

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Human Resources

AGENDA DATE: November 12, 2024

PUBLIC HEARING DATE: November 19, 2024

CONTACT PERSON NAME AND PHONE NUMBER:

Mary L. Wiggins, Chief Human Resources Officer (915) 212-1267

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: 6 – Set the standard for sound governance and fiscal management.

SUBGOAL: 6.2 – Implement employee benefits and services that promote financial security.

SUBJECT: Discussion on an ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.64 (CITY EMPLOYEES' PENSION FUND), TO AMEND THE FOLLOWING: SECTION 2.64.030 (BOARD OF TRUSTEES-MEMBERSHIP) TO CREATE SUBSECTION (D) REGARDING ADVOCATING FOR CANDIDATES IN TRUSTEE ELECTIONS; SECTION 2.64.190A (CONTRIBUTIONS) TO DELETE OBSOLETE LANGUAGE; SUBSECTION 2.64.200(B) TO ADD LANGUAGE CLARIFYING AND DEFINING "PRECEDING RETIREMENT" UNDER SECTION 2.64.200(B)(2) AND CREATE SUBSECTION 2.64.200(B)(5) TO DEFINE "PENSIONABLE GROSS CONTRIBUTIONS"; SECTION 2.64.205(A)(3)(b) (PROPORTIONATE RETIREMENT BENEFITS), TO CLARIFY YEARS THAT APPLY FOR PENSION CREDIT; SECTION 2.64.210, SUBSECTION 2.64.210A, SUBSECTION 2.64.210B, SUBSECTION 2.64.210C(1), AND SUBSECTION 2.64.210E (DISABILITY PENSIONS), SUBSECTION 2.64.210C(3) AND SUBSECTION 2.64.210C(5) TO DEFINE AND CLARIFY PENSION FOR EMPLOYEES WHO BECOME DISABLED; AND SECTION 2.64.230 (DEATH BENEFITS OF WIDOWS AND CHILDREN) TO ADD NEW SECTION (M) REGARDING PROOF OF INCAPACITATION.

BACKGROUND / DISCUSSION:

On October 30, 2023, the Board of Trustees of the City of El Paso Employees Retirement Trust voted in open session to recommend several revisions to the ordinance that governs the City Employees Retirement Trust found in Chapter 2.64 of the El Paso Municipal Code. The Board of Trustees are responsible for the administration of the City of El Paso Employees Retirement Trust. The recommended revisions clarify various sections of Chapter 2.64 which will facilitate the administration of the Retirement Trust and remove ambiguities in the current language of the governing ordinance. There are no actuarial costs to implement the recommended revisions.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

DEPARTMENT HEAD:

Mary Wiggins

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.64 (CITY EMPLOYEES' PENSION FUND), TO AMEND THE FOLLOWING: SECTION 2.64.030 (BOARD OF TRUSTEES-MEMBERSHIP) TO CREATE SUBSECTION (D) REGARDING ADVOCATING FOR CANDIDATES IN TRUSTEE ELECTIONS; SECTION 2.64.190A (CONTRIBUTIONS) TO DELETE OBSOLETE LANGUAGE; SUBSECTION 2.64.200(B) TO ADD LANGUAGE CLARIFYING AND DEFINING "PRECEDING RETIREMENT" UNDER SECTION 2.64.200(B)(2) AND CREATE SUBSECTION 2.64.200(B)(5) TO DEFINE "PENSIONABLE GROSS CONTRIBUTIONS"; SECTION 2.64.205(A)(3)(b) (PROPORTIONATE RETIREMENT BENEFITS), TO CLARIFY YEARS THAT APPLY FOR PENSION CREDIT; SECTION 2.64.210, SUBSECTION 2.64.210A, SUBSECTION 2.64.210B, SUBSECTION 2.64.210C(1), AND SUBSECTION 2.64.210E (DISABILITY PENSIONS), SUBSECTION 2.64.210C(3) AND SUBSECTION 2.64.210C(5) TO DEFINE AND CLARIFY PENSION FOR EMPLOYEES WHO BECOME DISABLED; AND SECTION 2.64.230 (DEATH BENEFITS OF WIDOWS AND CHILDREN) TO ADD NEW SECTION (M) REGARDING PROOF OF INCAPACITATION.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.64 (City Employees' Pension Fund), Section 2.64.030 is hereby amended to add Subsection 2.64.030(D) as an additional paragraph to read as follows:

2.64.030 - Board of Trustees-Membership.

