

## Chapter 18

### PENSIONS AND RETIREMENT\*

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\* **Cross References:** Administration, Ch. 2; officers and employees, § 2-91 et seq.; fire prevention, Ch. 8; police, Ch. 21; casualty insurance premium tax, § 24-36 et seq.; property insurance premium tax, § 24-51 et seq.  
**State Law References:** Actuarial soundness of public pensions, F.S. § 112.60 et seq.

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Art. I. In General, §§ 18-1--18-15

Art. II. Employees Retirement System, §§ 18-16--18-75

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#### ARTICLE I.

#### IN GENERAL

**Secs. 18-1--18-15. Reserved.**

#### ARTICLE II.

#### EMPLOYEES RETIREMENT SYSTEM

#### DIVISION 1.

#### GENERALLY

#### **Sec. 18-16. Purpose.**

It is deemed to be to the best interests of the city and the citizens, residents, inhabitants and taxpayers thereof that the city maintain a retirement system for employees and police officers of Plantation and to that end the City of Plantation Employees Retirement System is established as herein set forth.  
(Code 1964, § 9A-1; Ord. No. 1984, § 1, 6-8-94; Ord. No. 2027, § 1, 5-24-95)

#### **Sec. 18-17. Definitions and terms.**

For the purposes of this article the following terms shall have the meanings hereinafter set forth:

*Accumulated contributions* shall mean the sum of all amounts deducted from a member's compensation and credited as a contribution to the pension fund, together with regular interest thereon.

*Actuarial equivalence and actuarially equivalent* mean that any benefit payable under the terms of this system in a form other than the normal form of benefit shall have the same actuarial present value on the date payment commences as the normal form of benefit.

*Annual compensation for police officers* shall include for services rendered to the city, base pay, longevity pay, assignment pay, shift differential pay, pay for annual leave accumulation, educational incentive pay and up to twenty-five (25) hours of overtime pay paid by the City of Plantation. Excluded from the calculation of annual compensation for police officers is pay for unused sick leave, clothing allowances, and officer of the year and month awards. Payment for extra duty or special detail work performed on behalf of a party other than the City of Plantation is specifically excluded from the calculation of annual compensation even if such payments are made to the officer through the City of Plantation.

*Average final compensation for firefighters* shall mean the average of the highest annual rate of base pay received by a member during the highest five (5) of the ten (10) years of service immediately preceding retirement.

*Average final compensation for general employees* shall mean the average of the highest annual rate of base pay received by a member during the highest three (3) of the ten (10) years of service immediately preceding retirement.

*Beneficiary* shall mean the person or persons entitled to receive any benefits hereunder at the death of a member, who has or have been designated in writing by the member and filed with the board. If no such designation is in effect at the time of death of the member, or if no person so designated is living at that time, the beneficiary shall be the estate of the member unless the board, which shall have full authority to do so if it so desires, designates a beneficiary.

*Distributee* includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.

*Direct rollover* shall mean a payment by the distributee's retirement plan to the eligible retirement plan specified by the distributee.

*Effective date* shall mean July 1, 1967.

*Elected public official* shall mean for purposes of this system only the mayor and members of the city council. Any person serving as an elected public official on and after the effective date of the ordinance establishing membership rights for elected public officials shall be eligible for membership in this system. The term "effective date" as used herein with respect to duly elected public officials shall mean and have reference to the ordinance amending this system so as to establish membership rights thereunder for elected public officials.

*Eligible retirement plan* shall mean an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, an annuity plan described in section 403(a) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution,

however, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

*Eligible rollover distribution* shall mean any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income.

*Fiscal agent* shall mean the person or entity designated to serve as the investment agent and adviser and custodian of the fund of the employees retirement system.

*General employee* shall mean any person other than a police officer who is employed by the city as a regular, full-time employee in the normal employer-employee relationship.

*General employee board* shall mean the general employees board of trustees, which shall serve as trustees of the general employee fund herein established and which shall have administrative authority and supervision of the general employees retirement system. The general employees board shall be the administrator of the general employees system, as required by Florida Statutes.

*General employees fund* shall mean the fund established as part of the general employees retirement system; all funds, assets and contributions for the general employees system shall be retained and accumulated in the fund.

*Member* shall mean any person employed by the city as a general employee or police officer. General employees and police officers who elect to participate in their respective deferred retirement option plan ("DROP") shall upon their election to participate in the DROP no longer be considered members of the plan, provided, however, that police officer DROP participants shall be considered members of the plan for the sole purpose of participating in elections for the board of trustees and serving as members of the board of trustees if elected by their fellow police officers.

*Police officer* shall mean any person employed as a sworn police officer of the police department on a regular, full-time basis in the normal employer-employee relationship. Municipal employees whose primary purpose is to perform clerical or other non-law-enforcement duties with the city's police department shall not be deemed nor considered police officers for purposes of this system. In the event of a conflict between this paragraph and section 185.02(1), Florida Statutes, the provisions of the Florida Statutes shall control.

*Police officers board* shall mean the police officers board of trustees, which shall serve as trustees of the police officers fund herein established and which shall have administrative authority and supervision of the police officers retirement system. The police officers board shall be the administrator of the police officers system, as required by Florida Statutes.

*Police officers fund* shall mean the fund established as part of the police officers retirement system; all funds, assets and contributions for the police officers system shall be retained and accumulated in the fund.

*Regular interest* shall mean such rate of interest as shall be determined and allowed from time to time by the board.

*Retiree* shall mean any former member who has retired under the provisions hereof and is receiving benefits from the funds. A police officer or general employee who enters the DROP shall be considered a retiree for all purposes of the plan, provided, however, that police officer DROP participants shall be considered members of the plan for the sole purpose of participating in elections for the board of trustees and serving as members of the board of trustees if elected by their fellow police officers.

*System* shall mean the City of Plantation Employees Retirement System as established by this chapter, and shall include both the general employees retirement fund and the police officers retirement fund. (Code 1964, § 9A-2; Ord. No. 1380, § 1, 2-19-86; Ord. No. 1416, § 2, 8-27-86; Ord. No. 1594, § 7, 12-14-88; Ord. No. 1698, § 8, 4-18-90; Ord. No. 1757, § 1, 12-19-90; Ord. No. 2011, § 1, 1-4-95; Ord. No. 2027, § 2, 5-24-95; Ord. No. 2250, § 1, 11-8-2000; Ord. No. 2259, § 1, 9-26-2001; Ord. No. 2262, § 1, 10-17-2001; Ord. No. 2303, § 1, 8-27-2003; Ord. No. 2308, § 1, 10-29-2003; Ord. No. 2317, § 1, 4-14-2004; Ord. No. 2347, § 1, 8-10-2005)

**Cross References:** Definitions and rules of construction generally, § 1-2.

#### **Sec. 18-17.5. Ex officio service.**

In the event an officer of the city is selected to serve on one (1) or more of the city's boards of trustees for the general employees retirement system, the police officers retirement system, or the volunteer firefighters system, such trustee service shall be ex officio to his or her other office, regardless of the manner in which such trustee is seated. The duties and responsibilities of trusteeship shall be imposed in addition to and as part of the duties and responsibilities of such person's other office. The words "officer" and "office" as used herein shall include all persons who are officers or who hold an office for the purpose of Art. II, Sec. 5(a), Florida Constitution.

(Ord. No. 2316, § 1, 3-31-2004)

#### **Sec. 18-18. Eligibility.**

(a) All full-time, salaried, or hourly paid general employees shall be eligible for membership in the general employees retirement system upon date of employment. The following shall not be eligible:

- (1) City attorneys, city prosecutors, consulting engineers.
- (2) Part-time contractual employees (independent contractors).
- (3) Medical directors.
- (4) The mayor and members of the city council.

(b) Effective September 1, 1973, all present employees as a condition of continued employment by the city shall become members of the system whether or not they have completed one (1) year of continuous employment.

(c) All future new employees shall become members of the system, as a condition of employment, on date of hire by the city.

(d) Effective July 1, 1994, all former members, actively serving in office, former members no longer serving in office and retirees under the Elected Public Officials Retirement System (repealed effective June 30, 1994), shall be members, former members no longer serving in office, and retirees of the General Employees Retirement System, and shall be entitled to benefits thereunder as follows:

- (1) All former members of the Elected Public Officials Retirement System who have served but are no longer serving in office, or who have retired as elected public officials as of the date hereof shall receive the same pension benefits that they would have been entitled to receive pursuant to former Code of Ordinances section 18-28.1(a) as it existed immediately prior to its repeal.
- (2) All elected public officials serving in office on December 1, 1993, shall be one hundred (100) percent vested in the retirement benefits accrued to them respectively, and shall be entitled to receive payment of said benefits, pursuant to former Code of Ordinances section 18-28.1(a) as of July 1, 1994. The vested accrued benefit of any of the above-described elected public officials at any given time after July 1, 1994, shall be, the total accrued benefit at such time as described in the preceding portions of this subsection (2) determined solely in accordance with former Code of Ordinances section 18-28.1(a).

(Code 1964, § 9A-3(1), (2); Ord. No. 1416, § 3, 8-27-86; Ord. No. 1577, § 1, 9-28-88; Ord. No. 1984, § 2, 6-8-94; Ord. No. 2027, § 3, 5-24-95)

#### **Sec. 18-19. Credited service for general employees.**

(a) The total service, during which a person serves as a full-time employee of the city, provided he contributes to the system for each year of service after the effective date shall be the credited service. A member as of September 1, 1973, who did not receive credit for service for his first year of employment shall have the option of making retroactive contributions in an amount equal to that which would have been contributed had he been a member during such year, and thereby receive credit for benefit purposes for such year. An employee as of September 1, 1973, who did not previously elect to become a member of the retirement system shall have the option of making retroactive contributions in an amount equal to that which would have been contributed had he become a member when first employed or on the effective date, if later, and thereby receive credit for benefit purposes for all years of service from date of employment. An employee as of September 1, 1973, who did not previously elect to become a member and, also, who does not elect to make retroactive contributions will receive credit for service beginning September 1, 1973. Employees hired on or after September 1, 1973, will receive credited service from date of hire. In no event shall a member receive credit for service in excess of thirty (30) years.

(b) In determining the aggregate number of years of service, the time spent in the military service of the Armed Forces of the United States or United States Merchant Marine, while on official leave of absence for such reason, shall be added to years of actual service. However, credit for such military service shall not exceed five (5) years. Further, to receive credit for such service:

- (1) The member must return to his employment within ninety (90) days from the date of his release from such active service or from hospitalization continuing after discharge for a period of not

more than one (1) year; and

- (2) The member must contribute into the fund the same sum which he would have contributed if he had remained a member. Further, a request for credit for such military service must be made by the member within ninety (90) days after reemployment with the city from such leave of absence granted, or such military service credit shall be forfeited forever.
- (3) To receive this service credit while on the leave of absence, the member must elect one of the following options:
  - a. The member shall continue to make the monthly contributions during the leave of absence;
  - b. The member shall make any necessary contributions within thirty (30) days after the member's return to active employment; or
  - c. The member shall make the necessary contributions in equal monthly installments over a two-year period from the member's return to active employment with interest, at an annual interest rate of six (6) percent.

An employee making installment payments shall complete all required payments prior to payment of any benefits. If installment payments are not completed at the time an employee retires, the employee shall not receive credit for the remaining period for which payments were not made.

(c) If a person is granted a leave of absence by the city for medical or nonmedical reasons, he may receive membership service credit for the period he was on a leave of absence by contributing the amount that would have been contributed had the member continued in city employment for the period of time absent, based upon the member's salary on the effective date of the leave of absence, and shall again become a member of the system, provided the person returns to active employment within two (2) years. To receive this service credit while on the leave of absence, the member may not be gainfully employed with another employer and must comply with the provisions of subsection (b)(3) above. The particular option must be exercised by an appropriate written declaration within fourteen (14) days from the date the leave of absence is granted.

(d) Any member granted a leave of absence may elect to leave his contributions in the fund pending his return as an employee and member and receive credit for the years for which contributions were made, plus prior service, if any, provided such member returns to employment and membership within one (1) month following the end of his leave of absence; except as regards members on military leave of absence, who shall return to membership within three (3) months. Other than as set forth herein, no member shall be entitled to credited service except for those years during which he is a member and made the required contributions.

(e) All employees who entered into the general employees DROP (deferred retirement option plan), on or before the effective date of Ordinance [No. 2271, May 1, 2002] and who subsequently elected to opt out of the DROP and re-enter the general employees retirement system in accordance with the provisions of section 18-60 shall receive full credited service toward retirement for the entire length of time the employee participated in the DROP. If an employee elects to opt out of the DROP and re-enter the general employees

retirement system, they [such employee] shall be barred from making a DROP election in the future.

(f) A member, at any time following the completion of their probationary period of employment with the city and prior to their retirement from the city, may purchase up to three (3) years of credited service towards the calculation of their retirement benefit. The member shall be responsible for a lump sum payment into the retirement system covering the full actuarial costs of the amount of credited service to be purchased. The actuarial cost shall be determined by the system's actuary based on the member's compensation at the time payment for the credited service term is due and all the existing actuarial assumptions related to the plan. The years of service purchased may be used in determining a member's vesting and retirement eligibility. For purposes of clarification, an employee's purchase of years of credited service pursuant to this subsection shall not adjust any employee benefits that may from time to time exist outside of the employees retirement system which may be dependent upon or influenced by years of service (e.g. consideration for promotion, annual leave benefits, vacation scheduling, senior executive retention and longevity package benefits, longevity pay, etc.).

(g) *Transfers between systems.* Should a member change employment status from a general employee to a police officer or vice versa, the following applies:

- (1) The member's accumulated contributions will remain the first plans' fund.
- (2) The member's retirement and supplemental benefits payable by the first plan will be calculated using credited service as of the member's date of transfer and average monthly salary as of the date of termination or date of transfer, whichever is greater. These benefits are payable on what would have been the member's normal retirement date had the member continued employment with the first plan, but shall not be paid prior to the member's date of termination of employment.
- (3) The member will not be eligible for any other benefits under the first plan.
- (4) For purposes of determining the member's eligibility for vesting, death, disability and retirement benefits under the new plan, the member's credited service under the first plan will be included.
- (5) For purposes of determining the amount of retirement benefits under the new plan the member will receive, only the member's credited service following the member's date of transfer will be included.
- (6) For purposes of determining the amount of any death or disability benefits under the new plan the member will receive, the member's credited service under the first plan will be included.
- (7) Funds for each plan shall remain separate. Funds from one (1) plan shall not be transferred to the other. If a member transfers between plans, a member would receive a separate benefit check from each plan when the member retires.

(Code 1964, § 9A-2(f)(1); Ord. No. 1578, § 1, 9-28-88; Ord. No. 1757, § 3, 12-19-90; Ord. No. 1787, §§ 3, 4, 7-10-91; Ord. No. 1789, §§ 2, 3, 7-10-91; Ord. No. 2271, § 1, 5-1-2002; Ord. No. 2337, § 1, 8-10-2005; Ord. No. 2412, § 1, 7-23-2008)

## **Sec. 18-20. Reserved.**

**Editors Note:** Section 4 of Ord. No. 2027, adopted May 24, 1995, repealed § 18-20, which pertained to credited service for elected public officials and derived from Code 1964, § 9A-21(f)(2).

### **Sec. 18-21. Member contributions.**

(a) *Mandatory contribution rate.* It shall be mandatory for all members of the system to contribute to the fund at the rate of eight and one-half (8 1/2) percent of their compensation. Compensation shall consist of base pay only during a given period and shall not include extra time, holiday, or other incentive pay.

(b) *Payroll deduction.* The city treasurer shall cause to be deducted from the compensation of each member for each payroll period the proper contribution authorized and payable by the respective members for such payroll period. If the city agrees to assume and pay member contributions in lieu of direct contributions by the member, such contributions shall accordingly be paid into the fund on behalf of the members. No member subject to such agreement shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the city directly to the fund. All such contributions by the city shall be deemed and considered as part of the member's accumulated contributions and subject to all provisions of this system pertaining to accumulated contributions of members. The intent of this language is to comply with section 414(h)(2) of the Internal Revenue Code.

(c) In no event will the total of benefits received from the retirement system by a member, or his designated beneficiary or estate, be less than the total of his accumulated contributions.  
(Code 1964, § 9A-3(3); Ord. No. 1336, § 1, 7-24-85; Ord. No. 1380, § 2, 2-19-86; Ord. No. 1414, § 1, 8-26-86; Ord. No. 1415, § 1, 8-27-86; Ord. No. 1416, § 3, 8-27-86; Ord. No. 2259, § 2, 9-26-2001; Ord. No. 2348, § 1, 8-10-2005)

### **Sec. 18-22. Cessation of contributions.**

The contributions required of a member under this article shall cease upon:

- (1) Service retirement.
- (2) Disability retirement.
- (3) Death.
- (4) Other termination of employment.

(5) With regard to general employees only, the completion of thirty (30) years of credited service.  
(Code 1964, § 9A-3(4); Ord. No. 1416, § 3, 8-27-86; Ord. No. 1578, § 2, 9-28-88; Ord. No. 2027, § 5, 5-24-95)

### **Sec. 18-23. Suspension or discharge.**

If a person is discharged or suspended and subsequently reinstated as an employee, he may receive membership service credit for the period he was under suspension or discharge by maintaining contributions for such period, and shall again become a member of the system. Such contributions shall be made within thirty (30) days after the member's return to active employment at no interest; or in equal monthly installments over a two-year period from the member's return to active employment with interest, at an annual interest rate of eight (8) percent. An employee making installment payments shall complete all required payments prior to payment

of any benefits. If installment payments are not completed at the time an employee retires, the employee shall not receive credit for the remaining period for which payments were not made.  
(Code 1964, § 9A-3(5); Ord. No. 1788, § 1, 7-10-91; Ord. No. 2271, § 2, 5-1-2002)

#### **Sec. 18-24. Contributions upon re-employment.**

If a person is re-employed by the city after having his previous employment with the city terminate with or without cause, he shall for the purposes of this article be deemed to be a new employee as of his date of re-employment. In event of re-employment within two (2) years of the termination of his last period of employment, an employee may have his credited service restored for his membership under the system during his last period of employment provided he pays into the fund the accumulated contributions which he received upon such termination, upon which payment to the fund such employee shall continue as a member under the system and shall make contributions to the system and be credited with additional membership service beginning with the date of such payment to the fund. A member who has under the normal or early retirement provisions of the system, and who is subsequently re-employed by the city, except those who were participants in the DROP on or before the effective date of Ordinance [No.] 2271 and elected to opt out of the DROP and re-enter the general employees retirement system under provisions of section 18-60 shall not make further member contributions to the system and shall be entitled only to the benefits arising as a result of his previous retirement under this system. Re-entry to the system after discontinuance of original participation shall be permitted on a uniform, nondiscriminatory basis, and in no event shall any duplication of benefits result therefrom.  
(Code 1964, § 9A-3(6); Ord. No. 2271, § 3, 5-1-2002)

#### **Sec. 18-25. Cessation of membership.**

Upon cessation of membership each member shall thereafter lose all rights to any benefit under this chapter except as hereinafter provided.  
(Code 1964, § 9A-3(7))

#### **Sec. 18-26. Retirement dates.**

The respective retirement dates for members shall be as follows:

- (1) *Normal retirement date.* The normal retirement date for members shall be the first day of the month coincident with or next following the date on which a member attains age fifty-five (55) and completes ten (10) years of credited service, or at any time thereafter as determined by the member.
- (2) *Early retirement.* Members may retire from employment with the city on the first day of any month following the fiftieth birthday, provided that the member shall have completed at least fifteen (15) years of credited service on such early retirement date, or at any time thereafter as determined by the member or a member may retire from employment following the completion of twenty-five (25) years of credited service at any age.

Each member shall become one hundred (100) percent vested in his accrued benefit on his early retirement date.

(Code 1964, § 9A-4; Ord. No. 1335, § 1, 7-24-85; Ord. No. 1336, §§ 2, 3, 7-24-85; Ord. No. 1380, § 3, 2-19-86;

Ord. No. 1414, §§ 2, 3, 8-27-86; Ord. No. 1416, § 4, 8-27-86; Ord. No. 1438, § 1, 11-19-86; Ord. No. 2229, § 1, 8-30-2000)

### **Sec. 18-27. Retirement benefits.**

(a) Subject to the limitations on credited service, the retirement benefits for members shall be as set forth in sections 18-28 through 18-36.

