

State of Minnesota



**Office of the State Auditor**

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State Auditor

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## **Bylaw Guide**

For a Lump-Sum Volunteer Fire Relief Association Affiliated  
with an Independent Nonprofit Firefighting Corporation

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**IMPORTANT INFORMATION ABOUT THIS GUIDE**

This guide is intended only for use by a **defined-benefit lump-sum** volunteer fire relief association **affiliated with an independent nonprofit firefighting corporation**. Additional bylaw guides for other types of relief associations are provided on the Office of the State Auditor's website.

This document is provided for a volunteer fire relief association's board of trustees to use as a guide in developing, updating, and revising bylaws customized for its association. The bylaw provisions within this guide are intended to assist a relief association in meeting its minimum statutory requirements, and to provide the framework for developing custom bylaws. In general, a member's benefits are based on the bylaws in effect on the date of the member's separation from active fire department service and relief association membership. The bylaw provisions are subject to revision.

This bylaw guide is not all inclusive. Areas not included in this guide that a relief association may wish to address include combined service pensions for firefighters with service in more than one volunteer fire department, charitable gambling funds, and disability benefit qualification. Those using this guide should be sure to read the footnotes, which contain additional important information.

This guide is designed to allow you to choose among alternative provisions. You may use language that differs from the language in this guide. We strongly urge you to have your bylaws reviewed by legal counsel. **It is your relief association's responsibility to comply with current law.**

You **MUST READ AND APPLY THE RELEVANT MINNESOTA STATUTES** to determine the proper course of action when making a decision. Minnesota statutes are available online at: <https://www.revisor.mn.gov/pubs/>. This guide is not legal advice, and should not be relied upon as legal advice. Relief associations should consult their legal counsel with any questions regarding law, including Minnesota statutes and this guide.

These sample bylaw provisions are provided for educational purposes only. They are not legal advice and are subject to revision. No sample or model can address all requirements for an individual relief association.

This Bylaw Guide is provided for use in developing custom relief association bylaws for your defined-benefit lump-sum plan

**BYLAWS OF THE \_\_\_\_\_ FIRE RELIEF ASSOCIATION**  
(Identify the name of your relief association)

**ARTICLE I - NAME**

*TO DO: In Section 1, identify the name of your Association and of the fire department affiliated with your Association.*

Section 1 – **NAME.** The name of this relief association is the \_\_\_\_\_ Fire Relief Association (Association), a separate incorporated subsidiary of the \_\_\_\_\_ Independent Nonprofit Firefighting Corporation (Fire Department).<sup>1</sup> It is a nonprofit organization incorporated under the laws of Minnesota.

*TO DO: In Section 2, verify that your Association is a defined-benefit lump-sum relief association.*

Section 2 – **TYPE.** The Association is a defined-benefit lump-sum relief association subject to Minn. Stat. §§ 424A.015; 424A.02; and 424A.091 to 424A.094.<sup>2</sup> All benefits provided by this Association derive from and are governed by Federal and State laws and these bylaws.

Section 3 – **BOOKS AND RECORDS.**<sup>3</sup> The Association will keep, at a minimum, correct and complete copies of its articles of incorporation and bylaws, accounting records, records documenting Special Fund transactions, records necessary to determine benefits payable and paid to individual members and their

<sup>1</sup> Minn. Stat. § 424A.094, subd. 1.

<sup>2</sup> Minn. Stat. § 424A.002, subd. 2.

<sup>3</sup> Minn. Stat. §§ 138.17; 317A.461.

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beneficiaries, and minutes of each of its meetings that record the votes of actions taken. Unless a Records Retention Schedule is adopted and the Minnesota Historical Society has been notified or authority to destroy records is received from the Records Disposition Panel, relief association records may not be destroyed.

Section 4 – **PURPOSE.** The Association is a governmental entity that receives and manages public money to provide retirement and ancillary benefits for individuals providing the governmental services of firefighting and emergency first response, and for their beneficiaries.<sup>4</sup>

Section 5 – **FISCAL YEAR.** The Association’s fiscal year begins on January 1 of each calendar year and ends on December 31 of the same calendar year.<sup>5</sup>

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<sup>4</sup> Minn. Stat. § 424A.001, subd. 4.

<sup>5</sup> Minn. Stat. § 424A.001, subd. 11.

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**ARTICLE II - MEMBERSHIP**

***TO DO: In Section 1, identify the name of the fire department affiliated with your Association. If the Fire Department employs individuals solely as volunteer emergency medical personnel, choose Option #1 or Option #2. If the Fire Department does not employ individuals who solely provide volunteer emergency medical duties, delete both Option #1 and Option #2.***

Section 1 – **MEMBERSHIP.** All individuals who are members of the \_\_\_\_\_ Fire Department (Fire Department), are engaged in or qualified to provide fire suppression duties, and who meet any additional standards established by the Fire Department or by the Association are eligible for membership in the Association.

If the municipality or municipalities that contract with the Fire Department have approved the employment on the Fire Department of volunteer firefighters to perform fire prevention duties and to supervise fire prevention duties, the personnel serving in fire prevention positions are eligible for membership in the Association and qualify for service pensions and other benefit coverage of the Association on the same basis as members who perform fire suppression duties.<sup>6</sup>

**Option #1 (volunteer emergency medical personnel are not eligible for membership)**

If the municipality or municipalities that contract with the Fire Department have approved the employment on the Fire Department of volunteer emergency medical personnel, individuals who solely perform or supervise volunteer emergency medical duties are not eligible for membership in the Association.<sup>7</sup>

**OR**

**Option #2 (volunteer emergency medical personnel are eligible for membership)**

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<sup>6</sup> Minn. Stat. § 424A.01, subd. 5.

<sup>7</sup> Minn. Stat. § 424A.01, subd. 5a.

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If the municipality or municipalities that contact with the Fire Department have approved the employment on the Fire Department of volunteer emergency medical personnel, individuals who solely perform or supervise volunteer emergency medical duties are eligible for membership in the Association and qualify for service pensions and other benefit coverage of the Association on the same basis as members who perform fire suppression duties.<sup>8</sup>

No member may be credited with service credit in the Association for the same hours of service for which coverage is already provided in a fund operated by the Public Employees Retirement Association.<sup>9</sup>

Application for membership will be made in writing on a form supplied by the Secretary of the Association. Membership will be approved by the Board of Trustees.

***TO DO: In Section 2, identify the date on which membership in the Association begins. Choose Option #1, Option #2, or Option #3.***

Section 2 – **MEMBERSHIP START DATE.**<sup>10</sup> Membership in the Association begins on

**Option #1**

the date a firefighter is hired by the Fire Department.

***OR***

**Option #2**

the date a firefighter completes the probationary period established by the Fire Department.

***OR***

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<sup>8</sup> Minn. Stat. § 424A.01, subd. 5a.

<sup>9</sup> Minn. Stat. § 424A.01, subd. 4a.

<sup>10</sup> Minn. Stat. § 424A.001, subd. 12.

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**Option #3**

the date a firefighter completes [define service or membership requirements to be completed].

*TO DO: In Section 3, if your Association chooses to collect membership dues, identify the dues amount that members must pay, and choose Option #1 or Option #2. If you choose Option #2, see Article IX, Section 1, Option #2 (two funds are kept). If your Association chooses not to collect membership dues, omit Section 3.*

Section 3 – **DUES.** Each member of the Association will pay dues of \_\_\_\_\_ dollars annually to the Association.

**Option #1**

The dues will be deposited in the General Fund.

**OR**

**Option #2**

The dues will be deposited in the Special Fund.<sup>11</sup>

Section 4 – **EXCLUSIONS.**<sup>12</sup> The Association may exclude from membership an applicant who, due to some medically determinable physical or mental impairment or condition, would constitute a predictable and unwarranted risk of imposing liability for an ancillary benefit at any age earlier than the minimum age specified for receipt of a service pension. A minor may not be a member of this Association.

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<sup>11</sup> Minn. Stat. § 424A.06, subd. 2.

<sup>12</sup> Minn. Stat. § 424A.01.