- D. As this election is only open to participants and not the general public, it is not governed by the restrictions on City employees for municipal elections outlined in the City of El Paso's Civil Service Rules. However, the City Manager or designee shall have the authority to develop rules related to the posting of material by candidates in common areas of the workplace and in verbal communications when seeking votes from fellow participants.

SECTION 2. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.64 (City Employees' Pension Fund), Section 2.64.190A is hereby amended by deleting the following language from subsection 2.64.190A to read as follows:

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2.64.190 - Contributions.

- A. Beginning on the first full pay period after May 1, 2007, every person who is a fund participant shall contribute thereto, on a pre-tax basis, 7.75 percent of his salary or wages. The city and all other employers whose employees are permitted to participate in the fund, shall contribute an amount equal to 11.65 percent of the salary or wages of their respective employees who contribute to the fund, subject to subsection A.1. of this section. Provided however, for each of the four consecutive city fiscal years beginning with fiscal year 2012 starting on September 1, 2011, participant contributions of their salaries or wages shall increase annually by 0.30 percent, and the contributions of the city and of other permitted employers shall increase annually by 0.60 percent. Such increases shall begin with the first full pay period after September 1st of each applicable year, and thereafter, shall remain at the level reached in September 2014.

2.64.200 - Retirement pensions.

- B.(2) Any person so retired who was first a fund participant on or after September 1, 2011 shall be entitled to receive a monthly pension from the fund in an amount equal to two and one-fourth percent of the monthly average of the pensionable gross compensation received by the participant during the last three years immediately preceding retirement (for purposes of 2.64.200(F), the last three years immediately preceding retirement shall mean the last three years immediately preceding retirement which the participant received service credit), multiplied by the number of completed years of service credit, plus 0.1875 of one percent of such average monthly pay for each complete or fractional part of a month which is not part of a complete year; provided, however, that under no circumstance shall said monthly pension exceed ninety percent of the participant's three year average monthly pensionable gross compensation, and
- B.(5) For the purposes of this Plan, the term “pensionable gross compensation” shall refer to the gross income paid by the City to the Participant and shall include service time increases, sick leave pay taken in the normal course of employment, vacation leave pay taken in the normal course of employment, vacation leave pay taken in the normal course of employment, shift differential, and mandatory overtime that is part of the Participant’s fixed, periodic compensation. Payments *not* considered pensionable gross compensation are:
 - 1. Except those items listed in the first sentence of this section, including, without limitation, salary increases, and compensation determined by the City to have been paid to a Participant solely for the purpose of increasing a Participant’s retirement benefit under the Plan.
 - 2. Compensation that had previously been provided in kind to the Participant by the City or paid directly by the City to a third party other than the Plan for the benefit of the Participant.
 - 3. Any one-time or ad hoc payments made to a Participant.
 - 4. Severance or any other payment that is granted or awarded to a Participant in connection with or in anticipation of a separation from employment.

5. Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, paid in a lump sum, regardless of when reported or paid.
6. Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms, except for incentive payments that are permanent and included in a Participant's gross compensation by the City.
7. Employer contributions to the Plan.
8. Any bonuses paid.
9. Any compensation paid as a result of an interim promotion or provisional pay differential that is not made permanent by the City.
10. Any compensation paid by the City after separation from service of the Participant, including, without limitation, any payments made to a Participant to settle a claim with the Plan and any third party costs paid by the City on behalf of the Participant.
11. Any other form of compensation that would not be considerable pensionable gross compensation under applicable state or federal law.

SECTION 4. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.64 (City Employees' Pension Fund), Section 2.64.205 (Proportionate Retirement Benefits), Subsection 2.64.205(A)(3)(b) is hereby amended to read as follows:

2.64.205 Proportionate retirement benefits.

(A)(3)(b) For employees who first became fund participants on or after September 1, 2011, the final pay for purposes of retirement calculations shall be the monthly average of the pensionable gross compensation received by the participant during the last three years immediately preceding retirement (for purposes of 2.64.00(F), the last three years immediately preceding retirement shall mean the last three years immediately preceding retirement which the participant received service credit); provided, however, that under no circumstance shall said final pay exceed ninety percent of the participant's average monthly gross pay.

SECTION 5. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.64 (City Employees' Pension Fund), Section 2.64.210 (Disability Pensions) is hereby amended to read as follows:

2.64.210 Disability pensions.

For purposes of this chapter, "disability" shall mean the condition of a significant impairment of physical, neurological, cognitive, or ambulatory abilities, or combination thereof, to such an extent that a participant is unable to perform a job for which he is qualified by training and experience, and where medical improvement of the impairment or combination thereof does not have medically reasonable prognosis for improvement under the conditions at the time of the application for disability.

