

ARTICLE III. - FIREFIGHTERS' PENSION PLAN

Footnotes:

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Cross reference— *Fire prevention and protection, ch. 6; fire chief, § 6-3; bureau of fire prevention, § 6-4; property insurance premium tax levied for the firefighters' municipal pension program, § 18-21.*

State Law reference— *Municipal firefighter's pension fund, F.S. ch. 175.*

Sec. 14-46. - Created; administration.

- (a) There is hereby created a special fund to be known as Riviera Beach Municipal Firefighters' Pension Trust Fund, for the municipal fire department.
- (b) This article is to be administered pursuant to the provisions of F.S. ch. 175, as it may be amended from time to time, and all of the terms thereof are hereby incorporated into this article by reference and made a part hereof.
- (c) The director of finance is hereby authorized to withdraw from the general fund of the city a sum equal to the net annual cost and the amount required to fund over a period of not longer than 40 years, and any actuarial deficiency shown by a triennial actuarial valuation. The first such actuarial evaluation shall be conducted for the calendar year ending December 31, 1986.
- (d) The director of finance shall deliver to the city firefighters' pension trust fund a sum of money, each year, equal to the actuarial deficiency or deficiencies as described above. These payments shall be made at least quarterly throughout the plan year of the trust fund with the first payment due on or prior to March 31 of the year to which the actuarial evaluation applies.
- (e) The director of finance is hereby authorized to withhold and shall withhold from the salary or compensation of any kind from each paid firefighter who is duly appointed and enrolled as a member of the city fire department a sum equal to eight percent of each firefighter's paid compensation.

(Code 1957, §§ 14-1, 14-2; Ord. No. 2355, §§ 1, 2, 11-18-87; Ord. No. 2881, § 1, 12-20-00)

Sec. 14-47. - Board of trustees; created, powers, duties.

There is hereby created a board of trustees of the city firefighters' pension trust fund. The board of trustees shall consist of five members, two of whom shall be legal residents of the city who shall be appointed by the city council, and two (2) of whom shall be full-time firefighters as defined in F.S. § 175.032(1), who shall be elected by a majority of the firefighters who are members of the plan. The fifth member shall be chosen by majority of the previous four members as provided for in this section, and such person's name shall be submitted to the city council. Upon receipt of the fifth person's name, the city council shall, as a ministerial duty, appoint such person to the board of trustees as its fifth member. The fifth) member shall have the same rights as each of the other four members appointed or elected as provided in this section and may succeed him or herself in office.

Each new term subsequent to the effective date of Ord. No. 4030 [Sept. 4, 2013], the term of the fifth member shall be for a period of four years, subject to the limitations below.

Each new term subsequent to the effective date of this ordinance, a city resident member shall serve as a trustee for four years, provided however, the seat in which the person sits, whose term shall end first, of the two city resident board members, shall have an initial term of two years. All successive terms thereafter for all city resident board members will be for four years unless the person is sooner replaced by the city council, at whose pleasure the resident member shall serve. Each city resident trustee may succeed him or herself in office.

Each new term subsequent to the effective date of Ord. No. 4030 [Sept. 4, 2013], a full-time firefighter shall serve as a trustee for four years, provided however, the person whose term occupies seat 2, of the two full-time firefighter board members, shall have an initial term of two years. All successive terms thereafter for all full-time firefighter board members will be for four years unless the full-time firefighter sooner leaves the employment of the city as a firefighter, where upon a successor shall be chosen in the same manner as the original appointment. Each full-time firefighter trustee may succeed him or herself in office.

The board of trustees shall be a legal entity which, in addition to other powers and responsibilities contained in this section, shall have the power to bring and defend lawsuits of every kind, nature and description. The trustees shall by a majority vote elect a chairman and a secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law. The board of trustees may:

- (1) Invest the assets of the firefighters' pension fund as authorized by F.S. ch. 175, including but not limited to real estate, which may be in the form of commingled ownership. The board of trustees may invest not more than five percent of its assets in the common stock or capital stock of any one issuing company, nor exceed five percent of the outstanding capital stock of that company, nor shall the aggregate of its investments in common stock at cost exceed 60 percent of the assets of the fund.
- (2) Issue drafts upon the firefighters' pension trust fund pursuant to F.S. ch. 175; all such drafts shall be consecutively numbered, and be signed by the chairman and secretary and shall state upon their face the purposes for which the drafts are drawn. The board of trustees or other designee shall retain such drafts when paid as permanent vouchers for disbursements made, and no money shall otherwise be drawn from the fund.
- (3) Finally decide all claims to relief under the board's rules and regulations and pursuant to the provisions of this article.
- (4) Convert into cash any securities of the fund.
- (5) Keep a complete record of all receipts and disbursements and of the board's acts and proceedings.

