

## ARTICLE IV. - MUNICIPAL POLICE OFFICERS' PENSION AND RETIREMENT SYSTEM

## FOOTNOTE(S):

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**State Law reference—** Municipal police officers pension and retirement system, F.S. ch. 185.

Sec. 70-101. - Established.

- (a) There is established in the city a pension and retirement system for paid police officers of the police department of the city (police officers' pension trust fund) pursuant to the Charter and F.S. ch. 185. Except as specifically provided in this article to the contrary, the local law plan requirements of F.S. ch. 185 shall be applicable.
- (b) The city police officers' pension trust fund is a local pension plan as allowed by F.S. § 185.35. Pursuant to such law, the plan shall meet the requirements of F.S. § 185.35.

*(Code 1959, § 15-31; Ord. No. 00-07, § 1, 4-6-2000)*

Sec. 70-102. - Contributions.

- (a) *Contributions by the city to the police officers' pension trust fund.* The city shall contribute to the police officers' pension trust fund annually an amount which, together with the contributions from the police officers and the amount derived from the premium tax and other sources allowed by law, will be sufficient to meet the normal cost of the police officers' pension trust fund and to fund the actuarial deficiency as set out in F.S. ch. 112.
- (b) *Contributions by the police officers to the police officers' pension trust fund.* The city shall pay into the police officers' pension trust fund an amount not less than one percent nor more than five percent of the salary of each police officer who is a member of the police department and eligible for inclusion in the police officers' pension trust fund, which one to five percent shall be deducted by the city from the compensation due the police officer. Currently, the police officer contribution is one percent of annual compensation and shall increase by an additional one percent of annual compensation on November 1 each year until the police officer contribution is a total of four percent of annual compensation. Should periodic actuary studies reveal that city's contribution to the police officers' pension trust fund could be reduced to a level below that of the police officers' level of contribution to the police officers' pension trust fund at the time of the study and still maintain actuarial soundness, and the city does lower its annual contribution to an amount less than the officer's contribution, then city shall by ordinance reduce the amount of the police officers' contribution to the police officers' pension trust fund to a level that is equal to the city's contribution, but which does not exceed four percent of annual compensation. It being the intent of this subsection that in no event shall the police officer contribution exceed the city's contribution to the police officers' pension trust fund.

*(Code 1959, § 15-32; Ord. No. 00-07, § 2, 4-6-2000; Ord. No. 03-65, § 4, 11-6-2003)*

Sec. 70-103. - Participation in plan mandatory.

Any police officer of the city who is eligible for inclusion into the police officers' plan must join this fund as a prerequisite to employment in the police department. Any police officer that meets that definition found in F.S. § 185.02(11) is eligible for inclusion in the plan. Provided, however the police chief shall have the option to participate or not participate in the plan pursuant to F.S. § 185.02(11).

*(Code 1959, § 15-33; Ord. No. 04-41, § 1, 8-5-2004)*

Sec. 70-104. - Other local pension or relief funds.

No police officer beneficiary of the police officers' pension fund may also be a beneficiary or recipient or member of a local pension or relief fund established under any other state law.

*(Code 1959, § 15-34)*

Sec. 70-105. - Custodial agreements authorized.

The board of trustees in administering the retirement system may enter into custodial agreements with any bank or trust company licensed to do business in the state.

*(Code 1959, § 15-35)*

Sec. 70-106. - Effect of article; insurance to implement systems.

Nothing in this article shall be construed to repeal, rescind or replace any existing system of pension or retirement to which any police officer is a member, but may be coordinated with such system in its continuation.

*(Code 1959, § 15-36)*

Sec. 70-107. - Monthly retirement income for police officers.

The amount of retirement income payable to a police officer of the city who retires on or after his normal retirement date shall be in an amount equal to the number of years of credited service multiplied by 2½ percent of his average final compensation for those years of service completed prior to January 1, 1989, and three percent of his average final compensation for those years of service completed subsequent to January 1, 1989.

*(Code 1959, § 15-37; Ord. No. 94-15, § 1, 5-19-1994; Ord. No. 00-07, § 3, 4-6-2000)*

Sec. 70-108. - Cost of living adjustment.

- (a) The purpose of this section is to provide cost-of-living adjustments to the monthly benefits payable to plan participants employed on or after October 1, 2003.
- (b) As used in this section, "initial benefit" means the first monthly benefit payable to a plan participant in accordance with the laws governing the determination of such benefit at the time of retirement or earlier death.
- (c) Commencing October 1, 2003, the benefit of each plan participant employed on or after October 1, 2003, shall be adjusted on each October 1 thereafter, as follows, for those plan participants who receive a cost-of-living adjustment under this section, the adjusted monthly benefit shall be the amount of the monthly benefit being received on September 30 immediately preceding the adjustment date plus an amount equal to three percent of this benefit.
- (d) The initial benefit of a plan participant who elected an optional form of benefit payment which provided for a percentage of the benefit to be continued to a beneficiary after his or her death shall be reduced at the death of the plan participant by application of the stated percentage.

