

**TACOMA EMPLOYEES' RETIREMENT SYSTEM  
REGULATIONS OF THE BOARD OF ADMINISTRATION  
IMPLEMENTING TACOMA MUNICIPAL CODE SECTION 1.30.860 –  
COMPLIANCE WITH INTERNAL REVENUE CODE PROVISIONS  
REVISED 2009**

Section 1.

Application of Forfeitures. Forfeitures arising by termination of employment, death or otherwise shall not be applied to increase the benefits payable under the Retirement System to any Member but instead shall be applied to reduce the cost of funding the Retirement System.

Section 2.

Required Distribution of Benefits Effective for Years Beginning After December 31, 1986. The Retirement System shall comply with a reasonable and good faith interpretation of IRC § 401(a)(9). The following rules apply to determine minimum distributions, but do not create any additional distribution options.

(a) Lifetime Distributions. Payment of benefits to a Member shall commence not later than April 1 of the calendar year following the later of (i) the calendar year in which the Member attains age 70-1/2 or (ii) the calendar year in which the Member retires. Benefits shall be distributed over a period which may not exceed the life expectancy of the Member or the life expectancy of the Member and the Member's designated beneficiary.

(b) Death After Benefits Commence. Upon the death of a Member after benefits commence, the remaining amount of any benefits due shall be distributed at least as rapidly as under the method of distribution in effect as of the date of death.

(c) Death Prior to Commencement of Benefits. In the event of the death of a Member prior to the commencement of benefits, any benefits payable by the Retirement System shall be distributed by December 31 of the calendar year in which the fifth anniversary of the Member's death occurs unless subsections (d) or (e) of this Section apply.

(d) Death Prior to Commencement of Benefits—Spouse Beneficiary. If a Member dies prior to commencement of benefits, survived by the Member's designated beneficiary who is the Member's Spouse, notwithstanding subsection (c), benefits may be payable over a period not extending beyond the Spouse's life expectancy. The beneficiary may elect to have payment commence on any date that is a reasonable time after the Member's death providing benefits commence not later than i) the date the Member would have attained age 70-1/2 or, (ii) December 31 of the calendar year in which the fifth anniversary of the Member's death occurs. Benefits may commence at an earlier date selected by the beneficiary.

(e) Death Prior to Commencement of Benefits—Beneficiary Other Than Spouse. If a Member dies prior to the commencement of benefits, survived by the Member's designated beneficiary, notwithstanding subsection (c), benefits may be payable to the beneficiary over a period not extending beyond the beneficiary's life expectancy. Benefits must commence not later than December 31 of the calendar year immediately following the calendar year in which the Member died. Benefits may commence at an earlier date selected by the beneficiary.

### Section 3.

Definition of Actuarial Equivalent. In determining an Actuarial Equivalent under the Retirement System, the Board shall utilize the rate of interest, the mortality table and the procedures incorporated in the Tacoma City Employees' Retirement System Procedures for Computing Benefits, adopted October 1, 1984 and associated actuarial tables approved by the Board from time to time. For purposes of adjusting the dollar limitation in Section 5, the applicable mortality table is the table required for such purpose by Section 415 and Treasury guidance thereunder. Effective January 1, 2008, the applicable interest rate described by Code Section 417(e) after its amendment by PPA is the adjusted first, second, and third segment rates applied under the rules similar to the rules of Code Section 430(h)(2)(C) for the month of December (Lookback Month) before the first day of the Plan Year in which the annuity starting

date occurs (Stability Period). The applicable mortality table is the applicable annual mortality table within the meaning of Code Section 417(e)(3)(B), as initially described in Revenue Ruling 2007-67.

#### Section 4.

Eligible Rollover Distribution. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Retirement System, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

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 Code; a hardship distribution from a 401(k) plan; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only 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 includable in gross income and the portion of such distribution which is not so includable.

An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code; and effective January 1, 2002, 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, any of which accepts the distributee's eligible rollover distribution. 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. For distributions of after-tax benefits made after December 31, 2006, an Eligible Retirement Plan shall also include an annuity contract described in Code Section 403(b), provided such contract separately accounts for such after-tax amounts. Effective January 1, 2009, an Eligible Retirement Plan shall also include an individual retirement account described in IRC § 408A(b).