(Code 1957, § 14-3; Ord. No. 2355, § 3, 11-18-87; Ord. No. 2589, 9-15-93; Ord. No. 2881, § 1, 12-20-00; Ord. No. 4015, § 1, 8-15-12; Ord. No. 4030, § 1, 9-4-13)

Cross reference— Boards, committees and commissions, § 2-41 et seq.

Sec. 14-48. - Retirement monthly income.

- (a) The amount of the 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 three percent of the firefighter's average final compensation.
- (b) The final average compensation means the average monthly compensation of a firefighter during the highest two years of his last ten years of contributing service.
- (c) Salary in excess of limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded.

(Code 1957, § 14-4; Ord. No. 2881, § 1, 12-20-00; Ord. No. 3030, § 1, 9-19-07)

Sec. 14-49. - Disability retirement.

For disability retirement, all of the terms and conditions as set forth in F.S. § 175.191, which are made a part of this article, shall apply with the following exceptions:

- (1) If a firefighter is totally disabled while in the line of duty, he shall become eligible for disability retirement.
- (2) If a firefighter having ten or more years of credited service and having contributed to the fund for ten or more years

is totally disabled from any cause whatsoever, he shall be eligible for disability retirement.

(Code 1957, § 14-4.1; Ord. No. 2355, § 4, 11-18-87; Ord. No. 2881, § 1, 12-20-00)

Sec. 14-50. - Retirement disability benefits.

- (a) The amount of each monthly disability payment shall be computed in the same manner as for a normal retirement benefit, with the exception that if a firefighter became totally disabled while in the line of duty, the monthly disability retirement benefit shall not be less than 60 percent of the average monthly salary for the last year of credited service prior to the date of the firefighter becoming totally disabled; or if a firefighter became totally disabled from any cause whatsoever while not in the line of duty, the monthly disability retirement benefit shall not be less than 48 percent of the firefighter's average monthly salary for the last year of credited service prior to the date of the firefighter becoming totally disabled.
- (b) A firefighter who retires with a disability retirement benefit may select an optional form of benefit. Retirees who began receiving retirement disability benefits prior to the effective date of Ord. No. 4053 may select an optional form of benefit, provided that: (1) the optional form of benefit must be selected within 90 days of the effective date of Ord. No. 4053, and, (2) there shall be no additional cost to the plan. The actuary shall recalculate the retiree's benefit assuming that the retiree is five years older than the chronological age, unless the retiree provides documentation satisfactory to the board that he or she is in good health and it is determined there will be no additional cost to the plan, in which case the actuary will recalculate the benefit in accordance with section 14-59 and without the additional five-year age assumption.

(Code 1957, § 14-4.2; Ord. No. 4053, § 1, 12-3-14)

Sec. 14-51. - Refund of contributions and direct transfers of eligible rollover distributions.

