employee of the city, become an indorser or surety or become in any manner an obligor for moneys invested by the Council.~~

~~—(E) In the exercise of its control of the administration and investment of the Retirement Fund, the Council may by resolution specify certain classes or kinds of securities in which the moneys in the Retirement Fund may be invested, subject to the provisions of division (A) of this section restricting investments, and may authorize the Director of Finance to:~~

~~—(1) Invest moneys in the Retirement Fund, from time to time as such moneys become available, in securities of any of the classes or kinds so specified; and,~~

~~—(2) Surrender matured securities in the Retirement Fund upon their maturity and reinvest the proceeds in securities of any such specified classes or kinds.~~

~~(‘63 Code, § 2-5.415) (Ord. 2262, passed —; Am. Ord. 135 C.S., passed 12-19-69; Am. Ord. 442 C.S., passed 3-6-86)~~

~~§ 34.66 AMENDMENTS TO PROVISIONS.~~

~~—In order to effect improvements and efficiently carry into effect the purposes of this subchapter and enact provisions which may not be herein contained to cause the purposes to be carried into effect, any proposed improvement or amendment to this subchapter shall be voted upon by secret ballot in the Fire Department and Police Department, separately, and the results thereof shall be certified to the Council. In the event such proposed amendment shall have passed by a majority vote by each such department, and if the Council, by a majority vote, shall pass such proposed amendment, the same shall become effective and binding.~~

~~(‘63 Code, § 2-5.417) (Ord. 2262, passed —)~~

~~§ 34.67 ADDITION OF OTHER DEPARTMENTS AND EMPLOYEES.~~

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~~—(A) In the event it shall be deemed advisable to include other departments of the city or the employees of other municipalities in the participation of the benefits provided in this subchapter, such other departments of the city or employees of other municipalities may be included only by a majority vote of such other departments or employees held in accordance with the provisions of Cal. Gov't Code §§ 4530 et seq., as may be amended, in effect at the time such proposal is made, and by a secret ballot of the members of the Fire Department and the Police Department by a majority vote thereof, and by a majority vote of the Council. Such departments of the city and employees of other municipalities shall be required to fulfill such demands and requirements as fixed by the members of the Fire Department and Police Department and Council in order to make up past contributions made to the Retirement Fund.~~

~~—(B) Notwithstanding anything to the contrary in this section, no merger or consolidation with, or transfer of assets or liabilities to, any other retirement plan shall be allowed, unless each participant in the plan would (if the plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if the plan had then terminated).~~

~~{63 Code, § 2 5.418} (Ord. 2262, passed —; Am. Ord. 409 C.S., passed 6 19 84)~~

~~§ 34.68 CONFLICTS WITH CHARTER PROVISIONS.~~

~~—The provisions of this subchapter shall not affect or interfere with the rights of the Council granted by the Charter of the city concerning the establishment and maintenance of the Fire Department and Police Department, nor the right to discharge any firefighter or police officer, as provided in the Charter. The provisions of this subchapter shall be interpreted in conformity with the Charter of the city, and if any provision of this subchapter shall conflict with the lawful provisions of the Charter of the city, the Charter shall prevail. In the event any section of this subchapter shall conflict with the Charter of the city or be declared unconstitutional or unlawful, the remaining portions, not in conflict with the Charter, shall be in full force and effect. Notwithstanding any language of this subchapter to the contrary, if the rates of pay for ranks of the Police Department or the Fire Department shall be either increased or diminished, the remuneration to those persons subject to this subchapter shall be either increased or diminished according to the increase or diminution of the pay of those employees on active duty.~~

~~{63 Code, § 2 5.420} (Ord. 2262, passed —; Am. Ord. 2795, passed 5 6 59)~~

~~§ 34.69 EXCLUSIONS FROM MEMBERSHIP.~~

~~—(A) Any person who enters the employ of the city in its Fire or Police Departments on or after August 24, 1969, shall be and is excluded from membership in, and shall not be entitled to the benefits provided under, the Firemen's and Policemen's Retirement Fund~~

~~System established by Ordinance No. 2262, as amended by Ordinance Nos. 2427, 2795, and 2806, and codified in this subchapter.~~

~~—(B) Any member of the Firemen's and Policemen's Retirement Fund System who chooses to receive a single sum payment of his retirement benefits shall waive any and all rights under this subchapter and shall thereafter be excluded from membership.~~

~~(63 Code, § 2-5.421) (Ord. 128-C.S., passed 8-24-69; Am. Ord. 409-C.S., passed 6-19-84)~~

§ 34.70 RETIREMENT ELIGIBILITY FOR CERTAIN PERSONS.