A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

Effective January 1, 2010, a nonspouse "designated beneficiary" within the meaning of Code Section 401(a)(9)(E) may elect, at the time and in the manner prescribed by the Committee, to have any portion of an eligible rollover distribution made in a direct rollover to an individual retirement account described in Section 408(a) of the Code or to an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract). Notwithstanding the previous sentence, a distribution to a nonspouse designated beneficiary that

is made prior to January 1, 2010 is not subject to the direct rollover requirements of Code Section 401(a)(31) (including Code Section 401(a)(31)(B)), the notice requirements of Code Section 402(f) or the mandatory withholding requirements of Code Section 3405(c).

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

#### Section 5.

Maximum Permissible Benefits Under IRC § 415 – Effective January 1, 2008. This Section 5 is effective as indicated herein for the respective provisions. This Section 5 is adopted to reflect certain changes in the qualification requirements for plans intended to qualify under Section 401(a) of the Internal Revenue Code. This Section 5 is adopted as good faith compliance with such requirements and with the intent of maintaining the qualified status of the Plan and is intended to be “interim amendments” as those are described in Internal Revenue Procedure 2007-44 and to extend the remedial amendment period for all provisions herein to the date established by such Revenue Procedure.

##### 5.1 Annual Benefit.

(a) Effective date. The limitations of this Article apply in “Limitation Years” beginning on or after July 1, 2007, except as otherwise provided herein.

(b) “Annual Benefit.” The “Annual Benefit” otherwise payable to a Member under the Retirement System at any time shall not exceed the “Maximum Permissible Benefit.” If the benefit the Member would otherwise accrue in a “Limitation Year” would produce an “Annual Benefit” in excess of the “Maximum Permissible Benefit,” then the benefit under the Retirement System shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the “Maximum Permissible Benefit.” Benefits that would otherwise accrue in excess of the Maximum Permissible Amount shall be payable from the City of Tacoma under the Excess Limits Plan of TMC 1.30.860.C, outside the Retirement System.

5.2 Definitions. For purposes of this Section 5, the following definitions apply.

(a) Annual Benefit. “Annual Benefit” means a benefit that is payable annually in the form of a “Straight Life Annuity.” Except as provided below, where a benefit is payable in a form other than a “Straight Life Annuity,” the benefit shall be adjusted to an actuarially equivalent “Straight Life Annuity” that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Article. For a Member who has or will have distributions commencing at more than one Annuity Starting Date, the “Annual Benefit” shall be determined as of each such Annuity Starting Date (and shall satisfy the limitations of this Article as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates. For this purpose, the determination of whether a new Annuity Starting Date has occurred shall be made without regard to Regulations Section 1.401(a)-20, Q&A 10(d), and with regard to Regulations Section 1.415(b)1(b)(1)(iii)(B) and (C).

No actuarial adjustment to the benefit shall be made for (a) survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the Member’s benefit were paid in another form; and (b) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits).

Effective for distributions in Plan Years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a “Straight Life Annuity” shall be made in accordance with (1) or (2) below.

(1) Benefit Forms Not Subject to Code Section 417(e)(3).

The “Straight Life Annuity” that is actuarially equivalent to the Member’s form of benefit shall be determined under this subsection (1) if the form of the Member’s benefit is either (a) a nondecreasing annuity (other than a “Straight Life Annuity”) payable for a period

of not less than the life of the Member (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or (b) an annuity that decreases during the life of the Member merely because of (1) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (2) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Code Section 401(a)(11)).

(i) “Limitation Years” beginning before July 1, 2007. For “Limitation Years” beginning before July 1, 2007, the actuarially equivalent “Straight Life Annuity” is equal to the annual amount of the “Straight Life Annuity” commencing at the same Annuity Starting Date that has the same actuarial present value as the Member’s form of benefit computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table (or other tabular factor) specified in Section 3 for adjusting benefits in the same form; and (II) 5% interest rate assumption and the applicable mortality table defined in Section 3 for that Annuity Starting Date.