- (a) If a firefighter leaves the service of the city as a firefighter prior to ten years of actual service, such firefighter shall be entitled to a refund of all his contributions paid to the Riviera Beach Municipal Firefighters' Pension Trust Fund with interest. The rate of interest shall be 5.5 percent per annum, simple interest. A refund of contributions shall be in lieu of any other benefits to which a member may otherwise be entitled.
- (b) This article applies to distributions made on or after January 1, 2002. Notwithstanding any provisions for the plan to the contrary that would otherwise limit a distributee's election under this article, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (c) Definitions. The following words, terms and phrases, as used in this section, shall have the meanings ascribed to them in this subsection, unless the context clearly indicates otherwise:
 - (1) *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:
 - a. 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;
 - b. Any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; and
 - c. The portion of any distribution that is not includible in gross income. Any portion of any distribution which would be includible in gross income will be an eligible rollover distribution if the distribution is made to an individual retirement account described in section 408(a), to an individual retirement annuity described in section 408(b) or to a qualified defined contribution plan described in section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (2) *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(b) of the Internal Revenue Code, an eligible deferred compensation plan described in section 457(b) of the Code which is maintained by an eligible employer described in section 457(e)(1)(A) of the Code and which agrees to separately account for amounts transferred into such plan from this plan, an annuity contract described in section 403(b) of the Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. This shall apply in the case of an eligible rollover distribution to the surviving spouse.
- (3) *Distributee* includes an employee or former employee. In addition, the employee's or former employee's surviving spouse are distributees with regard to the interest of the spouse.
- (4) *Direct rollover* means a payment by the plan to the eligible retirement plan specified by the distributee.
- (d) Rollovers or transfers into the plan.
- (1) On or after January 1, 2002, the plan will accept, solely for the purpose of purchasing credited service as provided herein, permissible member requested transfers of funds from other retirement or pension plans, member rollover cash contributions and/or direct cash rollovers of distributions made on or after January 1, 2002, as follows:
- a. Transfers and direct rollovers or member rollover contributions from other Plans. The Plan will accept either a direct rollover of an eligible rollover distribution or a Member contribution of an eligible rollover distribution from a qualified plan described in section 401(a) or 403(a) of the Code, from an annuity contract described in section 403(b) of the Code or from an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. The Plan will also accept legally permissible Member requested transfers of funds from other retirement or pension plans.
 - b. Member rollover contributions from IRAs. The plan will accept a member rollover contribution of the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.

(Code 1957, § 14-4.3; Ord. No. 2355, § 5, 11-18-87; Ord. No. 2599, 9-15-93; Ord. No. 2881, § 1, 12-20-00; Ord. No. 3030, § 2, 9-19-07)

Sec. 14-52. - Application of additional benefits.

The increased pension benefits as provided for by sections 14-48 through 14-51 and any and all additional benefits that may accrue in the future shall apply to all firefighters now receiving retirement income payments; to all firefighters who are now eligible to receive income payments; to all firefighters who may in the future be eligible to receive retirement income payments under this article.

(Code 1957, § 14-4.4)

Sec. 14-53. - Survivors' benefits.

Upon the death of a member, benefits shall be paid in accordance with this section.

- (1) *Death in line of duty.*
- a. *For members having less than ten years of credited service.* If a member dies from injuries received while discharging firefighting duties, leaving a spouse and/or a child or children, the following benefits shall be paid:
 1. A refund of contributions in accordance with section 14-51 to the surviving spouse;
 2. Thirty-three and one-third of the member's total compensation for the year immediately prior to the member's death to the surviving spouse until the spouse's death; and
 3. Twenty-five percent of the member's total compensation for the year immediately prior to the member's death to a surviving child or children, divided equally, until the last or youngest child marries or attains the

age of 18 (21 if enrolled as a full-time student at an accredited college or university) years, whichever first occurs.

- b. *For members having ten or more years of credited service.* If a member dies from injuries received while discharging firefighting duties, leaving a spouse and/or a child or children, the following benefits shall be paid:
 1. A refund of contributions in accordance with section 14-51 to the surviving spouse;
 2. The greater of 33½ percent of the member's total compensation for the year immediately prior to the member's death or the accrued retirement benefit to the surviving spouse until the spouse's death; and
 3. Twenty-five percent of the member's total compensation for the year immediately prior to the member's death to a surviving child or children until the last or youngest child marries or attains the age of 18 (21 if enrolled as a full-time student at an accredited college or university) years, whichever first occurs.

(2) *Death not in line of duty.*

- a. *For members having less than ten years of credited service.* If a member dies from injuries received not while discharging firefighting duties, the following benefits shall be paid: a refund of contributions in accordance with section 14-51 to the surviving spouse or named beneficiary.
- b. *For members having ten or more years of credited service.* If a member dies from injuries received not while discharging firefighting duties, the following benefits shall be paid: the accrued retirement benefit to the member's surviving spouse until death or remarriage or other named beneficiary for ten years certain.

(Code 1957, § 14-4.5; Ord. No. 2930, § 1, 10-2-02)

Sec. 14-54. - Normal retirement date and amount.

The normal retirement age will be upon completion of twenty years of service regardless of age; or completion of ten or more years of creditable service and attaining age 55. The amount of the monthly retirement income benefit payable to a firefighter on a normal retirement will be three percent of the number of years of the firefighter's credited service times the amount of the firefighter's final monthly average compensation.