*(Ord. No. 03-65, § 2, 11-6-2003)*

Sec. 70-109. - Vesting.

- (a)

All police officers who are first employed as qualified law enforcement employees with the city on or after October 1, 2003, shall be vested in the police officers' retirement plan after completion of ten years of service.

- (b) All police officers who are qualified law enforcement employees with the city on January 1, 1989, and all those first employed as qualified law enforcement employees with the city after January 1, 1989, but prior to October 1, 2003, shall be vested in the police officers' retirement plan after completion of five years of qualified service.
- (c) All police officers who terminated employment as qualified law enforcement employees with the city prior to January 1, 1989, and were not reemployed on or after January 1, 1989, as qualified law enforcement employees with the city shall be vested in this retirement plan only if ten years of qualified service had been completed prior to January 1, 1989.

*(Ord. No. 94-15, § 2, 5-19-1994; Ord. No. 00-07, § 5, 4-6-2000; Ord. No. 03-65, § 3, 11-6-2003)*

**Sec. 70-110. - Retirement age.**

- (a) A plan participant who is vested in the police officers' pension trust fund as provided in this article shall have a normal retirement date the first day of the month coincident with or next following the earlier of attainment of age 55 or the attainment of the age of 52 and the completion of 25 years of qualified service.
- (b) A qualified law enforcement employee of the city may retire on his normal retirement date or on the first day of any month thereafter.

*(Code 1959, § 15-40; Ord. No. 94-15, § 3, 5-19-1994; Ord. No. 03-65, § 5, 11-6-2003)*

**Sec. 70-111. - Definition of "average final compensation."**

- (a) Average final compensation for full-time police officers means one-twelfth of the average annual compensation of the five best years of the last ten years of creditable service prior to retirement, termination or death.
- (b) Annual compensation includes the following:
  - (1) The total cash remuneration including overtime paid by the city, but not to exceed 300 hours of overtime per year.
  - (2) Accumulated leave paid at retirement in a lump sum.
- (c) A year shall be 12 consecutive months.

*(Code 1959, § 15-41; Ord. No. 96-34, § 1, 9-9-1996; Ord. No. 00-07, § 6, 4-6-2000)*

**Cross reference—** Definitions generally, § 1-2.

**Sec. 70-112. - Police officer disability benefits.**

Police officers shall be entitled to disability benefits as follows:

- (1) a. A police officer may retire from the service of the city under the plan if, prior to his normal retirement date, he becomes totally and permanently disabled in the line of duty as defined in subsection (2) of this section by reason of any cause other than a cause set out in subsection (3) of this section on or after the effective date of the plan.
- b. A police officer with ten years of continuance service may retire from the service of the city under the plan if, prior to his normal retirement date, the police officer becomes totally and permanently disabled not in the line of duty as defined in subsection (2) of this

section by reason of any cause other than a cause set out in subsection (3) of this section on or after the effective date of the plan. Such retirement shall be referred to as "disability retirement."

- c. The affected police officer shall be entitled to the greater of his normal retirement benefits (if qualified) or disability benefits.
- (2) A police officer will be considered totally disabled if, in the opinion of the board of trustees, he is wholly prevented from rendering useful and efficient service as a police officer; and a police officer will be considered permanently disabled if, in the opinion of the board of trustees, such police officer is likely to remain so disabled continuously and permanently from a cause other than is specified in subsection (3) of this section.
  - (3) A police officer will not be entitled to receive any disability retirement income if the disability is a result of:
    - a. Excessive and habitual use by the police officer of drugs, intoxicants or narcotics.
    - b. Injury or disease sustained by the police officer while willfully and illegally participating in fights, riots or civil insurrections, or while committing a crime.
    - c. Injury or disease sustained by the police officer while serving in any armed forces.
    - d. Injury or disease sustained by the police officer after his employment has terminated.
  - (4) No police officer shall be permitted to retire under the provisions of this section until examined by a duly qualified physician or surgeon, to be selected by the board of trustees for that purpose, and is found to be disabled in the degree and in the manner specified in this section. Any police officer retiring under this section shall be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons, to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.
  - (5)
    - a. The benefit payable to a police officer, employed after October 1, 2003, regardless of vesting, who is totally and permanently disabled in the line of duty prior to his or her normal retirement date is the monthly income payable for ten years certain and life. The amount of his or her monthly benefit shall be the normal retirement benefit, but shall not be less than 65 percent of his or her average monthly salary as of his or her disability retirement date.
    - b. The benefit payable to a vested police officer who is totally and permanently disabled other than in the line of duty prior to his or her normal retirement date is the monthly income payable for ten years certain and life. The amount of his or her monthly benefit shall be the early retirement benefit, but shall not be less than 25 percent of his or her average monthly salary as of his or her disability retirement date.
  - (6)
    - a. The monthly retirement income to which a police officer is entitled in the event of his disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement; and any portion due for a partial month shall be paid together with the first payment.
    - b. The last payment will be:
      1. If the police officer recovers from the disability prior to his normal retirement date, the payment due next preceding the date of such recovery; or