(ii) “Limitation Years” beginning on or after July 1, 2007. For “Limitation Years” beginning on or after July 1, 2007, the actuarially equivalent “Straight Life Annuity” is equal to the greater of (I) the annual amount of the “Straight Life Annuity” (if any) payable to the Member under the Plan commencing at the same Annuity Starting Date as the Member’s form of benefit; and (II) the annual amount of the “Straight Life Annuity” commencing at the same Annuity Starting Date that has the same actuarial present value as the Member’s form of benefit, computed using a 5% interest rate assumption and the applicable mortality table defined Section 3 for that Annuity Starting Date.

(2) Benefit Forms Subject to Code Section 417(e)(3).

The "Straight Life Annuity" that is actuarially equivalent to the Member’s form of benefit shall be determined under this paragraph if the form of the Member’s benefit is other than a benefit form described in Section 5.2(a)(1) above (for example a benefit coordinated

with Social Security under TMC 1.30.662). In this case, the actuarially equivalent "Straight Life Annuity" shall be determined as follows:

(i) **Annuity Starting Date in Plan Years Beginning After 2005.**

If the Annuity Starting Date of the Member's form of benefit is in a Plan Year beginning after 2005, the actuarially equivalent "Straight Life Annuity" is equal to the greatest of (I) the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Member's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in Section 3 for adjusting benefits in the same form; (II) the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Member's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table defined in Section 3; and (III) the annual amount of the "Straight Life Annuity" commencing at the same Annuity Starting Date that has the same actuarial present value as the Member's form of benefit, computed using the applicable interest rate defined in Code Section 417(e)(3) and applicable mortality table defined in Section 3, divided by 1.05.

(ii) **Annuity Starting Date in Plan Years Beginning in 2004 or 2005.**

If the Annuity Starting Date of the Member's form of benefit is in a Plan Year beginning in 2004 or 2005, the actuarially equivalent "Straight Life Annuity" is equal to the annual amount of the "Straight Life Annuity" commencing at the same annuity starting date that has the same actuarial present value as the Member's form of benefit, computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table (or other tabular factor) specified in Section 3 for adjusting benefits in the same form; and (II) a 5.5% interest rate assumption and the applicable mortality table defined in Section 3.

(b) **Defined Benefit Dollar Limitation.** "Defined Benefit Dollar

Limitation" means, effective for "Limitation Years" ending after December 31, 2001, \$160,000,

automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a “Straight Life Annuity.” The new limitation shall apply to “Limitation Years” ending with or within the calendar year of the date of the adjustment, but a Member’s benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

(c) Limitation Year. “Limitation Year” means the calendar year.

(d) Maximum Permissible Benefit. “Maximum Permissible Benefit” means the “Defined Benefit Dollar Limitation” (adjusted where required, as provided below).

(1) Adjustment for Less Than 10 Years of Participation: If the Member has less than 10 years of participation in the Plan, the “Defined Benefit Dollar Limitation” shall be multiplied by a fraction -- (i) the numerator of which is the number of “Years of Participation” in the Plan (or part thereof, but not less than one year), and (ii) the denominator of which is ten (10).

(2) Adjustment of “Defined Benefit Dollar Limitation” for Benefit Commencement Before Age 62 or after Age 65: Effective for benefits commencing in “Limitation Years” ending after December 31, 2001, the “Defined Benefit Dollar Limitation” shall be adjusted if the Annuity Starting Date of the Member’s benefit is before age 62 or after age 65. If the Annuity Starting Date is before age 62, the “Defined Benefit Dollar Limitation” shall be adjusted under section 5.2(d)(2)(i), as modified by Section 5.2(d)(2)(iii). If the Annuity Starting Date is after age 65, the “Defined Benefit Dollar Limitation” shall be adjusted under Section 5.2(d)(2)(ii), as modified by Section 5.2(d)(2)(iii).

(i) Adjustment of “Defined Benefit Dollar Limitation” for Benefit Commencement Before Age 62 (not applicable to death or disability benefits as defined in Treas. Reg. 1.415(b)-1(d)(4):

(I) “Limitation Years” Beginning Before July 1, 2007. If the Annuity Starting Date for the Member’s benefit is prior to age 62 and occurs in a

“Limitation Year” beginning before July 1, 2007, the “Defined Benefit Dollar Limitation” for the Member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a “Straight Life Annuity” commencing at the Member’s Annuity Starting Date that is the actuarial equivalent of the “Defined Benefit Dollar Limitation” (adjusted under Section 5.2(d)(1) for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and mortality table (or other tabular factor) specified in the Plan; or (2) a five-percent (5%) interest rate assumption and the applicable mortality table as defined in the Plan.