(Code 1957, § 14-4.6; Ord. No. 2355, §§ 6, 7, 11-18-87; Ord. No. 2671, § 1, 5-3-95; Ord. No. 2881, § 1, 12-20-00)

Sec. 14-55. - Effective date; compliance with Internal Revenue Code.

The effective date of the program is January 1 following receipt of a favorable determination letter from the Internal Revenue Service. At that time, the city shall pick up the member contributions required by subsection 14-46(e). The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The city shall pick up the member contributions from funds established and available in the salaries account, which funds would have otherwise been designated as contributions and paid to the pension fund. Member contributions picked up by the city pursuant to this section shall be treated for purposes of making a refund of member's contributions, and for all other purposes of this and other laws, in the same manner and to the same extent as member contributions made prior to the effective date of this section. The intent of this subsection is to comply with section 414(h)(2) of the Internal Revenue Code.

(Ord. No. 2602, § 1, 10-6-93)

Sec. 14-56. - Maximum pension.

- (a) *Basic limitation.* Subject to the adjustments hereinafter set forth, the maximum amount of annual retirement income payable with respect to a member under this plan shall not exceed \$160,000.00.

For purposes of applying the above limitation, benefits payable in any form other than a straight life annuity with no ancillary benefits (or if the employee contributes to the plan or makes rollover contributions) shall be adjusted, as provided by Treasury Regulations, so that such benefits are the actuarial equivalent of a straight life annuity. For purposes of this section, the following

benefits shall not be taken into account:

- (1) Any ancillary benefit which is not directly related to retirement income benefits;
 - (2) Any other benefit not required under section 415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of section 415(b)(1) of the Code.
- (b) *Participation in other defined benefit plans.* The limitation of this section with respect to any member who at any time has been a member in any other defined benefit plan (as defined in section 414(j) of the Code) maintained by the city shall apply as if the total benefits payable under all defined benefit plans in which the member has been a member were payable from one plan.
- (c) *Adjustments in limitations.*
- (1) In the event the member's retirement benefits become payable before age 62, the \$160,000.00 limitation prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of section 415(b) of the Code, so that such limitation (as so reduced) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a \$160,000.00 annual benefit beginning at age 62.
 - (2) In the event the member's benefit is based on at least 15 years of credited service, the adjustments provided for in subsection (a) above shall not apply.
 - (3) The reductions provided for in (1) above shall not be applicable to disability benefits or pre-retirement death benefits.
 - (4) In the event the member's retirement benefit becomes payable after age 65, for purposes of determining whether this benefit meets the limitation set forth in subsection (a) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age 65. This adjustment shall be made using an assumed interest rate of five percent and shall be made in accordance with regulations promulgated by the Secretary of the Treasury or the Secretary's delegate.
- (d) *Less than ten years of service.* The maximum retirement benefits payable under this section to any member who has completed less than ten years of credited service with the city shall be the amount determined under subsection 1 of this section multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten. The reduction provided for in this subsection shall not be applicable to disability benefits or pre-retirement death benefits.
- (e) *Ten thousand dollar limit.* Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the limitations set forth in this section if the benefits payable, with respect to such member under this plan and under all other qualified defined benefit pension plans to which the city contributes, do not exceed \$10,000.00 for the applicable plan year and for any prior plan year and the city has not at any time maintained a qualified defined contribution plan in which the member participated.
- (f) *Reduction of benefits.* Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.
- (g) *Cost-of-living adjustments.* The limitations as stated in subsections (a), (b), and (c) herein shall be adjusted to the time payment of a benefit begins in accordance with any cost-of-living adjustments prescribed by the Secretary of the Treasury pursuant to section 415(d) of the Code.

(h) *Additional limitation on pension benefits.* Notwithstanding anything herein to the contrary:

- (1) The normal retirement benefit or pension payable to a retiree who becomes a member of the plan and who has not previously participated in such plan, on or after January 1, 1980, shall not exceed 100 percent of his average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.
- (2) No member of the plan 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 a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

(Ord. No. 2645, § 1, 12-21-94; Ord. No. 3030, § 3, 9-19-07)

Sec. 14-57. - Required distributions.