- A. Whenever a participant (as limited by Section 2.64.120) shall become ~~so totally and permanently~~ disabled, through no fault of his own, as the result of a job-related injury or cause, be entitled to be retired from his employment and to receive a pension in the same

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amount as specified in Section 2.64.200, the amount of which shall be determined by and based on whether the person was first a fund participant before September 1, 2011, or first a fund participant on or after September 1, 2011. This subsection shall apply only to original applications filed on or after February 4, 1992.

- B. Whenever a participant (as limited by Section 2.64.120) shall have completed seven years of pension credited service with the city or other approved employer and shall become-disabled, through no fault of his own, from any cause not related to his job with the city or other approved employer, and shall make written application therefor, within 30 days of his termination date, approved by the board of trustees, he shall be entitled to be retired from his employment and to receive a pension in the same amount as specified in Section 2.64.200. If such disability occurs before completion of seven years of pension credited service, the participant so disabled shall be entitled to receive a refund of the amount he paid into the fund, in accordance with Section 2.64.200. This subsection shall apply only to original applications filed on or after February 4, 1992.
- C. No participant shall become entitled to receive a disability pension benefit under this section if the disability is a result of:
 - 1. Excessive and habitual use by the participant of illegal drugs, intoxicants or narcotics;
 - 2. Injury or disease sustained by the participant while willfully and illegally participating in fights, riots, civil insurrections or while committing a felony;
 - 3. Intentionally deleted per amendment
 - 4. Injury or disease sustained by the participant diagnosed or discovered subsequent to the date his employment has terminated;
 - 5. Intentionally deleted per amendment
 - 6. Any attempt at suicide while sane or insane, or by injuries intentionally self-inflicted.
- D. The participant must provide medical evidence, to include a physician's opinion, to support the application. The board may require additional medical examination and opinion by a physician selected by the board. Physicians conducting examinations or submitting opinions in connection with a disability pension application must be licensed to practice medicine in the United States. The board's determination of fact as to disability shall be final and conclusive on all parties.
- E. Disability pension benefits approved under this section shall continue for as long as the individual concerned remains disabled as defined in this section, subject to subsection F. of this section. A disabled individual may be required to submit verification, on a prescribed schedule, that he is still disabled as defined in this section.
- F. If a disabled individual who is receiving a disability pension benefit pursuant to this section is gainfully employed while receiving such disability benefit, his disability pension benefit may be reduced or terminated as follows: If the salary or wage from employment plus the disability pension benefit exceed the salary he was receiving as a city employee or employee of another approved employer, the disability pension benefit shall be reduced to such a level that the total income from employment plus the disability pension benefit does not exceed the

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salary he was receiving as a city employee or employee of another approved employer. If the salary from employment exceeds the salary he was receiving as a city employee or employee of another approved employer, the disability pension benefit will be discontinued. A disabled individual receiving a pension benefit under this section may be required to provide documentation of additional earned income as deemed necessary by the board. Failure to provide such documentation when requested by the board shall be cause for discontinuing the disability pension benefit. In the event that an individual's disability pension benefit is discontinued due to gainful employment, as provided herein, he will receive the excess, if any, of his contributions over the benefit payments he has received and he shall not be entitled to future benefits under the plan. All decisions of the board regarding reduction or termination of benefit payments shall be final and binding on the parties.

- G. An application for a disability pension under Section 2.64.210 shall be filed within 30 days of the participant's termination date. The phrase "termination date" shall mean the date when a participant separates from service from the city, whether voluntary or involuntary, whereby pension contributions may no longer be made for the benefit of the participant by either the participant or the city.

SECTION 6. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.64 (City Employees' Pension Fund), Section 2.64.230 (Death Benefits of Widows and Children) is hereby amended to add subsection 2.64.230(M) to read as follows:

2.64.230 - Death benefits of widows and children.

M. For purposes of this section, a decree or order by a court with proper jurisdiction to hear cases regarding the incapacitation of an individual, that declares an individual described in this section as being incapacitated and that appoints a guardian of said individual, shall serve as evidence sufficient to prove incapacitation. However, in the absence of such decree or order, the board may consider any evidence made available to it in order to determine whether an individual is incapacitated.

SECTION 7. Except as expressly herein amended, all other provisions of the El Paso City Code shall remain in full force and effect. Any violation of a provision of this ordinance shall be deemed illegal shall be severed and the remainder shall remain in effect. The requirements of this ordinance shall take effect 90 days from its adoption and publication in accordance with and as provided by law and the City Charter.

