

ARTICLE IV. PENSIONS FOR FIREFIGHTERS*

*Cross reference-Excise tax on fire and tornado insurers for firefighters retirement, § 23-3.

Sec. 18-179. Application; Trustee terms of office.

All other provisions of F.S. Chapter 175 shall meet all the requirements and be fully applicable, except for the provisions of this article, to the City of Boynton Beach Municipal Firefighters Pension Trust Fund. The increased pension benefits in the same percentage of increase as provided for by this article shall apply to all firefighters now receiving retirement benefits and all firefighters eligible for retirement benefits but not now retired, under the provisions of the City of Boynton Beach Municipal Firefighters Pension Trust Fund, F.S. Chapter 175. A retiree receiving a joint and survivor form of benefit shall be permitted to change his or her beneficiary, as provided in F.S. §§ 175.171 and 175.333. The Board of Trustees shall be governed by F.S. § 175.061. Each Trustee shall have a term of four (4) years, but may succeed himself or herself in office, and shall holdover until replaced. All Trustees serving as of January 1, 2014 shall have their current term extended for a two (2)-year period.

(Code 1958, § 21-95; Ord. No. 89-26, § 1, 9-19-89; Ord. No. 00-19, § 6, 6-6-00; Ord. No. 14-019, § 2, 9-3-14)

Sec. 18-180. Monthly retirement income.

(a) The amount of monthly retirement income payable to a firefighter who retires on or after the firefighter's normal retirement date shall be an amount equal to the number of the firefighter's years of credited service multiplied by 3% of such firefighter's average final compensation. Effective October 1, 2018 the maximum normal retirement benefit shall be capped at ninety-five thousand dollars (\$95,000) (hereinafter the "maximum benefit cap"). The maximum benefit cap will be increased annually beginning on the first day of October 2020 (and on each October 1 thereafter) by one and a half percent (1.5%). The maximum benefit cap shall also apply to early retirement, deferred vested retirement and disability retirement. In the case of early retirement and deferred vested retirement, the maximum benefit cap shall be applied to the normal retirement benefit before reflecting any reductions for early retirement. At all times, the plan shall comply with the maximum benefit limitations of IRS Code Section 415(d) and all applicable Treasury Regulations.

(Code 1958, § 21-91; Ord. No. 89-26, § 1, 9-19-89; Ord. No. 92-44, § 1, 9-2-92; Ord. No. 93-16, § 1, 6-15-93; Ord. No. 99-28, § 1, 9-21-99; Ord. No. 19-009, § 2, 2-19-19; Ord. No. 20-003, § 2, 2-18-20)

Sec. 18-180.1. Computation of monthly retirement income in the instance of early retirement.

The benefit payable for early retirement shall be the same as determined for normal retirement, as set forth in section 18-180, less three (3) percent for each year or portion thereof of which the member's actual retirement date precedes the date which would have been the member's normal retirement date had such member remained in full-time employment with the city. For all new members hired on or after February 5, 2019 (hereinafter "Tier 2 members"), early retirement shall be available at age fifty (50) with at least ten (10) years of service, reduced by the three (3%) percent per year early retirement reduction described above. The maximum benefit cap established in 2019 shall apply to early retirement benefits, but for calculation purposes shall be actuarially determined based on the member's normal retirement benefit.

(Ord. No. 84-39, § 1, 10-3-84; Ord. No. 89-26, § 1, 9-19-89; Ord. No. 00-19, § 2, 6-6-00; Ord. No. 19-009, § 3, 2-19-19)

Sec. 18-180.2. Cost of living increase.

(a) Effective December 1, 2011, an automatic two percent (2%) annual cost of living adjustment (COLA) is created for all members who retire or enter into the DROP on or after December 1, 2006. Payment of annual COLA benefits shall not begin until five (5) years after retirement or entry into the DROP. As of each October first, retirees in pay status and beneficiaries receiving monthly survivorship benefits on behalf of deceased members, shall have their benefits adjusted annually, following the five (5)-year delay. Retirees eligible to receive annual COLA benefits shall include all retirees electing early retirement and all disability retirees who enter pay status on or after December 1, 2006. Effective October 1, 2023, COLA benefits will commence beginning on the October 1 following separation from service, for DROP participants who elect to extend their DROP participation beyond five (5) years.