(b) For purposes of establishing the actuarial present value or any form of payment, all future payments shall be discounted for interest and mortality by using eight (8) percent interest and 1983 60/40 Group Annuity Mortality Table for Males and Females, with ages set ahead five (5) years in the case of disability retirees.

(Ord. No. 2262, § 2, 10-17-01; Ord. No. 2271, § 4, 5-1-2002)

### **Sec. 18-28. Normal retirement benefit.**

The normal retirement benefit (annual benefit) for members who retire with less than fifteen (15) years of credited service shall be two and three-fourths (2 3/4) percent of average final compensation times all years of credited service. The normal retirement benefit (annual benefit) for members who retire with fifteen (15) or more years of credited service shall be three (3) percent of average final compensation times all years of credited service, subject to a maximum of twenty-seven and a half (27 1/2) years of credited service (82.5 percent of average final compensation).

(Code 1964, § 9A-5(a); Ord. No. 1415, § 2, 8-27-86; Ord. No. 1416, § 5, 8-27-86; Ord. No. 1707, § 1, 5-16-90; Ord. No. 1929, § 1, 6-30-93; Ord. No. 2348, § 2, 8-10-2005)

**Editors Note:** Section 2 of Ord. No. 1707, adopted May 16, 1990, which section did not amend the Code, provides as follows:

"Section 2: This ordinance shall take effect upon the passage and signature by the mayor. The benefits provided in this ordinance shall apply to each active general employee member employed by the city on the effective date of this ordinance, and shall be effective from his employment date."

### **Sec. 18-28.1. Reserved.**

**Editors Note:** Section 1 of Ord. No. 1983, adopted June 8, 1994, repealed § 18-28.1, which pertained to retirement benefits for vested elected public officials and continuation of health insurance benefits and derived from Ord. No. 1493, §§ 1, 2, 9-2-87; Ord. No. 1609, § 1, 3-29-89; Ord. No. 1647, § 1, 8-30-89; Ord. No. 1685, § 1, 2-7-90; Ord. No. 1708, § 2, 5-6-90; Ord. No. 1876, § 1, 9-30-92; Ord. No. 1930, § 1, 6-30-93.

### **Sec. 18-29. Delayed retirement benefit.**

A member shall, upon the first day of the month following retirement at his or her delayed retirement date, receive a monthly retirement benefit which shall commence on such delayed retirement date and shall be continued on the first day of each month thereafter during the lifetime of the member. The amount of each such monthly retirement benefit shall be determined in the same manner as for retirement at his early or normal retirement date, whichever the member both chooses and is eligible for, except that credited service shall be determined as of actual retirement date. In no event shall this benefit exceed one hundred (100) percent of the member's average final compensation, and the member shall not be entitled to any back payments to which the member would have been entitled had the member retired on the date the member was eligible to do so.

(Code 1964, § 9A-5(b); Ord. No. 2229, § 2, 8-30-2000)

### **Sec. 18-30. Early retirement benefit.**

(a) A member shall receive upon retirement at his early retirement date either a deferred or an immediate monthly retirement benefit, as follows:

- (1) A deferred monthly retirement benefit which shall commence on his normal retirement date and shall be continued on the first day of each month thereafter during the lifetime of the member; the amount of each such deferred monthly retirement benefit to be determined in the same manner as for retirement at his normal retirement date except that credited service and average final compensation shall be determined as of his early retirement date; or
- (2) An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter during the lifetime of the member. The amount of such immediate monthly retirement benefit shall be the amount provided in subparagraph (1), reduced by two (2) percent for each year by which the commencement date of benefit precedes the otherwise normal retirement date.

(b) In no event shall this benefit exceed one hundred (100) percent of the member's average final compensation.

(Code 1964, § 9A-5(c); Ord. No. 2259, § 3, 9-26-01)

### **Sec. 18-30.1. Supplemental benefit.**

Any member who retires upon reaching normal or early retirement shall be entitled to the sum of ten dollars (\$10.00) a month for each full year of service, payable on December 1 of each year, for each full calendar year after retirement, for the lifetime of the member only. In the event of any partial year of retirement, such supplemental benefit shall be prorated for any such portion of a partial retirement year and paid as aforesaid. Notwithstanding any language to the contrary in the DROP document (section 18-60), general employees who elect to participate in the DROP, including those who are participating in the DROP upon the effective date of this Ordinance [No. 2250], shall be entitled to this supplemental benefit. For purposes of calculating the amount of the supplemental benefit for employees who have elected to participate in the DROP, both the employee's pre-DROP election years of service and post-DROP election years of service, shall be added together. The employee who has made a DROP election shall not begin to receive this supplemental benefit until their active employment with the city has terminated.

(Ord. No. 2224, § 1, 6-28-2000; Ord. No. 2237, § 1, 11-8-2000; Ord. No. 2250, § 1, 4-4-2001)

### **Sec. 18-30.2. Monthly supplemental benefit.**

Any member and any general employee participating in the DROP, who terminates his or her active employment with the city after September 30, 2005, shall upon the commencement of payment of their normal or early retirement benefit, be paid a three hundred dollar (\$300.00) per month supplement in addition to the member's monthly retirement benefit. Such benefit shall be payable only during the lifetime of the retiree and shall not extend any benefits to the retiree's surviving beneficiary. No entitlement to payments or accruals of this benefit shall begin until active employment with the city has terminated.

In the case of a member who retires or terminates their employment from the city as a police officer and

is entitled to a similar benefit under section 18-36(5) of this Code, the member shall not be entitled to payment of the supplemental benefit payable under this section.

(Ord. No. 2286, § 1, 10-9-2002; Ord. No. 2348, § 3, 8-10-2005)

### **Sec. 18-31. Disability retirement.**

(a) *Definition of disability.* For purposes of this system, total and permanent disability shall mean an injury, disease or condition which permanently incapacitates a member, either physically or mentally, from his regular and continuous duty within his classification as an employee of the city. A total and permanent disability arising directly from the performance of service to the city by a member as an employee of the city shall be considered to be a service incurred disability. A total and permanent disability arising from any other cause or source shall be considered to be a non-service-incurred disability. A member shall not be entitled to receive a disability retirement benefit from the system if the disability is a result of:

- (1) Excessive and habitual use of drugs, intoxicants or narcotics;
- (2) Injury or disease sustained by the member while willfully and illegally participating in fights, riots, civil insurrections or while committing a crime;
- (3) Injury or disease sustained by a member while serving in any of the armed forces;
- (4) Injury or disease sustained by the member after his employment with the city has been terminated.

A member shall not receive a service incurred disability benefit for injury or disease sustained by the member while working either as an employee or through some other contractual arrangement for anyone other than the city, performing a job function the same as or related to the member's city job function, and arising out of the scope of such other employment or contractual arrangement, excepting injuries sustained by members while performing duties on behalf of the city and while within the city's jurisdiction although such injuries occurred at an outside employer's job site. In addition, a member shall not be entitled to receive a disability retirement benefit from the system on the basis of any condition which existed prior to the member's employment and/or which was evidenced during the member's pre-employment physical. If a member who is applying for disability benefits is eligible for a normal retirement benefit, no disability benefit shall be payable by the system; the member's normal retirement benefit shall be paid when he actually retires.

(b) *Application for benefits.* Before a member may receive benefits, and in order for the board to consider a member's request for disability retirement benefits, the member must apply in writing to the board for such benefits. The member must also concurrently apply for long term disability coverage, if any, with the city's long term disability insurance carrier in connection with nonservice incurred disability retirement applications. The disability retirement benefit application must be made as soon as is practicable and in no event more than six (6) months following the date when the disability condition happened, except in cases where the disability condition arises from a gradual decline in job specific function related to a sickness or disease in which cases application shall be filed no later than six (6) months of the first time the claiming employee reaches maximum medical improvement for such sickness or disease. Regardless of the foregoing deadline, the disability retirement benefit application must be made while the member is an employee of the city. Upon receipt of proper disability retirement benefit application by the board, the board shall arrange for a physical

examination of the applicant by the medical board. A further condition for the receipt of disability retirement benefits from the system is that the applicant must apply for disability benefits from Social Security and workers' compensation. Written proof of such application must be submitted to the board. Failure of the applicant to qualify as being disabled under either the Social Security or workers' compensation laws or any available long term disability insurance coverage may be considered by the board in review or reconsideration by the board of such member's disability retirement.

(c) *Long term disability coverage.* When the city maintains long term disability coverage, consideration of non service incurred disability retirement benefit applications shall be deferred until the city's long term disability carrier makes a determination on whether the member is eligible for long term disability coverage and any nonjudicial appeals of that determination are exhausted, barring extraordinary circumstances.

(d) *Medical board.* When a member submits proper application for a disability retirement benefit, the board of trustees shall designate a medical board to be composed of at least one (1) but not more than three (3) physicians. The choice of physician shall be made in accordance with the condition or conditions upon which the member is applying for disability retirement. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this section, shall investigate all essential statements or certificates made by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusions and recommendations upon all matters referred to it. The payment for such services shall be determined by the board of trustees.

(e) *Determination of disability.* All questions relating to eligibility for initial payment or continuance of disability benefits shall be determined by the board of trustees, taking into consideration the recommendations of the medical board and such other evidence of which the board may avail itself. The general steps which the board shall follow in its determination shall be as listed below, provided however, that the board may in its discretion alter or modify these steps:

- (1) Determine whether the member's application is proper and timely;
- (2) If application is for non service-incurred disability, determine whether the five (5) years of credited service requirement has been met;
- (3) Based on all evidence submitted to the board, determine whether the application satisfies the definition of disability, including the listed exclusions;
- (4) Determine whether the disability is to be considered a service incurred disability or a non service-incurred disability, taking into consideration F.S. §§ 175.231 and 185.34;
- (5) *Establish a date of disability.* This date shall be the date of injury causing the disability. If the date of injury cannot be determined, the date when the member could no longer perform his regular and continuous duties within his job classification, shall be the date of disability;
- (f) *Disability retirement benefits.*
  - (1) *Eligibility.* All members are eligible for service incurred disability benefits, regardless of their length of credited service. Only a member who completes five (5) years of credited service prior

to becoming disabled shall be eligible for non service-incurred disability benefits.

- (2) Initial amount of service incurred disability benefit. The initial amount of service incurred disability benefits shall be seventy (70) percent of the member's monthly rate of basic pay in effect on the date of disability, subject in any event to the offsets listed below in subsection (f)(5) of this section.
- (3) Except as provided in the next sentence, the initial amount of non service-incurred disability benefits shall be equal to the lesser of:
  - a. The member's accrued normal retirement benefit as of the date of disability; or,
  - b. Seventy (70) percent of the member's monthly rate of basic pay in effect on the date of disability, subject in either event to the offsets listed below in subsection (f)(5) of this section. Where the medical board has given an opinion to the board of trustees that the nature and extent of the disability precludes any and all employment opportunities for the member, and the board of trustees has concluded that the disability precludes any and all gainful employment by the member, then in that event, the amount of disability benefits shall be seventy (70) percent of the member's monthly rate of basic pay in effect on the date of disability, subject in any event to the offsets listed below in subsection (f)(5) of this section.
- (4) *Terms of payments.* Disability benefits shall commence on or as of the first day of the month coincident with or next following the date of disability, as established by the board, and shall continue to be paid on the first day of each subsequent month until the earliest of the member's death, recovery from disability or normal retirement date. The normal retirement date shall be determined as that date when the member would first qualify for normal retirement benefits if he or she had remained in employment with the city. If a disability retiree attains his or her normal retirement date, his or her disability benefit shall terminate and the applicable normal retirement benefit shall be paid. The normal retirement benefit shall be computed on the basis of the member's average final compensation as of the member's date of disability and his or her total credited service including the period during which he or she received disability benefits from the system. Notwithstanding any provision in this Code to the contrary, no benefit paid to a disability retiree, upon reaching the applicable normal retirement date, shall be reduced by reason that said disability retiree has attained his or her normal retirement date.
- (5) *Benefit offsets.* Disability retirement benefits described above shall be reduced by any wages of similar payments made by the city, by any disability benefits or other benefits paid by Social Security, workers' compensation benefits and by other benefit offsets set forth in subsection (h) of this section. The reduction for Social Security shall be in the amount of the primary insurance only, not including any family benefit. Any cost of living adjustments in the disability retiree's Social Security and workers' compensation benefits shall not serve to reduce further the disability benefit payable from the system. The reduction for Social Security disability benefits shall terminate upon the retiree's attainment of age sixty-five (65) years. In the case of a lump sum settlement paid by workers' compensation, the disability retirement benefit payable from the system shall be suspended for a certain number of months. In addition, in the case of a lump sum

settlement paid by workers' compensation or Social Security for post and future compensation and where there is no allocation contained within the settlement award to distinguish the portion of the award for the period prior to the time disability retirement benefits commence (past compensation) and the period following the time disability retirement benefits commence (future compensation), fifty (50) percent of the lump sum award shall be deemed allocable to the period following the time disability retirement benefits commence (future compensation) and subject to the calculation of benefit offsets. The number of months of suspension shall be obtained by dividing the amount of the lump sum settlement by the amount the disability benefit would be if there were no workers' compensation offset. Once the number of months of suspension has been completed the disability retirement benefit from the system shall be resumed. Additional benefit adjustments shall also apply as described below in subsection (h) of this section. However, in no event shall a member's total monthly benefit, including disability retirement benefits, and after deduction of all benefit offsets specified above and in subsection (h) below, exceed seventy (70) percent of the member's monthly rate of basic pay in effect on the date of disability, regardless of whether the benefits are payable as a result of service or non service-incurred disability. This seventy (70) percent limitation shall expire upon a retiree reaching the age of sixty-five (65) years.

(g) *Annual report by disability retiree.* Each person who first qualifies for disability retirement benefits on or after July 24, 1985, shall be required to submit to the board no later than March first of each calendar year a signed and notarized report which includes but is not limited to the following information:

- (1) A medical report from the disability retiree's physician stating whether the retiree is still incapacitated to perform the regular and continuous duties he was performing for the city prior to his date of disability. The physician's statement must be dated within four (4) months of the March 1 report deadline.
- (2) A statement showing the amount the disability retiree received in the immediately preceding calendar year from the following sources:
  - a. Social Security, primary insurance amount only, not including family benefits;
  - b. Workers' compensation, excluding medical reimbursements;
  - c. Each employer which paid him any compensation for work performed during the year, copies of all IRS W-2 forms shall be required for this purpose; and,
  - d. Net earnings from self-employment income. Copies of appropriate tax forms shall be required for this purpose.
- (3) A statement to the effect that the disability retiree understands that if the report is incomplete or incorrect, his disability retirement benefits may be discontinued. If the required annual report is not submitted to the board on a timely basis or is incomplete or incorrect, the board may in its discretion discontinue the disability retirement benefits.
- (h) *Annual benefit adjustments.* The monthly disability retirement benefit of each person who first

qualifies for the benefits on or after July 24, 1985, shall be adjusted annually as described in this section. First, the sum of the following items shall be calculated for the previous calendar year:

- (1) The disability retirement benefit paid from the system;
- (2) The Social Security primary insurance amounts, not including family benefits, less any cost of living adjustments since the benefit first went into effect;
- (3) The worker's compensation disability benefits, excluding medical reimbursements, less any cost of living adjustments since the benefit first went into effect;
- (4) Any salary received as evidenced by the IRS W-2 forms, excluding any sick and vacation pay received from the city pursuant to the disability, as determined by the board;
- (5) Any net earnings from self-employment income; and,
- (6) The amount of long term disability benefit that the member is eligible to receive from the city's long term disability carrier.

The annual rate of basic pay of the disability retiree on his date of disability shall then be subtracted from this sum. If there is any excess of the sum over the predisability annual rate of basic pay, then the disability retirement benefit payable from the system shall be reduced. The amount of the annual reduction shall be equal to fifty (50) percent of the first ten thousand dollars (\$10,000.00) of the excess plus one hundred (100) percent of the excess, if any, which exceeds ten thousand dollars (\$10,000.00). The annual reduction so computed shall then be divided by twelve (12) to make it a monthly reduction. The monthly reduction shall then be subtracted from the monthly disability retirement benefit which has most recently been paid. If the sum of the five (5) items listed above is less than the disability retirement benefit computed in accordance with subsections (f)(2) or (f)(3) of this section, as applicable, prior to the offset provided by subsection (f)(5) of this section, then the disability retirement benefit payable from the system shall be increased. The amount of the annual increase shall be equal to the amount of the disability retirement benefit computed in accordance with subsections (f)(2) or (f)(3) of this section, as applicable, prior to the offset provided by subsection (f)(5) of this section, minus the sum of the five (5) items listed above. The annual increase so computed shall then be divided by twelve (12) to make it a monthly increase. The monthly increase shall then be added to the monthly disability retirement benefit which has most recently been paid. The newly adjusted disability retirement benefit shall be paid for the twelve (12) months beginning on the next June 1.

(i) *Disability affidavit.* No member otherwise eligible to receive disability benefits shall be paid such benefits unless and until such member files a disability affidavit with the board on a form furnished by the board. By such disability affidavit the prospective retiree shall affirm that he is acquainted and familiar with the terms and conditions of his disability retirement. In particular, he shall acknowledge the authority of the board to require him to undergo periodic future physical examinations in order to determine whether he is still disabled.

(j) *Authority for reexamination.* Each person who first qualifies for or is then receiving disability retirement benefits on or after July 24, 1985, shall be subjected to periodic reexamination by a medical board selected by the board of trustees to determine if such disability has ceased to exist. Such reexaminations shall

not be permitted more often than twice in any calendar year.

(k) *Recovery from disability.* If a member who has been retired on a disability benefit regains his health and is able to perform the duties he was performing for the city prior to his date of disability, the board shall discontinue the pension, provided the city permits the member to resume his employment in the job classification the member was in prior to the date of disability. If such member resumes his employment with the city, then he may pay into the fund an amount equal to the aggregate contributions plus interest at a rate to be determined by the board, computed upon his annual rate of basic pay at the time of his disability retirement, that he would have been required to make under this article, as determined by the board, during the period of his disability retirement had he not been retired. If these amounts are paid into the fund, such member shall receive creditable service for the period of such disability retirement. Regardless of whether these payments are made into the fund, such member shall retain credit for the period of credited service prior to the date of disability. (Ord. No. 1335, § 2, 7-24-85; Ord. No. 1380, §§ 6, 7, 2-19-86; Ord. No. 1416, § 6(a)--(j), 8-27-86; Ord. No. 1915, § 1, 4-28-93; Ord. No. 2159, § 1, 4-29-98; Ord. No. 2337, § 2, 8-10-2005; Ord. No. 2364, § 1, 5-10-2006; Ord. No. 2367, § 1, 7-12-2006; Ord. No. 2415, § 1, 8-6-2008)

### **Sec. 18-32. Death and termination benefits.**

(a) Upon the death of a retiree there shall be no death benefit, except for the return of accumulated contributions not already returned in the form of retirement benefits, unless prior to retirement the retiree had selected an optional form of benefit, providing survivor benefits to a designated beneficiary or co-annuitant, and in such case the survivorship benefit, if any, shall be payable as directed by such retiree prior to his retirement.

(b) Upon the death of a member with less than ten (10) years of credited service, his beneficiary or estate shall receive an amount equal to the member's accumulated contributions in a lump sum, by monthly installments or in such other manner as may be prescribed by the board, less any prior distribution thereof.

(c) Upon the death of a member entitled to an early or normal retirement benefit, without such member having previously selected an option under which survivorship benefits are payable, it shall be assumed that such member has selected option 18-40, Life and Ten Years Certain and retired immediately preceding his death; subject to the provision, however, that the resulting benefit payments may not be less in value than the deceased member's accumulated contributions. If the deceased member had selected an option, that option shall apply in the same manner but without regard to the accumulated contributions.

(d) Upon the death of a member not eligible for early or normal retirement who is still (a) actively employed by the city or (b) receiving a disability benefit, and who has ten (10) or more years of credited service, a death benefit shall be payable in an amount equal to the accrued retirement benefit, determined in the same manner as in (f) below upon termination of employment with the city, unless in lieu thereof the beneficiary elects the benefit described in the following subsection (e). For this purpose, credited service shall be determined as of the date of death, or where applicable as of the prior date of disability. The benefit shall be payable to the beneficiary on a monthly basis for a period of ten (10) years commencing on the first day of the month following the date the member would have reached his or her fifty-fifth birthday.