(a) *Latest date of distribution.* In no event may a member's retirement benefit be delayed beyond the later of the April 1 following the calendar year in which he attains age 70½ or April 1 of the year following the calendar year in which he retires.

(b) *Method of distribution.*

- (1) *Other than lump sum (interest).* When the distribution of the participant's entire interest is not made in a lump sum, the distribution will be made in one or more of the following ways: over the life of the participant; over the life of the participant and the designated beneficiary; over a period certain not extending beyond the life expectancy of the participant; or over a period certain not exceeding beyond the joint life and last survivor expectancy of the participant and a designated beneficiary.
- (2) *When participant dies before distribution.* 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 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 within five years after the participant's death, or over the life of the beneficiary or over a period certain not exceeding 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 in which the participant would have attained age 70½).
- (3) *When distribution commences before participant's death.* 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.

(c) *Compliance with Internal Revenue Code.* The plan shall operate in accordance with the requirements of the regulations under section 401(a)(9) of the Internal Revenue Code, including the minimum distribution incidental benefit requirements of section 1.401(a)(9)-2 of the proposed regulations.

(Ord. No. 2645, § 1, 12-21-94)

Sec. 14-58. - Repeal or termination of fund.

In the event of the termination or partial termination of this plan, each affected participant's accrued pension benefit shall become nonforfeitable, i.e., 100 percent vested, to the extent funded. At such time, the fund shall be appropriated and distributed in accordance with F.S. ch. 175.

(Ord. No. 2645, § 1, 12-21-94; Ord. No. 2930, § 1, 10-2-02)

Sec. 14-59. - Actuarial equivalence.

Actuarial equivalence or *actuarially equivalent* means that any benefit payable under the terms of this plan 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. 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 seven percent interest and the 1983 Group Annuity Mortality Table for Males, with ages set ahead five years in the case of disability retirees.

(Ord. No. 2645, § 1, 12-21-94)

Sec. 14-60. - Military service.

Notwithstanding any provision of this fund to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with the Internal Revenue Code, Section 414(u).

(Ord. No. 3030, § 4, 9-19-07)

Sec. 14-61. - Deferred retirement option program (DROP).

In general, and subject to the provisions of this section, the Board of Trustees of the Riviera Beach Municipal Firefighters' Pension Trust Fund is authorized to establish and maintain a deferred retirement option program, hereinafter referred to as DROP. The DROP is a program under which an eligible member of the retirement system may elect to participate by deferring receipt of retirement benefits while continuing employment with the city. Upon entry into DROP a member's accrued vacation and sick leave balances not used in calculation of normal retirement benefits shall be carried forward and the DROP participant shall accrue additional vacation and sick leave during participation in DROP. However, any accrued vacation or sick leave balance at termination of the DROP period shall be forfeited. Upon termination of employment, the participant shall begin to receive the previously determined normal retirement benefits. Participation in the DROP does not guarantee employment for the specified period of DROP.

- (1) *Eligibility of member to participate in the DROP.* All retirement system members are eligible to elect participation in the DROP on or after attaining their normal retirement date or age provided that election to participate is made within five years after the member first reaches his or her normal retirement date or age, except as provided for in subparagraphs (2)a. or (2)b., below. The member shall advise the city and the retirement system in writing at least 30 days in advance of the date on which the DROP shall begin.
- (2) *Participation in the DROP.*
 - a. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of 60 consecutive months nor beyond a total of 30 years of credited service with the city. Any member who has exceeded the 60-month or 30-year limitations shall not be eligible to continue participation in the DROP.
 - b. Any member who has more than 25 years of credited service at the effective date of this section will have 90 days to make an election to participate in the DROP. If such member makes such an election within the 90-day period the member will be permitted to remain in the DROP for the entire 60 months, regardless of years of service. Any member with more than 25 years of service who does not make an election within the 90-day period may do so at a later date, however, the member's DROP will be limited to the period remaining until their thirtieth year.
 - c. Upon deciding to participate in the DROP, the member shall submit on forms required by the retirement system:
 1. A written election to participate in the DROP.
 2. Selection of the DROP participation and termination dates, which satisfy the limitations stated in paragraph (1) and subparagraphs (2)a. or (2)b.. Such termination date shall be in an irrevocable and binding letter of resignation with the city, establishing a deferred termination date. The member may terminate before the

termination date within the limitations of subparagraphs (2)a. or (2)b., but only with not less than 30 days advance written notice to the city from the new termination date.