(b) Every third year following adoption of this section, an actuarial evaluation of the cost of this benefit (two percent (2%) COLA adjustment for retirees) will be provided to the city by the Pension Plan's actuary, or other actuary designated by the city at its option. In the event the projected cost of the benefit increases over the projected cost for fiscal year 2006-2007, the Pension Plan shall be further amended to provide that the increased costs will be offset by (1) an increase in the five percent (5%) employee contribution provided herein, or (2) use of Chapter 175 funds, or (3) reduction of the cost of living (COLA) benefit for non-retired members, or any combination of (1), (2) or (3), as recommended by the Pension Board in consultation with the membership. Notwithstanding any provision to the contrary, COLA benefits under this paragraph shall not be reduced for retirees.

(c) In years where the actuarial evaluation described above determines that the cost of the COLA benefit is less than the projected cost for the benefit for fiscal year 2006-2007, the actuarial savings shall be recognized in a contribution reserve account within the Pension Plan. Any savings accumulated in the contribution reserve account shall be held in trust to be used to offset unanticipated COLA costs in future years.

(Ord. No. 06-092, § 2, 12-5-06; Ord. No. 22-016, § 2, 7-5-22)

Sec. 18-181. Investments.

The investment powers and authority of the Board of Trustees of the Municipal Firefighters Pension Trust Fund shall be in accordance with F.S. § 175.071, provided, however:

(a) The aggregate investment of fund assets in:

(1) Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States; and

(2) County bonds containing a pledge of the full faith and credit of the county involved, bonds of the division of bond finance of the department of general services, or of any other state agency, which have approved as to legal and fiscal sufficiency by the state board of administration; and

(3) Obligations of any municipal authority issued pursuant to the laws of this state; provided, however, that for each of the five (5) years next preceding the date of investment the income of such authority available for fixed charges shall have been not less than 1.5 times its average annual fixed-charges requirement over the life of its obligations; and

(4) Bonds or other certificates of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States or the District of Columbia; shall not at cost exceed seventy (70%) percent of the fund's assets; nor shall more than ten (10%) percent of the fund's assets be invested in the bonds or other certificates of indebtedness of any one issuing company; nor shall the aggregate of such investment in any one issuing company exceed three (3) percent of the outstanding bonds or other certificates of indebtedness of that company. Fund assets may be invested in investment grade bonds with not greater than ten percent (10%) of the fixed income portfolio to hold an investment rating of Baa.

(b) The aggregate investment of fund assets in the common stock or capital stock issued by a corporation organized under the laws of the United States, any state, or organized territory of the

United States or District of Columbia shall not at cost exceed seventy (70%) percent of the fund's assets; nor shall more than five (5) percent of the fund's assets be invested in common stock or capital stock of any one issuing company; nor shall the aggregate of such investment in any one issuing company exceed three (3) percent of the outstanding bonds or other certificates of indebtedness of that company.

(c) 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 fund.

(d) The Board of Trustees 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 fund.

(Code 1958, § 21-92; Ord. No. 82-36, § 1, 10-6-82; Ord. No. 83-39, § 1, 12-20-83; Ord. No. 89-26, § 1, 9-19-89; Ord. No. 95-41, § 1, 11-21-95; Ord. No. 02-005, § 1, 2-5-02; Ord. No. 06-037, § 2, 5-2-06)

Sec. 18-181.1. Investment authority.

Pursuant to F.S. § 175.071(1)(b), the Board may invest the assets of the plan in any lawful investment, real or personal, as provided in F.S. § 215.47, except as otherwise limited by law. Consistent with F.S. § 175.071, the Board of Trustees may also invest up to ten percent (10%) of plan assets, at cost, in foreign securities. Subsequent amendments to F.S. Ch. 175, which expand the scope of permissible investments shall be incorporated herein upon adoption by the Florida Legislature.

(Ord. No. 94-52, § 3, 12-20-94; Ord. No. 06-037, § 3, 5-2-06; Ord. No. 07-010, § 2, 5-15-07)

Sec. 18-182. Disability retirement and death benefits.

(a) *Service incurred.* Any member who receives a medically substantiated service connected injury, disease or disability, which injury, disease or disability totally and permanently disables such member to the extent that, in the opinion of the board of trustees, the member is wholly prevented from rendering useful and efficient service as a firefighter, shall receive a monthly benefit equal to sixty- six and two-thirds (66 2/3) percent of the member's basic rate of earnings in effect on the date of disability. Such benefit shall be payable on the first day each month, commencing on the first day of the month following the latter to occur of the date on which the disability has existed for three (3) months and the date the board of trustees approved the payment of such retirement income. In the event of recovery prior to the otherwise normal retirement date, credit for service during the period of disability shall be granted for purposes of subsequent retirement benefits. The amount of the disability benefit payable from the fund shall be reduced by any amounts paid or payable as disability benefits from workers' compensation and the federal social security system. The reduction for social security benefits shall be in the amount of the primary insurance amount (PIA) only, and future increase, if any, in the disabled member's social security disability benefit shall not serve to reduce any further the disability benefit from the fund. The reduction for social security shall terminate upon the attainment of age sixty-five (65). For purposes of compliance with Chapter 175, Florida Statutes, service-incurred disability benefits shall not be offset below 42% of average final compensation. The maximum benefit cap established in 2019 shall apply to service incurred disability retirement benefits under this subsection.