2. If the police officer dies without recovering from his disability or attains his normal retirement date while still disabled, the payment due next preceding his or her death or the 120th monthly payment, whichever is later.
  - c. Any monthly retirement income payments due after the death of a disabled police officer shall be paid to the police officer's designated beneficiary.
- (7) If the board of trustees finds that a police officer who is receiving a disability retirement income is, at any time prior to his normal retirement date, no longer disabled, the board of trustees shall direct that the disability retirement income be discontinued. "Recovery from disability" means the ability of the police officer to render useful and efficient service as a police officer.
- (8) If the police officer recovers from disability and reenters as a police officer, his service shall be deemed to have been continuous; but the period beginning with the first month for which he received a disability retirement income payment and ending with the date he reentered service will not be considered as credited service for the purpose of the plan.

(Code 1959, § 15-42; Ord. No. 01-12, § 1, 5-17-2001; Ord. No. 03-65, § 1, 11-6-2003)

Sec. 70-113. - Reentry of eligible participants into the police pension fund.

If a participant who has withdrawn from the police pension plan is rehired and is eligible to be a participant in the plan within 24 months of withdrawal and termination, the police officer may reenter the plan at withdrawal level provided the participant repays to the plan the sum equal to the amount the participant withdrew at termination together with interest at the rate of actuarial assumption at the date of the last actuarial study. If the police officer has not withdrawn his money from the plan, the interest would not be assessed. The payment shall be made within 60 days of rehire or the privilege shall lapse, and the police officer will enter the plan as any other newly employed police officer. The provision of this section shall not be retroactive.

(Code 1959, § 15-43)

Sec. 70-114. - Direct transfers of eligible rollover distributions.

- (a) *Generally.* This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the system to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the 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.
- (b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Direct rollover* means a payment by the plan to the eligible retirement plan specified by the distributee.

*Distributee* means 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.

*Eligible retirement plan* means 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* means 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 included in gross income.

*(Ord. No. 94-35, § 1(2), 12-1-1994; Ord. No. 00-07, § 7, 4-6-2000)*

Sec. 70-115. - Police pension board.

- (a) *Members of the board.* The police pension board (hereinafter referred to as "the board") shall consist of five members: Two police officers who are members of the plan and appointed by the members of the city police department eligible to participate in the fund, two members appointed by the city commission and one member appointed by the members of the board and confirmed by the city commission. The non-police officer members must be residents of the city.
- (b) *Terms.* The appointees to the police pension board shall serve for a period of two years.
- (c) *Actuarial requirements.* The police pension board shall be responsible for the preparation of an actuarial report in accordance with the provisions of the Florida Statutes.

*(Ord. No. 00-07, § 8, 4-6-2000)*

Sec. 70-116. - Investment policy.

- (a) The police pension board shall be responsible for the investment of the assets of the fund.
- (b) The investment of the fund's assets shall be consistent with the grade and quality requirements set out in the Florida Statutes.
- (c) The police pension board shall not invest more than five percent of its assets in the common stock or capital stock of any one company, nor shall the aggregate investment of any one issuing company exceed five percent of the outstanding capital stock of the company nor the aggregate of its investments under this subparagraph at cost exceed 75 percent of the fund's assets.

*(Ord. No. 00-07, § 9, 6-4-2000)*

Sec. 70-117. - Death prior to retirement; refunds of contributions or payment of death benefits.

- (a) If a police officer dies before being eligible to retire, the heirs, legatees, beneficiaries, or personal representatives of such deceased police officer shall be entitled to a refund of 100 percent, without interest, of the contribution made to the municipal police officers' retirement trust fund by such deceased police officer or, in the event an annuity or life insurance contract has been purchased by the board on such police officer, then to the death benefits available under such life insurance or annuity contract, subject to the limitations on such death benefits set forth in F.S. § 185.061 whichever amount is greater.
- (b) If a police officer having at least ten years of credited service dies prior to retirement, his or her beneficiary is entitled to the benefits otherwise payable to the police officer at early or normal retirement age.
- (c)

In the event that a death benefit paid by a life insurance company exceeds the limits set forth in F.S. § 185.061(6), the excess of the death benefit over the limit shall be paid to the municipal police officers' retirement trust fund. However, death benefits as provided pursuant to F.S. § 112.19 or any other state or federal law shall not be included in the calculation of death or retirement benefits provided by this article.

*(Ord. No. 01-12, § 2, 5-17-2001)*

Secs. 70-118—70-145. - Reserved.