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Section 5 – **TERMINATION.** Any member may be terminated from the Association for cause by a two-thirds vote of all members present at a special meeting of the membership. Cause for termination includes, but is not limited to, failure to account for money belonging to the Association, or feigning illness or injury for the purpose of defrauding the Association. A member may not be terminated except by a fair and reasonable process.

Section 6 – **ACTIVE SERVICE.** Active service is the supervision or performance of fire suppression duties. If the municipality or municipalities that contract with the Fire Department have approved the employment on the Fire Department of fire prevention personnel, active service includes the supervision or performance of fire prevention duties. If the municipality or municipalities that contract with the Fire Department have approved the employment on the Fire Department of volunteer emergency medical personnel and if their membership in the Association is permitted in Section 1 of this Article, active service also includes the supervision or performance of emergency medical response duties. Active service requires meeting minimum service requirements specified by the Fire Department in the Fire Department's rules, regulations, and policies.

Section 7 – **CERTIFICATION OF SERVICE CREDIT.**<sup>13</sup> Annually, by March 31, the Fire Chief must certify the service credit for the previous calendar year of each member rendering active service with the Fire Department. The certification must be made to an officer of the Association and to the clerk or clerk-treasurer of the largest municipality in population served by the Fire Department.

***TO DO: In Section 8, choose Option #1, Option #2, or Option #3.***

Section 8 – **DEFINITION OF YEAR OF ACTIVE SERVICE.**<sup>14</sup>

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<sup>13</sup> Minn. Stat. § 424A.003.

<sup>14</sup> Minn. Stat. § 424A.02, subd. 1(a).

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**Option #1: (monthly proration not allowed)**

A year of active service will be defined as 12 months of active service in the Fire Department. A “month” is a completed calendar month of active service measured from the member’s date of entry to the same date in the subsequent month. Service pensions and ancillary benefits will *not* be prorated for fractional years of service (i.e., a member only receives credit for each complete year of service).

**OR**

**Option #2: (monthly proration allowed)**

A year of active service will be defined as 12 months of active service in the Fire Department. A “month” is a completed calendar month of active service measured from the member’s date of entry to the same date in the subsequent month. Service pensions and ancillary benefits will be prorated monthly for fractional years of service.

**OR**

***TO DO: If you choose Option #3, identify the number of days of active service that are required for a “month” of active service (must be at least 16 days).***

**Option #3: (same as #2 but a month is defined)**

A year of active service will be defined as 12 months of active service in the Fire Department. A “month” is a calendar month in which the member completed at least \_\_\_\_\_ (must be at least 16) days of active service. Service pensions and ancillary benefits will be prorated monthly for fractional years of service.

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Section 9 – **BREAK IN SERVICE.** A break in service means that a member has temporarily ceased supervising and performing fire suppression and fire prevention duties.<sup>15</sup> If a member is unable to perform the duties of a firefighter for any reason, including an approved leave of absence, the member will be considered to have a break in service and will not receive service credit in the Association for that period of time.<sup>16</sup>

***TO DO: In Section 10, choose Option #1 or Option #2.***

Section 10 – **RETURN TO SERVICE.**<sup>17</sup>

**Option #1: (return to membership not allowed)**

Section 10 – **RETURN TO SERVICE.** Any firefighter who has a break in service, or who has received payment of a service pension or disability benefit, will *not be eligible* to resume active membership in the Association should the firefighter resume active firefighting duties with the Fire Department. The firefighter will not be eligible to accrue any additional service credit with, or benefit from, the Association. If the firefighter attained the minimum service and membership requirements specified in these bylaws prior to the firefighter's break in service, the firefighter will retain the right to the benefit previously accrued, if the benefit has not been paid.

***OR***

***TO DO: If you choose Option #2, identify the minimum period of resumption service requirement, choose Option #2A, Option #2B, or Option #2C, and identify the minimum***

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<sup>15</sup> Minn. Stat. § 424A.001, subd. 9a.

<sup>16</sup> Resumption service requirements do not apply to leaves of absence made available by federal statute, such as the Family Medical Leave Act and the Uniformed Services Employment and Reemployment Rights Act, and do not apply to leaves of absence made available by state statute, such as the Parental Leave Act, the Leave for Organ Donation Act, the Leave for Civil Air Patrol Service Act, the Leave for Immediate Family Members of Military Personnel Injured or Killed in Active Service Act, or the Protection of Jurors' Employment Act. Minn. Stat. § 424A.01, subd. 6.

<sup>17</sup> Minn. Stat. § 424A.01, subd. 6.

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*service requirement, choose Option #2D or Option #2E, and choose Option #2F or Option #2G.*

**Option #2: (return to membership allowed)**

Section 10 – **RETURN TO SERVICE.** Any firefighter who has a break in service, including former members who have received payment of a service pension or disability benefit and who have waited at least 60 days following receipt of the pension or benefit, *will be eligible* to resume active membership in the Association should the firefighter resume active firefighting duties with the Fire Department. Active membership in the Association immediately resumes when a member returns to active service with the Fire Department.

If the firefighter has previously received payment of a service pension or disability benefit, the firefighter may be eligible for a second pension or benefit for the resumption period of service if the firefighter meets the vesting requirements defined in this section based on the resumption years of service. No firefighter may be paid a service pension twice for the same period of service.

**Option #2A: (same vesting requirements apply)**

A firefighter who previously received payment of a service pension or disability benefit from this Association must meet the eligibility requirements of Article VI, Section 2 of these bylaws to be eligible for a second pension.

**OR**

**Option #2B: (single lower vesting requirement applies)**

A firefighter who previously received payment of a service pension or disability benefit from this Association and who completes at least \_\_\_\_\_ (can be any number less than 20) years of active service with the Fire Department upon a resumption of active service is fully vested and eligible for a second pension.

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**OR**

*TO DO: If you choose Option #2C below, the Association has flexibility to modify the years of active service required and the applicable vesting percentages in the sample vesting table. When modifying the table, vesting percentages should increment uniformly, and the maximum number of years required for full vesting (100%) cannot exceed 20.*

**Option #2C: (graduated lower vesting requirements apply)**

A firefighter who previously received payment of a service pension or disability benefit from this Association and who completes at least \_\_\_\_\_ (can be any number less than 20) years of active service with the Fire Department upon a resumption of active service is eligible for a second pension calculated using the applicable vesting percentage identified below:

| Completed Years<br>of Active Service: | Vested Percentage<br>of Pension Amount: |
|---------------------------------------|---|
| 1                                     | 40%                                     |
| 2                                     | 55%                                     |
| 3                                     | 70%                                     |
| 4                                     | 85%                                     |
| 5 and thereafter                      | 100%                                    |

If the firefighter has not received payment of a service pension or disability benefit, the firefighter must complete at least \_\_\_\_\_ years of active service with the Fire Department upon a resumption of active service. If the firefighter completes the minimum period of resumption service specified in this Section prior to a subsequent cessation of firefighting duties, the firefighter will receive a service pension (if vested) for all years of active service (and months, if applicable) calculated at the benefit level in effect on the date of the firefighter’s final cessation

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of duties. If the firefighter does not complete the minimum period of resumption service specified in this Section prior to a subsequent cessation of duties, the firefighter will receive a service pension (if vested) for all years of active service (and months, if applicable) calculated at

**Option #2D: (original benefit level used)**

the benefit level in effect at the time of the firefighter's *original cessation of duties*.

**OR**

**Option #2E: (final benefit level used)**

the benefit level in effect at the time of the firefighter's *final cessation of duties*.

A firefighter who has been granted an approved leave of absence not exceeding one year by the Fire Department or by the Association is exempt from the minimum period of resumption service requirement under this Article.

A person who has a break in service not exceeding one year but who has not been granted an approved leave of absence and who has not received a service pension or disability benefit from the Association *is*

**Option #2F: (exempt from resumption requirement)**

*exempt from* the minimum period of resumption service requirement under this Article.

**OR**

**Option #2G: (subject to resumption requirement)**

*subject to* the minimum period of resumption service requirement under this Article.

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Section 11 – **UNIFORMED SERVICES.**<sup>18</sup> A volunteer firefighter who is absent from firefighting service because of service in the uniformed services may obtain service credit for the period of the uniformed service, not to exceed five years, unless a longer period is required by Federal law, if the volunteer firefighter returns within the time frame required by Federal law to firefighting service with coverage by this same Association or its successor upon discharge from service in the uniformed service.