3. A properly completed DROP application for service retirement as provided in this section.
 4. A written election of form of pension payment.
 5. Any other information required by the pension trust fund's board of trustees.
- d. The DROP participant shall be retired under the pension trust fund for all purposes except that payment of benefits shall be deferred until separation from city employment.
- e. A re-employed DROP participant with renewed membership shall not be eligible for DROP participation.
- (3) *Benefits payable under the DROP.* The DROP account shall, unless a member elects a self-directed DROP, earn interest at a rate set quarterly by the board of trustees. Such interest shall be equal to the system's net rate of investment return for the year and shall be credited to each individual account balance on a quarterly basis. Members selecting a self-directed DROP shall select from one or more providers selected by the board of trustees and shall be subject to all fees provided in such self-directed DROP. Self-directed investments shall be invested as permitted in the self-directed DROP agreement.
- a. Effective with the date of DROP participation, the member's initial normal monthly benefit, including the value of accrued unused leave (per city policy as amended from time to time), credited service, and final average compensation, shall be fixed. The value of accrued unused leave, whether or not payment for such is actually received by the participant, shall be included in the calculations to determine said normal monthly benefit, with appropriate contributions being made on entry into DROP. However, actual payment for such accrued unused leave shall be made in no more than five equal installments, paid no less frequently than annually on the anniversary of the member's entry into DROP, provided however, that the first installment shall be at least sufficient to cover the cost of the employee's contribution to the employee's pension, after all other deductions have been made. The city will, however, make a one-time payment at the entry into DROP to employees who have no more than 12 days leave remaining. Interest on any unpaid portion of such accrued leave payment shall be calculated annually at simple interest at the rate earned by the city's largest investment fund (excluding pension investment funds). Termination from DROP prior to the maximum DROP period shall result in a lump sum payment of any remaining balance of said accrued leave installments with interest calculated for each completed calendar quarter.
- Such retirement benefit shall accrue monthly to the participant's individual DROP account. The board of trustees shall administer these individual DROP accounts. DROP accounts shall accrue interest at a rate set quarterly by the board of trustees. These DROP accounts shall be subject to administrative fees or charges as established by the board of trustees.
- b. The effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in the DROP. No person may enter DROP prior to attending a city sponsored employee education program. Such program shall be in addition to any education program sponsored by the pension plan.
 - c. Normal retirement benefits shall continue to accrue in the DROP until the established termination date of the DROP or until the participant terminates employment or dies prior to such date. A separate accounting of each participant's accrued benefits under the DROP shall be calculated, and be available to participants annually.
 - d. At the conclusion of the participant's DROP, the pension plan shall direct that the participant's total accumulated DROP benefits be distributed, subject to the following provisions:
 1. The retirement system shall receive verification from the city that the participant has terminated employment.
 2. The terminated DROP participant or if deceased, such participant's named beneficiary, shall elect on forms provided by the pension plan to receive payment of the DROP benefits in accordance with one of the options

listed below. For a participant or beneficiary who fails to elect a method of payment within 60 days of termination of the DROP, the retirement system shall direct that a lump sum be distributed as provided in subsection i. below.

- i. *Lump sum*: All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.
 - ii. *Direct rollover*: All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code.
 - iii. *Partial lump sum*: A portion of the accrued DROP benefits shall be paid to the DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or surviving beneficiary.
3. The form of payment selected by the DROP participant or surviving beneficiary shall comply with the minimum distribution requirements of the Internal Revenue Code and payments shall begin no later than the date on which the participant reaches age 70 years and six months. Regardless of the form of payout, a participant's DROP account continues until the account balance is exhausted.
 4. For a DROP participant who fails to terminate city employment at the expiration of the 60-month maximum DROP participation period or the 30-year credited service maximum, unless authorized to do so pursuant to subparagraphs (2)a. and (2)b.; the member shall be deemed not to be retired, the DROP election shall be null and void, and the member shall have no accumulated DROP benefits. Retirement system membership shall be reestablished retroactively to the date of the commencement of the DROP, and the member shall be required to pay to the retirement system the member contributions as if the participant had continued service to the city, and the city contributions during the period the member participated in the DROP, plus an interest rate equal to the annual assumed investment return during each year the member participated in the DROP.
 - e. The accrued benefits of any DROP participant, and any contributions accumulated under such program, shall not be subject to assignment, execution, attachment, or to any legal process whatsoever, except for an income deduction order of a court of competent jurisdiction, income deduction orders as provided in F.S. § 61.1301, and federal income tax levies.
 - f. DROP participants shall not be eligible for disability retirement benefits as provided in sections 14-49 and 14-50 of this article, and the participant's beneficiaries and survivors shall not be eligible for the automatic survivor pension, death in the line of duty pension, or survivor pension as provided respectively in section 14-53 of this article.