(e) Upon the death of a member not eligible for early normal retirement who is actively employed by the city and who has ten (10) or more years of credited service, the following death benefit may be payable as provided in this paragraph, in lieu and in place of the death benefit provided in subsection (d), above, as

determined by the beneficiary. The same benefit shall also be payable upon the death of a terminated vested member who has left his accumulated contributions in the fund pursuant to subsection (f)(2) of the Code. The death benefit, in addition to the payment of the member's accumulated contributions pursuant to subsection (b), above, shall be equal to a specified percentage of the member's accumulated contribution as follows:

Years of credited service	Death benefit as a percentage of the member's accumulated contributions
Less than 10	0%
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

The benefit, if elected by the beneficiary, shall be payable in a lump sum as soon as is practicable following the death of the member.

(f) Each member who terminates employment with the city and who is not eligible for any of the retirement, disability or death benefits set forth herein shall receive from the fund within a reasonable time following his date of termination a refund of his accumulated contributions. Provided, however, that if at the time of his termination of employment any member has ten (10) or more years of credited service, he shall have the option of either receiving his accumulated contributions or his accrued retirement benefit payable commencing at the date which would have been his normal retirement date had he remained in full-time employment with the city. Further provided, that if at the time of his termination of employment any member has fifteen (15) or more years of credited service, he shall have the option of either receiving his accumulated contributions or his early retirement benefit payable commencing at the date which would have been his early retirement date had he remained in full-time employment with the city. Forfeitures arising from terminations of employment shall serve only to reduce future city contributions.

(Code 1964, § 9A-5(f); Ord. No. 1416, § 6(k), 8-27-86; Ord. No. 1448, § 1, 1-14-87; Ord. No. 1891, § 1, 12-2-92; Ord. No. 1908, § 1, 4-21-93; Ord. No. 1984, § 3, 6-8-94; Ord. No. 2159, § 1, 4-29-98; Ord. No. 2229, § 3, 8-30-2000)

**Sec. 18-33. Claims procedure for members and beneficiaries.**

(a) Any member or beneficiary whose application or claim for benefits has been denied shall receive from the board a written notice setting forth the specific reasons for such denial, the reasons therein to be clearly and fully explained so as to afford such member or beneficiary a clear understanding of the decision rendered.

(b) Any member or beneficiary whose application or claim for benefits has been denied shall have the right to a rehearing and a fair and full review by the board regarding the facts, circumstances and information pertaining to the claim and the reasons for denial of such claim.

(Code 1964, § 9A-5(g); Ord. No. 1416, § 6(l), 8-27-86)

**Sec. 18-34. Elected public officials; provisions applicable.**

Except as otherwise provided herein, the provisions of this system shall apply to elected public officials in the same manner as such provisions apply to other members hereunder; provided, however, the monthly retirement benefit payable to any elected public official who has served for twenty (20) or more years as an elected public official for the city, in accordance with F.S. § 112.048, shall be the greater of the retirement benefits provided under this system or the retirement benefit authorized and provided for under F.S. § 112.048. (Code 1964, § 9A-5(h); Ord. No. 1416, § 6(m), 8-27-86)

**Sec. 18-35. Limitation on benefits.**

(a) In no event may a member's annual benefit exceed the lesser of:

- (1) One hundred sixty thousand dollars (\$160,000.00) adjusted for cost of living in accordance with Internal Revenue Code (IRC) section 415(d), but only for the year in which such adjustment is effective, or
- (2) One hundred (100) percent of the average annual compensation for the member's three (3) highest paid consecutive years; however, benefits of up to ten thousand dollars (\$10,000.00) a year can be paid without regard to the limitation of one hundred (100) percent if the total retirement benefits payable to a member under all defined benefit plans, as defined in IRC section 414(j), maintained by the city for the present and any prior year do not exceed ten thousand dollars (\$10,000.00) and the city has not at any time maintained a defined contribution plan, as defined in IRC section 414(i), in which the employee was a member.

(b) If the member has less than ten (10) years of service with the city, as defined in IRC section 415(b)(5) and as modified by IRC section 415(b)(6)(D), the applicable limitations in subsections (a)(1) and (2) of this section shall be reduced by multiplying such limitation by a fraction, not to exceed one (1). The numerator of such fraction shall be the number of years, or parts thereof, of service with the city; the denominator shall be ten (10) years.

(c) For purposes of this section, the annual benefit means a benefit payable annually in the form of a straight life annuity with no ancillary or incidental benefits and with no member or rollover contributions. To the extent that ancillary benefits are provided, the limits set forth in subsections (a)(1) and (2) of this section will be reduced actuarially, using an interest rate assumption equal to the greater of five (5) percent or the interest rate used in the most recent annual actuarial valuation, to reflect such ancillary benefits.

(d) If distribution of retirement benefits begins before age sixty-two (62) years, the dollar limitation as described in subsection (a)(1) of this section shall be reduced actuarially using an interest rate assumption equal to the greater of five (5) percent or the interest rate used in the most recent annual actuarial valuation; however, retirement benefits shall not be reduced below seventy-five thousand dollars (\$75,000.00) if payment of benefits begins at or after age fifty-five (55) years and not below the actuarial equivalent of seventy-five thousand dollars (\$75,000.00) if payment of benefits begins before age fifty-five (55) years. If retirement benefits begin after age sixty-five (65) years, the dollar limitation of subsection (a)(1) of this section shall be increased actuarially using an interest assumption equal to the lesser of five (5) percent or the interest rate used

in the most recent annual actuarial valuation. For purposes of this section, the average annual compensation for a member's three (3) highest paid consecutive years shall mean the member's greatest aggregate compensation during the period of three (3) consecutive years in which the individual was an active member of the system. (Ord. No. 1386, § 4, 2-19-86; Ord. No. 1416, § 6(n), 8-27-86; Ord. No. 2308, § 2, 10-29-2003)

#### **Sec. 18-36. Distributions in plan years beginning after December 31, 1984.**

Commencing with the first plan year beginning after December 31, 1984, the entire interest of a member shall either be distributed to the member not later than April 1 following the calendar year in which the member attains age seventy and one-half (70 1/2) years or the calendar year in which the member terminates service as an employee, whichever is later. In the alternative, distribution shall commence no later than the above specified commencement date and be distributable over a period of time not exceeding the limitations set forth in this section:

- (1) Distributions to a member shall not extend beyond the life of the member or the lives of the member and the member's designated beneficiary, or over a period not extending beyond the life expectancy of the member or the life expectancy of the member and the member's designated beneficiary.
- (2) If distribution has commenced to a member, and such member dies before receiving their entire interest, the remainder of such interest shall be distributed over a period at least as rapidly as under the method of distribution in effect prior to such member's death; e.g., remainder of period certain basis.
- (3) Any method of distribution selected and made in writing by a member prior to January 1, 1984, and which is in compliance with system provisions prior to such date, shall be permitted under this section even though not in accordance with the above provisions as applied to plan years beginning after December 31, 1983.

(Ord. No. 1380, § 5, 2-19-86; Ord. No. 1416, § 6(a), 8-27-86; Ord. No. 2271, § 5, 5-1-2002)

#### **Sec. 18-37. Direct transfers of eligible distribution.**

This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plantation General Employees' Retirement System to the contrary, a distributee may elect, at the time and in the manner prescribed by the General Employee Retirement System Board of Trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(Ord. No. 20-27, § 2, 1-4-95)

#### **Sec. 18-38. Optional methods of retirement payments.**

Each member shall have the right at any time prior to his actual retirement date to elect to have his retirement benefits payable under any one of the options hereinafter set forth in lieu of the benefits otherwise provided, and to revoke any such elections and make a new election at any time prior to said actual retirement date. A member may elect to receive twenty-five (25) percent of the actuarially equivalent value of their benefits in a lump sum upon their retirement. The value of optional retirement benefits shall be actuarially

equivalent to the value of benefits otherwise payable. The member shall make such an election by written request to the board and such an election shall be subject to the approval of the board.  
(Code 1964, § 9A-6; Ord. No. 1538, § 1, 3-2-88; Ord. No. 1579, § 1, 9-28-88; Ord. No. 2271, § 6, 5-1-2002)

**Sec. 18-39. Joint and last survivor option.**

A member may elect to receive a decreased retirement benefit during his lifetime and have such decreased retirement benefit (or designated fraction thereof) continued after his death to and during the lifetime of another person, designated a contingent annuitant. In no event shall the present value of payments to the retiring member be less than fifty (50) percent of the total present value of payments to the retiring member and his beneficiary.

(Code 1964, § 9A-6(a))

**Sec. 18-40. Five or ten years certain basis.**

A member may elect to take a reduced benefit on a basis providing that such benefit shall be payable for a period of life and five (5) or ten (10) years certain in any event.

(Code 1964, § 9A-6(b))

**Sec. 18-41. Social security option (level income option).**

If a member retires prior to his normal retirement date, other than for disability, he may elect to receive an increased benefit from the system until such time as Social Security benefits commence and a reduced benefit thereafter in order to provide, to as great extent as possible, a more level retirement allowance throughout the period of his retirement.

(Code 1964, § 9A-6(c))

**Sec. 18-42. Lump sum or other option.**

A member may elect to receive twenty-five (25) percent of the actuarially equivalent value of their benefits in a lump sum. The payment of any lump sum distribution to the retiree shall actuarially reduce the future benefits of the retiree. If the total actual value of the member's lump sum benefits do not exceed five thousand dollars (\$5,000.00), the member may receive the total benefit in a lump sum.

(Code 1964, § 9A-6(d)); Ord. No. 1538, § 2, 3-2-88; Ord. No. 1579, § 2, 9-28-88; Ord. No. 2271, § 7, 5-1-2002)

**Sec. 18-43. Prior death of co-annuitant.**

The election by a member of section 18-39 above shall be null and void if the designated co-annuitant dies before the member's retirement.

(Code 1964, § 9A-6(e))

**Sec. 18-44. The board of trustees.**

(a) *Membership.* There is hereby created a board of trustees of the said general employees retirement system for the city which shall serve as the trustee of the fund; in addition, the general administration, management and responsibility of the proper operation of the retirement system shall be vested in said board of

trustees. The board shall consist of five (5) member trustees as follows:

- (1) Two (2) elected officials, to be appointed by the mayor.
- (2) Two (2) general employees members of the plan, who shall be elected by other general employees members of the plan, by secret ballot.
- (3) A resident of Plantation shall be chosen by a majority of the previous four (4) members of the board of trustees as the fifth member trustee. The name of the fifth person shall be submitted to city council which shall, as a ministerial duty, appoint such person to be board.

(b) *Term.* The regular term of office for each of the member trustees shall initially be for two (2) years ending in October of 2004, thereafter, the regular term of office shall be three (3) years. The elected employee trustee members serving at the time of passage of Ordinance [No. 2288] shall serve out the remainder of their current three-year term; whereupon new elections of employee trustee members shall take place. With the passage of Ordinance [No. 2288], the elected officials and resident seats shall be deemed vacant and the former members of the board of trustees, other than the elected employee members, shall be removed from office as such positions will no longer exist. The new mayoral appointments shall be made prior to the board's first meeting following passage of Ordinance [No. 2288]. The four (4) members shall consider the selection of the fifth member at their first meeting following the passage of Ordinance [No. 2288]. Each member trustee may succeed themselves in office. Each trustee shall take an oath of office to be administered by the city clerk or a notary public. In the event a member trustee fails to maintain their qualifications to be a member trustee for the category of appointment for which they were selected (i.e. elected official, employee, or resident), their term shall cease. Vacancies occurring in the office of trustee shall be filled within thirty (30) days. Successor trustees for vacancies on the board shall serve the remainder of the term vacated, and shall be selected in the same manner as such office was previously filled.

(c) *Meetings; rules of procedure.* The board shall meet at least once during each calendar quarter, and at any other time upon call by the chairman or any three (3) members of the board, with the time and place thereof designated in accordance with applicable state laws. The board shall adopt its own rules of procedure and maintain a record of its proceedings. All meetings of the board shall be public. Trustees shall serve without compensation for their services as trustees. Three (3) trustees shall constitute a quorum at any meeting, and each trustee shall be entitled one (1) vote at meetings of the board. Three (3) concurring votes shall be necessary for a decision by the board.

(d) *Officers; employees.* The board shall elect from its members a chairman, vice chairman and a secretary. The city treasurer may be the treasurer of the retirement system and the custodian of its funds pending transfer of such funds to the regular fiscal agent for the plan. The city attorney shall be the legal advisor of [to] the board. The board may appoint an actuary who shall be the technical advisor to the board on matters regarding the operation of the retirement system. The board may appoint a physician as medical director, who shall not be eligible for membership in the retirement system. The board may employ such additional professional and clerical services as may be required for proper operation of the retirement system, with the prior approval of the city council.

(e) *Records.* The secretary of the board shall cause to be kept the records of the proceedings of the board and such data as shall be necessary for periodical actuarial valuation of the assets and liabilities of the

retirement system.

(f) *Functions and duties.* The further duties and functions of the board of trustees, other than investment functions, shall be as follows:

- (1) To observe and oversee the operation of the system and fund.
- (2) To make recommendations for improvements.
- (3) To finally determine and authorize all claims and entitlements to benefits.
- (4) To determine by uniform rules all questions concerning credited service and membership.
- (5) To maintain or have maintained accurate records of credited service and accumulated contributions of members and such other data as may be necessary.
- (6) To have performed regular, periodic actuarial valuations and studies of the retirement system and fund.
- (7) To have prepared and render annually to the city council a complete accounting of the financial and other transactions of the retirement fund and system.
- (8) To establish uniform rules and regulations for operation of the system.

(Code 1964, § 9A-7; Ord. No. 1416, § 7, 8-27-86; Ord. No. 1679, § 1, 1-17-90; Ord. No. 2106, § 1, 9-18-96; Ord. No. 2236, § 2, 11-8-2000; Ord. No. 2259, § 4, 9-26-2001; Ord. No. 2288, § 1, 12-4-2002)

#### **Sec. 18-45. Resignation of trustee; removal; vacancy.**

A trustee may resign this trust at any time by giving sixty (60) days' written notice to the city. A trustee may be removed only for cause stated, by a majority of the quorum attending the meeting at which the vote is taken. In the event of vacancy occurring at any time in the trusteeship of this fund, a qualified successor trustee shall be chosen in the same manner as applied to the prior trustee.

(Code 1964, § 9A-9; Ord. No. 2271, § 8, 5-1-2002)

#### **Sec. 18-46. Establishment and operation of fund.**

(a) There is hereby established a special fund, to be known as the General Employees' Retirement Fund, hereinafter referred to as the fund, into which shall be deposited all of the contributions and assets whatsoever of the system.

(b) Subject to the overall supervision of the board of trustees, and other provisions herein, the actual collection, custody and payment of the funds, and the fund established by this chapter, shall be vested in the city treasurer; provided, however, payment of benefits and disbursements from the fund shall be made only on authorization from the board of trustees, and all payments and disbursements shall be by check signed by the city treasurer and city clerk; provided further, that the board of trustees shall have the power and authority to hire and appoint such persons, agents or entities (including corporate fiduciaries) as in its discretion may be

required or advisable to enable it to perform its duties hereunder, and including the authority to enter into agency, investment advisory and custodial agreements for the purpose of securing investment and custodianship services for the system and fund. The foregoing notwithstanding, the board shall have the authority to direct the fund's custodian bank or corporate fiduciary to make the authorized disbursements without the necessity of requiring checks to be signed by the city treasurer and city clerk.

(c) All funds and securities of the system may be commingled in the fund established for purposes of the system, provided that accurate records are maintained at all times reflecting the financial composition of the fund, including the current amounts of accumulated contributions for each member. All funds and securities appertaining to the system shall be deposited with the city treasurer who shall in turn deposit such funds and securities in the fund.

(d) The board shall be required to prepare annually a complete accounting of the financial and other transactions of the fund. Such accountings shall reflect a complete valuation of assets on both a cost and a market basis.

(Code 1964 § 9A-8(A); Ord. No. 1416, § 8, 8-27-86)

#### **Sec. 18-47. City contributions.**

(a) Each year the city shall pay into the fund an amount which is equal to the difference between the normal cost for the year, as determined by the most recent actuarial valuation of the liabilities of the system, and the sum of aggregate member contributions for the year.

(b) The city shall also pay into the fund in addition to the amounts provided for above, such amounts as shall be determined on an actuarial basis as necessary to amortize the liability of the city for prior service hereunder over a period of not to exceed forty (40) years.

(c) All required city contributions shall be deposited to the fund in quarterly installments.  
(Code 1964, § 9A-8(B); Ord. No. 1416, § 8, 8-27-86)

**Cross References:** Casualty insurance premium tax, § 24-36.

#### **Sec. 18-48. Gifts, bequests and donations.**

All gifts, bequests, devises and donations to the Plantation General Employees' Retirement Fund and all other accretions and additional sources of income shall be deposited in said fund to be administered under the terms of this chapter.

(Code 1964, § 9A-8(C); Ord. No. 1416, § 8, 8-27-86)

#### **Sec. 18-49. Investments.**

(a) The board of trustees shall have the following investment powers and authority:

(1) The fund may be invested and reinvested in such securities or property, real or personal, wherever situated and of whatsoever kind, as shall be approved by the board of trustees, including but not limited to stocks, common or preferred, bonds, obligations of the city, and other evidences of indebtedness or ownership. At no time shall the investment in common stocks exceed seventy (70) percent of the market value of the total assets in the fund.

- (2) The board of trustees may retain in cash and keep unproductive of income such amount of the fund as it may deem advisable, having regard for the cash requirements of the system.
- (3) No person or entity shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the fund, except that due to his or its own negligence, wilful misconduct or lack of good faith.
- (4) The board may cause any investment in securities held by it to be registered in or transferred into its name as trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the trust fund.
- (5) The board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power or substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee or with the trustees or with depositaries designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally, to exercise any of the powers of an owner with respect to stocks, bonds, or other investments, comprising the fund which it may deem to be to the best interest of the fund to exercise.

(Code 1964, § 9A-8(D); Ord. No. 1838, § 1, 5-20-92; Ord. No. 2106, § 2, 9-18-96; Ord. No. 2304, § 1, 8-27-2003)

#### **Sec. 18-50. Benefits received through error or change in records.**

Should any change or error in records result in any member or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, then on discovery of any such error the board shall cause the same to be corrected and as far as practicable shall direct that the payments be adjusted in such manner that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled shall be paid.

(Code 1964, § 9A-9(1))

#### **Sec. 18-51. Illegality of chapter provision, etc.**

If any section or part of any section of this chapter is declared illegal, the remainder of this chapter shall not thereby be invalidated. All provisions of any ordinances of the city, inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistencies.

(Code 1964, § 9A-9(2))

#### **Sec. 18-52. Modification of chapter.**

This chapter establishing the system and fund, and subsequent ordinance pertaining to said system and fund, may be modified, terminated or amended, in whole or in part; provided that if this or any subsequent

ordinance shall be amended or repealed in its application to any person benefiting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the member or beneficiary shall not be affected thereby, except to the extent that the assets of the fund may be determined to be inadequate.

(Code 1964, § 9A-9(3))

### **Sec. 18-53. Administration of system if chapter repealed.**

(a) If this chapter shall be repealed or if contributions to the system are discontinued, the board shall continue to administer the system in accordance with the provisions of this chapter, for the sole benefit of the then members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the options provided for in this chapter who are designated by any of said members. In the event of repeal, there shall be full vesting one hundred (100) percent of benefits accrued to date of repeal and the assets of the system shall be allocated in an equitable manner to provide benefits on a proportionate basis to the persons so entitled to benefits in accordance with the provisions hereof, with prior preference being directed towards the return of accumulated contributions.

(b) The following shall be the order of priority for purposes of allocating the assets of the system upon repeal of this chapter or if contributions to the system are discontinued:

- (1) The accumulated contributions of the members less any benefits received, in proportion to and to the extent of the then amount of accumulated member contributions. If any funds remain, then
- (2) Members already retired under the normal retirement provisions of the plan and those eligible for normal retirement but not actually retired, and their beneficiaries, in proportion to and to the extent of the then actuarially determined present value of the benefits payable less amounts received according to (1) above. If any funds remain, then
- (3) Members already retired or eligible for retirement under the early retirement provisions of this system and their beneficiaries in the same manner as in (2) above. If any funds remain, then
- (4) All other members and their beneficiaries in the same manner as in (2) but based upon credited service and average final compensation as of the date of termination of the system, and with any benefits vested given precedence.

(c) The allocation of the fund provided for in this section may, as decided by the board be carried out through the purchase of insurance company contracts to provide the benefits determined in accordance with this section. The fund may be distributed in one (1) sum to the persons entitled to said benefits or the distribution may be carried out in such other equitable manner as the board may direct. The trust may be continued in existence for purposes of subsequent distributions.