ADOPTED this _____ day of _____, 2024.

THE CITY OF EL PASO

Oscar Leeser, Mayor

(Signatures Follow On Next Page)

ORDINANCE NO. _____

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Robert Aguinaga Jr

Robert Aguinaga
Assistant City Attorney

APPROVED AS TO CONTENT:

Mary Wiggins

Mary L. Wiggins
Human Resources Chief Officer

REDLINE

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.64 (CITY EMPLOYEES' PENSION FUND), TO AMEND THE FOLLOWING: SECTION 2.64.030 (BOARD OF TRUSTEES-MEMBERSHIP) TO CREATE SUBSECTION (D) REGARDING ADVOCATING FOR CANDIDATES IN TRUSTEE ELECTIONS; SECTION 2.64.190A (CONTRIBUTIONS) TO DELETE OBSOLETE LANGUAGE; SUBSECTION 2.64.200(B) TO ADD LANGUAGE CLARIFYING AND DEFINING "PRECEDING RETIREMENT" UNDER SECTION 2.64.200(B)(2) AND CREATE SUBSECTION 2.64.200(B)(5) TO DEFINE "PENSIONABLE GROSS CONTRIBUTIONS"; SECTION 2.64.205(A)(3)(b) (PROPORTIONATE RETIREMENT BENEFITS), TO CLARIFY YEARS THAT APPLY FOR PENSION CREDIT; SECTION 2.64.210, SUBSECTION 2.64.210A, SUBSECTION 2.64.210B, SUBSECTION 2.64.210C(1), AND SUBSECTION 2.64.210E (DISABILITY PENSIONS), SUBSECTION 2.64.210C(3) AND SUBSECTION 2.64.210C(5) TO DEFINE AND CLARIFY PENSION FOR EMPLOYEES WHO BECOME DISABLED; AND SECTION 2.64.230 (DEATH BENEFITS OF WIDOWS AND CHILDREN) TO ADD NEW SECTION (M) REGARDING PROOF OF INCAPACITATION.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.64 (City Employees' Pension Fund), Section 2.64.030 is hereby amended to add Subsection 2.64.030(D) as an additional paragraph to read as follows:

2.64.030 - Board of Trustees-Membership.

D. As this election is only open to participants and not the general public, it is not governed by the restrictions on City employees for municipal elections outlined in the City of El Paso's Civil Service Rules. However, the City Manager or designee shall have the authority to develop rules related to the posting of material by candidates in common areas of the workplace and in verbal communications when seeking votes from fellow participants.

SECTION 2. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.64 (City Employees' Pension Fund), Section 2.64.190A is hereby amended by deleting the following language from subsection 2.64.190A to read as follows:

2.64.190 - Contributions.

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- A. Beginning on the first full pay period after May 1, 2007, every person who is a fund participant shall contribute thereto, on a pre-tax basis, 7.75 percent of his salary or wages. The city and all other employers whose employees are permitted to participate in the fund, shall contribute an amount equal to 11.65 percent of the salary or wages of their respective employees who contribute to the fund, subject to subsection A.1. of this section. Provided however, for each of the four consecutive city fiscal years beginning with fiscal year 2012 starting on September 1, 2011, participant contributions of their salaries or wages shall increase annually by 0.30 percent, and the contributions of the city and of other permitted employers shall increase annually by 0.60 percent. Such increases shall begin with the first full pay period after September 1st of each applicable year, and thereafter, shall remain at the level reached in September 2014. ~~Notwithstanding the other provisions of this subsection A., pursuant to the terms of a certain agreement executed by the city and an executive on October 7, 2022, and effective as of the date set forth in such agreement, and so long as the agreement is in effect, the executive shall be relieved of the obligation to make employee participant contributions to the fund, and the employee participant contributions the executive would have otherwise been obligated to make shall instead be made by the city on the executive's behalf and shall be subject to all other plan provisions that apply to such employee participant contributions, excepting only the provisions of Section 2.64.500. The provisions of the prior sentence shall not affect the executive's entitlement to additional city contributions made under the second sentence of this subsection A.~~

2.64.200 - Retirement pensions.