Service credit will not be given if the firefighter separates from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

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<sup>18</sup> Minn. Stat. § 424A.021. In some instances service other than service with the Armed Forces may qualify. *See* 38 U.S.C. § 4303(13) (“service in the uniformed services”).

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### **ARTICLE III - OFFICERS AND TRUSTEES**

Section 1 – **THE POWERS OF THE BOARD OF TRUSTEES.** The Board of Trustees (Board) is the governing board and has exclusive control of the investment of the Association’s plan assets in conformance with Federal and State law including, but not limited to, Minnesota statutes and these bylaws. The members of the Board will act as Trustees, with a fiduciary obligation to the active, deferred, and retired members of the Association, who are its beneficiaries; the taxpayers of the municipalities contracting with the Fire Department, who help to finance the plan; and the State of Minnesota, which established the plan.<sup>19</sup>

The Board will invest and reinvest the Association’s plan assets, determine benefits, determine eligibility for membership or benefits, determine the amount or duration of benefits, determine the funding requirements or amounts of contributions, oversee the expenditure of plan assets, and select financial institutions and investment products.<sup>20</sup>

The Board will submit a written report of the financial condition of the Association to the members at the annual meeting.

The Board will develop and periodically revise a program for continuing education.<sup>21</sup> The Trustees will participate in continuing education to keep themselves abreast of their fiduciary responsibilities.

Section 2 – **MEMBERS OF THE BOARD OF TRUSTEES.** The Board consists of nine members (Trustees): six Trustees elected by the membership; two Trustees drawn from the officials of the municipalities served by the Fire Department; and the third Trustee must be the fire chief.<sup>22</sup>

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<sup>19</sup> Minn. Stat. § 356A.04, subd. 1.

<sup>20</sup> Minn. Stat. § 356A.02, subd. 2.

<sup>21</sup> Minn. Stat. § 356A.13, subd. 2.

<sup>22</sup> Minn. Stat. § 424A.04, subd. 1 (b).

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If one municipality contracts with the Fire Department, the municipal Trustees must be elected or appointed officials of the contracting municipality who are designated annually by the governing body of the contracting municipality.

If two or more municipalities contract with the Fire Department, the two municipal Trustees must be elected or appointed officials, one official from each of the two largest municipalities (based on population) and each must be designated annually by the governing body of the respective municipality.

A vacancy in the position of a non-municipal Trustee may be filled by the remaining Trustees at a Board meeting. The Trustee selected to fill the vacancy holds office only until the next annual or special meeting of the Association membership when a successor will be elected by the membership.

***TO DO: In Section 3, choose Option #1 or Option #2, and identify the number of years Association Officers are elected to serve.***

### Section 3 – **OFFICERS.**<sup>23</sup>

#### **Option #1: (officers elected by the Board)**

Section 3 – **OFFICERS.** The President, Secretary, and Treasurer will be elected from among the elected Trustees by the full Board for \_\_\_\_\_ (must be three years or less) year terms. The elections of the Trustees will be staggered. In no event will any Trustee hold more than one Officer position at any one time. In no event will any municipal Trustee hold an Officer position.

***OR***

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<sup>23</sup> Minn. Stat. § 424A.04, subd. 1; *see also* Minn. Stat. § 317A.305.

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**Option #2: (officers elected by the membership)**

Section 3 – **OFFICERS.** The President, Secretary, and Treasurer will be elected from among the elected Trustees by the Association membership for \_\_\_\_\_ (must be three years or less) year terms. The elections of the Trustees will be staggered. In no event will any Trustee hold more than one Officer position at any one time. In no event will any municipal Trustee hold an Officer position.

Section 4 – **PRESIDENT.** The President will attend and preside at all meetings of the Association and the Board. The President will actively manage the business of the Association. The President will enforce the due observance of the law, including Minnesota statutes, the articles of incorporation, and the bylaws of the Association. The President will ensure that the Officers properly perform the duties assigned to them and that the orders and resolutions of the Board are carried into effect. The President will sign all checks issued by the Treasurer and all other papers requiring the President's signature. The President will be a member of all committees and will exercise careful supervision over the affairs of the Association. The President will perform other duties as prescribed by the Board.

Section 5 – **SECRETARY.** The Secretary will keep and post a true and accurate record of the proceedings of all meetings of the Association and of the Board. The Secretary will keep a correct record of all amendments, alterations, and additions to the bylaws in a book separate from the minute books of the Association. The Secretary will prepare all paperwork and obtain signatures required for benefits due. The Secretary will keep an account book in which to enter all money transactions of the Association, including the dates and amounts of all receipts and the source from which derived and the dates and the amounts of all expenditures with the payee and the object. The Secretary will keep individual files and a roll of membership, with the date of joining, resignation, discharge, retirement, dues, and service pensions and ancillary benefits paid. The books of the Secretary will be at all times open to the Board. The Secretary will prepare and process all correspondence as needed. The Secretary will, jointly with the Treasurer, prepare and file all reports and statements required by law, including reports to be filed with

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the Office of the State Auditor (OSA). The Secretary will perform other duties as prescribed by the Board.

Section 6 – **TREASURER.** The Treasurer will, together with the Secretary, keep accurate financial records of the Association. The Treasurer will receive all monies belonging to the Association and deposit them in the name of and to the credit of the Association in the banks and depositories designated by the Board. The Treasurer will disburse funds and issue checks and drafts in the name of the Association as ordered by the Board. The Treasurer will keep separate and distinct accounts of the Special Fund and the General Fund, if applicable, and will prepare and present to the Board a full and detailed statement of the assets and liabilities of each fund separately, prior to the annual meeting of the Association, and upon requests of the Board.

The Treasurer will deliver to the Treasurer's successor in office, or to any committee appointed by the Board to receive the same, all monies, books, papers, etc., pertaining to the Treasurer's term in office immediately upon the expiration of the Treasurer's term in office. The Treasurer will, prior to entering upon the duties of the Treasurer's office, give a bond in an amount equal to at least ten percent of the assets of the Association; however, the amount of the bond need not exceed \$500,000.<sup>24</sup> Jointly with the Secretary, the Treasurer will prepare and file all reports and statements required by law, including reports to be filed with the Office of the State Auditor. The Treasurer will perform other duties as prescribed by the Board.

***TO DO: In Section 7, choose Option #1 or Option #2. If you choose Option #2, you may choose to compensate Officers only, or to compensate Officer and non-Officer Trustees. If you choose Option #2, identify in Attachment B the names and salary amounts for all Officer and non-Officer Trustees to***

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<sup>24</sup> Minn. Stat. § 424A.014, subd. 4.

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*whom a salary is payable from the Special Fund.*<sup>25</sup>

Section 7 – **COMPENSATION.**

**Option #1: (salaries are not paid)**

Section 7 – **COMPENSATION.** No Officer or Trustee may be paid a salary out of the Special Fund. Itemized expenses eligible for reimbursement are limited to those expenses incurred as a result of fulfilling responsibilities as administrators of the Special Fund.

**OR**

**Option #2: (salaries paid to some or all Trustees)**

Section 7 – **COMPENSATION.** Trustees of the Association identified in Attachment B may be paid a salary out of the Special Fund. The amount paid in salary is limited to the amount listed in Attachment B. Only after the amounts listed in Attachment B have been approved by \_\_\_\_\_ (the governing body of the entity responsible for meeting any minimum obligation) may salaries be paid to non-Officer Trustees. For all Trustees, itemized expenses eligible for reimbursement are limited to those expenses incurred as a result of fulfilling responsibilities as administrators of the Special Fund.

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<sup>25</sup> Salary amounts paid to non-Officer Trustees of the relief association must be approved by the governing body of the entity responsible for meeting any minimum obligation. Salaries paid to Officers of the relief association do not require this approval.

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**ARTICLE IV – MEETINGS OF THE MEMBERS AND OF THE BOARD**

Section 1 – **ANNUAL MEETING.**<sup>26</sup> An annual meeting of the membership of the Association will be held in January of each year, at a time and place specified by the Board.