(b) *Nonservice incurred.* Any member with ten (10) years of continuous service who receives a nonservice incurred injury, illness, disease or disability, and which illness, injury, disease or disability totally and permanently disables such member to the extent that, in the opinion of the board of trustees, the member is wholly prevented from rendering useful and efficient service as a firefighter, shall receive from the fund in equal monthly installments an amount equal to two and one-half (2½) percent of that member's average final compensation for each year of continuous service until death or recovery from disability, whichever shall first occur; Such benefit shall be payable on the first day of

each month, commencing on the first day of the month following the latter to occur of the date on which the disability has existed for three (3) months and the date the board of trustees approved the payment of such retirement income. For purposes of compliance with F.S. Chapter 175, the minimum nonservice-incurred disability benefit shall be 25% of average final compensation. The maximum benefit cap established in 2019 shall apply to non-service incurred disability retirement benefits under this subsection.

(c) *Medical board.* Whenever it becomes necessary for the board to avail itself of the services of physicians in the case of an application for disability retirement, the board shall designate a medical board to be composed of three (3) physicians. The medical board shall arrange for and pass upon the 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 its conclusions and recommendations upon all matters referred to it. The payment for such services shall be determined by the board.

(d) *Return to active duty from disability retirement.* In the event a member who has been retired on a pension on account of permanent and total incapacity regains health and is found by the medical board designated by the board to be in such physical and mental condition as to meet the requirements of the personnel department for such service as a firefighter of the city, the board shall order the pension discontinued, and such person shall be ordered to resume active duty in the city at the same rate of compensation currently in effect for the member's pay grade. The board shall review periodically, in its discretion, the condition of any member receiving a pension of disability and if there is substantial evidence that the retired member is capable of performing service acceptable to the city as a firefighter, such member shall be ordered to resume active duty and the member's pension shall be discontinued.

(e) *Disability exclusions.* No member shall be granted a disability pension upon a showing to the satisfaction of the board:

- (1) That the disability resulted from an intentionally self-inflicted wound, injury or ailment, or
- (2) That the disability resulted from the use of narcotics, drugs or alcoholic beverages, or
- (3) That the disability resulted from a member's participation or involvement in riot, insurrection or unlawful assembly, or
- (4) That the disability resulted from a member's participation or involvement in the commission of a crime or unlawful act, or
- (5) That the disability resulted from injury or disease sustained by the firefighter while serving in any armed forces.

(f) *Further disability provisions.* Each member applying for a service incurred disability benefit from this fund shall be required to apply for disability benefits under social security, and, if applicable, workers' compensation. Furthermore, each person granted a service incurred disability benefit shall be required to submit to the board, no later than March first of each year, a statement showing the monthly amount of social security (PIA only) and workers' compensation benefits received by such person as of March first. Willful refusal by such persons to comply with these requirements shall be grounds for the termination of or non-approval of disability benefits from this system. However, the board shall exercise its discretion in each case.

(g) *Survivor's benefit.* If any member with at least ten (10) years of continuous service shall die prior to retirement or other termination of employment with the city, a death benefit shall be payable to the deceased member's spouse. The benefit shall equal three percent (3%) of average final compensation for each year of continuous service. It shall be payable in equal monthly installments commencing the first day of the month following the date of death.

(h) *Payment options.* Disability retirees shall be entitled to choose any optional form of payment provided in § 175.171, Florida Statutes.

(i) *Line of duty presumptions.*

(1) *Rebuttable presumptions.* The provisions of F.S. §§ 112.18, 112.181, and 175.231, are hereby codified within the Plan and are intended to be incorporated by reference. The Board of Trustees may adopt uniform administrative rules relating to these rebuttable presumptions and for the determination of any disqualifying events reflected in F.S. Chs. 112 and 175.

(2) *Non-rebuttable conclusive cancer presumption.* The provisions of F.S. § 112.1816, are hereby codified within the Plan and are intended to be incorporated by reference. The Board of Trustees may adopt uniform administrative rules relating to this presumption and for the determination of any disqualifying events as reflected in F.S. Chs. 112 and 175.