(4) *Death benefits under the DROP.*

- a. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in this section.
- b. The normal retirement benefit accrued to the DROP during the month of a participant's death shall be the final monthly benefit credited for such DROP participant.
- c. Eligibility to participate in the DROP terminates upon death of the participant. If the participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP,

pension plan benefits shall be paid as though the DROP election had not been made.

- (5) *Contributions.* Neither city nor member contributions shall be made, due, or payable during a participant's DROP participation, notwithstanding any other section of this article.
- (6) *Forfeiture of retirement benefits.* Nothing in this section shall be construed to remove DROP participants from the scope of Section 8(d), Art. II of the State Constitution, and F.S. § 112.3173. DROP participants who commit a specified felony offense while employed will be subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.
- (7) *Administration of program.* The board of trustees shall make such rules as are necessary for the effective and efficient administration of this subsection and individual DROP accounts. The retirement system shall not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.

(Ord. No. 3057, § 1, 5-6-09)

Sec. 14-62. - Share plan.

- (a) The purpose of this section is to implement the provisions of F.S. ch. 175 and to provide a mechanism to pay required "Chapter 175 monies" to firefighters and current and future retirees based on the growth of premium tax revenue pursuant to Chapter 175. The fund created by this section, hereinafter the City of Riviera Beach Firefighters' Share Plan, shall be exclusively derived from and funded by monies received from the state and not from any additional taxes levied by the City and shall be in addition to, and shall supplement, the defined benefit pension paid by the City of Riviera Beach Firefighters' Retirement System. The share plan shall be administered by the board of trustees of the City of Riviera Beach Firefighters' Retirement System (hereinafter "Retirement System"). The implementation (including fund distribution), operation, and/or administration of the share plan shall not cause the city to incur any cost and/or liability in addition to that required to adequately fund the defined benefit pension paid by the City of Riviera Beach Firefighter's Retirement System.
- (b) In each fiscal year, beginning with the fiscal year beginning January 1, 1998 and each fiscal year thereafter, as determined by the board of trustees, the board of trustees shall determine the amount of premium tax revenues accrued by the city during the preceding fiscal year which are above the adjusted base amount pursuant to F.S. § 175.131. The sum of all premium tax revenues accrued by the city above the adjusted base amount shall be known as the "funds in excess of the based amount." All funds in excess of the based amount which have not specifically allocated to a different benefit enacted heretofore or hereinafter will be known as "available funds."
- (c) In each fiscal year, beginning with the fiscal year beginning January 1, 1998 and each fiscal year thereafter, as determined by the board of trustees, each member of the retirement system, which shall not include a beneficiary of a member of the retirement system or any person receiving a survivor benefit, shall accrue one-twelfth of a share, if the member is actively employed as a firefighter by the city, for each month of credited service earned within the fiscal year or, if the member is a retired firefighter receiving a defined benefit from the retirement system, for each month the member receives a defined benefit payment from the retirement system (including those members participating in the DROP and receiving a defined benefit payment into a DROP account). Provided however, for the fiscal year beginning January 1, 2005, through September 30, 2005 each member of the retirement system, which shall not include a beneficiary of a member of the retirement system or any person receiving a survivor benefit, shall accrue one-ninth of a share, if the member is actively employed as a firefighter by the city, for each month of credited service earned within the fiscal year or, if the member is retired firefighter receiving a defined benefit from the retirement system, for each month the member receives a defined benefit payment from the retirement system (including those members participating in the DROP and receiving a defined benefit payment into a DROP account). Shares shall not accrue from one fiscal year to the next and each member shall begin each fiscal year with zero shares. No member shall accrue more than one share in any one fiscal year.