(Code 1964, § 9A-9(4); Ord. No. 2271, § 9, 5-1-2002)

### **Sec. 18-54. Allocation of assets.**

The allocation of assets of the system in event of repeal of this chapter or discontinuance of contributions to the system shall be carried out through the payment of the benefits provided hereunder as they

become due, or by the transfer of such assets to any retirement system replacing this system, provided that full vesting of benefits under this system are provided and fully maintained under such new retirement system. After all the vested and accrued benefits provided hereunder have been paid and after all other liabilities have been satisfied, then and only then shall any remaining funds revert to the general fund of the city.  
(Code 1964, § 9A-9(5))

**Sec. 18-55. Effect of allocation of assets; compliance with state statutes.**

Any allocation of assets made in accordance with the provisions hereunder shall be final and binding on all persons entitled to benefits under the system. Notwithstanding the provisions of sections 18-50 through 18-58, should any provisions be in conflict with the termination provisions contained in F.S. § 185.37, the provisions in F.S. § 185.37 shall control.  
(Ord. No. 1412, § 1, 8-27-86)

**Sec. 18-56. Assignment, etc., of benefits.**

No benefit whatsoever as herein provided shall be assignable nor shall such be subject to attachment, garnishment, execution or to any other legal process. Subsequent to termination of employment, and prior to refund a member may voluntarily assign such funds or a portion thereof, to the city, or any of its recognized agencies, for the satisfaction of lawfully contracted obligations.  
(Code 1964, § 9A-9(7))

**Sec. 18-57. Nonliability of trustees.**

The trustees shall sustain no liability whatsoever for the sufficiency of the fund to meet the payments and benefits herein provided for and shall be under no duty or obligation to inquire into the sufficiency of the payments made into the fund by the city.  
(Code 1964, § 9A-9)

**Sec. 18-58. Reserved.**

**Editors Note:** Section 18-58, concerning moneys payable by the state, as derived from Code 1964, § 9A-9(11), has been deleted as being superseded by § 9(9A-17(11)) of Ord. No. 1416, as codified in § 18-68.10 of the this article. Said deletion was the editor's discretion, with permission of the city.

**Sec. 18-59. Elimination of retirement benefits for elected public officials.**

Effective May 1, 1995, all former and current elected public officials shall cease to be members of the City of Plantation General Employees Retirement System. An elected public official whose term of office commences after May 1, 1995, whether it be an initial term of office or not, shall not be eligible for membership in the City of Plantation General Employees Retirement System. Elected public officials who are actively serving in office as of May 1, 1995, and former elected public officials not receiving retirement benefits as of May 1, 1995, shall not receive credit for service after that date, and all contributions to the retirement system made by or on behalf of such elected public officials, including contributions made by the City of Plantation, shall cease as of that date. All elected public officials actively serving in office and all former elected public officials no longer serving in office who are vested in the retirement benefits accrued to them respectively as of May 1, 1995, shall remain vested in such benefits as provided in this chapter. All elected public officials actively serving in office and all former elected public officials no longer serving in office who are not vested in

their respective retirement benefits as of May 1, 1995, thereafter shall lose all rights to any retirement benefits under this chapter. All elected public officials actively serving in office and all former elected public officials, whether or not they are vested in their respective retirement benefits, shall be entitled to receive from the retirement system an amount equal to such elected public official's accumulated contributions made directly by them to the retirement system on or after July 1, 1994, in a lump sum, by monthly installments, or in such other manner as may be prescribed by the board.

(Ord. No. 2027, § 6, 5-24-95)

### **Sec. 18-60. Deferred retirement option plan ("DROP").**

(a) General employees may elect to participate in the DROP which has been proposed by the general employees retirement board and approved by the city council, effective March 1, 1996. The DROP is to be administered by the general employees retirement board at no cost, and with no liability to the city. General employee members may elect to enter into the DROP upon reaching the normal retirement date set forth in section 18-26(1), and in accordance with the terms and conditions of the DROP document then in existence. A general employee member who elects to enter the DROP shall have no recourse against the city for any claims with respect to the DROP payments or the DROP plan. Any proposed amendment to the DROP subsequent to the date of adoption must be submitted to the city council and approved by resolution of the city council prior to any proposed amendment taking effect.

(b) General employee DROP participants as of the effective date of Ordinance No. 2271 shall be given a right to elect to remain in the DROP or withdraw from participation in the DROP and rejoin the general employees retirement system. The election shall be made within forty-five (45) days of the effective date of Ordinance No. 2271 [May 1, 2002]. This election is being offered to DROP employees because of revisions to the plan that will allow partial lump sum payments upon retirement to members. The decision to remain in the DROP or rejoin the general employees retirement system shall be irrevocable.

(c) DROP participants who elect to rejoin the general employees retirement system shall make a retroactive contribution in an amount equal to that which would have been contributed if they had continued to be a member of general employees retirement system during their time of participation in the DROP. Such amount shall include eight (8) percent interest on the employee's contributions from the time such contributions would have been deposited into the retirement system had the employee not entered the DROP. This amount is equivalent to the actuarially assumed rate of earnings that would have been made on the monies had they been deposited into the fund. All the employee's DROP account monies shall be returned to the fund. The employee who makes such election will receive additional credited service towards their retirement benefit for the time of participation in the DROP. The participant may make such retroactive contribution within sixty (60) days of their election to rejoin the general employees retirement system. DROP participants who elect to continue in the DROP beyond the effective date of Ordinance [No. 2271, May 1, 2002] shall be entitled to all their benefits according to the terms of the DROP as it existed on the effective date Ordinance No. 2271. An employee who elects to opt out of the DROP will have waived their right to participate in the DROP in the future.

(Ord. No. 2075, § 1, 3-13-96; Ord. No. 2271, § 10, 5-1-2002)

**Editors Note:** The DROP plan referenced above is not set out at length in this Code, but is on file and available for inspection in the office of the city clerk.

## **DIVISION 2.**

### **POLICE OFFICERS\***

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\* **Editors Note:** Ord. No. 1416, § 9, adopted Aug. 27, 1986, added provisions designed as Art. I. A, §§ 9A-10--9A-17, to the 1964 Code; said provisions have been included herein as Div. 2, §§ 18-61--18-68.10, at the editor's discretion.

**Cross References:** Police generally, Ch. 21.

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## **Sec. 18-61. Eligibility, credited service and member contributions of police officers.**

(a) *Eligibility and credited service.*

- (1) All full-time, salaried, or hourly paid police officers shall be eligible for membership in the police officers retirement system upon date of employment.
- (2) Effective September 1, 1973, all present employees as a condition of continued employment by the city shall become members of the system whether or not they have completed one (1) year of continuous employment.
- (3) All future new employees shall become members of the system, as a condition of employment, on date of hire by the city.
- (4) The total service, during which a police officer serves as a full-time police officer of the city, provided he contributes to the system for each year of service after the effective date shall be the credited service. Employees hired on or after September 1, 1973, will receive credited service from date of hire.
- (5) [Military service:]
  - a. In determining the credited service of a police officer, the time spent in the military service of the United States or United States Merchant Marine by the police officer on leave of absence for such reason shall be added to the years of service, provided, however, that to receive credit for such service the police officer must have reentered the police department within one (1) year of date of release from service.
  - b. Any police officer not on leave of absence for military service may voluntarily leave his or her contributions in the fund for a maximum period of five (5) years after leaving the employ of the police department, pending the possibility of his or her being rehired by the police department, without losing credit for the time he or she has participated actively as a police officer. Should he or she not be reemployed as a police officer with the department, within five (5) years, his or her contributions shall be returned to said police officer without interest.
  - c. Any police officer on leave of absence for military service may voluntarily leave his or her contributions in the fund for a maximum period of five (5) years after leaving the employ of the police department, pending the possibility of his or her being rehired by the police department, without losing credit for the time he or she has participated actively as a police officer. Should he or she not be reemployed as a police officer with the department within five (5) years after the date of commencement of the leave of absence

for military service, or such additional time as may be prescribed by federal law, his or her contributions shall be returned to said police officer without interest.

- (6) If a police officer is granted a leave of absence for medical or nonmedical reasons by the city, he may receive membership service credit for the period he was on a leave of absence by contributing the amount that would have been contributed had the police officer continued in the city employment for the period of the time absent, based upon the police officer's salary on the effective date of the leave of absence, and shall again become a member of the system, provided the person returns to active employment within two (2) years. To receive this service credit while on the leave of absence, the member may not be gainfully employed by another employer, and must elect one of the following options:
- a. The member shall continue to make the monthly contributions during the leave of absence;
  - b. The member shall make any necessary contributions within thirty (30) days after the member's return to active employment; or
  - c. The member shall make the necessary contributions in equal monthly installments over a two-year period from the member's return to active employment with interest, at an annual interest rate of six (6) percent.

The particular option must be exercised by an appropriate written declaration within fourteen (14) days from the date the leave of absence is granted. A police officer making installment payments shall complete all required payments prior to payment of any benefits. If installment payments are not completed at the time a police officer retires, the police officer shall not receive credit for the remaining period for which payments were not made.

- (7) Any member granted a leave of absence may elect to leave his contributions in the fund pending his return as a police officer and member, subject to the time limitations specified in subsection (5) above, and receive credit for the years for which contributions were made, plus prior service, if any, provided such member returns to employment and membership within one (1) month following the end of his leave of absence; except as regards members on military leave of absence, who shall receive credited service for the leave of absence period in accordance with subsection (5) above. Other than as set forth herein, no member shall be entitled to credited service except for those years during which he is a member and made the required contributions.
- (8) All members similarly situated shall be treated alike pursuant to uniform, nondiscriminatory rules.
- (b) *Member contributions.*
- (1) *Mandatory contribution rate.* It shall be mandatory for all police officer members of the system to contribute to the fund at the rate of 9.5 percent of their annual compensation.
- (2) *Payroll deduction.* The city treasurer shall cause to be deducted from the compensation of each

member for each payroll period the proper contribution authorized and payable by the respective members for such payroll period and shall deposit each deduction immediately with the board of trustees. In the event that the city agrees to assume and pay member contributions in lieu of direct contributions by the member, such contributions shall accordingly be paid into the fund on behalf of the members. No members subject to such agreement shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the city directly to the fund. All such contributions by the city shall be deemed and considered as part of the member's accumulated contributions and subject to all provisions of this system pertaining to accumulated contributions of members. The intent of this language is to comply with section 414(h)(2) of the Internal Revenue Code.

(3) In no event will the total of benefits received from the retirement system by a member, or his designated beneficiary or estate, be less than the total of his accumulated contributions.

(c) *Cessation of contributions.* The contributions required of a police officer member under this chapter shall cease upon:

(1) Service retirement.

(2) Disability retirement.

(3) Death.

(4) Other termination of employment.

(d) *Suspension or discharge.* Should a police officer be discharged or suspended and subsequently reinstated as an employee, he may receive membership service credit for the period he was under suspension or discharge by making contributions for such period, and shall again become a member of the system. Such contributions shall be made within thirty (30) days after the member's return to active employment at no interest; or in equal monthly installments over a two-year period from the member's return to active employment with interest, at an annual interest rate of six (6) percent. An employee making installment payments shall complete all required payments prior to payment of any benefits. If installment payments are not completed at the time an employee retires, the employee shall not receive credit for the remaining period for which payments were not made.

(e) *Re-employment.* Should a police officer be re-employed by the police department after having his previous employment with the city terminated with or without cause, he shall for the purposes of this chapter be deemed to be a new employee as of his date of re-employment; provided, however, that in event of such re-employment an employee may have his credited service restored for his membership under the system during his last period of employment provided he pays into the fund, the accumulated contributions which he received upon such termination, plus an amount of interest equal to the percentage of earnings, if any, the fund realized during the period beginning when the officer withdrew his accumulated contributions until the date the officer becomes re-employed as a police officer. Such re-employed police officer shall have ninety (90) days, from the date the officer is notified, in writing, of the amount the officer must pay to restore his credited service, to pay that amount to the fund upon which payment to the fund such employee shall continue as a member under the system and shall make contributions to the system and be credited with additional membership service

beginning with the date of such payment to the fund. Provided further that a police officer may voluntarily leave his contributions in the fund for a period of five (5) years after leaving the employ of the city, pending the possibility of his being rehired by the police department, without losing credit for the time he has participated actively as a police officer. Should he not be re-employed as a police officer with the city within five (5) years, his contributions shall be returned to him without interest. Re-entry to the system after discontinuance of original participation shall be permitted on a uniform, nondiscriminatory basis, and in no event shall any duplication of benefits result therefrom.

(f) *Cessation of membership.* Upon cessation of membership each police officer shall thereafter lose all rights to any benefits under this chapter except as hereinafter provided.

(Ord. No. 1416, § 9(9A-10), 8-27-86; Ord. No. 1583, § 1, 9-28-88; Ord. No. 1584, § 1, 9-28-88; Ord. No. 1594, § 6, 12-14-88; Ord. No. 1698, § 7, 4-18-90; Ord. No. 1757, §§ 4, 5, 12-19-90; Ord. No. 1789, §§ 1--7, 7-10-91; Ord. No. 1790, § 1, 7-10-91; Ord. No. 2160, §§ 1, 2, 4-29-98; Ord. No. 2206, § 1, 12-15-99; Ord. No. 2308, § 3, 10-29-2003; Ord. No. 2317, § 2, 4-14-2004; Ord. No. 2347, § 2, 8-10-2005; Ord. No. 2396, § 1, 10-10-2007)

### **Sec. 18-62. Retirement dates.**

The respective retirement dates for police officers shall be as follows:

(1) *Normal retirement date.* Effective October 1, 1997, the normal retirement date for police officers shall be the earlier of the first day of the month coincident with or next following the date on which a police officer attains twenty (20) years of credited service, or attains age fifty-five (55) and completes ten (10) years of credited service.

(2) *Early retirement.* Police officer members may retire from employment with the city on the first day of any month following the forty-fifth birthday, provided that the member shall have completed at least fifteen (15) years of credited service on such early retirement date or on the first day of any month following the fiftieth birthday, provided that the member shall have completed at least ten (10) years of credited service on such retirement date. Each member shall become one hundred (100) percent vested in his accrued benefit on his early retirement date.

(Ord. No. 1416, § 9(9A-11), 8-27-86; Ord. No. 2061, § 1, 12-13-95; Ord. No. 2143, § 1, 2-18-98; Ord. No. 2317, § 3, 4-14-2004)

### **Sec. 18-63. Retirement benefits for police officers.**

Subject to the limitations on credited service set forth below, the retirement benefits for members shall be as follows:

(1) *Normal retirement benefit.*

a. Subject to the maximums in the next sentence and additionally those stated elsewhere in the provisions of this system, the normal retirement monthly benefit for members who retire on or after October 1, 2007, with twenty (20) years or more of credible service shall be 3.5 percent of average final compensation times the number of years of credited service for the first twenty-four (24) years and two hundred and twenty five (225) days, thereafter zero percent of average final compensation times the number of years of

credited service years through the fortieth year and thereafter two (2) percent of average final compensation times the number of years of credited service for any years over forty (40) years; provided, however, the member's retirement benefits must satisfy the requirements of F.S. § 185.16(2). The maximum normal retirement monthly benefit for members who retire on or after October 1, 2007 shall be eighty (80) percent of average final compensation, except that any member who completed twenty (20) years of credited service as of October 1, 1997 shall be entitled to a maximum normal retirement monthly benefit of ninety (90) percent of average final compensation.

- b. The normal retirement monthly benefit for members who retire after October 26, 2003 and prior to October 1, 2007, with twenty (20) years or more of credible service shall be 3.25 percent of average final compensation times the number of years of credited service for the first twenty-four (24) years and two hundred and twenty-five (225) days (up to eighty (80) percent), thereafter zero percent of average final compensation times the number of years of credited service years through the fortieth year and thereafter two (2) percent of average final compensation times the number of years of credited service for any years over forty (40) years; provided, however, the member's retirement benefits must satisfy the requirements of F.S. § 185.16(2).
  - c. The normal retirement monthly benefit for all other members who retire under subsection 18-62(1) of this Code with less than twenty (20) years of credible service is three (3) percent of average final compensation times the number of years of credited service; provided, however, the member's retirement benefits must satisfy the requirements of F.S. § 185.16(2).
  - d. The monthly benefit of those members who retired, including those who entered the DROP plan prior to October 26, 2003, shall be calculated in accordance with the benefit calculation applicable at the time of their retirement.
  - e. The above benefit shall be paid for the life of the police officer retiree; provided however, that if such retiree becomes deceased prior to his or her ten-year anniversary of his or her retirement date, the benefits shall continue and shall be paid to his or her beneficiary (or estate if there be no designated beneficiary) for the remainder of such ten-year period.
- (2) *Delayed retirement benefit.* A member shall upon retirement at his delayed retirement date receive a monthly retirement benefit which shall commence on such delayed retirement date and shall be continued on the first day of each month thereafter during the lifetime of the member. The amount of each monthly retirement benefit shall be determined in the same manner as for retirement at his normal retirement date except that credited service shall be determined as of actual retirement date.
- In no event shall this benefit exceed one hundred (100) percent of the member's average final compensation.
- (3) *Early retirement benefit.* A member shall receive upon retirement at his early retirement date either a deferred or an immediate monthly retirement benefit as follows:

- a. A deferred monthly retirement benefit which shall commence on his normal retirement date and shall be continued on the first day of each month thereafter during the lifetime of the member; the amount of each such deferred monthly retirement benefit to be determined in the same manner as for retirement at his normal retirement date except that credited service and average final compensation shall be determined as of his early retirement date; or
- b. An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter during the lifetime of the member. The amount of such immediate monthly retirement benefit shall be the amount provided in paragraph (3)a, reduced by three (3) percent for each year by which the commencement date of benefit precedes the otherwise normal retirement date.

In no event shall this benefit exceed one hundred (100) percent of the member's average final compensation.

- (4) *Annual supplemental benefit.* Any member who retires upon reaching normal retirement, shall be entitled to the sum of ten dollars (\$10.00) a month for each full year of service, payable on December 1 of each year, for each full calendar year after retirement, for the lifetime of the member only. In the event of any partial year of retirement, such supplemental benefit shall be prorated for any such portion of a partial retirement year and paid as aforesaid. Notwithstanding any language to the contrary in the DROP document (section 18-63.1), employees who elect to participate in the DROP including those who are participating in the DROP upon the effective date of this ordinance [July 1, 2000] shall be entitled to this supplemental benefit. For purposes of calculating the amount of the supplemental benefit for employees who have elected to participate in the DROP, both the employee's pre-DROP election years of service and post-DROP election years of service shall be added together. The employee who has made a DROP election shall not begin to receive this supplemental benefit until their active employment with the city has terminated.
- (5) *Monthly supplemental benefit.* Any police officer who retires upon reaching normal retirement after December 1, 2000 but before or on October 1, 2005 and any police officer participating in the DROP who terminates his or her active employment with the city after December 1, 2000 but before or on October 1, 2005, shall be entitled to a two hundred dollar (\$200.00) per month supplement in addition to the police officer's monthly retirement benefit. Any police officer who retires upon reaching normal retirement after October 1, 2005 and any police officer participating in the DROP who terminates his or her active employment with the city after October 1, 2005, shall be entitled to a two hundred dollar (\$200.00) per month supplement, which will increase to a three hundred dollar (\$300.00) per month supplement when the retiree reaches age fifty-five (55), in addition to the police officer's monthly retirement benefit. Such benefit shall be payable only during the lifetime of the retiree and shall not extend any benefits to the retiree's surviving beneficiary. No entitlement to payments or accruals of this benefit shall begin until active employment with the city has terminated.

(Ord. No. 1416, § 9(9A-12), 8-27-86; Ord. No. 1594, § 1, 12-14-88; Ord. No. 1698, § 2, 4-18-90; Ord. No. 1757, § 16, 12-19-90; Ord. No. 1928, § 1, 6-30-93; Ord. No. 2143, §§ 2, 3, 2-18-98; Ord. No. 2206, § 2, 12-15-

1999; Ord. No. 2237, §§ 2, 4, 11-8-2000; Ord. No. 2250, § 2, 4-4-2001; Ord. No. 2308, § 4, 10-29-2003; Ord. No. 2347, §§ 3, 4, 8-10-2005; Ord. No. 2352, § 1, 10-5-2005; Ord. No.2396, § 2, 10-10-2007)

**Sec. 18-63.1. Deferred retirement option plan ("Drop").**

Police officers may elect to participate in the DROP which has been proposed by the police officers retirement board and is hereby approved by the city council, effective July 1, 1995. The DROP is to be administered by the police officers retirement board at no cost, and with no liability to the city. Police officer members may elect to enter into the DROP upon reaching the normal retirement date set forth in section 18-62(1), and in accordance with the terms and conditions of the DROP document then in existence. A police officer member who elects to enter the DROP shall have no recourse against the city for any claims with respect to the DROP payments or the DROP plan. Any proposed amendment to the DROP subsequent to the date of adoption must be submitted to the city council and approved by resolution of the city council prior to any proposed amendment taking effect.