(Code 1958, § 21-93; Ord. No. 78-7, § 1, 3-7-78; Ord. No. 89-26, § 1, 9-19-89; Ord. No. 00-19, § 3, 6-6-00; Ord. No. 19-009, § 4, 2-19-19; Ord. No. 20-003, §§ 3, 4, 2-18-20)

Sec. 18-183. Average final compensation defined; average annual compensation defined.

(a) Average final compensation, for the purpose of calculating entitlement to benefits under this plan, shall mean the average cash compensation exclusive of bonuses and incentive pay received by a firefighter during the three highest years of the last ten years of creditable service prior to retirement.

(b) Average annual compensation, for the purposes of determining compliance of provisions of the Internal Revenue Code, shall mean the member's greatest aggregate compensation during the period of three (3) consecutive calendar years in which the individual is an active member of the plan. This provision relates solely to calculation of maximum pension earnings in section 18-180(b) of the Code of Ordinances and shall not be applicable to the determination of average final compensation as defined in section 18-183(a) or referred to in the determination of monthly retirement income in section 18-180(a).

(Code 1958, § 21-94; Ord. No. 89-26, § 1, 9-19-89; Ord. No. 93-16, § 2, 6-15-93; Ord. No. 00-19, § 4, 6-6-00; Ord. No. 02-005, § 1, 2-5-02)

Sec. 18-184. Ex officio membership of the fire chief on the board of trustees.

Notwithstanding any other provision of this chapter, there is hereby created an ex officio, non-voting position on the board of trustees which shall be occupied by the fire chief. The ex officio board member shall have the opportunity to participate in all board discussions and activities but shall not be counted for the purpose of a quorum nor shall the ex officio member be entitled to move or second the adoption of any issue or vote on any matter before the board. The ex officio member shall receive all official board communications and shall be eligible to attend fiduciary education opportunities otherwise authorized for voting trustees.

(Ord. 98-39, § 1, 9-15-98)

Editor's note-Before the enactment of Ord. No. 98-39 on September 15, 1998, the former § 18-184, which pertained to additional creditable service for years spent on the volunteer force of the city's fire department, was repealed by Ord. No. 94-11, § 1, adopted May 3, 1994. This previous § 18-184 was derived from the 1958 Code, § 21-96; Ord. No. 79-23, Art. I, adopted Aug. 7, 1979; and Ord. No. 89-26, § 1, adopted Sept. 19, 1989.

Sec. 18-184.1. Thirteenth Check.

(a) *Thirteenth check supplement created.* A benefit is hereby created to be provided in the form of a thirteenth monthly retirement payment to each beneficiary and retiree of the Plan. Payment shall only

be made in those years in which an actuarial gain has been determined to exist by the Board of Trustees, following consultation with the actuary to the Board.

(b) *Determination of actuarial gains.* The actuary for the Retirement Fund shall perform an annual calculation to determine on the basis of all actuarial factors used to measure the Plan whether or not the Plan has sustained an actuarial gain or loss. The actuary shall report annually at a special meeting of the Board regarding the actuarial gain or loss for the year. Once certified by the actuary, the Board shall notify retirees regarding the availability of a thirteenth check payment for the year. In any year in which the Board of Trustees, following consultation with the actuary, determines that no actuarial gain has occurred, no benefit shall be payable. In years in which the Plan's actuarial gain is sufficient to support the payment of a thirteenth check, the payment shall be made in December.

(c) *Creation of thirteenth check fund.* Following the determination of actuarial gain, a fund is hereby created, within the assets of the Retirement System, which shall consist of the portion of the actuarial gain attributable to retirees and beneficiaries. This portion shall be equal to the total actuarial gain multiplied by the ratio of the present value of benefits for retirees and beneficiaries to the present value of all future benefits for all members of the System. The fund shall be co-mingled with other assets of the System but shall be measured for accounting purposes as a separate fund within the Retirement System for the exclusive purpose of providing benefits under this section.

(d) *Distribution of benefits; limitations.* In any year in which the Board determines that a distribution may be made in accordance with the provisions of this section, a supplemental benefit shall be paid in the form of a thirteenth monthly pension payment to each retiree or beneficiary of a deceased retiree. The payment for each retiree shall be determined by the Board, but the total amount payable may not exceed the thirteenth check fund.

(e) *Non-guarantee of benefits.* By acceptance of a supplemental benefit under this section, each retiree and beneficiary acknowledges that they have no right, title or interest in any such benefits except as may be determined by the Board of Trustees. The payment of a thirteenth check in any year shall not create any right, title or interest in any person to the payment of a thirteenth check in any other year. The Board of Trustees reserves the exclusive right to alter the manner of payment of this benefit or, to decline the payment of such benefit in any year in which the Board, in the exercise of its fiduciary responsibility and its sole discretion, determines it is in the best interest of the Plan to forego such payment.