- B.(2) Any person so retired who was first a fund participant on or after September 1, 2011 shall be entitled to receive a monthly pension from the fund in an amount equal to two and one-fourth percent of the monthly average of the pensionable gross compensation received by the participant during the last three years immediately preceding retirement (for purposes of 2.64.200(F), the last three years immediately preceding retirement shall mean the last three years immediately preceding retirement which the participant received service credit), multiplied by the number of completed years of service credit, plus 0.1875 of one percent of such average monthly pay for each complete or fractional part of a month which is not part of a complete year; provided, however, that under no circumstance shall said monthly pension exceed ninety percent of the participant's three year average monthly pensionable gross compensation, and
- B.(5) For the purposes of this Plan, the term "pensionable gross compensation" shall refer to the gross income paid by the City to the Participant and shall include service time increases, sick leave pay taken in the normal course of employment, vacation leave pay taken in the normal course of employment, vacation leave pay taken in the normal course of employment, shift differential, and mandatory overtime that is part of the Participant's fixed, periodic compensation. Payments not considered pensionable gross compensation are:
1. Except those items listed in the first sentence of this section, including, without limitation, salary increases, and compensation determined by the City to have been paid

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- to a Participant solely for the purpose of increasing a Participant’s retirement benefit under the Plan.
2. Compensation that had previously been provided in kind to the Participant by the City or paid directly by the City to a third party other than the Plan for the benefit of the Participant.
 3. Any one-time or ad hoc payments made to a Participant.
 4. Severance or any other payment that is granted or awarded to a Participant in connection with or in anticipation of a separation from employment.
 5. Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, paid in a lump sum, regardless of when reported or paid.
 6. Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms, except for incentive payments that are permanent and included in a Participant’s gross compensation by the City.
 7. Employer contributions to the Plan.
 8. Any bonuses paid.
 9. Any compensation paid as a result of an interim promotion or provisional pay differential that is not made permanent by the City.
 10. Any compensation paid by the City after separation from service of the Participant, including, without limitation, any payments made to a Participant to settle a claim with the Plan and any third party costs paid by the City on behalf of the Participant.
 11. Any other form of compensation that would not be considerable pensionable gross compensation under applicable state or federal law.

SECTION 4. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.64 (City Employees’ Pension Fund), Section 2.64.205 (Proportionate Retirement Benefits), Subsection 2.64.205(A)(3)(b) is hereby amended to read as follows:

2.64.205 Proportionate retirement benefits.

(A)(3)(b) For employees who first became fund participants on or after September 1, 2011, the final pay for purposes of retirement calculations shall be the monthly average of the pensionable gross compensation received by the participant during the last three years immediately preceding retirement (for purposes of 2.64.00(F), the last three years immediately preceding retirement shall mean the last three years immediately preceding retirement which the participant received service credit); provided, however, that under no circumstance shall said final pay exceed ninety percent of the participant's average monthly gross pay.

SECTION 5. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.64 (City Employees’ Pension Fund), Section 2.64.210 (Disability Pensions) is hereby amended to read as follows:

2.64.210 Disability pensions.

For purposes of this chapter, “disability” shall mean the condition of a significant impairment of physical, neurological, cognitive, or ambulatory abilities, or combination thereof, to such an extent

that a participant is unable to perform a job for which he is qualified by training and experience, and where medical improvement of the impairment or combination thereof does not have medically reasonable prognosis for improvement under the conditions at the time of the application for disability.

- A. Whenever a participant (as limited by Section 2.64.120) shall become ~~so totally and permanently~~ disabled, through no fault of his own, as the result of a job-related injury or cause, ~~as to incapacitate him in the performance of his job with the city or any other job, whether with the city or not, for which one is qualified by training and experience and which does not result in a significant reduction in pay and benefits,~~ and shall make written application therefor, within 30 days of his termination date, approved by the board, he shall, ~~although under the retirement age,~~ be entitled to be retired from his employment and to receive a pension in the same amount as specified in Section 2.64.200, the amount of which shall be determined by and based on whether the person was first a fund participant before September 1, 2011, or first a fund participant on or after September 1, 2011. This subsection shall apply only to original applications filed on or after February 4, 1992.
- B. Whenever a participant (as limited by Section 2.64.120) shall have completed seven years of pension credited service with the city or other approved employer and shall become ~~so totally and permanently~~ disabled, through no fault of his own, from any cause not related to his job with the city or other approved employer, ~~as to incapacitate him in the performance of his job with the city or any other job, whether with the city or not, for which he is qualified by training and experience and which does not result in a significant reduction in pay and benefits,~~ and shall make written application therefor, within 30 days of his termination date, approved by the board of trustees, he shall, ~~although under the retirement age~~ be entitled to be retired from his employment and to receive a pension in the same amount as specified in Section 2.64.200. If such disability occurs before completion of seven years of pension credited service, the participant so disabled shall be entitled to receive a refund of the amount he paid into the fund, in accordance with Section 2.64.200. This subsection shall apply only to original applications filed on or after February 4, 1992.
- C. No participant shall become entitled to receive a disability pension benefit under this section if the disability is a result of:
1. Excessive and habitual use by the participant of illegal drugs, intoxicants or narcotics;
 2. Injury or disease sustained by the participant while willfully and illegally participating in fights, riots, civil insurrections or while committing a felony;
 3. ~~Injury or disease sustained by the participant while serving in any armed forces;~~
Intentionally deleted per amendment
 4. Injury or disease sustained by the participant diagnosed or discovered subsequent to the date his employment has terminated;
 5. ~~Injury or disease sustained by the participant as a result of an act of war, whether or not such act arises from a formally declared state of war or other armed conflict;~~
Intentionally deleted per amendment