(II) "Limitation Years" Beginning on or After July 1, 2007. If the Annuity Starting Date for the Member’s benefit is prior to age 62 and occurs in a "Limitation Year" beginning on or after July 1, 2007, and the Plan does not have an immediately commencing "Straight Life Annuity" payable at both age 62 and the age of benefit commencement, the "Defined Benefit Dollar Limitation" for the Member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a "Straight Life Annuity" commencing at the Member’s Annuity Starting Date that is the actuarial equivalent of the "Defined Benefit Dollar Limitation" (adjusted under Section 5.2(d)(1) for years of participation less than ten (10), if required) with actuarial equivalence computed using a five-percent (5%) interest rate assumption and the applicable mortality table for the Annuity Starting Date as defined in Section 3 (and expressing the Member’s age based on completed calendar months as of the Annuity Starting Date).

(ii) Adjustment of “Defined Benefit Dollar Limitation” for Benefit Commencement After Age 65:

(I) “Limitation Years” Beginning Before July 1, 2007. If the Annuity Starting Date for the Member’s benefit is after age 65 and occurs in a Limitation Year beginning before July 1, 2007, the “Defined Benefit Dollar Limitation” for the Member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a

“Straight Life Annuity” commencing at the Member’s Annuity Starting Date that is the actuarial equivalent of the “Defined Benefit Dollar Limitation” (adjusted under Section 5.2(d)(1) for years of participation less than ten (10), if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and mortality table (or other tabular factor) specified in the Plan; or (2) a five-percent (5%) interest rate assumption and the applicable mortality table as defined in the Plan.

(II) "Limitation Years" Beginning After July 1, 2007. If the annuity starting date for the Member’s benefit is after age 65 and occurs in a "Limitation Year" beginning on or after July 1, 2007, and the Plan does not have an immediately commencing "Straight Life Annuity" payable at both age 65 and the age of benefit commencement, the "Defined Benefit Dollar Limitation" at the Member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a "Straight Life Annuity" commencing at the Member’s Annuity Starting Date that is the actuarial equivalent of the "Defined Benefit Dollar Limitation" (adjusted under Section 5.2(d)(1) for years of participation less than 10, if required), with actuarial equivalence computed using a 5% interest rate assumption and the applicable mortality table for that Annuity Starting Date as defined in Section 3 (and expressing the Member’s age based on completed calendar months as of the Annuity Starting Date).

(iii) Notwithstanding the other requirements of this Section 5.2(d)(2), no adjustment shall be made to the “Defined Benefit Dollar Limitation” to reflect the probability of a Member’s death between the Annuity Starting Date and age 62, or between age 65 and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the Member prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Member’s death if the Plan does not charge Members for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the Member’s death.

(e) Straight Life Annuity. “Straight Life Annuity” means an annuity payable in equal installments for the life of a Member that terminates upon the Member’s death.

(f) Year of Participation. “Year of Participation” means, with respect to a Member, each accrual computation period (computed to fractional parts of a year) for which the following conditions are met: (1) the Member is credited with at least the number of Hours of Service (or Period of Service if the Elapsed Time Method is used) for benefit accrual purposes, required under the terms of the Plan in order to accrue a benefit for the accrual computation period, and (2) the Member is included as a Member under the eligibility provisions of the Plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a “Year of Participation” credited to the Member shall equal the amount of benefit accrual service credited to the Member for such accrual computation period. A Member who is permanently and totally disabled within the meaning of Code Section 415(c)(3)(C)(i) for an accrual computation period shall receive a “Year of Participation” with respect to that period.

5.3 Benefit from Purchase of Service. If a Member purchases service credit pursuant to TMC 1.30.550.D, the rules in Code Section 415(n) and Treas. Reg. 1.415(a)-1(f)(4) will apply. Provided, that the Member shall not be treated as failing to meet the reduced dollar limitation for retirement before age 62 in Section 5.2(d) above solely by reason of the increased benefit derived by the purchase of service credit.