(f) *Rule-making authority.* The Board of Trustees shall have authority to make such uniform rules as it deems appropriate to facilitate the payment of benefits under this system.

(Ord. No. 02-005, § 3, 2-5-02)

Sec. 18-184.2. Ad Hoc Supplemental Benefit.

(a) *Supplemental benefit.* "Available funds" shall be used to pay an "extra benefit" as set forth in this section, from "additional premium tax revenues" as defined by Section 175.351(1)(a), Florida Statutes. An ad hoc supplemental benefit shall be paid annually, following one full year of retirement (disability, early or normal, DROP or deferred vested retirement), to eligible retirees who have entered pay status. After the Board approves payment, the distribution shall be made by the end of the second calendar quarter.

(b) Using available funds, an ad hoc supplemental benefit shall be paid to each eligible retiree who retires after the adoption of this section, provided that additional premium tax revenue is available. For purposes of this section, eligible retiree shall mean any member who is currently employed and future members who retire after earning ten or more years of actual service, including DROP participants. Any ad hoc supplemental benefits payable under this section to active DROP participants shall be paid into a member's DROP account, beginning one year after entering DROP.

(c) *Calculation of ad hoc benefit.* Each eligible retiree shall receive a distribution of available funds of up to five hundred dollars (\$500) per year of credited service, for each year of credited service in

the plan, not to exceed twenty years. The city delegates to the Pension Board the ability to adopt administrative rules to implement this section.

(d) *Calculation of available funds.* On the date of adoption of this section, the pension plan provides for a twelve percent (12%) member contribution rate. Any future increases in the member contribution rate over twelve percent (12%), including but not limited to COLA costs described in section 18-180.2, shall first be deducted from available funds. Prior to paying ad hoc supplemental benefits, the availability of additional premium tax revenues and available funds shall be confirmed in writing by the Pension Board's actuary. From time to time, the Pension Board may recommend adjustments to the calculation formula, based on the projected status of available funds.

(e) *Lump sum supplemental benefit for eligible recent retirees.* Available funds shall also be used by the Board to pay a lump sum supplemental benefit to recent retirees who separated from service on or after October 1, 2005 but prior to the adoption of this section. The lump sum benefit shall be calculated based on the number of years of service between October 1, 2005 and retirement. The lump sum shall be paid in annual installments corresponding to the number of years of service worked subsequent to October 1, 2005. Such retirees shall not be eligible for future ad hoc supplemental benefits.

(f) *Non-guarantee of benefits.* Prior to payment of any benefit under this section, eligible retirees shall acknowledge in writing that they have no right, title or interest in ad hoc supplemental benefits in any future year. Eligible retirees shall further acknowledge that they have no expectation in any future ad hoc supplemental benefits since there may be years where no ad hoc supplemental benefit is paid, based on the availability of additional premium tax revenue. Eligible retirees shall specifically acknowledge that available funds and additional premium tax revenues may be used for other purposes in the future, as determined by the collective bargaining process.

(Ord. No. 10-016, § 1, 8-3-10)

Sec. 18-185. Normal retirement date.

The normal retirement date of each firefighter will be the first day of the month coinciding with, or next following, the earlier of the date on which such firefighter has attained and completed twenty (20) years of service, regardless of age, or at fifty-five (55) years of age with ten (10) years of service. There is no age requirement for a normal retirement. For all members first hired on or after February 5, 2019 (hereinafter "Tier 2 members"), the normal retirement date will be the first day of the month coinciding with or next following the date on which the firefighter has attained and completed twenty-five (25) years of service, regardless of age, or at fifty-five (55) years of age with ten (10) years of service. If a Tier 2 member separates from service with less than twenty-five (25) years of service the normal retirement date shall be the first day of the month coinciding with, or next following, attainment of age fifty-five (55).

(Ord. No. 81-33, § 1, 10-12-81; Ord. No. 89-26, § 1, 9-19-89; Ord. No. 00-19, § 1, 6-6-00; Ord. No. 19-009, § 5, 2-19-19)

Sec. 18-186. Payroll deductions; Employee, State and City contributions.