(Ord. No. 2036, § 1, 7-5-95)

**Sec. 18-64. Disability retirement provisions for police officers.**

(a) *Definition of disability.* For purposes of this system, total and permanent disability shall mean an injury, disease or condition which permanently incapacitates a member, either physically or mentally, from his regular and continuous duty within his classification as an employee of the city. A total and permanent disability arising directly from the performance of service to the city by a member as an employee of the city shall be considered to be a service incurred disability. A total and permanent disability arising from any other cause or source shall be considered to be a non-service-incurred disability. A member shall not be entitled to receive a disability retirement benefit from the system if the disability is a result of:

- (1) Excessive and habitual use of drugs, intoxicants or narcotics;
- (2) Injury or disease sustained by the member while willfully and illegally participating in fights, riots, civil insurrections or while committing a crime;
- (3) Injury or disease sustained by a member while serving in any of the armed forces;
- (4) Injury or disease sustained by the member after his employment with the city has been terminated.

A member shall not receive a service incurred disability benefit for injury or disease sustained by the member while working (either as an employee or through some other contractual arrangement) for anyone other than the city, performing a job function the same as or related to the member's city job function, and arising out of the scope of such other employment or contractual arrangement, excepting injuries sustained by members while performing duties on behalf of the city and while within the city's jurisdiction although such injuries occurred at an outside employer's job site.

In addition, a member shall not be entitled to receive a disability retirement benefit from the system on the basis of any condition which existed prior to the member's employment and/or which was evidenced during the member's preemployment physical.

In the event that a member who is applying for disability benefits is eligible for a normal retirement benefit, no disability benefit shall be payable by the system; the member's normal retirement benefit shall be paid when he actually retires.

(b) *Application for benefits.* Before a member may receive benefits, and in order for the board to consider a member's request for disability retirement benefits, the member must apply in writing to the board for such benefits. This application must be made as soon as is practicable following the date when the disability condition arose. Upon receipt of proper application by the board, the board may arrange for a physical examination of the applicant by the medical board. A further condition for the receipt of disability retirement benefits from the system is that the applicant must apply for disability benefits from Social Security and workers' compensation. Written proof of such application must be submitted to the board. Failure of the applicant to qualify as being disabled under Social Security and workers' compensation laws may be considered by the board in review or reconsideration by the board of such member's disability retirement.

(c) *Medical board.* When a member submits proper application for a disability retirement benefit, the board of trustees may designate a medical board to be composed of at least one (1) but not more than three (3) physicians. The choice of physician shall be made in accordance with the condition or conditions upon which the member is applying for disability retirement. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this division, shall investigate all essential statements or certificates made by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusions and recommendations upon all matters referred to it. The payment for such services shall be determined by the board of trustees.

(d) *Determination of disability.* All questions relating to eligibility for initial payment or continuance of disability benefits shall be determined by the board of trustees, taking into consideration the recommendations of the medical board and such other evidence of which the board may avail itself. The general steps which the board shall follow in its determination shall be as listed below, provided however, that the board may in its discretion alter or modify these steps:

- (1) Determine whether the member's application is proper and timely.
- (2) If application is for non-service-incurred disability, determine whether the five (5) years of credited service requirement has been met.
- (3) Based on all evidence submitted to the board, determine whether the application satisfies the definition of disability, including the listed exclusions.
- (4) Determine whether the disability is to be considered a service incurred disability or a non-service-incurred disability, taking into consideration sections 175.231 and 185.34, Florida Statutes.
- (5) Establish a date of disability. This date shall be the date of injury causing the disability. If the date of injury cannot be determined, the date when the member could no longer perform his regular and continuous duties within his job classification shall be the date of disability.

- (e) *Disability retirement benefits.*
- (1) *Eligibility.* All members are eligible for service incurred disability benefits, regardless of their length of credited service. Only a member who completes five (5) years of credited service prior to becoming disabled shall be eligible for non-service incurred disability benefits.
  - (2) *Initial amount of service incurred disability benefit.* The initial amount of service incurred disability benefits shall be seventy (70) percent of the member's monthly rate of basic pay in effect on the date of disability, subject in any event to the offsets listed in paragraph (e)(5) of this section.
  - (3) *Initial amount of non-service-incurred disability benefit.* The initial amount of nonservice-incurred disability benefits shall be seventy (70) percent of the member's monthly rate of basic pay in effect on the date of disability, subject in any event to the offsets listed in paragraph (e)(5) of this section.
  - (4) *Terms of payments.* Disability benefits shall commence on or as of the first day of the month coincident with or next following the date of disability, as established by the board, and shall continue to be paid on the first day of each subsequent month until the earliest of the member's death, recovery from disability, or normal retirement date. The normal retirement date shall be determined as that date when the member would first qualify for normal retirement benefits if he or she had remained in employment with the city. If a disability retiree attains his or her normal retirement date, his disability benefit shall terminate and the applicable normal retirement benefit shall be paid. The normal retirement benefit shall be computed on the basis of the member's average final compensation as of the member's date of disability and his total credited service, including the period during which he or she received disability benefits from the system. Notwithstanding any provision in this Code of Ordinances to the contrary, no benefit paid to a disability retiree, upon reaching the applicable normal retirement date, shall be reduced by reason that said disability retiree has attained his or her normal retirement date. In lieu of the benefit payment described in this section, a member may select an optional form as provided in section 18-65.
  - (5) *Benefit offsets.* Disability retirement benefits described above shall be reduced by any wages or similar payments made by the city, by any disability benefits paid by Social Security and workers' compensation and by other benefit offsets set forth in subsection (g) below. The reduction for Social Security shall be in the amount of the primary insurance amount only, not including any family benefit and shall be limited to the benefits resulting from the city's contribution, as employer, to the extent such are allowed by applicable federal statutes and regulations. Any cost of living adjustments in the disability retiree's Social Security and workers' compensation benefits shall not serve or reduce further the disability benefit payable from the system. The reduction for Social Security disability benefits shall terminate upon the retiree's attainment of age sixty-five (65). In the case of a lump sum settlement paid by workers' compensation, the disability retirement benefit payable from the system shall be suspended for a certain number of months. In addition, in the case of a lump sum settlement paid by workers' compensation or Social Security for post and future compensation and where there is no allocation contained within the settlement award to distinguish the portion of the award for the

period prior to the time disability retirement benefits commence (past compensation) and the period following the time disability retirement benefits commence (future compensation), fifty (50) percent of the lump sum award shall be deemed allocable to the period following the time disability retirement benefits commence (future compensation) and subject to the calculation of benefit offsets. The number of months of suspension shall be obtained by dividing the amount the disability benefit would be if there were no worker's compensation offset. Once the number of months suspension has been completed the disability retirement benefit from the system shall be resumed. Additional benefit adjustments shall also apply as described below in subsection (g). However, all offsets for worker's compensation benefits shall comply with the provisions of F.S. § 440.15(12). In no event shall the disability benefit after all offsets total less than the statutory minimums provided for either in the line of duty disability or other than in the line of duty disability, whichever is applicable.

(f) *Annual report by disability retiree.* Each person who first qualifies for disability retirement benefits on or after the effective date of this section shall be required to submit to the board no later than March 1 of each calendar year a signed and notarized report which includes, but is not limited to, the following information:

- (1) A medical report from the disability retiree's physician stating whether the retiree is still incapacitated to perform the regular and continuous duties he was performing for the city prior to his date of disability. The physician's statement must be dated within four (4) months of the March 1 report deadline.
- (2) A statement showing the amount the disability retiree received in the immediately preceding calendar year from the following sources:
  - a. Social Security, primary insurance amount only, not including family benefits;
  - b. Each employer which paid him any compensation for work performed during the year (copies of all IRS W-2 forms shall be required for this purpose); and
  - c. Net earnings from self-employment income (copies of appropriate tax forms shall be required for this purpose)
- (3) A statement to the effect that the disability retiree understands that if the report is incomplete or incorrect, his disability retirement benefits may be discontinued.

In the event that the required annual report is not submitted to the board on a timely basis, or is incomplete or incorrect, the board may in its discretion discontinue the disability retirement benefits.

(g) *Annual benefit adjustments.* The monthly disability retirement benefit of each person who first qualifies for said benefits on or after the effective date of this section shall be adjusted annually as described herein. First, the sum of the following items shall be calculated for the previous calendar year:

- (1) The disability retirement benefit paid from the system;

- (2) The Social Security primary insurance amounts (not including family benefits) resulting from the city's contribution, as employer, to the extent such are allowed by applicable federal statutes and regulations, less any cost of living adjustments since the benefit first went into effect;
- (3) The workers' compensation disability benefits, excluding medical reimbursements, less any cost-of-living adjustments since the benefit first went into effect;

The annual rate of basic pay of the disability retirement benefit on the date of disability shall then be subtracted from this sum. If there is any excess of the sum over the pre-disability annual rate of basic pay, then the disability retirement benefit payable from the system shall be reduced. The amount of the annual reduction shall be equal to fifty (50) percent of the first ten thousand dollars (\$10,000.00) of the excess plus one hundred (100) percent of the excess, if any, which exceeds ten thousand dollars (\$10,000.00). The annual reduction so computed shall then be divided by twelve (12) to make it a monthly reduction. The monthly reduction shall then be subtracted from the monthly disability retirement benefit which has most recently been paid. If the sum of the items listed above is less than the disability retirement benefit computed in accordance with subsection (e)(2) or (e)(3) above, as applicable, prior to the offset provided in subsection (e)(5) above, then the disability retirement benefit payable from the system shall be increased. The amount of the annual increase shall be equal to the amount of the disability retirement benefit computed in accordance with paragraph (e)(2) or (e)(3) above, as applicable, prior to the offset provided by paragraph (e)(5) above, minus the sum of the items listed above. The annual increase so computed shall then be divided by twelve (12) to make it a monthly increase. The monthly increase shall then be added to the monthly disability retirement benefit which has most recently been paid. The newly adjusted disability retirement benefit shall be paid for the twelve (12) months beginning on the next June first. However, all offsets for workers compensation benefits shall comply with the provisions of section 440.15(12), Florida Statutes. In no event shall the disability benefit after all offsets total less than the statutory minimums provided for either in the line of duty disability or other than in the line of duty disability, whichever is applicable.

(h) *Disability affidavit.* No member otherwise eligible to receive disability benefits shall be paid such benefits unless and until such member filed a disability affidavit with the board on a form furnished by the board. By such disability affidavit the prospective retiree shall affirm that he is acquainted and familiar with the terms and conditions of his disability retirement. In particular, he shall acknowledge the authority of the board to require him to undergo periodic future physical examinations in order to determine whether he is still disabled.

(i) *Authority for reexamination.* Each person who first qualifies for or is then receiving disability retirement benefits on or after the effective date of this section shall be subject to periodic reexamination by a medical board selected by the board of trustees to determine if such disability has ceased to exist. Such reexaminations shall not be permitted more often than twice in any calendar year.

(j) *Recovery from disability.* In the event a member who has been retired on disability benefit regains his health and is able to perform the duties he was performing for the city prior to his date of disability, the board shall discontinue the pension, provided the city permits the member to resume his employment in the job classification the member was in prior to the date of disability. If such member shall resume his employment with the city, then he may pay into the fund an amount equal to the aggregate contributions plus interest at a rate to be determined by the board (computed upon his annual rate of basic pay at the time of his disability retirement had he not been retired. If these amounts are paid into the fund, such member shall receive

creditable service for the period of such disability retirement. Regardless of whether these payments are made into the fund, such member shall retain credit for the period of credited service prior to the date of disability.

(k) The board shall have the authority to amend or delete the administrative provisions of this section by adopting an appropriate rule or procedure regarding such administrative provisions. (Ord. No. 1416, § 9(A-113(a)--(j)), 8-27-86; Ord. No. 1594, §§ 2--5, 12-14-88; Ord. No. 1698, §§ 3--6, 4-18-90; Ord. No. 1757, §§ 6--10, 12-19-90; Ord. No. 2158, § 1, 4-29-98; Ord. No. 2206, § 3, 12-15-99; Ord. No. 2367, § 2, 7-12-2006)

#### **Sec. 18-64.1. Death and termination benefits.**

(a) Upon the death of a retiree there shall be no death benefit, except for the return of accumulated contributions not already returned in the form of retirement benefits, unless prior to retirement the retiree had selected an optional form of benefit, providing survivor benefits to a designated beneficiary or co-annuitant, and in such case the survivorship benefit, if any shall be payable as directed by such retiree prior to his retirement.

(b) Upon the death of a member with less than ten (10) years of credited service, his beneficiary or estate shall receive an amount equal to the member's accumulated contributions in a lump sum, by monthly installments or in such other manner as may be prescribed by the board, less any prior distribution thereof.

(c) Upon the death of a member entitled to an early or normal retirement benefit, without such member having previously selected an option under which survivorship benefits are payable, it shall be assumed that such member has selected option 18-165(2), Life and Ten Years Certain, and retired immediately preceding his death; subject to the provision, however, that the resulting benefit payments may not be less in value than the deceased member's accumulated contributions. If the deceased member had selected an option, that option shall apply in the same manner but without regard to the accumulated contributions.

(d) Upon the death of a police officer who dies as a result of an act occurring in the performance of service to the city, the police officer's spouse shall receive a monthly benefit equal to thirty (30) percent of the police officer's monthly compensation at the time of his death. The benefit shall commence on the first day of the month following the date of death and shall continue until the earlier of the spouse's death or remarriage. If said police officer was eligible for a normal or early retirement benefit, the benefit described in the preceding subsection (c) shall be payable in lieu and instead of thirty (30) percent of compensation benefit is of greater value, in which event the thirty (30) percent of compensation benefit shall be the sole benefit paid.

(e) Upon the death of a member not eligible for early or normal retirement who is still (a) actively employed by the city or (b) receiving a disability benefit, and who has ten (10) or more years of credited service, a death benefit shall be payable in an amount equal to the accrued retirement benefit, determined in the same manner as in (g) below upon termination of employment with the city, unless in lieu thereof the beneficiary elects the benefit described in the following subsection (f). For this purpose, credited service shall be determined as of the death of each, or where applicable as of the prior date of disability. The benefit shall be payable to the beneficiary on a monthly basis for a period of ten (10) years commencing on the first day of the month following the date the member would have reached his or her fifty-fifth birthday. This benefit shall be in addition to any amounts payable under (d) above relating to service-connected death benefits for police officers.

(f) Upon the death of a member not eligible for early or normal retirement who is actively employed

by the city and who has ten (10) or more years of credited service, the following death benefit may be payable as provided in this paragraph, in lieu and in place of the death benefit provided in subsection (e), above, as determined by the beneficiary. The same benefit shall also be payable upon the death of a terminated vested member who has left his accumulated contributions in the fund pursuant to subsection (g)(2) of this section. The death benefit, in addition to the payment of the member's accumulated contributions pursuant to subsection (b) of this section shall be equal to a specified percentage of the member's accumulated contributions as follows:

<i>Years of credited service</i>	Death benefit as a percentage of the member's accumulated contributions
Less than 10	0%
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

Said benefit, if elected by the beneficiary, shall be payable in a lump sum as soon as is practicable following the death of the member. This benefit shall be in addition to any amount payable under subsection (d) of this section relating to service-connected death benefits for police officers.

(g) Upon termination of employment with the city other than by reason of retirement, disability, or death, a member shall be entitled to the following:

- (1) With less than ten (10) years of credited service--refund of member's accumulated contributions.
- (2) With ten (10) or more years of credited service, provided the member leaves his accumulated contributions in the fund--the accrued retirement benefit, based on credited service and average final compensation as of date of termination, payable on a monthly lifetime basis commencing on the date which would have been the member's normal retirement date had he continued in employment with the city, or refund of member's accumulated contributions.

Forfeitures arising from terminations of employment shall serve only to reduce future city contributions. (Ord. No. 1416, § 9(9A-13(k)), 8-27-86; Ord. No. 1892, § 1, 12-2-92; Ord. No. 1909, § 1, 4-21-93; Ord. No. 2206, § 4, 12-15-99)

**Sec. 18-64.2. Claims procedure for members and beneficiaries.**

(a) Any member or beneficiary whose application or claim for benefits has been denied shall receive from the board a written notice setting forth the specific reasons for such denial, the reasons therein to be clearly and fully explained so as to afford such member or beneficiary a clear understanding of the decision rendered.

(b) Any member or beneficiary whose application or claim for benefits has been denied shall have

the right to a rehearing and a fair and full review by the board regarding the facts, circumstances and information pertaining to the claim and the reasons for denial of such claim.  
(Ord. No. 1416, § 9(9A-13(1)), 8-27-86)

### **Sec. 18-64.3. Limitation of benefits.**

- (a) In no event may a member's annual benefit exceed the lesser of:
- (1) One hundred sixty thousand dollars (\$160,000.00) adjusted for cost of living in accordance with Internal Revenue Code (IRC) section 415(d), but only for the year in which such adjustment is effective, or
  - (2) One hundred (100) percent of the average annual compensation for the member's three (3) highest paid consecutive years; however, benefits of up to one thousand dollars (\$1,000.00) a year can be paid without regard to the one hundred (100) percent limitation if the total retirement benefits payable to a member under all defined benefit plans (as defined in IRC section 414(j)) maintained by the city for the present and any prior year do not exceed ten thousand dollars (\$10,000.00) and the city has not at any time maintained a defined contribution plan (as defined in IRC section 414(i)) in which the employee was a member. If the member has less than ten (10) years of service with the city (as defined in IRC section 415(b)(5) and as modified by IRC section 415(b)(6)(D)), the applicable limitation in paragraph (a)(1) or (a)(2) of this section shall be reduced by multiplying such limitation by a fraction, not to exceed one (1). The numerator of such fraction shall be the number of years, or parts thereof, of service with the city; the denominator shall be ten (10) years.

(b) For purposes of this section, the "annual benefit" means a benefit payable annually in the form of a straight life annuity with no ancillary or incidental benefits and with no member or rollover contributions. To the extent that ancillary benefits are provided, the limits set forth in paragraphs (a)(1) and (a)(2) above will be reduced actuarially, using an interest rate assumption equal to the greater of five (5) percent or the interest rate used in the most recent annual actuarial valuation, to reflect such ancillary benefits.

(c) If distribution of retirement benefits begins before age sixty-two (62), the dollar limitation as described in paragraph (a)(1) shall be reduced actuarially using an interest rate assumption equal to the greater of five (5) percent or the interest rate used in the most recent annual actuarial valuation; however, retirement benefits shall not be reduced below seventy-five thousand dollars (\$75,000.00) if payment of benefits begins at or after age fifty-five (55) and not below the actuarial equivalent of seventy-five thousand dollars (\$75,000.00) if payment of benefits begins before age fifty-five (55). If retirement benefits begin after age sixty-five (65), the dollar limitation of paragraph (a)(1) shall be increased actuarially using an interest assumption equal to the lesser of five (5) percent or the interest rate used in the most recent annual actuarial valuation. For purposes of this section, the "average annual compensation for a member's three (3) highest paid consecutive years" shall mean the member's greatest aggregate compensation during the period of three (3) consecutive years in which the individual was an active member of the system.

(Ord. No. 1416, § 9(9A-13(m)), 8-27-86; Ord. No. 2308, § 5, 10-29-2003)

### **Sec. 18-64.4. Distributions in plan years beginning after December 31, 1984.**

Commencing with the first plan year beginning after December 31, 1984, the entire interest of a member shall either be distributed to him not later than April 1 following the calendar year in which he attains age seventy and one-half (70 1/2) or the calendar year in which he retires, whichever is later. In the alternative, distribution shall commence no later than the above specified commencement date and be distributable over a period of time not exceeding the limitations hereinafter set forth:

- (1) Distributions to a member shall not extend beyond the life of the member or the lives of the member and his designated beneficiary, or over a period not extending beyond the life expectancy of the member or the life expectancy of the member and his designated beneficiary.
- (2) If distribution has commenced to a member, and such member dies before receiving his entire interest, the remainder of such interest shall be distributed over a period at least as rapidly as under the method of distribution in effect prior to such member's death, e.g., remainder of period certain basis.
- (3) Any method of distribution selected and made in writing by a member prior to January 1, 1984, and which is in compliance with system provisions prior to said date, shall be permitted hereunder even though not in accordance with the above provisions as applied to plan years beginning after December 31, 1983.