***TO DO: In Section 2, identify the number of members who together may call a special meeting.***

Section 2 – **SPECIAL MEETINGS.**<sup>27</sup> A special meeting of the Association’s members may be called at any time upon the written order of the President, Secretary, and one additional Trustee, or of \_\_\_\_\_ (at least ten percent) percent of the members of the Association. The Order will be filed with the Secretary.

***TO DO: In Section 3, identify the number of times that the Board will meet during the year (must be at least one time).***

Section 3 – **BOARD MEETINGS.**<sup>28</sup> A Trustee may call a Board meeting by giving five days’ notice to all Trustees of the date, time, and place of the meeting.<sup>29</sup> The Board will meet at least \_\_\_\_\_ times during the year to discuss the investments, finances, benefits, and records of the Association. These meetings will be open to any member of the Association and to the public.

Section 4 – **NOTICE OF ANNUAL MEETING.**<sup>30</sup> Notice of each annual meeting of the Association’s members will be delivered to each member entitled to vote at the meeting at least five days before the date of the meeting and not more than 60 days before the date of the meeting. Notice will contain the date,

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<sup>26</sup> Minn. Stat. § 317A.431. Your relief association may hold additional regular meetings during the year. Minn. Stat. § 317A.111, subd. 3(21).

<sup>27</sup> Minn. Stat. § 317A.433.

<sup>28</sup> Minn. Stat. §§ 13D.04; 317A.231.

<sup>29</sup> See Minn. Stat. § 317A.231.

<sup>30</sup> Minn. Stat. § 13D.04; see also Minn. Stat. § 317A.435.

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time, and place of the meeting.

Section 5 – **NOTICE OF SPECIAL MEETINGS.**<sup>31</sup> Notice of each special meeting of the Association’s members will be delivered to each member entitled to vote at the meeting at least five days before the date of the meeting and not more than 60 days before the date of the meeting. Notice will contain the date, time, and place of the meeting. The Secretary will give due notice of each special meeting, specifying the object of said meeting, and no business will be transacted at any special meeting except the business for which the meeting was called.

Section 6 – **NOTICE OF BOARD MEETINGS.** Notice requirements of the Minnesota Open Meeting Law will be followed for all Board meetings.<sup>32</sup> A schedule of the Board’s regular meetings will be kept on file at the Board’s primary office.<sup>33</sup>

For special meetings (including any regular meeting held at a time or place different from the time or place stated in the schedule of regular meetings), the Board will post written notice of the date, time, place, and purpose of the meeting on the Board’s principal bulletin board, or if the Board has no such bulletin board, on the door of its usual meeting room. The notice will also be mailed or delivered to each person who has filed a written request for notice with the Board. The notice will be posted and mailed or delivered at least three days before the date of the meeting.<sup>34</sup>

If a meeting is a recessed or continued session of a previous meeting, and the time and place of the meeting was established during the previous meeting and recorded in the minutes of that meeting, then no further published or mailed notice is necessary.<sup>35</sup>

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<sup>31</sup> See Minn. Stat. §§ 317A.433; 317A.435 (additional requirements regarding notice).

<sup>32</sup> Minn. Stat. ch. 13D.

<sup>33</sup> Minn. Stat. § 13D.04, subd. 1.

<sup>34</sup> Minn. Stat. § 13D.04, subd. 2.

<sup>35</sup> Minn. Stat. § 13D.04, subd. 4.

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***TO DO: In Section 7, choose Option #1 or Option #2.***

Section 7 – **QUORUM FOR ANNUAL AND SPECIAL MEETINGS.**<sup>36</sup>

**Option #1: (simple majority required)**

A majority of the members of the Association will constitute a quorum for the transaction of business at the annual or any special meeting of the Association.

***OR***

***TO DO: If you choose Option #2, identify the percentages.***

**Option #2: (defined percentage required)**

A \_\_\_\_\_ (not less than ten percent of members entitled to vote) percentage of the members of the Association will constitute a quorum for the transaction of business at the annual or any special meeting of the Association.<sup>37</sup>

***TO DO: In Section 8, choose Option #1 or Option #2.***

Section 8 – **QUORUM FOR BOARD MEETINGS.**<sup>38</sup>

**Option #1: (simple majority required)**

A majority of the Trustees will constitute a quorum for the transaction of business at the meetings of the Board.

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<sup>36</sup> Minn. Stat. §§ 317A.235; 317A.451.

<sup>37</sup> Minn. Stat. § 317A.451.

<sup>38</sup> Minn. Stat. § 317A.235.

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**OR**

*TO DO: If you choose Option #2, identify the percentages.*

**Option #2: (defined percentage required)**

A \_\_\_\_\_ (not less than 33 percent) percentage of the Trustees will constitute a quorum for the transaction of business at the meetings of the Board.

Section 9 – **VOTING AT ANNUAL AND SPECIAL MEETINGS.**<sup>39</sup> Members of the Association are entitled to one vote. Voting by proxy is not permitted. All votes, unless specified prior to the vote, will be conducted by a voice vote. If a majority cannot be determined by voice vote, the Officer in charge of the vote will ask for a vote by roll call or by ballot.

Section 10 – **VOTING AT BOARD MEETINGS.**<sup>40</sup> The Board has a responsibility to vote on the investment and reinvestment of Association assets, the determination of benefits, the determination of eligibility for membership or benefits, the determination of the amount or duration of benefits, the determination of funding requirements or the amounts of contributions, the maintenance of membership and financial records, the expenditure of Association assets, the selection of financial institutions and investment products, and on any other matter related to the business or affairs of the Association. Trustees are entitled to one vote and each has equal rights. Voting by proxy is not permitted. All votes, unless specified prior to the vote, will be conducted by a voice vote. If a majority cannot be determined by voice vote, the Officer in charge of the vote will ask for a vote by roll call or by ballot.

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<sup>39</sup> Minn. Stat. §§ 317A.181, subd. 2; 317A.441; 317A.443.

<sup>40</sup> Minn. Stat. §§ 317A.201; 356A.02, subd. 2.

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Section 11 – **ORDER OF BUSINESS.** The annual meeting of the members of the Association will be conducted in the following order:

1. Call to order
2. Roll call
3. Reading and approval of minutes of previous meeting
4. Secretary’s report
5. Treasurer’s report
6. Committee reports
7. Unfinished business
8. New business
9. Adjournment

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**ARTICLE V - APPLICATION FOR PENSIONS AND BENEFITS**

Section 1 – **NOTICE OF INTENT TO TAKE DISTRIBUTION.** Each member who intends to take distribution of a service pension, including a deferred service pension, from the Association must file a Notice of Intent to Take Distribution. Such Notice of Intent to Take Distribution will be in writing, and will be filed with the Secretary not less than 90 days prior to the intended date of distribution. Upon receipt of the Notice of Intent to Take Distribution, the Secretary will provide to the applicant an Application for Distribution and any forms or notices required by Federal or State law. No Notice of Intent to Take Distribution is required for ancillary benefits.

Section 2 – **PROCESS.** Each person who intends to take distribution of a service pension, including a deferred service pension, or an ancillary benefit from the Association must file an Application for Distribution. The Secretary will provide to the applicant the Application for Distribution and any forms or notices required by Federal or State law. All Applications for Distribution will be submitted to the Board for approval at a Board meeting. Applications for Distribution will state the age of the member, the period of service, the date of separation from active service with the Fire Department, and any other information the Board may require. No service pension, including any deferred service pension, or ancillary benefit will be paid until the Application for Distribution has been approved by a majority vote of the Board.

Section 3 – **GOVERNING BENEFIT PLAN PROVISIONS.**<sup>41</sup> All service pensions, deferred service pensions, and ancillary benefits payable by the Association are governed by and must be calculated based on the State law, the Association bylaw provisions, and the Association articles of incorporation that are in effect on the date that the member separates from active service with the Fire Department and active membership in the Association, except that if a member has a break in service at the end of the member's firefighting career and does not resume active service before separating, the member's service pension,

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<sup>41</sup> Minn. Stat. § 424A.015, subd. 6

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deferred service pension, or ancillary benefit must be calculated using the State law, bylaw provisions, and articles of incorporation that are in effect on the date on which the member began the break in service.