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6. Any attempt at suicide while sane or insane, or by injuries intentionally self-inflicted.
- D. The participant must provide medical evidence, to include a physician's opinion, to support the application. The board may require additional medical examination and opinion by a physician selected by the board. Physicians conducting examinations or submitting opinions in connection with a disability pension application must be licensed to practice medicine in the United States. The board's determination of fact as to disability shall be final and conclusive on all parties.
- E. Disability pension benefits approved ~~pursuant to~~ under this section shall continue for as long as the individual concerned remains disabled as defined in this section, subject to subsection F. of this section. ~~At the board's discretion, a~~ A disabled individual may be required to ~~provide evidence as often as once a year to submit verification, on a prescribed schedule,~~ that he is still disabled as defined in this section.
- F. If a disabled individual who is receiving a disability pension benefit pursuant to this section is gainfully employed while receiving such disability benefit, his disability pension benefit may be reduced or terminated as follows: If the salary or wage from employment plus the disability pension benefit exceed the salary he was receiving as a city employee or employee of another approved employer, the disability pension benefit shall be reduced to such a level that the total income from employment plus the disability pension benefit does not exceed the salary he was receiving as a city employee or employee of another approved employer. If the salary from employment exceeds the salary he was receiving as a city employee or employee of another approved employer, the disability pension benefit will be discontinued. A disabled individual receiving a pension benefit under this section may be required to provide documentation of additional earned income as deemed necessary by the board. Failure to provide such documentation when requested by the board shall be cause for discontinuing the disability pension benefit. In the event that an individual's disability pension benefit is discontinued due to gainful employment, as provided herein, he will receive the excess, if any, of his contributions over the benefit payments he has received and he shall not be entitled to future benefits under the plan. All decisions of the board regarding reduction or termination of benefit payments shall be final and binding on the parties.
- G. An application for a disability pension under Section 2.64.210 shall be filed within 30 days of the participant's termination date. The phrase "termination date" shall mean the date when a participant separates from service from the city, whether voluntary or involuntary, whereby pension contributions may no longer be made for the benefit of the participant by either the participant or the city.

SECTION 6. That El Paso City Code Title 2 (Administration and Personnel), Chapter 2.64 (City Employees' Pension Fund), Section 2.64.230 (Death Benefits of Widows and Children) is hereby amended to add subsection 2.64.230(M) to read as follows:

2.64.230 - Death benefits of widows and children.

M. For purposes of this section, a decree or order by a court with proper jurisdiction to hear cases regarding the incapacitation of an individual, that declares an individual described in this section as being incapacitated and that appoints a guardian of said individual, shall serve as evidence sufficient

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to prove incapacitation. However, in the absence of such decree or order, the board may consider any evidence made available to it in order to determine whether an individual is incapacitated.

SECTION 7. Except as expressly herein amended, all other provisions of the El Paso City Code shall remain in full force and effect. Any violation of a provision of this ordinance shall be deemed illegal shall be severed and the remainder shall remain in effect. The requirements of this ordinance shall take effect 90 days from its adoption and publication in accordance with and as provided by law and the City Charter.

ADOPTED this _____ day of _____, 2024.

THE CITY OF EL PASO

Oscar Leeser, Mayor

(Signatures Follow On Next Page)

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Robert Aguinaga
Assistant City Attorney

APPROVED AS TO CONTENT:

Dionne Mack
City Manager

ORDINANCE NO. _____

HQ2024-2682-Human Resources | TRAN-526381 | KHK
Redline- City Code Chapter 2.64.030, .64.