Effective November 27, 2006, the City of Boynton Beach shall deduct from all firefighters entitled to the benefits of the article, twelve percent (12%) from each installment of salary of each firefighter so long as such firefighter shall hold office or be employed. Said amount shall be so deducted and be deposited to the Boynton Beach Firemen's Pension Fund. Payroll deductions shall be deposited in the trust fund immediately, after each pay period. Any monies received or receivable by reason of laws of the state for the express purpose of funding and paying for retirement benefits for firefighters of the City shall be deposited in the trust fund comprising part of this plan. Any such amount shall be deposited in the fund immediately, and under no circumstances more than five (5) days after receipt by the City. The City shall make annual contributions to the trust fund, as needed, in an amount at least equal to the difference each year between the total member contributions plus state contributions

for the year, less the total cost for the year as shown by the most recent actuarial valuation for the system. The City's contribution, if so required, shall be deposited on at least a quarterly basis.

(Ord. No. 81-33, § 2, 10-12-81; Ord. No. 89-26, § 1, 9-19-89; Ord. No. 00-19, § 5, 6-6-00; Ord. No. 06-092, § 3, 12-5-06)

Sec. 18-187. Accounting.

The trust fund shall operate on a fiscal year basis, the fiscal year commencing October 1st, and ending September 30th.

(Ord. No. 90-24, § 1, 8-7-90)

Sec. 18-188. Required distributions.

In no event may a member's retirement benefit be delayed the later of the April first (1st) following the calendar year in which he attains age seventy and one-half (70½) or April first (1st) of the year following the calendar year in which he retires.

When a distribution of the participant's entire interest is not made in a lump sum, the distribution will be made in one (1) or more of the following ways: over the life of the participant; over the life of the participant and designated beneficiary; over a period certain not extending beyond the life expectancy of the participant; or over a period certain not extending beyond the joint life and last survivor expectancy of the participant and a designated beneficiary.

If distribution has commenced before the participant's death, the remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the participant's death.

The method of distribution, if the participant dies before distributions commence, must satisfy the following requirements:

(a) Any remaining portion of the participant's interest that is not payable to a beneficiary designated by the participant will be distributed within five (5) years after the participant's death; and

(b) Any portion of the participant's interest that is payable to a beneficiary designated by the participant will be distributed either:

(i) Within five (5) years after the participant's death; or

(ii) Over the life of the beneficiary, or over a period certain not extending beyond the life expectancy of the beneficiary, commencing not later than the end of the calendar year following the calendar year in which the participant died, (or, if the designated beneficiary is the participant's surviving spouse, commencing not later than the end of the calendar year following the calendar year in which the participant would have attained age seventy and one-half (70½).

(Ord. No. 90-24, § 1, 8-7-90; Ord. No. 93-16, § 3, 6-15-93)

Sec. 18-189. Repeal or termination of fund.

In the event of the termination or partial termination of this plan, each participant's accrued pension benefit shall become nonforfeitable (one hundred (100) percent) to the extent funded. At such time, the fund shall be appropriated and distributed in accordance with Chapter 175.351, Florida Statutes.

(Ord. No. 93-16, § 3, 6-15-93)

§ 18-190. Purchase of Military/Fire Service Credit/Permissive Service Credit.

Upon entry into the Plan, members shall be permitted to purchase up to an additional five (5) years of credited service based upon (i) service as a full-time firefighter employed by a city, county, state, federal or other public agency or (ii) military service in the Armed Forces of the United States.

Temporary, auxiliary, reserve, volunteer or private agency service shall not apply. Members who do not have any prior firefighter service or military service shall be permitted to purchase up to five (5) years of permissive service credit, as permitted by the Pension Protection Act of 2006. For each year purchased, benefits shall be calculated based on an enhanced multiplier of an additional three percent (3%) per year, resulting in a total multiplier of six percent (6%) for each year purchased. Service credit purchased under the provisions of this section shall not count for vesting purposes.

Prior service shall not be granted until the member has paid to the Pension Fund the actuarial cost of the service purchased, as determined by the actuary for the Plan. Members purchasing service credit shall provide the Board of Trustees with proof of prior service with honorable separation. No service credit may be purchased if the member is receiving or will receive any other retirement benefit based on this service. The Board shall establish a uniform rule for the implementation of this provision.

The contribution by the member of the actuarially determined cost of the buyback may be made in one lump sum or may be made by payroll deductions in installments for a period not to exceed five (5) years. A member electing to make installment payments shall be charged interest based on the actuarially assumed rate of return for the Plan. A member making installment payments shall complete all required payments prior to payment of any benefit under this section.

A member who terminates service prior to vesting in the Plan shall be entitled to a refund, without interest, of all money paid to buyback prior military or fire service.

(Ord. No. 01-46, § 1, 8-7-01; Ord. No. 08-009, § 2, 5-6-08)

§ 18-191 Limitation on compensation.

Compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for "eligible employees" shall not be less than the amount which was allowed to be taken into account under the Plan as in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the Pension Plan before the first plan year beginning after September 30, 1996.

(Ord. No. 96-35, § 1, 7-16-96)

Sec. 18-192. Transfer of accumulated leave.

(a) Members eligible to receive accumulated sick leave, accumulated vacation leave or any other accumulated leave payable upon separation may elect, not later than December 31st of the calendar year prior to the year of retirement or entry into the DROP, to have the leave transferred to the Plan. For purposes of this section, the term "separation" shall mean termination of service as a firefighter with the City. Members on whose behalf leave has been transferred may elect one of the following distribution options within thirty (30) days of separation. Members failing to elect a distribution option within thirty (30) days of separation will be deemed to have elected option 1 below:

(1) Receive a lump sum equal to the transferred leave balance, or

(2) Transfer the entire amount of the transferred leave balance directly to any eligible retirement plan, or

(3) Purchase additional service credit as may permitted by the Code. If the leave balance exceeds the cost of the service credit purchased, the balance shall be paid to the member in a lump sum, or

(4) Transfer the entire amount of the transferred leave into the member's DROP account.

(b) Members who fail to elect a transfer not later than December 31st of the calendar year prior to the year of retirement or entry into the DROP will receive payment in a lump sum at time of separation with all attendant tax consequences.

(c) If a member on whose behalf the City makes a transferred leave balance to the Plan dies after retirement or other separation, but before making an election, as provided, or after making an election but before any distribution is made, the election option shall be void. In such an event, any person who would have received a death benefit had the member died in service immediately prior to the date of retirement or other separation, shall be entitled to receive an amount equal to the transferred leave balance in a lump sum. In the case of a surviving spouse or former spouse, an election may be made to transfer the leave balance to an eligible retirement plan in lieu of the lump sum payment. Failure to make such an election by the surviving spouse or former spouse with sixty (60) days of the member's death, will be deemed an election to receive a lump sum payment.

(d) The Board, by rule, shall have the authority to enact administrative rules for purposes of administering the provisions of this section, consistent with the Federal tax laws in effect on the date of transfer. No such rule shall conflict with the provisions of this section.

(e) Members electing to enter into the DROP shall be required to preserve a balance of one hundred and twenty (120) hours of sick leave and one hundred and twenty (120) hours of vacation leave at the time of entry into the DROP.

(f) The value of the leave transferred shall be determined in accordance with applicable city personnel policies or collective bargaining agreements.

(Ord. No. 01-63, § 1, 12-18-01)

Sec. 18-193. Firefighter DROP Loan Program.

(a) A DROP Loan program is hereby established for firefighters.

(b) Availability of loans.

(1) Loans are available to members only after termination of employment, provided the member had participated in the DROP for a period of 12 months.

(2) Loans may only be made from a member's own account.

(3) There may be no more than one loan at a time.

(c) Amount of loan.

(1) Loans may be made up to a maximum of 50% of account balance.

(2) The maximum dollar amount of a loan is \$50,000, reduced by the highest outstanding loan balance during the last 12 months.

(3) The minimum loan is \$5,000.

(d) Limitations on loans shall be made from the amounts paid into the DROP and the earnings thereon.

(e) Term of loan.

(1) The loan must be for at least one year.

(2) The loan shall be no longer than five years.

(f) Loan interest rate.

(1) The interest rate shall be fixed at time the loan is originated for the entire term of loan.

(2) The interest rate shall be equal to the prime rate published by an established local bank on the last day of each calendar quarter preceding the date of loan application.

(g) Defaults on loans.

- (1) Loans shall be in default if two consecutive months' repayments are missed or if a total of four months' repayments are missed.
- (2) Upon default, the entire balance becomes due and payable immediately.
- (3) If a loan in default is not repaid in full immediately, the loan may be canceled and the outstanding balance treated as a distribution, which may be taxable.
- (4) Upon default of a loan, a member will not be eligible for additional loans.
- (h) Miscellaneous provisions.
 - (1) All loans must be evidenced by a written loan agreement signed by the member and the Board of Trustees. The agreement shall contain a promissory note.
 - (2) Notice of a loan shall be provided to a member's spouse, including a copy of the promissory note.
 - (3) Loans shall be considered a general asset of the fund.
 - (4) Loans shall be subject to administrative fees to be set by the Board of Trustees.
 - (5) Outstanding loan balances shall not be credited with earnings or losses. As the outstanding balance is repaid with interest, earnings and losses shall be applied to the payments and interest on a quarterly basis.