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**ARTICLE VI - SERVICE PENSIONS**

*TO DO: Choose Option #1 or Option #2, and identify the minimum retirement age and service requirements in Section 2.*

**Option #1: (reduced service pensions are not paid)**

Section 1 – **LUMP-SUM SERVICE PENSIONS.** Upon the member’s meeting the requirements in Section 2 of this Article and following the submission and approval of an Application for Distribution, the Association will pay the member out of the Special Fund the benefit level for each year that the member served as an active member of the Fire Department. The benefit level amounts can be found in Attachment A.

Section 2 – **ELIGIBILITY.**<sup>42</sup> To receive an unreduced service pension, a member must meet all of the following requirements:

1. Have separated from active service with the Fire Department;
2. Be at least \_\_\_\_\_ (must be at least 50) years of age;
3. Be fully vested by having completed at least \_\_\_\_\_ (must be at least ten) years of active service with the Fire Department; and
4. Be fully vested by having completed at least \_\_\_\_\_ (must be at least five) years of active membership with the Association.

Section 3 – **DEFERRED STATUS.** A member who has otherwise met the eligibility requirements defined in Section 2 of this Article but who has not yet reached the age of eligibility specified in Section 2 may not collect a service pension at the time of separation from active service. The member will be placed on deferred status and be entitled to receive the service pension upon reaching the age of eligibility specified in Section 2 and following

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<sup>42</sup> Minn. Stat. § 424A.02, subds. 1, 2.

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submission and approval of an Application for Distribution.

A member who has met the eligibility requirements defined in Section 2 of this Article and who has reached the age of eligibility in Section 2, but who chooses not to immediately submit an Application for Distribution following the member's separation from active service will be placed on deferred status and be entitled to receive the service pension following submission and approval of the Application for Distribution.

**OR**

**Option #2: (reduced service pensions are paid)**

Section 1 – **LUMP-SUM SERVICE PENSIONS.** Upon the member's meeting the requirements in Section 2 of this Article and following the submission and approval of an Application for Distribution, the Association will pay the member out of the Special Fund the benefit level for each year that the member served as an active member of the Fire Department. The benefit level amounts can be found in Attachment A. A reduced service pension may be paid according to the partial vesting schedule contained in this Article.

Section 2 – **ELIGIBILITY.**<sup>43</sup> To receive a service pension, a member must meet all of the following requirements:

1. Have separated from active service with the Fire Department;
2. Be at least \_\_\_\_\_ (must be at least 50) years of age;
3. Be **partially vested** by having completed at least \_\_\_\_\_ (must be at least five) years of active service with the Fire Department, or be **fully vested** by having completed at least \_\_\_\_\_ (must be at least ten) years of active service with the Fire Department; and
4. Be **partially vested** by having completed at least \_\_\_\_\_ (must be at least five) years of active membership with the Association, or be **fully vested** by having completed at least \_\_\_\_\_ (must be at least five) years of active membership with the Association.

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<sup>43</sup> Minn. Stat. § 424A.02, subd. 1.

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Section 3 – **DEFERRED STATUS.** A member who has otherwise met the eligibility requirements defined in Section 2 of this Article but who has not yet reached the age of eligibility specified in Section 2 may not collect a service pension at the time of separation from active service. The member will be placed on deferred status and be entitled to receive the service pension upon reaching the age of eligibility specified in Section 2 and following submission and approval of an Application for Distribution.

A member who has met the eligibility requirements defined in Section 2 of this Article and who has reached the age of eligibility in Section 2, but who chooses not to immediately submit an Application for Distribution following the member’s separation from active service will be placed on deferred status and be entitled to receive the service pension following submission and approval of the Application for Distribution.

***TO DO: Choose Option #1 or Option #2. Note that the Association has flexibility to adopt percentage amounts that are equal to or less than those provided in the sample vesting schedule below. The percentage amounts provided in Option #1 are the maximum percentage amounts allowed by State law.***

**Option #1: (Ten-Year Full-Vesting Schedule)**

Section 4 – **PARTIAL VESTING SCHEDULE:**<sup>44</sup>

| Completed Years<br>of Active Service: | Vested Percentage<br>of pension amount: |
|---------------------------------------|---|
| 5                                     | 40%                                     |
| 6                                     | 52%                                     |
| 7                                     | 64%                                     |
| 8                                     | 76%                                     |

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<sup>44</sup> Minn. Stat. § 424A.02, subd. 2.

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|                   |      |
|-------------------|------|
| 9                 | 88%  |
| 10 and thereafter | 100% |

*OR*

**Option #2: (20-Year Full-Vesting Schedule)**

Section 4 – **PARTIAL VESTING SCHEDULE:**<sup>45</sup>

| Completed Years of Service: | Nonforfeitable percentage<br>of pension amount: |
|-----------------------------|---|
| 5                           | 40%   |
| 6                           | 44%   |
| 7                           | 48%   |
| 8                           | 52%   |
| 9                           | 56%   |
| 10                          | 60%   |
| 11                          | 64%   |
| 12                          | 68%   |
| 13                          | 72%   |
| 14                          | 76%   |
| 15                          | 80%   |
| 16                          | 84%   |
| 17                          | 88%   |
| 18                          | 92%   |
| 19                          | 96%   |
| 20 and thereafter           | 100%  |

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<sup>45</sup> Minn. Stat. § 424A.02, subd. 2.

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**TO DO: In Section 5, choose Option #1 or Option #2.**

Section 5 – **PAYMENT OPTIONS.**

**Option #1: (installment payments not offered)**

Section 5 – **PAYMENT OPTIONS.** The retiring member may elect, by making a written request, the manner of payment of the service pension. Options include:

- (a) A single lump-sum payment payable to the retiring member (subject to current income tax withholding requirements).
- (b) An annuity contract purchased with a lump-sum payment on behalf of a retiring member from an insurance carrier licensed to do business in the State of Minnesota.<sup>46</sup>
- (c) A direct transfer on an institution-by-institution basis of the retiring member's lump-sum payment to the member's individual retirement account (IRA).<sup>47</sup>
- (d) A direct transfer on an institution-by-institution basis of the retiring member's lump-sum payment to the member's individual Minnesota deferred compensation plan.<sup>48</sup>

**OR**

**Option #2: (installment payments offered)**

Section 5 – **PAYMENT OPTIONS.** The retiring member may elect, by making a written request, the manner of payment of the service pension. Options include:

- (a) A single lump-sum payment payable to the retiring member (subject to current income tax withholding requirements).
- (b) An annuity contract purchased with a lump-sum payment on behalf of a retiring member from an insurance carrier licensed to do business in the State of Minnesota.<sup>49</sup>

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<sup>46</sup> Minn. Stat. § 424A.015, subd. 3.

<sup>47</sup> Minn. Stat. § 424A.015, subd. 4 (Your relief association must be “a qualified pension plan under Section 401(a) of the Internal Revenue Code, as amended....”); IRC § 408(a).

<sup>48</sup> Minn. Stat. § 424A.015, subd. 5.

<sup>49</sup> Minn. Stat. § 424A.015, subd. 3.

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- (c) A direct transfer on an institution-by-institution basis of the retiring member's lump-sum payment to the member's individual retirement account (IRA).<sup>50</sup>
- (d) A direct transfer on an institution-by-institution basis of the retiring member's lump-sum payment to the member's individual Minnesota deferred compensation plan.<sup>51</sup>
- (e) At the option of the retiring member, installment payments made in lieu of a single lump-sum service pension. The election of installment payments is irrevocable and must be made by the intended recipient in writing and filed with the Secretary no later than 30 days before the commencement of payment of the service pension. The amount of each installment payment will be determined in the following manner: *[describe any reasonable manner]*. The amount of the installment payments may not exceed the single payment service pension amount plus interest at an annual rate of five percent on the amount of delayed payments for the period in which the payment was delayed.<sup>52</sup>

Section 6 – **SUPPLEMENTAL BENEFIT.**<sup>53</sup> A supplemental benefit will be paid out of the Special Fund to individuals who receive a lump-sum distribution of a service pension. The amount of the supplemental benefit to be paid is ten percent of the regular pre-tax lump-sum distribution, excluding any interest that may have been credited during the period of deferral, but not to exceed \$1,000.

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<sup>50</sup> Minn. Stat. § 424A.015, subd. 4 (Your relief association must be a “qualified pension plan under Section 401(a) of the Internal Revenue Code, as amended....”); IRC § 408(a).