~~—Notwithstanding any provision in this subchapter to the contrary, any active or retired member of the Firemen's and Policemen's Retirement Fund System who, on or after July 1, 1948, was over the age of 40 years upon entering the employ of the city in its Fire or Police Departments and who contributed, or is required to contribute, an amount in excess of the basic percentage member rate contribution set forth in § 34.62(A) of this subchapter, under the purported authority of § 34.64 of this subchapter, shall be eligible to receive full-service retirement benefits as prescribed in § 34.59 of this subchapter without deduction effective upon the date of retirement, or upon attaining age 65 years, provided that such excess contributions shall remain in the retirement fund credited to the account of such member and provided that no interest shall be paid on any sums paid to a retired member which represents the difference between the amount of a full service retirement pension and the prorated pension received by the retired member from the date of retirement.~~

~~(63 Code, § 2-5.422) (Ord. 219-C.S., passed 10-19-73)~~

§ 34.71 EARLY RETIREMENT FOR ACTIVE MEMBERS.

~~—(A) Notwithstanding the provisions of § 34.59 of this subchapter, any active member of the Firemen's and Policemen's Retirement Fund System who has not attained the age of 65 years, and who shall have served as a member of the Fire or Police Department for a period of 15 years or more in the aggregate, shall be eligible for retirement and to payment of a pension from the retirement fund which is equal to 40% plus an additional 1% for each full year of active service in excess of 15 years, to a maximum of 50% of salary attached to the rank which such member has held in the Fire or Police Departments for a period of one year next preceding the date of retirement, and as illustrated in the following table:~~

Years of Service	Percentage of Salary
15	40%
16	41%
17	42%
18	43%
19	44%

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20	45%
21	46%
22	47%
23	48%
24	49%
25	50%

~~—(B) The provisions of § 34.60 of this subchapter shall apply to persons retired under this section.~~

~~—(C) Those active members of the Firemen's and Policemen's Retirement Fund System who retire under division (A) of this section after adoption of this section and prior to July 1, 1983 shall receive a bonus years of service credit to enable them to achieve the 50% maximum service credit. Such retiring active members shall be credited with up to 48 months service, or such lesser amount as may be necessary, if needed to attain 25 years of service credit.~~

~~{'63 Code, § 2-5.423} (Ord. 310 C.S., passed 5-1-79; Am. Ord. 386 C.S., passed 6-21-83)~~

§ 34.72 TERMINATION OF SYSTEM.

~~—Notwithstanding any other provisions of this chapter and title, no further benefits shall be accrued under this Retirement System for service after June 30, 1984. Each employee shall, as of June 30, 1984, fully vest in benefits accrued to that date, which shall be determined as follows:~~

~~—(A) For those eligible for retirement under § 34.59 of this subchapter, benefits shall be determined under said section, with annuity payments to commence upon employee's retirement from active service.~~

~~—(B) For those eligible for retirement under § 34.71 of this subchapter, benefits shall be determined under said section, with annuity payments to commence upon employee's retirement from active service.~~

~~—(C) For all other active members of the Firemen's and Policemen's Retirement Fund System, annual benefits shall be determined as one-half of the salary of the rank held on June 30, 1984, reduced by a fraction (not to exceed one), the numerator of which shall be the number of years of service in the system, the denominator shall be 25.~~

~~{'63 Code, § 2-5.424} (Ord. 409 C.S., passed 6-19-84)~~

~~§ 34.73 SINGLE SUM PAYMENTS.~~

~~—(A) Single sum payment pension benefits authorized. The City Council is hereby authorized to offer single sum payments to any members under this Retirement Fund pursuant to a plan approved by resolution of the City Council. Such single sum payments shall be a proper and authorized use of funds in the Retirement Fund. The City Council may authorize the Retirement Fund to borrow money from any source to finance such single sum payments.~~

~~{63 Code, § 2-5.425}~~

~~—(B) Single sum payment election.~~

~~—(1) Notwithstanding any provision of § 34.72 of this subchapter, any active or retired member of the Firemen's and Policemen's Retirement Fund system may choose to receive, in lieu of any other benefit from this fund, a single sum payment as authorized by resolution of the Council.~~

~~—(2) Within the time periods prescribed by resolution of the Council, said choice to receive a single sum payment must be made upon a form deemed appropriate by the Council and City Attorney, executed by all individuals who might have a reasonable claim to receive the single sum payment, or a portion thereof.~~

~~{63 Code, § 2-5.426}~~

~~{Ord. 409-C.S., passed 6-19-84}~~

EDUCATION AND TRAINING

~~§ 34.85 POLICE EDUCATION AND TRAINING INCENTIVE PAY PLAN.~~

~~—(A) Eligibility to participate. Any sworn police officer shall be eligible to participate in the police education and training pay plan as set forth in this section upon the following conditions:~~