(Ord. No. 1416, § 9(9A-13(n)), 8-27-86)

#### **Sec. 18-64.5. Direct transfers of eligible distribution.**

This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plantation Police Officers' Retirement System to the contrary, a distributee may elect, at the time and in the manner prescribed by the police officers retirement system board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. (Ord. No. 2013, § 1, 1-4-95)

#### **Sec. 18-65. Optional methods of retirement payments for police officers.**

Each police officer shall have the right at any time prior to his actual retirement date to elect to have his retirement benefits payable under any one (1) of the options hereinafter set forth in lieu of the benefits otherwise provided, and to revoke any such elections and make a new election at any time prior to said actual retirement date. The value of optional retirement benefits shall be actuarially equivalent to the value of benefits otherwise payable. The member shall make such an election by written request to the board and such an election shall be subject to the approval of the board.

- (1) *Last survivor option.* A member may elect to receive a decreased retirement benefit during his lifetime and have such decreased retirement benefit (or a designated fraction amounting to one hundred (100) percent, seventy-five (75) percent, sixty-six and two-thirds (66 2/3) percent or fifty (50) percent of it) continued after his death to and during the lifetime of another person, designated a beneficiary. Provided, however, that in no event shall the present value of payments to the retiring member be less than fifty (50) percent of the total present value of payments to the retiring member and his beneficiary.

- (2) [Intentionally left blank.]
- (3) *Social Security option (level income option).* If a member retires prior to his normal retirement date, other than for disability, he may elect to receive an increased benefit from the system until such time as Social Security benefits commence and a reduced benefit thereafter in order to provide, to as great extent as possible, a more level retirement allowance throughout the period of his retirement.
- (4) *Lump sum or other option.* A member may elect to receive his benefits in a lump sum provided that such lump sum distribution shall be either a full and complete distribution, a twenty-five (25) percent or a fifty (50) percent distribution of the actual value of the member's benefits under the plan. If a member selects partial lump sum distribution, then monthly retirement benefits shall be reduced accordingly. Upon receipt of the full lump sum benefit, the member shall release the retirement system from any and all further liability and shall waive any rights they may have under the retirement system at the time of the election or thereafter.
- a. Existing retirees or their beneficiaries receiving benefits or entitled to receive benefits on the effective date of Ordinance No. 2262 shall receive a ninety-day notice of opportunity to elect a full or partial lump sum distribution of their remaining benefits. If the member elects a partial lump sum benefit, the remaining benefits shall be actuarially reduced accordingly. Such election shall be offered only to such persons once and, if the election is not made timely, it shall be deemed to have been waived. Notice to the retiree shall be sent by certified mail, return receipt requested. If the ninetieth day from the date of receipt of the notice falls upon a Saturday, Sunday, or city holiday, the retiree or beneficiaries receiving benefits or those entitled to receive benefits shall have until 4:00 p.m. EST on the next business day to submit their election. The notice of election shall be sent to retirees and beneficiaries receiving benefits on forms and follow procedures for implementation of this provision as may be approved by the board of trustees of the police officers retirement system. If the board does not receive certification of a return by the one hundred fiftieth day after the effective date of this Ordinance No. 2262, a notice listing all retirees and beneficiaries receiving benefits for whom there is no proof of notice, shall be noticed by way of publication in a newspaper of general circulation within Broward County, Florida. The published notice shall indicate that such persons have ninety (90) days from the date of publication of said notice to make an election to receive a lump sum distribution or such right shall be waived. All retirees and beneficiaries receiving benefits under the system who fail to make a timely election on the forms prescribed by the board of trustees shall be deemed to have waived their right to such election. For retirees and beneficiaries who make such election to receive lump sum distributions, the board shall have up to one (1) year to make such distribution to them. Pending such lump sum distribution, the persons making the election shall continue to receive their regular benefits. The lump sum distribution shall be based on an actuarial equivalency determined as of the first day of the month in which it is scheduled to be paid.
- (5) *Prior death of beneficiary.* The election by a member of option (1), above, shall be null and void if the designated beneficiary dies before the member's retirement and the normal form of

retirement benefit will be payable upon the member's retirement.

- (6) *Change of beneficiary.* If a police officer has elected an option with a beneficiary, the member shall be permitted to request a change of the designated beneficiary, but such change shall be deemed a new election and shall be subject to approval by the board of trustees. A request for such a change shall be made to the board of trustees on the form provided by the board of trustees. If a police officer has elected an option and his or her retirement income benefits have commenced, he or she may thereafter change the designated beneficiary, but only if the board of trustees consents to such change and if the last previously designated beneficiary by the police officer is alive when he or she files with the board of trustees a request for such change. The consent of a police officer's beneficiary to any such change shall not be required.
- (7) *Life option.* A retirement income in an amount greater than the normal retirement benefit, payable to the police officer for his or her lifetime only.
- (8) *Calculation of actuarial equivalency.* For purposes of establishing the actuarial present value of any form of payment all future payments shall be discounted for interest and mortality by using eight (8) percent interest and the 1983 80/20 Group Annuity Mortality Table for Males and Females, with ages set ahead five (5) years in the case of disability retirees.

(Ord. No. 1416, § 9(9A-14), 8-27-86; Ord. No. 1540, §§ 1, 2, 3-2-88; Ord. No. 1699, §§ 1, 2, 4-18-90; Ord. No. 2206, § 6, 12-15-99; Ord. No. 2239, § 1, 11-30-2000; Ord. No. 2262, § 3, 10-17-01; Ord. No. 2265, § 1, 1-30-2002; Ord. No. 2347, § 5, 8-10-2005)

#### **Sec. 18-66. The board of trustees.**

(a) *Membership.* There is hereby created a board of trustees of the said police officers retirement system for the city which shall serve as the trustee of the police officers fund; in addition, the general administration, management and responsibility of the proper operation of the police officers retirement system shall be vested solely in said board of trustees. The board shall consist of five (5) member trustees as follows:

- (1) Two (2) legal residents of the city appointed by the city council;
- (2) Two (2) police officer members of the plan who are elected by a majority of the police officers who are members of the plan, as hereinafter provided; and
- (3) A fifth person chosen by a majority of the previous four (4) members of the board of trustees. The name of the fifth person shall be submitted to the city council which shall, as a ministerial duty, appoint him to the board.

(b) *Term; oath of office.*

- (1) Each resident member shall serve for a period of two (2) years, unless sooner replaced by the city council at whose pleasure he or she shall serve, and may succeed himself or herself in office. Each member elected by other members of the system shall serve for a period of two (2) years, unless he or she sooner leaves the employment of the city as a police officer, whereupon the city council shall choose his or her successor in the same manner as an original appointment. The

fifth member chosen by a majority of the other four (4) members of the board shall also serve for a period of two (2) years and may succeed himself/herself in office.

- (2) Each police officer member may succeed himself in office. The fifth member of the board shall have the same rights as each of the other four (4) members and may succeed himself in office. Each trustee shall take an oath of office to be administered by the city clerk or a notary public.

(c) *Meetings; rules of procedure.* The board shall meet at least once during each calendar quarter, and at any other time upon call by the chairman or any three (3) members of the board, with the time and place thereof designated in accordance with applicable state laws. The board shall adopt its own rules of procedure and maintain a record of its proceedings. All meetings of the board shall be public. Trustees shall be entitled to one (1) vote at meetings of the board. Three (3) concurring votes shall be necessary for a decision by the board.

(d) *Officers; employees.* The board shall elect from its members a chairman, vice-chairman and a secretary. The city treasurer may be a treasurer of the retirement system and the custodian of its funds pending transfer of such funds to the regular fiscal agent for the plan. The board may employ independent legal counsel at the fund's expense. The board may appoint an actuary who shall be the technical advisor to the board on matters regarding the operation of the retirement system. The board may appoint a physician as medical director, who shall not be eligible for membership in the retirement system.

The board may employ such additional professional and clerical services as may be required for proper operation of the retirement system.

(e) *Records.* The secretary of the board shall cause to be kept the records of the proceedings of the board and such data as shall be necessary for periodic actuarial valuation of the assets and liabilities of the retirement system.

(f) *Functions and duties.* The further duties and functions of the board of trustees, other than investment functions, shall be as follows:

- (1) To observe and oversee the operation of the system and fund.
- (2) To make recommendations for improvements.
- (3) To finally determine and authorize all claims and entitlements to benefits.
- (4) To determine by uniform rules all questions concerning credited service and membership.
- (5) To maintain or have maintained accurate records of credited service and accumulated contributions of members and such other data as may be necessary.
- (6) To have performed regular, periodic actuarial valuations and studies of the retirement system and fund.
- (7) It may have prepared and render annually to the city council a complete accounting of the financial and other transactions of the retirement fund and system.

(8) To establish uniform rules and regulations for operation of the system. (Ord. No. 1416, § 9(9A-15), 8-27-86; Ord. No. 1757, §§ 11, 12, 17, 12-19-90; Ord. No. 2105, § 1, 9-18-96; Ord. No. 2136, § 1, 9-24-97; Ord. No. 2236, § 2, 11-8-2000; Ord. No. 2401, § 1, 1-9-2008)

**Sec. 18-67. Finances and fund management.**

(a) *Establishment and operation of fund.*

- (1) There is hereby established a special fund, to be known as the police officers' retirement fund, hereinafter referred to as "the fund," into which shall be deposited all of the contributions and assets whatsoever of the system.
- (2) Subject to the overall supervision of the board of trustees, and other provisions herein, the actual collection, custody and payment of the funds, and the fund established by this division, shall be vested in the city treasurer; provided, however, payment of benefits and disbursements from the fund shall be made only on authorization from the board of trustees, and all payments and disbursements shall be by check signed by the city treasurer and city clerk; provided further, that the board of trustees shall have the power and authority to hire and appoint such persons, agents or entities (including corporate fiduciaries) as in its discretion may be required or advisable to enable it to perform its duties hereunder, and including the authority to enter into agency, investment advisory and custodial agreements for the purpose of security investment and custodianship services for the system and fund. The foregoing notwithstanding, the board shall have the authority to direct the fund's custodian bank or corporation fiduciary to make the authorized disbursements without the necessity of requiring checks to be signed by the city treasurer and city clerk. In the event of a conflict between this section and section 185.06(1), Florida Statutes, the provisions of the Florida Statutes shall control.
- (3) All funds and securities of the system may be commingled in the fund established for purpose of the system, provided that accurate records are maintained at all times reflecting the financial composition of the fund, including the current amounts of accumulated contributions for each member. All funds and securities appertaining to the system shall be deposited with the city treasurer who shall in turn deposit such funds and securities in the fund.

The board shall be required to prepare annually a complete accounting of the financial and other transactions of the fund. Such accountings shall reflect a complete valuation of assets on both a cost and a market basis.

(b) *City contributions.*

- (1) Each year the city shall pay into the fund an amount which is equal to the difference between the normal cost for the year, as determined by the most recent actuarially valuation of the liabilities of the system, and the sum of aggregate member contributions for the year and the premium tax refund received from the State of Florida on behalf of police officers.
- (2) The city shall also pay into the fund in addition to the amounts provided for above, such amounts

as shall be determined on an actuarial basis as necessary to amortize the liability of the city for prior service hereunder over a period of not to exceed forty (40) years.

(3) All required city contributions shall be deposited into the fund in quarterly installments.

(c) *Gifts, bequests and donations.* All gifts, bequests, devices and donations to the Plantation police officers' retirement fund and all other accretions and additional sources of income shall be deposited in said fund to be administered under the terms of this chapter.

(d) *Investments.* The board of trustees shall have the following investment powers and authority:

(1) The fund may be invested and reinvested in such securities or property, real or personal, wherever situated and of whatsoever kind, as shall be approved by the board of trustees, as permitted by Florida Statutes, including but not limited to stocks, common or preferred, bonds, obligations of the city, and other such evidences of indebtedness or ownership. However, there shall be no investments in mortgages, debentures, nor unsecured obligations representing indebtedness of fixed amounts except as regards obligations issued by the United States, the State of Florida or political subdivisions or agencies thereof. At no time shall be investment in common stocks exceed seventy (70) percent of the market value of the total assets in the fund.

(2) The board of trustees may retain in cash and keep unproductive of income such amount of the fund as it may deem advisable, having regard for the cast requirements of the system.

(3) No person or entity shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the fund, except that due to his or its own negligence, willful misconduct or lack of good faith.

(4) The board may cause any investment in securities held by it to be registered in or transferred into its name as trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the trust fund.

(5) The board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power or substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee or with the trustees or with depositories designated thereby; to amortize or fail to amortize any part of all of the premium or discount resulting from the acquisition or disposition of assets; and generally, to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the fund which it may deem to be to the best interest of the fund to exercise.

(Ord. No. 1416, § 9(9A-16), 8-27-86; Ord. No. 1731, § 1, 8-29-90; Ord. No. 1839, § 1, 5-20-92; Ord. No. 2304, § 2, 8-27-2003)

**Cross References:** Casualty insurance premium tax, § 24-36.

## **Sec. 18-68. Benefits received through error or change in records.**

Should any change or error in records result in any member or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, then on discovery of any such error the board shall cause the same to be corrected and as far as practicable shall direct that the payments be adjusted in such manner that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled shall be paid.

(Ord. No. 1416, § 9(9A-17(1)), 8-27-86)

### **Sec. 18-68.1. Illegality of provisions, etc.**

If any section or part of any section of this division is declared illegal, the remainder of this division shall not thereby be invalidated. All provisions of any ordinances of the city inconsistent with the provisions of this division are hereby repealed to the extent of such inconsistencies.

(Ord. No. 1416, § 9(9A-17(2)), 8-27-86)

### **Sec. 18-68.2. Modification of division.**

This division establishing the system and fund, and subsequent ordinance pertaining to said system and fund, may be modified, terminated or amended, in whole or in part; provided that if this division or any subsequent ordinance shall be amended or repealed in its application to any person benefiting hereunder, the amount of benefits which at the time of any such alteration, amendment or repeal shall have accrued to the member or beneficiary shall not be affected thereby, except to the extent that the assets of the fund may be determined to be inadequate.

(Ord. No. 1416, § 9(9A-17(3)), 8-27-86)

### **Sec. 18-68.3. Administration of system if division repealed.**

(a) If this division shall be repealed or if contributions to the system are discontinued, the board shall continue to administer the system in accordance with the provisions of this division, for the sole benefit of the then members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the options provided for in this division who are designated by any of said members. In the event of repeal, there shall be full vesting one hundred (100) percent of benefits accrued to date of repeal and the assets of the system shall be allocated in an equitable manner to provide benefits on a proportionate basis to the persons so entitled to benefits in accordance with the provisions hereof, with prior preference being directed towards the return of accumulated contributions.

(b) The following shall be the order of priority for purposes of allocating the assets of the system upon repeal of this division or if contributions to the system are discontinued:

- (1) The accumulated contributions of the members less any benefits received, in proportion to and to the extent of the then amount of accumulated member contributions. If any funds remain, then
- (2) Members already retired under the normal retirement provisions of the plan and those eligible for normal retirement but not actually retired, and their beneficiaries, in proportion to and to the extent of the then actuarially determined present value of the benefits payable less amounts received according to (1) above. If any funds remain, then

- (3) Members already retired or eligible for retirement under the early retirement provisions of this system and their beneficiaries in the same manner as in (2) above. If any funds remain, then
- (4) All other members and their beneficiaries in the same manner as in (2) but based upon credited service and average final compensation as of the date of termination of the system, and with any benefits vested given precedence.

(c) The allocation of the fund provided for in this section, as decided by the board, be carried out through the purchase of insurance company contracts to provide the benefits determined in accordance with this section. The fund may be distributed in one (1) sum to the persons entitled to said benefits or the distribution may be carried out in such other equitable manner as the board may direct. The trust may be continued in existence for purposes of subsequent distributions.

(d) If, at any time during the first ten (10) years after the effective date of the system as respects the city, the system shall be terminated or the full current costs of the system (consisting of the normal costs and interest on any accrued liability) shall not have been met, anything in the system to the contrary notwithstanding, city contributions which may be used for the benefit of one (1) of the twenty-five (25) highest paid employees of the city on the effective date, whose anticipated annual retirement allowance provided by the city's contributions at his normal retirement date would exceed one thousand five hundred dollars (\$1,500.00) shall not exceed the greater of either (a) twenty thousand dollars (\$20,000.00) or (b) an amount computed by multiplying the smaller of ten thousand dollars (\$10,000.00) or twenty (20) percent of such employee's average annual earnings during his last five (5) years of service by the number of years of service since the effective date. In the event that it shall hereafter be determined by statute, court decision, ruling by the commissioner of internal revenue, or otherwise, that the provisions of this paragraph are not then necessary to qualify the system under the internal revenue code, this paragraph shall be ineffective without the necessity of further amendment of this division.

(e) Notwithstanding the provisions of this section, should there be a conflict between the termination provisions of this section and those contained in section 185.37, Florida Statutes, the provisions of section 185.37, Florida Statutes, shall prevail.  
(Ord. No. 1416, § 9(9A-17(4)), 8-27-86; Ord. No. 2206, § 7, 12-15-99)

#### **Sec. 18-68.4. Allocation of assets.**

The allocation of assets of the system in the event of repeal of this division or discontinuance of contributions to the system shall be carried out through the payment of the benefits provided hereunder as they become due, or by the transfer of such assets to any retirement system replacing this system, provided that full vesting of benefits under this system are provided and fully maintained under such new retirement system. After all the vested and accrued benefits provided hereunder have been paid and after all other liabilities have been satisfied, then and only then shall any remaining funds revert to the general fund of the city.  
(Ord. No. 1416, § 9(9A-17(5)), 8-27-86)

#### **Sec. 18-68.5. Effect of allocation of assets; compliance with state statutes.**

Any allocation of assets made in accordance with the provisions hereunder shall be final and binding on

all persons entitled to benefits under the system. Notwithstanding the provisions of section 18-68 through 18-68.10, should any provisions be in conflict with the termination provisions contained in section 185.37, Florida Statutes, the provisions in sections 185.37, Florida Statutes, shall control.

(Ord. No. 1416, § 9(9A-17(6)), 8-27-86)

**Sec. 18-68.6. Assignment, etc., of benefits.**

No benefit whatsoever as herein provided shall be assignable nor shall such be subject to attachment, garnishment, execution or to any other legal process.

(Ord. No. 1416, § 9(9A-17(7)), 8-27-86; Ord. No. 1757, § 13, 12-19-90)

**Sec. 18-68.7. Nonliability of trustees.**

The trustees shall sustain no liability whatsoever for the sufficiency of the fund to meet the payments and benefits herein provided for.

(Ord. No. 1416, § 9(9A-17(8)), 8-27-86; Ord. No. 1757, § 14, 12-19-90)

**Sec. 18-68.8. Resignation of trustees; removal; vacancy.**

A trustee may resign this trust at any time by giving sixty (60) days written notice to the city. A trustee may be removed only for cause stated and by affirmative action of three (3) trustees. In the event of vacancy occurring at any time in the trusteeship of this fund, a qualified successor trustee shall be chosen in the same manner as applied to the prior trustee. In the event of a conflict between this section and Chapter 185, Florida Statutes, the provisions of the Florida Statutes shall control.

(Ord. No. 1416, § 9(9A-017(9)), 8-27-86; Ord. No. 1731, § 2, 8-29-90)

**Sec. 18-68.9. Interpretation and usage.**

Wherever the masculine is used herein, it shall also refer to the feminine. The paragraph and section headings used herein are for convenience only and shall not be interpreted as part of the accompanying text.

(Ord. No. 1416, § 9(9A-17(10)), 8-27-86)

**Sec. 18-68.10. Monies payable by the state.**

All monies and funds payable or returnable by the State of Florida, for the purpose of providing benefits to or from the use of police officers, or other designated groups of persons, shall be deposited in the fund in accordance with section 185.11, Florida Statutes. Such monies and funds, together with accruals of investment earnings thereon, shall be allocated in total in the accounting of the total fund as being for the exclusive benefit of police officers, or other groups designated by the State of Florida, and shall be applied to provide additional benefits for such designated group or groups. The amount and nature of such additional benefit shall be that which can be supported by such additional monies, as determined from time to time by the board's actuaries, and as adopted and made a part of this division.