<sup>51</sup> Minn. Stat. § 424A.015, subd. 5.

<sup>52</sup> Minn. Stat. § 424A.02, subd. 8.

<sup>53</sup> Minn. Stat. § 424A.10.

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**ARTICLE VII – DEFERRED INTEREST**

***TO DO: In Section 1, choose Option #1, Option #2, Option #3, Option #4, Option #5, Option #6, or Option #7 regarding crediting of deferred interest.***

Section 1 – **DEFERRED INTEREST TYPE.**<sup>54</sup>

**Option #1: (interest not offered)**

Section 1 – **DEFERRED INTEREST TYPE.** No interest will be credited during the period of deferral on a deferred lump-sum service pension.

***OR***

**Option #2: (interest credited at rate set by the Board)**

Section 1 – **DEFERRED INTEREST TYPE.** Interest will be credited on partially-vested and fully-vested deferred lump-sum service pensions during the period of deferral. The rate of interest, up to five percent, compounded annually, will be established by the Board and ratified by the Fire Department. The interest rate established by the Board is listed in Attachment C. Interest is credited beginning on the January 1 next following the date on which the rate was ratified. No interest may be credited until after the interest rate has been ratified by the Fire Department. The interest rate remains in effect until the Board establishes a different rate and the new rate is ratified by the Fire Department.

***OR***

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<sup>54</sup> Minn. Stat. § 424A.02, subd. 7.

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**Option #3: (same as #2 but credited to fully-vested only)**

Section 1 – **DEFERRED INTEREST TYPE.** Interest will be credited on fully-vested deferred lump-sum service pensions during the period of deferral. The rate of interest, up to five percent, compounded annually, will be established by the Board and ratified by the Fire Department. The interest rate established by the Board is listed in Attachment C. Interest is credited on the January 1 next following the date on which the rate was ratified by the Fire Department. No interest may be credited until after the interest rate has been ratified by the Fire Department. The interest rate remains in effect until the Board establishes a different rate and the new rate is ratified by the Fire Department.

*OR*

**Option #4: (interest credited at rate actually earned on separate investment account)**

Section 1 – **DEFERRED INTEREST TYPE.** Interest will be credited on partially-vested and fully-vested deferred lump-sum service pensions during the period of deferral. A pooled separate investment account maintained separately from the assets of the Association will be established for the amounts payable to deferred members. Interest will be credited at the investment performance rate actually earned on the member's portion of the assets. The accrued liability for the deferred member's service pension is equal to the deferred member's portion of the separate relief association account balance. The deferred member bears the full investment risk subsequent to transfer.

*OR*

**Option #5: (same as #4 but credited to fully-vested only)**

Section 1 – **DEFERRED INTEREST TYPE.** Interest will be credited on fully-vested deferred lump-sum service pensions during the period of deferral. A pooled separate investment account maintained separately from the assets of the Association will be established for the amounts payable to deferred members. Interest will be credited at the investment performance rate

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actually earned on the member's portion of the assets. The accrued liability for the deferred member's service pension is equal to the deferred member's portion of the separate relief association account balance. The deferred member bears the full investment risk subsequent to transfer.

**OR**

**Option #6: (interest credited at rate actually earned on separate investment vehicle)**

Section 1 – **DEFERRED INTEREST TYPE.** Interest will be credited on partially-vested and fully-vested deferred lump-sum service pensions during the period of deferral. The amount credited to a deferred member will be transferred to a separate investment vehicle held by the relief association and maintained separately from the assets of the Association. Interest will be credited at the investment performance rate actually earned on the separate investment vehicle. The accrued liability for the deferred service pension is equal to the fair market value of the separate investment vehicle held by the relief association. The deferred member bears the full investment risk subsequent to transfer.

**OR**

**Option #7: (same as #6 but credited to fully-vested only)**

Section 1 – **DEFERRED INTEREST TYPE.** Interest will be credited on fully-vested deferred lump-sum service pensions during the period of deferral. The amount credited to a deferred member will be transferred to a separate investment vehicle held by the relief association and maintained separately from the assets of the Association. Interest will be credited at the investment performance rate actually earned on the separate investment vehicle. The accrued liability for the deferred service pension is equal to the fair market value of the separate investment vehicle held by the relief association. The deferred member bears the full investment risk subsequent to transfer.

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***TO DO: In Section 2, choose Option #1, Option #2, Option #3, or Option #4 regarding the deferred interest credit method.<sup>55</sup>***

**Section 2 – DEFERRED INTEREST CREDIT METHOD.**

**Option #1: (daily allocation)**

Section 2 – **DEFERRED INTEREST CREDIT METHOD.** Interest on a deferred service pension is creditable beginning on the first date following the date on which the member separated from active Fire Department service and active Association membership, and ending on the last date immediately before the date on which the deferred member commences receipt of the deferred service pension.

***OR***

**Option #2: (monthly allocation)**

Section 2 – **DEFERRED INTEREST CREDIT METHOD.** Interest on a deferred service pension is creditable beginning on the first date of the month next following the date on which the member separated from active Fire Department service and active Association membership, and ending on the last date of the month immediately before the month in which the deferred member commences receipt of the deferred service pension.

***OR***

**Option #3: (yearly allocation)**

Section 2 – **DEFERRED INTEREST CREDIT METHOD.** Interest on a deferred service pension is creditable beginning on the first date of the calendar year next following the date on which the member separated from active Fire Department service and active Association

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<sup>55</sup> Your relief association may define its own deferred interest payment method, as long as the definition includes the interest period starting date and ending date. Before defining your own deferred interest payment method, your relief association should consult an attorney. Please also inform the OSA of the method your relief association is using.

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membership, and ending on the last date of the calendar year immediately before the year in which the deferred member commences receipt of the deferred service pension. Members must be deferred for an entire calendar year to receive interest for that year.

***OR***

**Option #4: (valuation date allocation, for Deferred Interest Type Option #6 and Option #7)**  
Section 2 – **DEFERRED INTEREST CREDIT METHOD.** Interest on a deferred service pension is creditable beginning on the date the member separates from active Fire Department service and active Association membership, and ending on the date of the last valuation of the separate investment vehicle before the deferred member commences receipt of the deferred service pension.

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**ARTICLE VIII - ANCILLARY BENEFITS**

***TO DO: In Section 1, choose Option #1 or Option #2.***

Section 1 – **SURVIVOR BENEFIT.**<sup>56</sup>

**Option #1: (survivor benefits are not paid)**

Section 1 – **SURVIVOR BENEFIT.** Survivor benefits are not provided by this Association.

**OR**

***TO DO: If you choose Option #2, choose Option #2A, Option #2B, or Option #2C regarding survivor benefits on behalf of a deferred member.***

**Option #2: (survivor benefits are paid)**

Section 1 – **SURVIVOR BENEFIT.** Upon the death of a member of the Association and following the submission and approval of an Application for Distribution, a survivor benefit will be paid out of the Special Fund to the member's surviving spouse; if there is no surviving spouse, to the member's surviving children; if there is no surviving spouse and there are no surviving children, to the member's designated beneficiary. If no beneficiary has been designated and if the deceased member was active or deferred, the survivor benefit will be paid as a death benefit to the estate of the deceased member.

If there are no surviving children, the member's surviving spouse may waive, in writing, wholly or partially, the spouse's entitlement to a survivor benefit, so that the survivor benefit may be paid directly to the member's designated beneficiary.

A trust created under Chapter 501B may be a designated beneficiary if the survivor benefit will

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<sup>56</sup> Minn. Stat. § 424A.02, subd. 9.

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be distributed as a one-time lump-sum payment. If a trust was created and is payable to the surviving children and there is no surviving spouse, the survivor benefit will be paid to the trust.

For *active* members, a survivor benefit equal to the benefit level for each year that the member served as an active firefighter in the Fire Department, without regard to minimum or partial vesting requirements, but in no case less than five times the benefit level in effect on the date of the death, will be paid if, upon death, the member had not yet separated from active service. The benefit level can be found in Attachment A.

If a member had a break in service at the end of the member's firefighting career and did not resume active service before the member's death, the survivor benefit must be calculated using the State law, bylaw provisions, and articles of incorporation that are in effect on the date on which the member began the break in service.