~~—(1) The satisfactory completion of the prescribed probationary period for the position;~~

~~—(2) The possession of, or eligibility for, a Peace Officers Standards and Training Basic Certificate; and,~~

~~—(3) An overall satisfactory, or better, employee performance evaluation rating.~~

~~{63 Code, § 2-5.501}~~

~~—(B) Eligibility for payment of benefits.~~

~~—(1) Any sworn police officer who is eligible to participate in the police education and training pay plan pursuant to the conditions set forth in division (A) of this section and who~~

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~~obtains an Intermediate, Advanced, Management, or Executive Certificate as prescribed by the California Commission on Peace Officers Standards and Training shall be entitled to receive education and training pay in accordance with the following schedule, provided such officer maintains eligibility for the payment of such benefits as set forth in division (C) of this section, in addition to the pay provided for the salary classification, range, and step to which the officer is assigned:~~

~~— Intermediate Certificate — 5% of basic salary~~

~~— Advanced or Management Certificate — 10% of basic salary~~

~~— Executive Certificate — 10% of basic salary~~

~~— (2) For the purposes of this section, "basic salary" shall mean the salary classification, range, and step to which an officer is assigned. The benefits provided by this section shall be noncumulative. An officer holding an Advanced, as well as a Management or Executive Certificate shall be entitled to receive 10% only of the basic salary.~~

~~— (3) The benefits payable pursuant to the provisions of this section shall be paid semimonthly and shall be for the preceding month. The benefits provided by this section shall commence with the month following the month in which the officer obtains the certificate and authorization for payment. The benefits heretofore made to police captains under the provisions of this division (B) are hereby ratified.~~

~~('63 Code, § 2-5.502)~~

~~— (C) Maintenance of eligibility for payment of benefits:~~

~~— (1) The benefits provided by this section shall be payable only to those officers who maintain an overall satisfactory or better performance rating.~~

~~— (2) The benefits provided by this section shall terminate on June 30 of any year as to any officer who fails to certify to the Chief of Police, with the concurrence of the Personnel Officer, prior to June 30 that during the period of not less than 12 months prior thereto they have satisfactorily completed, with a grade "C" or better, not less than three semester units or four quarter units of a course of instruction approved by the Chief of Police and concurred in by the Personnel Officer.~~

~~— (3) Upon the termination of the benefits pursuant to the provisions of divisions (C)(1) or (2) of this section, the benefits shall be restored only in the event the Chief of Police, with the concurrence of the Personnel Director, certifies that all the requirements for the payment of the benefits have been complied with.~~

~~('63 Code, § 2-5.503)~~

~~— (D) Retirement credit. Any member of the Police Department who is now, or on or after November 1, 1973, was or became, eligible to receive benefits under the provisions of this section and who, on November 1, 1973, was an active member of the Firemen's and Policemen's Retirement System of the city shall be entitled to have the benefits payable~~

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~~under this subchapter taken into account for the purposes of calculating member contributions and benefits under §§ 34.55 through 34.73 of this chapter. Such contributions and benefits shall be calculated retroactive to November 1, 1973, or to the date such member of the Police Department became entitled to receive the benefits payable under this section, whichever is last in time, and any such contributions shall be deemed to be an obligation in favor of the city, the payment of which shall be prerequisite to the payment of increased benefits under §§ 34.55 through 34.73 of this chapter to the extent such increased benefits are attributable to the payment of benefits under this subchapter, and the payment of any such contributions shall be made to the city for deposit in the Firemen's and Policemen's Retirement Fund, credited to the account of the member who makes such contribution, on or before June 7, 1975.~~

('63 Code, § 2-5.505)

(Ord. 226-C.S., passed 4-5-74, operative 11-1-73; Am. Ord. 237-C.S., passed 9-6-74, operative 7-1-74; Am. Ord. 247-C.S., passed 3-7-75; Am. Ord. 284-C.S., passed 11-4-77, operative 7-1-77)

~~§ 34.86 STANDARDS AND TRAINING OF PUBLIC SAFETY DISPATCHERS.~~

~~—(A) Request for aid from the State of California. The city desires to receive aid from the state under provision Cal. Penal Code § 13522.~~

~~—(B) Standards for recruitment and training. The city will adhere to standards for recruitment and training established by the California Commission on Peace Officer Standards and Training, pursuant to Cal. Penal Code, § 13510(c).~~

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the ____ day of _____, 2023 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

Leslie Castellano, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the ____ day of _____, 2023, and hereby approved.

Kim Bergel, Mayor

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Approved as to Administration:

Approved as to form:

Miles Slattery, City Manager

Autumn Luna, City Attorney

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THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the _____
day of _____, 2023.

Pamela J. Powell, City Clerk