- (d) In accordance with the provisions of section 14-62, in each fiscal year, beginning with the fiscal year January 1, 1998 and each year thereafter, as determined by the board of trustees, all available funds shall be allocated to those active and retired members eligible to receive a distribution or allocation from the share plan based on the number of shares accrued by each member preceding fiscal year. The value of each share shall be equal to the quotient of: the total amount of all available funds divided by the total number of shares earned by all members during the preceding fiscal year. Each share shall have equal value such that all members with an equal share shall receive the same distributions or allocation.
- (e) An individual share account shall be established for each member of the retirement system to receive an allocation or distribution from the share plan. These members shall include all members who, at any time on or after January 1, 1998, are or were actively employed as firefighters by the city or who are or were retired members receiving a defined benefit payment from the retirement system (including those members participating in the DROP and receiving a defined benefit payment into a DROP account). Available funds shall be allocated to each member eligible for an allocation of the available funds by credit to the member's individual account. In order to be eligible for an allocation of the available funds, a member must have been either actively employed on October 1 of the fiscal year preceding the fiscal year in which the allocation is to be made or must have received a defined benefit payment for the month of October of the fiscal year preceding the fiscal year in which the allocation is to be made. Available funds shall be allocated and paid directly to each retired member who is separated from service and is no longer employed by the city as a firefighter.
- (f) All members will vest in their share account after ten years of credited service. If a member terminates or is terminated from his or her employment or has or had his or her employment terminated for any reason without vesting, the balance of the member's share account shall be re-allocated among the remaining members of the share plan and shall be considered available funds at the time of the next allocation.
- (g) All available funds, and all funds allocated to an individual share account but not yet distributed, shall be invested by the board of trustees and may be commingled for the purposes of investment with other assets of the retirement system. Individual share accounts shall be credited or debited quarterly at a rate equal to the actual rate of return (positive or negative) earned by the assets of the share plan net of any expenses associated with the investment of such assets. The board of trustees shall produce to each member with an individual share account balance an annual statement clearly identifying the balance of the member's individual share account, the annual allocation to the individual share account, the earnings or losses credited to or debited from the individual share account, and any expense charge debited from the individual share account.
- (h) Members of the share plan with an individual share account who have completed at least ten years of credited service shall be eligible to receive payment of the balance of the individual share account in the form of either a lump sum payment or direct rollover to a qualified plan upon separation from employment with the city and receipt of a defined benefit from the retirement system. Any member who separates from employment with the city without having completed at least ten years of credited service shall forfeit the balance of his or her individual share account and the balance of that individual share account shall be reallocated as provided herein. Members of the share plan with an individual share account who become disabled in the line of duty and receive an in the line of duty disability benefit from the retirement system shall be eligible to receive payment of the balance of the individual share account in the form of either a lump sum payout or direct rollover to a qualified plan upon separation from employment with the city and receipt of the disability benefit regardless of years of service.
- (i) In the event of the death of a firefighter who was actively employed by the city at the time of death and who had completed at least ten years of credited service at the time of death, the balance of that firefighter's individual share account shall be paid to the designated beneficiary. In the event of an in the line of duty death of an actively employed firefighter, the balance of that firefighter's individual share account shall be paid to the designated beneficiary regardless of years of service. In the event of the death of a retired member, the retired member shall not accrue a share, or any portion of a share, for any month beginning on or after the first day of the first month following the death of the retired

member. In the event of the death of a retired member, the balance of the retired member's individual share account, which shall include an allocation for any shares earned up to and including the month in which the retired member died, shall be paid to the retired member's beneficiary.

- (j) The board of trustees shall be authorized to adopt any rules, policies, or procedures necessary for the effective and efficient administration of the share plan so long as those rules, policies, or procedures are consistent with section 14-62, the Internal Revenue Code (to include Section 401 (a)(9)) and any other applicable local, state, or federal law. The board of trustees shall adopt rules, regarding the distribution of amount allocated to individual share accounts, which rules may allow the board of trustees to retain a portion of the balance of the individual share account until such time as the final balance of the individual share account to be distributed is determined. These rules may also allow the board of trustees to charge a fee for administration of the share plan.
- (k) The use of future chapter 175 funds in excess of the base amount is subject to bargaining. It is the intention of the city not to create vested rights with regard to the use of future chapter 175 revenue.

(Ord. No. 4013, §§ 1, 2, 5-16-12)

Secs. 14-63—14-70. - Reserved.