**Option #2A: (survivor benefits are not paid on behalf of deceased deferred members)**

Payment of a survivor benefit on behalf of a deceased deferred member is not authorized.

*OR*

**Option #2B: (active-member survivor benefits are paid on behalf of deceased deferred members)**

The survivor benefit described above for active members will be paid on behalf of a deceased deferred member in lieu of payment of the deceased member's deferred service pension.

*OR*

**Option #2C: (deferred benefit amounts are paid as survivor benefits on behalf of deceased deferred members)**

A survivor benefit equal to a deceased deferred member's deferred service pension will be

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paid on behalf of the deceased deferred member. The survivor benefit amount may not exceed the total earned service pension of the deceased deferred member.

Section 2 – **SUPPLEMENTAL SURVIVOR BENEFIT.**<sup>57</sup> A supplemental survivor benefit will be paid out of the Special Fund when a lump-sum survivor benefit is paid. The amount of the supplemental survivor benefit to be paid is 20 percent of the survivor benefit, but not to exceed \$2,000.

Section 3 – **NO ADDITIONAL FINANCIAL RELIEF.** Except for the relief expressly identified for survivors in these bylaws, a member or former member's surviving spouse, child or children, designated beneficiary, and/or estate are not entitled to any other or further relief or benefits from the Association.

*To Do: In Section 4, choose Option #1 or Option #2.*

Section 4 – **DISABILITY BENEFIT.**<sup>58</sup>

**Option #1: (disability benefits are not paid)**

Section 4 – **DISABILITY BENEFIT.** Disability benefits are not provided by this Association.

**OR**

*TO DO: If you choose Option #2, choose Option #2A, Option #2B, or Option #2C regarding deferred member permanent disability benefits, and choose Option #2D or Option #2E*

<sup>57</sup> Minn. Stat. § 424A.10.

<sup>58</sup> Minn. Stat. §§ 424A.02, subd. 9; 424A.05, subd. 3. Your relief association should consult an attorney for assistance in defining what it means to be temporarily or permanently disabled.

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*regarding temporary disability benefits.*

**Option #2: (disability benefits are paid)**

Section 4 – **DISABILITY BENEFIT.** Permanent disability benefits may be paid to permanently disabled members of the Association out of the Special Fund following the submission and approval of an Application for Distribution.

If a member had a break in service at the end of the member's firefighting career and did not resume active service before the member's separation from active service, the disability benefit must be calculated using the State law, bylaw provisions, and articles of incorporation that are in effect on the date on which the member began the break in service.

For *active* members, a permanent disability benefit equal to the benefit level for each year that the member served as an active firefighter in the Fire Department, without regard to minimum or partial vesting requirements, will be paid if, upon the date of permanent disability, the member has not yet separated from active service. The benefit level can be found in Attachment A. The years of service must be determined as of the date of disability. The member is eligible to receive the disability benefit immediately upon approval by the Board.

**Option #2A: (permanent disability benefits are not paid to deferred members)**

Payment of a permanent disability benefit to a deferred member is not authorized.

**OR**

**Option #2B: (active-member disability benefits are paid to deferred members)**

The permanent disability benefit described above for active members will be paid to a disabled deferred member in lieu of payment of the disabled member's deferred service pension.

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**OR**

**Option #2C: (deferred benefit amounts are paid as disability benefits to deferred members)**

A permanent disability benefit equal to a disabled deferred member's deferred service pension will be paid to the disabled deferred member. The permanent disability benefit amount may not exceed the total earned service pension of the disabled member.

*TO DO: Choose Option #2D or Option #2E regarding payment of temporary disability benefits. If you choose Option #2E, identify the amount of temporary disability benefits that are paid and the length of time that a member may collect them.*

**Option #2D: (temporary disability benefits are not paid)**

Temporary disability benefits are not provided by this Association.

**OR**

**Option #2E: (temporary disability benefits are paid)**

Temporary disability benefits may be paid to temporarily disabled *active* members in the amount of \$ \_\_\_\_\_ per \_\_\_\_\_, for no longer than \_\_\_\_\_.

Section 5 – **DISABILITY BENEFIT QUALIFICATION.** *Disability Benefit Qualification should be clearly defined in your Association's bylaws. Disability Benefit Qualifications are complex and are outside the scope of this guide. Consult your attorney for legal advice and specific language.*

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**To Do: In Section 6, choose Option #1 or Option #2.**

Section 6 – **PAYMENT OPTIONS.**

**Option #1: (installment payments not offered)**

Section 6 – **PAYMENT OPTIONS.** The recipient of an ancillary benefit may elect, by making a written request, the manner of payment of the ancillary benefit. Options include:

- (a) A single lump-sum payment payable to the intended recipient (subject to current income tax withholding requirements).
- (b) A direct transfer on an institution-by-institution basis of the lump-sum survivor benefit to the *active* member's surviving spouse's individual retirement account (IRA).<sup>59</sup> (This option is available to certain recipients of a survivor benefit.)

**OR**

**Option #2: (installment payments offered)**

Section 6 – **PAYMENT OPTIONS.** The recipient of a survivor benefit may elect, by making a written request, the manner of payment of the survivor benefit. Options include:

- (a) A single lump-sum payment payable to the intended recipient (subject to current income tax withholding requirements).
- (b) A direct transfer on an institution-by-institution basis of the lump-sum survivor benefit to the *active* member's surviving spouse's individual retirement account (IRA).<sup>60</sup> (This option is available to certain recipients of a survivor benefit.)
- (c) At the option of the intended survivor benefit recipient, installment payments may be made in lieu of a single lump-sum survivor benefit. The election of installment payments is irrevocable and must be made by the intended survivor benefit recipient in writing and filed with the Secretary no later than 30 days before the commencement of payment of the

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<sup>59</sup> Minn. Stat. § 424A.015, subd. 4 (Your relief association must be “a qualified pension plan under Section 401(a) of the Internal Revenue Code, as amended....”); IRC § 408(a).

<sup>60</sup> Minn. Stat. § 424A.015, subd. 4 (Your relief association must be “a qualified pension plan under Section 401(a) of the Internal Revenue Code, as amended....”); IRC § 408(a).

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survivor benefit. The amount of each installment payment will be determined in the following manner: *[describe any reasonable manner]*. The amount of the installment payments may not exceed the single payment survivor benefit amount plus interest at an annual rate of five percent on the amount of delayed payments for the period in which the payment was delayed.<sup>61</sup> (This option is available for recipients of a survivor benefit.)

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<sup>61</sup> Minn. Stat. § 424A.02, subd. 8.

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**ARTICLE IX - FUNDS**

***TO DO: In Section 1, choose Option #1 or Option #2 regarding relief association funds. Charitable Gambling funds are outside the scope of this sample bylaw guide.***

Section 1 – **FUNDS.**<sup>62</sup>

**Option #1: (one fund is kept)**

Section 1 – **FUNDS.** The Association will establish and maintain a Special Fund.<sup>63</sup>

***OR***

**Option #2: (two funds are kept)**

Section 1 – **FUNDS.** The Association will establish and maintain a Special Fund and a General Fund.<sup>64</sup>

Section 2 – **SPECIAL FUND.**<sup>65</sup> All public funds, such as fire state aid, supplemental state aid, municipal contributions, and supplemental benefit reimbursements, received by the Association will be deposited in the Special Fund. Disbursements from the Special Fund will not be made for any purpose except as authorized by Minn. Stat. § 424A.05.

The Treasurer is the custodian of the assets of the Special Fund and the recipient on behalf of the Special Fund of all revenues payable to it. The Treasurer will maintain adequate records documenting all transactions involving the financial activities of the Special Fund.

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<sup>62</sup> Charitable Gambling funds are outside the scope of this sample bylaw guide.

<sup>63</sup> Minn. Stat. § 424A.05, subd. 1.

<sup>64</sup> Minn. Stat. § 424A.06.

<sup>65</sup> Minn. Stat. § 424A.05.