(Ord. No. 1416, § 9(9A-17(11)), 8-27-86; Ord. No. 1757, § 15, 12-19-90)

**Secs. 18-69--18-75. Reserved.**

## ARTICLE III.

### VOLUNTEER FIREFIGHTERS\*

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\* **Cross References:** Fire prevention, Ch. 8; property insurance premium tax, § 24-51.

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#### Sec. 18-76. Definitions.

For the purpose of this article the following terms shall have the meaning hereinafter set forth:

*Beneficiary* shall mean the person or persons entitled to receive any benefits hereunder at the death of a member, who has or have been designated in writing by the member and filed with the board. If no such designation is in effect at the time of death of the member, or if no person so designated is living at that time, the beneficiary shall be the estate of the member unless the board, which shall have full authority to do so if it so desires, designates a beneficiary.

*Board* shall mean the board of trustees, which shall serve as trustee of the fund herein established and which shall have administrative authority and supervision of the volunteer system. The board shall be the plan administrator of the volunteer system.

*Distributee* includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.

*Direct rollover* shall mean a payment by the volunteer firefighters' retirement plan to the eligible retirement plan specified by the distributee.

*Effective date* shall mean May 21, 1980.

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

*Eligible rollover distribution* shall mean any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includable in gross income.

*Emergency responder* shall mean a volunteer firefighter providing volunteer services to the city as a first responder, an emergency medical technician or a paramedic, whose name is carried on the active membership

roll of the fire department, and whose duty it is to extinguish fires, to protect life and to protect property.

*FMS response assignment* shall mean any duly authorized call, alarm or signal to Plantation Volunteer Firefighters requiring them to respond for the purpose of rendering medical treatment, performing life-saving procedures, or any similar situation generally recognized as requiring the services of an emergency responder.

*Fire alarm* shall mean any duly authorized call, alarm or signal to Plantation Volunteer Firefighter requiring them to respond for the purpose of fighting fires, undertaking rescues, handling bomb alerts or any similar situation generally recognized as requiring the services of firefighter.

*Fire inspector* shall mean a fire inspector employed by the city whose name is carried on the active membership roll of the fire department, whose duty it is to extinguish fires, to protect life, and to protect property. A fire inspector is also a volunteer firefighter.

*Fiscal agent* shall mean the person or entity designated to serve as the investment agent and adviser and custodian of the fund of the volunteer retirement system. The fiscal agent shall be a fiduciary, as specified in Florida law.

*Fund or trust* shall mean the trust fund established as part of the volunteer retirement system; all funds, assets and contributions for the system shall be retained and accumulated in the fund.

*Member* shall mean any person designated a volunteer firefighter, and who is included in the volunteer retirement system as herein provided.

*Position description* shall mean a description of a volunteer firefighter's position which is approved by the fire chief and director of personnel.

*Retiree* shall mean any member or former member who is receiving benefits from the fund.

*Retirement* shall mean the occurrence of a member reaching their normal or early retirement date and electing to begin to receive benefits thereunder.

*Volunteer firefighter* shall mean any person whose name is carried on the active membership roll of the Plantation Volunteer Fire Association and whose duty it is to extinguish fires, to protect life, and to protect property, and who is a member of the fire department which has been assigned a position description. To be carried on the active membership roll of the association, a person must meet the criteria and standards established by the board of fire officers, with such criteria and standards to be approved, at all times, by the city council.

*Volunteer system* shall mean the City of Plantation Volunteer Firefighter Retirement System as established by this article.

(Code 1964, § 9A-21; Ord. No. 1648, § 1, 9-13-89; Ord. No. 1730, § 1, 8-29-90; Ord. No. 2010, § 1, 1-4-95; Ord. No. 2012, § 1, 1-4-95; Ord. No. 2140, § 1, 10-15-97; Ord. No. 2305, § 1, 8-27-2003; Ord. No. 2346, § 1, 8-10-2005)

## **Sec. 18-77. Eligibility.**

(a) All volunteer firefighters as defined herein shall be eligible for membership in the volunteer firefighter retirement system.

(b) Should a person's status as a member cease, he may thereafter reapply to serve as a volunteer fireman. Should he be reinstated, he shall for the purpose of this article, if otherwise eligible, be deemed to be a new member hereunder, as of his date of reinstatement; provided, however, that a member who is reinstated;

- (1) Will receive credit for years or fractional parts of years of service if the member repays into the fund the amount he or she has withdrawn. The member shall have one hundred twenty (120) days after re-instated to make payment, or
- (2) A firefighter may voluntarily leave his or her contributions in the fund for a period of five (5) years after leaving the service of the fire department, pending the possibility of being rehired by the same department, without losing credit for the time the member has participated actively as a firefighter. If the member is not reinstated as a firefighter within five (5) years, his or her contributions shall be returned without interest. A reinstated volunteer firefighter shall continue as a member under the system and be credited with additional membership service beginning with the date of reinstatement. No volunteer firefighters who ceased such service prior to May 21, 1980 shall be entitled to reinstatement of prior credited service as herein set forth. Reentry to this system after discontinuance of original or prior membership shall be permitted on a uniform, nondiscriminatory basis, and in no event shall any duplication of benefits result therefrom.

(c) Upon cessation of membership, each member shall thereafter lose all rights to any benefit under this article except as herein provided.

(Code 1964, § 9A-22; Ord. No. 1580, § 1, 9-22-88; Ord. No. 1758, § 2, 12-19-90; Ord. No. 1850, § 1, 7-1-92; Ord. No. 2010, § 1, 1-4-95; Ord. No. 2207, § 1, 12-15-99; Ord. No. 2305, § 2, 8-27-2003; Ord. No. 2346, § 2, 8-10-2005)

#### **Sec. 18-78. Credited service.**

Credited service shall mean the aggregate number of years of service for which a volunteer firefighter is credited for eligibility, benefit and vesting purposes, subject to the following:

- (1) Subject to all other subparagraphs below, one (1) year of credited service shall be given for a year in which a member fulfills his or her position description as a member of the Plantation Fire Department. The year period for this purpose shall be the fiscal year.
- (2) In determining the aggregate number of years of service, the time spent in the military service of the Armed Forces of the United States, or the United States Merchant Marine, while on official leave of absence in the event of a national emergency, shall be added to the years of actual service. However, credit for such military service shall not exceed five (5) years. Further, to receive credit for such service:
  - a. The firefighter must return to classification for the fire department within one (1) year from the date of his release from such active service; and

- b. The firefighter must contribute into the fund the same sum which he would have contributed if he had remained a firefighter. Further, a request for credit for such military service must be made by the firefighter within ninety (90) days after reentering the service of the fire association from such leave of absence granted, or such military service credit shall be forfeited forever;
- (3) Prior service shall mean service prior to May 21, 1980 and shall be allowed back to 1957 for all members eligible therefor and serving as a volunteer firefighter as of May 21, 1980;
- (4) Any volunteer firefighter who is a member of the plan and who becomes temporarily disabled as a result of an injury sustained during the performance of service to the city as a volunteer firefighter (as ultimately determined by the board, acting pursuant to uniform rules of procedure) may be granted credited service equal to the period of time such person was so disabled, not to exceed a period of one-half ( 1/2) year of credited service, if the board determines, upon written request and substantial credible evidence, that such person is either physically or mentally incapable to perform his or her regular and continuous duty within his or her classification as a volunteer firefighter, during such period of disability.

(Code 1964, § 9A-21; Ord. No. 1581, § 1, 9-28-88; Ord. No. 1648, §§ 2, 3, 9-13-89; Ord. No. 1758, §§ 1, 3--5, 12-19-90; Ord. No. 1887, § 1, 11-4-92; Ord. No. 2010, §§ 2, 3, 1-4-95; Ord. No. 2140, §§ 2, 3, 10-15-97; Ord. No. 2142, § 1, 2-4-98; Ord. No. 2207, § 2, 12-15-99; Ord. No. 2346, § 3, 8-10-2005)

#### **Sec. 18-79. Membership.**

No person who becomes a member of this retirement system following May 21, 1980 shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from another retirement system or plan which is supported in whole or in part by public funds. As regards any member who, following May 21, 1980, is covered by any other retirement system or plan which is supported in whole or in part by public funds, credit for service shall only be given in a year in which such member continuously fulfills his or her duties within his or her position description other than during such member's regular hours of employment; in such case the member shall not be precluded from receiving benefits from two (2) retirement systems, each of which is supported by public funds. Further nothing herein shall preclude a member from receiving at the same time benefits from this system and the federal Social Security system. (Code 1964, § 9A-21; Ord. No. 1826, § 2, 1-22-92; Ord. No. 2346, § 4, 8-10-2005)

#### **Sec. 18-80. Retirement dates.**

(a) *Normal retirement date.* The normal retirement date for members shall be the first day of the month coincident with or next following the date on which a member completes twenty (20) years of credited service, or attains age fifty-five (55) and completes ten (10) years of credited service, or at any time thereafter as determined by the member and approved by the board. Each member shall become one hundred (100) percent vested in his accrued benefit on his normal retirement date. Each member that completes nine (9) years of credited service shall become seventy-five (75) percent vested in his accrued benefit on the normal retirement date. Each member that completes eight (8) years of credited service shall become fifty (50) percent vested in his accrued benefit on the normal retirement date. Each member that completes seven (7) years of credited

service shall become twenty-five (25) percent vested in his accrued benefit on the normal retirement date.

(b) *Early retirement date.* Early retirement under the plan is retirement from the service of the municipality or special fire control district, with the consent of the municipality or special fire control district, as of the first day of any calendar month which is prior to the firefighter's normal retirement date but subsequent to the date as of which he or she has both attained the age of fifty (50) years and completes ten (10) years of credited service.

(c) *Disability retirement date.* A member who becomes totally and permanently disabled as a result of an act occurring in the performance of service to the city, as ultimately determined by the board acting pursuant to uniform rules of procedure, shall be entitled to retire from employment on the day following the occurrence of such disability up to the ninety-first day following the occurrence of such disability, which date is to be determined at the board's sole discretion and provided such member is still totally and permanently disabled on that day. For purposes of this section, "totally disabled" shall mean that the disability shall prevent the member from rendering useful and efficient services as a firefighter; "permanently disabled" shall mean that the member is likely to remain so disabled continuously and permanently. A total and permanent disability arising from any other cause or source shall be considered to be a non service-incurred disability. Should such disability arise as a result of the member's own willful intent, commission of a felony or other crime, or use of alcohol, narcotics or other such items considered to be dangerous drugs, the member shall not be entitled to disability benefits provided hereunder. In the event of a conflict between this section and F.S. §§ 175.191(3) and 175.231, the provisions of the Florida Statutes shall control. In addition, a member shall not be entitled to receive a disability retirement benefit from the system on the basis of any condition which existed prior to the member's employment or which was evidenced during the member's preemployment physical. If a member who is applying for disability benefits is eligible for a normal retirement benefit, no disability benefit shall be payable by the system; the member's normal retirement benefit shall be paid when he actually retires. (Code 1964, § 9A-23; Ord. No. 1758, § 6, 12-19-90; Ord. No. 1879, § 1, 9-30-92; Ord. No. 2207, § 3, 12-15-99; Ord. No. 2302, § 1, 8-27-2003; Ord. No. 2346, § 5, 8-10-2005; Ord. No. 2363, § 1, 5-10-2006; Ord. No. 2375, § 1, 9-27-2006; Ord. No. 2389, § 1, 6-27-2007)

### **Sec. 18-81. Normal retirement benefit.**

(a) The amount of monthly retirement income payable to a volunteer firefighter who elects to receive benefits on or after his or her normal retirement date, shall be an amount equal to the number of his or her years of credited service multiplied by two (2) percent of his or her average final compensation as a volunteer firefighter, or an amount equal to the multiplier in effect the last time the member was a volunteer firefighter as herein defined for thirteen (13) consecutive months multiplied by the number of years of credited service, whichever is greater.

(1) The multiplier schedule:

- a. Fifty dollars (\$50.00) for all current retirees, beneficiaries, and terminated vested members. This multiplier shall not be applied retroactive to all current retirees or beneficiaries for whom received a multiplier less than fifty dollars (\$50.00) prior October 1, 2007.

Such payments shall commence on the member's normal retirement date and shall cease upon the member's

death, but in no case shall such benefit terminate before one hundred twenty (120) consecutive monthly payments have been made. Notwithstanding the foregoing, any such benefit will be payable only to the extent that it does not conflict with or exceed the limitations described in the Internal Revenue Code.

(b) In the event of early retirement, the monthly amount of retirement income shall be actuarially reduced to take into account the firefighter's younger age and the earlier commencement of retirement income benefits. In no event shall the early retirement reduction exceed three (3) percent for each year by which the member's age at retirement preceded the member's normal retirement, as provided in section 18-80(a) of this Code. The amount of monthly income payable in the event of early retirement will commence on the member's early retirement date.

(c) Effective July 1, 2001, the minimum monthly retirement income payable to a current retiree of the volunteer firefighters retirement system or their beneficiaries receiving benefits under the retirement system, and vested terminated members of the system shall be an amount equal to forty dollars (\$40.00) for each year of credited service, regardless of the minimum monthly benefit provided under the system at the time of the member's retirement. However, the minimum monthly retirement income payable to a current retiree of the volunteer firefighters retirement system or their beneficiaries receiving benefits under the retirement system, and vested terminated members of the system when the member retired or became vested completing nine (9) years, eight (8) years, or seven (7) years of credited service shall be an amount equal to forty dollars (\$40.00) for each year of credited service, regardless of the minimum monthly benefit provided under the system at the time of the member's retirement multiplied by seventy-five (75) percent, fifty (50) percent, or twenty-five (25) percent respectively.

(Code 1964, § 9A-24(a); Ord. No. 1581, § 2, 9-28-88; Ord. No. 1588, § 1, 11-16-88; Ord. No. 1750, § 1, 11-14-90; Ord. No. 1758, § 7, 12-19-90; Ord. No. 1895, § 1, 1-13-93; Ord. No. 2067, § 1, 1-24-96; Ord. No. 2207, § 4, 12-15-99; Ord. No. 2223, § 1, 5-31-2000; Ord. No. 2258, § 1, 9-26-2001; Ord. No. 2272, § 1, 5-15-2002; Ord. No. 2305, § 3, 8-27-2003; Ord. No. 2363, § 2, 5-10-2006; Ord. No. 2389, § 2, 6-27-2007; Ord. No. 2408, § 1, 4-30-2008)

### **Sec. 18-82. Disability retirement benefit.**

(a) For service-incurred disability, a member shall receive upon retirement at his disability retirement date, a monthly benefit equal to one hundred dollars (\$100.00) per month or if greater, the accrued retirement benefit as of date of determination of disability as determined by the board. The initial amount of nonservice incurred disability benefits shall be equal to one hundred dollars (\$100.00) per month or if greater, the accrued retirement benefits as of the date of determination of disability by the board, provided however, that a non-service incurred disability shall only be payable where the claimant has earned ten (10) years of credited service as of the date of disability as determined by the board. The benefit shall be payable throughout the period of total and permanent disability until the member ceases to be disabled, or until the benefit is modified or revoked in accordance with (d) below by the board. In addition, a single sum payment shall be made as determined by applying this benefit retroactively to the date of occurrence of the disability reduced by the amount of any sick leave or salary continuation payments made by the city during the intervening period. In lieu of the benefit payment provided above a disabled member may select an optional form as provided in section 18-85. Any monthly disability benefits payable after the death of a disabled member shall be paid to the member's designated beneficiaries.

(b) In order for a member to be entitled to any type of disability benefit, he shall apply in writing to

the board of trustees, whereupon the board shall arrange for a physical examination of such applicant by the medical director, and his written report along with F.S. § 175.231, shall be given full consideration by the board in arriving at its decision concerning the disabled status of such applicant. If application is for non-service-incurred disability, determine whether ten (10) years of credited service requirement has been met, because only a member who completes ten (10) years of credited service prior to becoming disabled shall be eligible for non-service-incurred disability benefits. The decision of the board concerning the disabled status of such applicant shall be final. Any person receiving a disability benefit hereunder shall be subject to reexamination annually, in the sole discretion of the board of trustees, for the purpose of determining the then existing status of the disability of such pensioner. If found to be able to reenter and undertake active duty as a volunteer firefighter, such pensioner shall be reinstated as a volunteer firefighter and in such case receive full credit for years of service during the period of disability.

(c) In determining the nature and extent of any disability, the board, following uniform rules of procedure, may cause an applicant to be examined by other physicians designated by the board. Should any applicant or pensioner refuse to submit to examination as herein specified, his eligibility for a disability benefit shall cease.

(d) The board, must determine whether the disability is to be considered a service incurred disability or a non service-incurred disability, taking into consideration F.S. § 175.231. In addition, the board, upon taking into consideration a disabled pensioner's current disabled status, shall have the authority to suspend or terminate as appropriate a disability pension if the pensioner has recovered from the disability, or to make offsets thereto in accordance with law in view of Social Security or workers' compensation income received by the pensioner, provided such decision does not conflict with F.S. § 175.191 or § 175.231, and provided that any such reduction in disability pension as a result of an offset in view of such other income received by the pensioner shall not be less than the statutory minimum disability benefit in effect as of the date of the disability.

(e) Any amounts which may be paid or payable under the provisions of the federal Social Security law, or of any worker's compensation, pension or similar law, either to a member or to the dependents of a member on account of any disability, shall not be offset against and payable in lieu of any benefits payable under the provisions of this article on account of disability.

(Code 1964, § 9A-24(b); Ord. No. 1758, §§ 8, 9, 12-19-90; Ord. No. 2010, § 1, 1-4-95; Ord. No. 2207, § 5, 12-15-99; Ord. No. 2346, § 6, 8-10-2005; Ord. No. 2375, § 2, 9-27-2006)

### **Sec. 18-83. Death and termination benefits.**

(a) Upon the death of a retiree or member eligible for a normal retirement benefit there shall be no death benefit, unless prior to retirement the retiree had selected an optional form of benefit providing survivor benefits to a designated beneficiary or co-annuitant, and in such case the survivorship benefit, if any, shall be payable as directed by such retiree prior to retirement.

(b) Upon the death of a member prior to retirement who has ten (10) or more years of service, without such member having previously selected an option under which survivorship benefits are payable, it shall be assumed that such member has retired immediately preceding his death and the deceased member's beneficiaries shall receive their choice of either one hundred twenty (120) consecutive monthly payments of the early or normal retirement benefit to which the deceased member would have been entitled or a lump sum death benefit equal to three hundred dollars (\$300.00) for each year of credited service up to a maximum of twenty

(20) years or the actuarially determined present value of the accrued benefit, whichever is greater. For this purpose, the benefit and credited service shall be determined by the board as of the date of death. The discount rate used to determine the present value shall be equal to the rate used in the most recent actuarial valuation report. Upon the death of a member not entitled to a normal retirement benefit, and who does not have ten (10) or more years of credited service, there shall be no benefit payable under this system.

(c) Upon termination of service other than by reason of retirement or disability, a member shall be entitled to the following:

- (1) With less than seven (7) years of credited service--No vested interest.
- (2) With seven (7) or more years of credited service--The accrued retirement benefit, based upon credited service as of date of termination, payable on a monthly lifetime basis commencing on the date which would have been the member's normal retirement date had he continued as a member hereunder, provided further; that the benefit shall be payable only if the member lives to normal retirement date. In the event of such member's death prior thereto, no benefit shall be payable.

(d) Forfeiture arising from terminations of service as a volunteer firefighter shall serve only to reduce future city contributions.

(Code 1964, § 9A-24(c); Ord. No. 2010, § 1, 1-4-95; Ord. No. 2207, § 6, 12-15-99; Ord. No. 2272, § 2, 5-15-2002; Ord. No. 2389, § 3, 6-27-2007)

#### **Sec. 18-84. Claims procedure for members and beneficiaries.**

(a) Any member or beneficiary whose application or claim for benefits has been denied shall receive from the board a written notice setting forth the specific reasons for such denial, the reasons therein to be clearly and fully explained so as to afford such member or beneficiary a clear understanding of the decision rendered.

(b) Any member or beneficiary whose application or claim for benefits has been denied shall have the right to a rehearing and a fair and full review by the board regarding the facts, circumstances and information pertaining to the claim and the reasons for denial of such claim.