(Ord. No. 16-020, § 2, 10-4-16)

Secs. 18-194 Deferred retirement option plan.

- (a) The following provisions shall apply to all members:
 - (1) A deferred retirement option plan ("DROP") is hereby created.
 - (2) Eligibility to participate in the DROP is based upon eligibility for normal service retirement in the plan.
 - (3) Participation in the DROP must be exercised within the first 30 years of employment; provided, however, that participation in the DROP, when combined with participation in the retirement plan as an active member, may not exceed 30 years. The maximum period of participation in the DROP is five years. An employee's election to participate in the DROP plan shall be irrevocable and shall be made by executing a resignation notice on a form prescribed by the city. Effective October 1, 2023 the maximum period of DROP participation shall be eight (8) years; provided that the maximum period of active membership when combined with DROP participation shall not exceed thirty-three (33) years. DROP participants electing to remain in DROP during years six (6) through eight (8) shall resume employee "pick-up" contributions at the rate of six percent (6%) as follows: Five percent (5%) shall be allocated to COLA funding under Section 18-180.2(c) and the remaining one percent (1%) shall be applied to unfunded liabilities in the retirement system.
 - (4) Upon exercising the right to participate in the DROP, an employee's creditable service, accrued benefits and compensation calculation shall be frozen and shall utilize the average of the three highest of the ten years immediately preceding participation in the DROP as the compensation basis. Accumulated, unused sick and vacation leave shall be included in the compensation calculation; provided, however, that a minimum balance of 120 hours of sick leave and 120 hours of vacation leave shall be maintained by the employee and excluded from this calculation. The retained leave balance, including any additions, shall be distributed at the conclusion of DROP participation and separation from service.
 - (5) Payment shall be made into the employee's DROP account as if the employee had terminated employment in the city in an amount determined by the employee's selection of the

payment option.

(6) An employee's account in the DROP program shall earn interest in one of three ways. The selection of the earnings program shall be irrevocable and shall be made prior to the first deposit in the DROP account. The options are:

- a. Gain or lose interest at the same rate as the plan; or
- b. At an annual fixed rate of 7%; or
- c. In a self-directed account utilizing mutual funds selected by the Board.

Effective October 1, 2023, DROP participants electing to remain in the DROP after five years shall receive interest on deposits (and earnings thereon) made into the DROP during years six (6) through eight (8), at a rate equal to the overall net (earning less costs) investment rate of return on the retirement plan assets. Notwithstanding fund performance, the crediting rate will be no less than 0% and no more than 8% for deposits made during years 6 through 8, whereas the interest on deposits (and earnings thereon) made during years 1 through 5 shall be at the rate selected by the member prior to entry into DROP pursuant to section 6a. or 6b. DROP deposits accumulated during years 1 to 5 will be segregated from DROP deposits accumulated during years 6 to 8 for interest crediting purposes. After separation from service, DROP assets from each period will be separately credited with earnings, as appropriate. The crediting of interest shall occur annually as of the end of the fiscal year for assets accumulated during years 6 to 8, based on the net (earnings less cost) investment rate of return provided by the Plan's investment consultant.

(7) An employee shall terminate service with the city at the conclusion of five years in the DROP. Effective October 1, 2023 DROP participants shall terminate service with the City at the conclusion of eight (8) years in the DROP.

(8) All interest shall be credited to the employee's DROP account on the last day of the month in which the member separates from service. In the event that a member dies while in the DROP, interest shall be pro-rated to the last business day of the month preceding the death of the member.

(9) Upon termination with the city, an employee may receive payment within 45 days of the member requesting payment or may defer payment until a time not later than the latest date authorized by Section 401(a)(9) of the Internal Revenue Code at the option of the member.

(10) Payments from the DROP may be received as a lump sum installment payment or annuity, provided, however, that at all times, the DROP shall be subject to the provisions of the Internal Revenue Service.

(11) No payment may be made from the DROP until the employee actually separates from service with the city.

(12) If an employee shall die during participation in the DROP, a survivor benefit shall be payable in accordance with the form of benefit chosen at the time of entry into the DROP.

(13) Upon commencement of participation in the DROP, the member shall no longer be eligible for disability retirement from the pension plan. If a member becomes disabled during the DROP period, the member shall be treated as if he/she retired on the day prior to the date of disability.

(14) In order to remain in the DROP beyond the current five-year cap, existing DROP participants shall provide written notice of their intent to extend their DROP participation. The deadline for providing written notice shall expire thirty (30) days after second reading of this ordinance.

(Ord. No. 20-003, § 5, 2-18-20; Ord. No. 22-016, § 3, 7-5-22)