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Checks or authorizations for electronic fund transfers for disbursement of Special Fund assets must be signed by the Association Treasurer and at least one other elected Association Trustee who has been designated by the Board to sign the checks or authorizations. The Association may only make disbursements by electronic fund transfers if the specific method of payment and internal control policies and procedures regarding the method are approved by the Board.<sup>66</sup>

***TO DO: If you chose Option #1 in Section 1, omit Section 3 below. If you chose Option #2 in Section 1, retain Section 3 below and identify purposes for authorized disbursements.***

Section 3 – **GENERAL FUND.**<sup>67</sup> Money received from any nonpublic source, such as fundraising activities and donations, will be deposited into the General Fund. Funds may be disbursed by the Board for any purpose authorized by the articles of incorporation or by these bylaws. Such purposes include \_\_\_\_\_ . All Association expenses not specifically authorized by State statute to be paid out of the Special Fund must be paid out of the General Fund.

The Treasurer is the custodian of the assets of the General Fund and the recipient on behalf of the General Fund of all revenues payable to it. The Treasurer will maintain adequate records documenting any transactions involving the financial activities of the General Fund.

Section 4 – **NONASSIGNABILITY OF BENEFITS.**<sup>68</sup> Benefits paid or payable from the Special Fund are not subject to garnishment, judgment, execution, or other legal process, except as provided in Minn. Stat. §§ 518.58; 518.581; or 518A.53. Benefits paid or payable may not be assigned for any purpose.

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<sup>66</sup> Minn. Stat. § 424A.05, subd. 3.

<sup>67</sup> Minn. Stat. § 424A.06.

<sup>68</sup> Minn. Stat. § 424A.015, subd. 2.

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**ARTICLE X - INVESTMENTS**

Section 1 – **STANDARD OF FIDUCIARY CONDUCT.**<sup>69</sup> Trustees owe a fiduciary duty to the active, deferred, and retired members of the Association, who are plan beneficiaries; to the taxpayers of the municipalities contracting with the Fire Department, who help finance the plan; and to the State of Minnesota, which established the plan. The Trustees will act in good faith and exercise that degree of judgment and care, under circumstances then prevailing, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, considering the probable safety of plan capital as well as the probable investment return to be derived from the assets.

Section 2 – **INVESTMENT POLICY.** The Board will approve an investment policy, and will investigate and prepare for the safe and profitable investment of Association funds in conformance with State statutes and the Association’s investment policy. The Board may hire investment professionals to act for or on its behalf. The Special Fund assets will be invested only in securities that are authorized by Minn. Stat. §§ 356A.06, subd. 6; 356A.06, subd. 7 (if the Association qualifies to use the expanded list); and 424A.095.<sup>70</sup> The Board will have on file a copy of the investment policy of the Association. The Board will file a copy of the Association’s investment policy, and all changes to the policy, with the Office of the State Auditor.<sup>71</sup>

Section 3 – **BROKER CERTIFICATION.**<sup>72</sup> The Association will provide annually to its broker a written statement of investment restrictions from the applicable State laws and from the Association’s investment policy. Annually, before the Association enters into or continues business with the broker, the broker must submit to the Association a signed Broker Certification, using the form prepared by the Office of the State Auditor.

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<sup>69</sup> Minn. Stat. § 356A.04.

<sup>70</sup> Minn. Stat. § 424A.05, subd. 4.

<sup>71</sup> Minn. Stat. § 356.219, subd. 3(a).

<sup>72</sup> Minn. Stat. § 356A.06, subd. 8b.

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**ARTICLE XI – UNCLAIMED BENEFITS**

Section 1 – **UNCLAIMED BENEFITS.**<sup>73</sup> In the event that the Association is unable with reasonable effort to locate a member or a survivor of a member entitled to payment or distribution under these bylaws or by State law, the benefit distributable to such member or survivor of such member will be forfeited and will be credited to the Special Fund. Efforts to locate a member or survivor must be documented. Forfeiture will occur no earlier than thirty-six (36) months after the Board concludes the Association was unable to locate such member or survivor despite reasonable efforts to locate them.

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<sup>73</sup> If an Association's bylaws do not address the disposition of unclaimed benefits, unclaimed benefits must be handled as set forth in Minn. Stat. § 356.65.

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**ARTICLE XII – AMENDMENTS, CONSOLIDATION, AND DISSOLUTION**

Section 1 – **AMENDMENTS.**<sup>74</sup> These bylaws may be amended when necessary by a \_\_\_\_\_ (majority or greater) of the members of the Board. Proposed amendments will be submitted to the Secretary to be posted with regular Board announcements.

Amendments to these bylaws which affect the amount of, the manner of payment of, or the conditions for qualification for service pensions, deferred service pensions, or ancillary benefits are not effective until they have been ratified by the Fire Department.<sup>75</sup>

The Association will file a revised copy of these bylaws with the Office of the State Auditor upon the adoption of any amendments.<sup>76</sup>

Section 2 – **CONSOLIDATION.** A consolidation of the Association with one or more volunteer fire relief associations will be initiated pursuant to Minn. Stat. § 424B.02, subds. 1 and 2, and will comply with the process set forth in and the requirements of Chapter 424B.

Section 3 – **DISSOLUTION.** Prior to dissolution of the Association, all legal obligations of the Association other than service pensions and benefits must be settled under Minn. Stat. § 424B.2, subd. 3, a benefit trust must be established under subdivision 4, and the affairs of the Association must be concluded under subdivision 5.<sup>77</sup>

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<sup>74</sup> Minn. Stat. § 317A.181.

<sup>75</sup> In certain circumstances, bylaw amendments which affect service pensions, deferred service pensions, or ancillary benefits do not require ratification to become effective. *See* Minn. Stat. § 424A.02, subd. 10.

<sup>76</sup> Minn. Stat. § 424A.02, subd. 10.

<sup>77</sup> Minn. Stat. § 424B.20, subd. 2.

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*TO DO: Identify the name of your relief association and the date that these bylaws or any amendments are adopted and approved by the board of trustees. The date is required for filings with the Office of the State Auditor and is required for your forms to be considered complete.*

*The relief association officers must sign and date the bylaws and amendments after they have been adopted and approved.*

*Use Attachment A to document ratification. Note that certain amendments may not be effective until they have been ratified by the Fire Department. See Minn. Stat. § 424A.02, subd. 10(b). See also, Minn. Stat. § 424A.094, subd. 2.*

**BYLAWS**

These bylaws are hereby adopted and approved by the members of the \_\_\_\_\_ Fire Relief Association on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
President date: \_\_\_\_\_

\_\_\_\_\_  
Secretary date: \_\_\_\_\_

\_\_\_\_\_  
Treasurer date: \_\_\_\_\_

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**AMENDMENTS**

These amendments to the bylaws are hereby adopted and approved by the members of the \_\_\_\_\_ Fire Relief Association on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
date: \_\_\_\_\_  
President

\_\_\_\_\_  
date: \_\_\_\_\_  
Secretary

\_\_\_\_\_  
date: \_\_\_\_\_  
Treasurer

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**ATTACHMENT A – BENEFIT LEVEL**

| <b>BENEFIT LEVEL<br/>AMOUNT</b> | <b>DATE APPROVED BY<br/>RELIEF ASSOCIATION</b> | <b>RATIFICATION<br/>DATE</b> | <b>EFFECTIVE DATE</b> |
|---------------------------------|--|------------------------------|-----------------------|
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**ATTACHMENT B – COMPENSATION**

**TRUSTEE**

**SALARY**

President (Officer) \_\_\_\_\_

\_\_\_\_\_

Secretary (Officer) \_\_\_\_\_

\_\_\_\_\_

Treasurer (Officer) \_\_\_\_\_

\_\_\_\_\_

Trustee #4 \_\_\_\_\_

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Trustee #5 \_\_\_\_\_

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Trustee #6 \_\_\_\_\_

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Trustee #7 \_\_\_\_\_

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Trustee #8 \_\_\_\_\_

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Trustee #9 \_\_\_\_\_

\_\_\_\_\_

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**ATTACHMENT C – DEFERRED INTEREST RATE**

| <b>INTEREST RATE</b> | <b>DATE APPROVED BY<br/>RELIEF ASSOCIATION</b> | <b>RATIFICATION<br/>DATE</b> | <b>EFFECTIVE DATE</b> |
|----------------------|--|------------------------------|-----------------------|
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