(Code 1964, § 9A-24)

#### **Sec. 18-84.1. Direct transfers of eligible distribution.**

This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plantation Volunteer Firefighters' Retirement System to the contrary, a distributee may elect, at the time and in the manner prescribed by the Volunteer Firefighters Retirement System Board of Trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(Ord. No. 2012, § 2, 1-4-95)

#### **Sec. 18-85. Optional methods of retirement payments.**

Each member shall have the right at any time prior to his actual retirement date to elect to have his

retirement benefits payable under any one (1) of the options hereinafter set forth in lieu of the benefits otherwise provided, and to revoke any such elections and make a new election at any time prior to said actual retirement date. A member does not have an absolute right to receive lump sum benefits. Benefits in excess of five thousand dollars (\$5,000.00) may not be paid in a lump sum. Lump sum benefits that do not exceed five thousand dollars (\$5,000.00) are to be granted in the discretion of the board. The value of optional retirement benefits shall be actuarially equivalent to the value of benefits otherwise payable. The member shall make such an election by written request to the board and such an election shall be subject to the approval of the board.

- (1) *Last survivor option.* A member may elect to receive a decreased retirement benefit during his lifetime and have such decreased retirement benefit (or designated fraction amounting to one hundred (100) percent, seventy-five (75) percent, sixty-six and two-thirds (66 2/3) percent or fifty (50) percent of it) continued after his death to and during the lifetime of another person, designated a beneficiary. Provided, however, that in no event shall the present value of payments to the retiring member be less than fifty (50) percent of the total present value of payments to the retiring member and his beneficiary.
- (2) *Five or ten years certain basis.* A member may elect to take a reduced benefit on a basis providing that such benefits shall be payable for a period of life and five (5) or ten (10) years certain in any event.
- (3) *Social Security option (level income option).* If a member retires under the normal retirement provisions prior to the date on which he is eligible for Social Security benefits, he may elect to receive an increased benefit from the system until such time as Social Security benefits commence and a reduced benefit thereafter in order to provide, to as great extent as possible, a more level retirement allowance throughout the period of his retirement.
- (4) *Lump sum or other option.* A member may elect to receive his benefits in a lump sum if approved by the board, or in such other manner as may be approved by the board provided that in all such cases the benefits payable are on an actuarial equivalent basis. A member does not have an absolute right to receive lump sum benefits. Benefits in excess of five thousand dollars (\$5,000.00) may not be paid in a lump sum. Lump sum benefits that do not exceed five thousand dollars (\$5,000.00) are to be granted in the discretion of the board.
- (5) *Prior death of beneficiary.* The election by a member of option (1), above, shall be null and void if the designated beneficiary dies before the member's retirement and the normal form of retirement benefit will be payable upon the member's retirement.
- (6) *Change of beneficiary.* If a member has elected an option with a beneficiary, the member shall be permitted to request a change of the designated beneficiary, but such change shall be deemed a new election and shall be subject to approval by the board of trustees. A request for such a change shall be made to the board of trustees on the form provided by the board of trustees. If a member has elected an option with a beneficiary and his or her retirement income benefits have commenced, he or she may thereafter change the designated beneficiary but only if the board of trustees consents to such change and if the beneficiary last previously designated by the member is alive when he or she files with the board of trustees a request for such change. The consent of a member's beneficiary to any such change shall not be required.

- (7) *Life option.* A retirement income in an amount greater than the normal retirement benefit payable to the member for his or her lifetime

(Code 1964, § 9A-25; Ord. No. 1539, §§ 1, 2, 3-2-88; Ord. No. 1582, §§ 1, 2, 9-28-88; Ord. No. 2207, § 7, 12-15-99)

**Sec. 18-86. Board of trustees.**

(a) *Created; composition; alternate.* There is hereby created a board of trustees of the volunteer firefighter's retirement system for the city which shall serve as the plan administrator and the trustee of the fund; in addition, the general administration, management and responsibility for the proper operation of the volunteer retirement system shall be vested in said board of trustees. The composition of the board of trustees shall be approved initially by a majority of the volunteer firefighters of the city. The board shall consist of five (5) member trustees as follows:

- (1) Two (2) legal residents of the city appointed by the city council;
- (2) Two (2) firemen who are elected by a majority of the firemen who are members of the plan, as hereinafter provided; and
- (3) A fifth person chosen by a majority of the previous four (4) member's of the board of trustees. The name of the fifth person shall be submitted to the city council which shall, as a ministerial duty, appoint him to the board.

(b) *Term; oath of office.* Each resident member shall serve for a period of two (2) years, unless sooner replaced by the city council at whose pleasure he or she shall serve, and may succeed himself or herself in office. Each member elected by other members of the system shall serve for a period of two (2) years, unless he or she sooner leaves the employment of the city as a firefighter, whereupon the city council shall choose his or her successor in the same manner as an original appointment. The fifth member of the board shall also serve for a period of two (2) years. Each firefighter member may succeed himself or herself in office. The fifth member of the board shall have the same rights as each of the other four (4) members and may also succeed himself or herself in office. Each trustee shall take an oath of office to be administered by the city clerk or a notary public.

(c) *Meetings; compensations; quorum.* The board shall meet at least once during each calendar quarter, and at any other time upon call by the chairman or any three (3) members of the board with the time and place thereof designated in accordance with applicable state laws. The board shall adopt its own rules of procedure and maintain a record of its proceedings. All meetings of the board shall be public. Trustees shall serve without compensation for their services as trustees. Three (3) trustees shall constitute a quorum at any meetings, and each trustee shall be entitled to one (1) vote at meetings of the board. Three (3) concurring votes shall be necessary for a decision by the board.

(d) *Officers; staff.* The board shall elect from its members a chairman, vice-chairman and a secretary. The city treasurer may be treasurer of the volunteer retirement system and the custodian of its funds pending transfer of such funds to the regular fiscal agent for the plan. The city attorney shall be the legal advisor to the board. The board may employ independent legal counsel as provided in section 175.291, Florida Statutes.

The board may appoint an actuary who shall be the technical advisor to the board on matters regarding the operation of the retirement system. The board may appoint a physician as medical director, who shall not be eligible for membership in the retirement system. The board may also employ such additional professional and clerical services as may be required for proper operation of the retirement system.

(e) *Secretary to keep records.* The secretary of the board shall cause to be kept the records of the proceedings of the board and such data as shall be necessary for periodic actuarial valuation of the assets and liabilities of the retirement system.

(f) *Duties and functions other than investment.* The further duties and functions of the board of trustees, other than investment functions, shall be to:

- (1) Observe and oversee the operation of the system and fund;
- (2) Make recommendations for improvements;
- (3) Determine and authorize all claims and entitlements to benefits;
- (4) Determine by uniform rules all questions concerning credited service of members and such other data as may be necessary;
- (5) Have performed regular, periodic actuarial valuations and studies of the retirement system and fund;
- (6) Have prepared annually an accounting of the financial and other transactions of the retirement system and fund which it may render to the city council.
- (7) Have maintained such records and data as may be required;
- (8) Establish uniform rules and regulations for operation of the system;
- (9) Maintain the retirement plan at all times in compliance with the provisions of Florida law and including the following:
  - a. Assure that city contributions are deposited into the trust fund at least quarterly and state refund monies immediately, and under no circumstances more than five (5) days after receipt by the city;
  - b. Assure that all regular and special actuarial reports are filed with the Florida Division of Retirement and Florida Department of Insurance in Tallahassee, Florida, within sixty (60) days of receipt from the actuary;
  - c. Have actuarial valuations performed on a regular basis. Have special actuarial work performed in advance so as to determine cost impact of any plan changes or amendments prior to their adoption and the last public hearing thereon. File any such reports promptly with the Florida Division of Retirement;

- d. To maintain a minute book containing the minutes and records of the proceedings and meetings of the board.

(g) *Annual report to participants.* There shall be furnished to all members upon initial employment or participation, and thereafter on an annual basis, a written plan description which shall include a summary of pertinent financial and actuarial information and a statement on the financial solvency of the plan and fund. (Code 1964, § 9A-26; Ord. No. 1413, § 1, 8-27-86; Ord. No. 1429, §§ 1, 2, 11-5-86; Ord. No. 1730, §§ 2, 3, 8-29-90; Ord. No. 1758, §§ 10--12, 15, 12-19-90; Ord. No. 2010, § 1, 1-4-95; Ord. No. 2118, § 1, 1-29-97; Ord. No. 2137, § 1, 9-24-97)

### **Sec. 18-87. Establishment and operation of fund.**

(a) There is hereby established a special fund, to be known as the volunteer firefighter's retirement system trust fund, hereinafter referred to as the fund, into which shall be deposited all contributions and assets whatsoever of the system.

(b) Subject to the overall supervision of the board of trustees, and other provisions herein, the actual collection, custody and payment of the funds, and the fund established by this article, shall be vested in the city treasurer; provided, however, payment of benefits and disbursements from the fund shall be made only on authorization from the board of trustees; provided further, that the board of trustees shall have the power and authority to hire and appoint such persons, agents or entities, including corporate fiduciaries, as in its discretion may be required or advisable to enable it to perform its duties hereunder, and including the authority to enter into agency, investment advisory and custodial agreements for the purpose of securing investment and custodianship services for the system and fund.

(c) The board shall have the authority to direct the fund's custodian bank or corporate fiduciary to make the authorized disbursements without the necessity of requiring checks to be signed by the city treasurer and city clerk, and in compliance with the applicable requirements of Chapter 175, Florida Statutes.

(d) All funds and securities of the system may be commingled in the fund established for purposes of the system, provided that accurate records are maintained at all times reflecting the financial composition of the fund. All funds and securities appertaining to the system shall be deposited with the city treasurer who shall in turn deposit such funds and securities in the fund. The board shall be required to have prepared annually a complete accounting of the financial and other transactions of the fund. Such accountings shall reflect a complete valuation of assets on both a cost and a market basis. The provision of section 175.301, Florida Statutes, shall be followed.

(e) In addition to powers given by law, and the powers given elsewhere in this document, the trustee may invest in, without limitation on the amount that may be invested therein, any common trust fund or collective investment medium operated by the trustee, provided that as long as this trust has any investments in a common trust fund which is available only to employee benefit trusts which meet the requirements of section 401(a) of the Internal Revenue Code of 1954 or corresponding provisions of subsequent income tax laws of the United States, such common trust fund shall constitute an integral part of this trust and of the plan. Additionally, if the trustee is a bank supervised by the United States or a state, the trustee may deposit monies in its own checking account, savings account, certificates of indebtedness, or similar arrangements for the benefit of this

trust.

(Code 1964, § 9A-27(a); Ord. No. 1730, § 4, 8-29-90; Ord. No. 1758, § 13, 12-19-90; Ord. No. 2010, § 1, 1-4-95)

### **Sec. 18-88. City and member contributions.**

(a) Each year the city shall pay into the fund an amount which is equal to the difference between the normal cost for the year, as determined by the most recent actuarial valuation of the liabilities of the system, and the premium tax refunds received from the State of Florida on behalf of firefighters.

(b) The city shall also pay into the fund, in addition to the amounts provided for above, such amounts as shall be determined on an actuarial basis as necessary to amortize the liability of the city for prior service hereunder over a period of not to exceed forty (40) years beginning in the year 1967.

(c) All required city contributions shall be deposited to the fund in periodic installments on a quarterly basis.

(d) Effective October 1, 1986, it shall be mandatory for firefighters to contribute one (1) percent of the compensation they receive from the city to the fund. Compensation shall include amounts received by the firefighters from the city which are subject to withholding under the federal Social Security laws. The city treasurer shall cause to be deducted from the compensation of each member the proper contribution authorized and payable by the respective members for each pay period. In no event will the total of benefits received from the system by a member, or his designated beneficiary or estate, be less than the total of his own accumulated contributions. The contribution required of a member shall cease upon his termination of service for any reason. Upon such termination of service, the member, or his designated beneficiary, shall receive the total amount of his own accumulated contributions without interest as soon as practicable following the date of termination. Said refund shall be paid in addition to any other benefits which may be payable by the system.

(Code 1964, § 9A-27(b); Ord. No. 1429, § 3, 11-5-86; Ord. No. 2010, § 1, 1-4-95)

**Cross References:** Property insurance premium tax, § 24-51.

### **Sec. 18-89. State refund monies.**

All monies received from the state (premium tax refunds) for volunteer firefighters shall be paid into the fund immediately, and under no circumstances more than five (5) days after receipt by the city, but be separately accounted for in financial records and reports of the system. All monies may be commingled for investment purposes.

(Code 1964, § 9A-27(c); Ord. No. 1730, § 5, 8-29-90; Ord. No. 2010, § 1, 1-4-95)

### **Sec. 18-90. Reserved.**

**Editors Note:** Ord. No. 2328, § 1, adopted July 28, 2004, rescinded § 18-90, which pertained to post-retirement accruals and benefits and derived from Ord. No. 2305, § 4, adopted Aug. 27, 2003. Formerly, Ord. No. 1429, § 4, adopted Nov. 5, 1986, repealed § 9A-29(h), 1964 Code, from which § 18-90, concerning member contributions to the cost of benefits, derived.

### **Sec. 18-91. Investments.**

The board of trustees shall have the following investment powers and authority:

- (1) The fund may be invested and reinvested in such securities or property, real or personal, wherever situated and of whatsoever kind, as shall be approved by the board of trustees, including but not limited to stocks, common or preferred, bonds, obligations of the city, and other evidences of indebtedness or ownership. At no time shall the investment in common stocks exceed seventy (70) percent of the market value of the total assets in the fund.
- (2) The board of trustees may retain in cash and keep unproductive of income such amount of the fund as it may deem advisable, having regard for cash requirements of the system.
- (3) No person or entity shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the fund, except that due to his or its own negligence, willful misconduct or lack of good faith.
- (4) The board may cause any investment in securities held by it to be registered in or transferred into its name as trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the trust fund.
- (5) The board of trustees is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power or substitution; to participate in mergers, reorganizations, recapitulations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust of any protective or like committee or with the trustees or with depositaries designated thereby; to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally, to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the fund which it may deem to be to the best interest of the fund to exercise.
- (6) The board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power herein contained.
- (7) Where any action which the board is required to perform either under the terms herein or under the general law applicable to it as trustee under this plan, can reasonably be taken or performed only after receipt by it from a member, or any entity of specific information, certification, direction, or instruction has been received by it, the board shall be free of liability in failing to take such action until such certification, direction, or instruction has been received by it.
- (8) Any overpayments or underpayments from the fund to a member or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board. Overpayments shall be charged against payments next succeeding the correction. Underpayments shall be made up from the fund.
- (9) In any application to or proceeding or action in the courts, only the city and the board shall be necessary parties. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.

- (10) Any of the foregoing powers and functions reposed in the board may be performed or carried out by the board through duly authorized agents, provided that the board at all times requires of and reviews reports of any such agent.

(Code 1964, § 9A-27(d); Ord. No. 1840, § 1, 5-20-92; Ord. No. 2107, § 1, 9-18-96; Ord. No. 2304, § 3, 8-27-2003)

**Sec. 18-92. Benefits supported only by trust fund.**

Any person having any claim under the plan shall look solely to the assets of the trust fund for satisfaction.

(Code 1964, § 9A-27(e))

**Sec. 18-93. Trust fund applicable only to payment of benefits.**

It shall be impossible, at any time prior to the satisfaction of all liabilities with respect to covered employees and their beneficiaries under the trust, for any part of the principal or income of the trust to be used for, or diverted to, purposes other than for the exclusive benefit of the employees or their beneficiaries, except for usual and customary charges and expenses associated with the operation and management of the plan and fund.

(Code 1964, § 9A-27(f))

**Sec. 18-94. Amendment and termination.**

(a) The ordinance establishing this system and fund, and subsequent ordinances pertaining to said system and fund, may be modified, terminated or amended, in whole or in part by the city council; provided that if this or any subsequent ordinance shall be amended or repealed in its application to any person benefiting hereunder, the amount of benefits which at the time of any such alteration, amendment or repeal shall have accrued to the member or beneficiary shall not be affected thereby, except to the extent that the assets of the fund may be determined to be inadequate.

(b) If this article shall be repealed or if contributions to the system are discontinued, the board shall continue to administer the system in accordance with the provisions of this article, for the sole benefit to the then members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the options provided for in this article who are designated by any of said members. In the event of repeal, there shall be full vesting one hundred (100) percent of benefits accrued to date of repeal and the assets of the system shall be allocated in an equitable manner to provide benefits on a proportionate basis to the persons so entitled to benefits in accordance with the provisions hereof.

(c) The following shall be the order of priority for purpose of allocating the assets of the system upon repeal of this article or if contributions to the system are discontinued:

- (1) Members already retired under the normal retirement provisions of the plan and those eligible for normal retirement but not actually retired, and their beneficiaries, in proportion to and to the extent of the then actuarially determined present value of the benefits payable, less amount received according to (a) above. If any funds remain, then

- (2) All other members and their beneficiaries in the same manner as in (1) but based upon credited service as of the date of termination of the system, and with any benefits vested given precedence.

(d) The allocation of the fund provided for in this subsection may, as decided by the board, be carried out through the purchase of insurance company contracts to provide the benefits determined in accordance with this subsection. The fund may be distributed in one sum to the persons entitled to the benefits or the distribution may be carried out in such other equitable manner as the board may direct. The trust may be continued in existence for purposes of subsequent distributions. If, at any time during the first ten (10) years after the effective date of the system as respects the city, the system shall be terminated or the full current costs of the system, consisting of the normal costs and interest on any accrued liability, shall have not been met, anything herein to the contrary notwithstanding, city and state contributions which may be used for the benefit of any one of the twenty-five (25) highest paid members of the system on the effective date, whose anticipated annual retirement allowance provided by such contributions at his normal retirement date would exceed one thousand five hundred dollars (\$1,500.00), shall not exceed the greater of either twenty thousand dollars (\$20,000.00) or an amount computed by multiplying the smaller of ten thousand dollars (\$10,000.00) or twenty (20) percent of such member's average annual earnings during his last five (5) years of service by the number of years of service since the effective date. In the event that it shall hereafter be determined by statute, court decision, ruling by the commissioner of internal revenue, or otherwise, that the provisions of this paragraph are not then necessary to qualify the system under the Internal Revenue Code, this paragraph shall be ineffective without the necessity of further amendment of this article.

(e) The allocation of assets of the system in event of repeal of this article or discontinuance of contributions to the system shall be carried out through the payment of the benefits provided hereunder as they become due, or by the transfer of such assets to any retirement system replacing this system, provided that full vesting of benefits under this system are provided and fully maintained under such new retirement system. After all the vested and accrued benefits provided hereunder have been paid and after all other liabilities have been satisfied, then and only then shall any remaining funds revert to the general fund of the city.

(f) Any allocation of assets made in accordance with the provisions hereunder shall be final and binding on all persons entitled to benefits under the system.

(g) Notwithstanding the provisions of this section, should there be a conflict between the termination provisions of this section and those contained in section 175.361, Florida Statutes, the provisions of section 175.361, Florida Statutes, shall prevail.  
(Code 1964, § 9A-28; Ord. No. 1413, § 2, 8-27-86)

### **Sec. 18-95. Errors.**

Should any change or error in records result in any member or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, then on discovery of any such error the board shall cause the same to be corrected and as far as practicable shall direct that the payments be adjusted in such manner that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled shall be paid.  
(Code 1964, § 9A-29(a))

**Sec. 18-96. Benefits not subject to legal process.**

No benefit whatsoever as herein provided shall be assignable nor shall such be subject to attachment, garnishment, execution or to any other legal process.  
(Code 1964, § 9A-29(c); Ord. No. 1758, § 14, 12-19-90)

**Sec. 18-97. Gifts, etc.**

All gifts, bequests, devises and donations to the Plantation Volunteer Retirement System and Fund and all other accretions and additional sources of income shall be deposited in said fund to be administered under the terms of this article.  
(Code 1964, § 9A-29(d))

**Sec. 18-98. Fiduciary.**

For purposes of the volunteer system a "fiduciary" shall be any person or entity who exercises any discretionary authority or control regarding management of the system or system assets; any person or entity who renders or who has authority or responsibility to render investment advice; or any person or entity who has any discretionary authority or responsibility in administration of the system. Any person or entity may serve in more than one fiduciary capacity. All fiduciaries shall discharge their duties hereunder solely in the interest of members and beneficiaries, and more particularly as follows:

- (1) For the exclusive purpose of providing benefits to members and their beneficiaries;
- (2) With care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;
- (3) By performing their duties in accordance with the documents and instruments setting forth and governing the plan;
- (4) It is intended hereunder that each fiduciary shall be responsible for the proper exercise of his or its own powers, duties, responsibilities and obligations as specified herein or as may be specifically delegated in writing. No fiduciary guarantees the trust fund in any manner against investment loss or depreciation in asset value.

(Code 1964, § 9A-29(e))