

## Code of Ordinances



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## Sunrise, FL Code of Ordinances

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## Chapter 11 - RETIREMENT AND PENSIONS<sup>[1]</sup>



### ARTICLE I. - IN GENERAL



Sec. 11-1. - Reserved.



### ARTICLE II. - CITY OF SUNRISE RETIREMENT PLANS



#### DIVISION 1. - GENERALLY



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**Sec. 11-2. - Creation; intent.**

- (a) There are hereby created the following retirement plans within the city:
  - (1) The firefighters' retirement plan;
  - (2) The police officers' retirement plan;
  - (3) The general employees' retirement plan.
- (b) It is hereby declared to be the intent of the city commission that each retirement plan shall be maintained and administered by a separate retirement board which shall be responsible for investing the funds of its respective plan.
- (c) The city commission recognizes that in many instances the regulations affecting each of the plans will be the same. It is therefore declared to be the intention of the city commission that there shall be one (1) set of regulations governing the retirement plans. Where differences among the regulations of the systems exist, they will be clearly indicated. Otherwise, unless so indicated, each provision of this article shall be deemed to apply to all retirement plans of the city.
- (d) A new contribution and benefit structure is hereby established for general employees, including management and senior management personnel, hired or rehired on or after October 1, 2009. Such employees will be members of the general employees' retirement plan; however, the contributions and benefits for such employees are as set forth in section 11-62.

(Ord. No. 124-X-O, § 1(16-1), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-09-A, § 1, 10-13-09; Ord. No. 124-X-16-B, § 1, 6-14-16)

**Sec. 11-3. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Actuarial equivalent* shall mean that any benefit payable under the terms of the plan other than the normal form of benefit shall have the same actuarial present value as the normal form of payment on any single measurement date. The determination of the actuarial present value of any form of benefit, including lump sum distributions, shall be based on:

- (1)

The RP-2000 static mortality table (h) unisex 50/50 for healthy lives projected to 2010 for healthy participants and the RP-2000 static mortality table (d) unisex 50/50 projected to 2010 for disabled participants, and

- (2) The interest discount rate of eight (8) percent per annum, compounded annually.

*Average final compensation* means the average salary of the five (5) best contributing years. Effective September 13, 1999, average final compensation for general employees means the average salary of the three (3) best consecutive contributing years. Effective October 1, 2004, average final compensation for firefighters shall mean the average salary of the three (3) best consecutive contributing years of creditable service, or the average salary of the best five (5) years of the last ten (10) years of creditable service, whichever is greater. Effective October 1, 2000, average final compensation for members of the police officers' retirement plan who retire on or after that date shall mean the average salary of the three (3) best contributing years of service contingent on the annual adjustment described in subsection 11-52(d). The incremental benefit resulting from the change in the definition of average final compensation for police officers provided in this paragraph shall be determined on an annual basis, and the amount of the incremental benefit may vary from year to year, or the incremental benefit may be discontinued entirely, based on the annual adjustment described in subsection 11-52(d), which adjustment shall be applied to the incremental benefit resulting from the change in the definition of average final compensation provided in this paragraph, as well as the supplemental retirement benefit described in subsection 11-52(c). Any increase in contributions resulting from the change in the definition of average final compensation for police officers provided in this paragraph shall not be effective prior to October 1, 2001. A year should consist of twelve (12) consecutive months. Effective September 30, 2015, average final compensation for members of the police officers' retirement plan who are hired or rehired on or after that date shall be calculated as provided in subsection 11-66(a).

*Beneficiary or designated beneficiary* means any person designated by a member to receive a benefit from the plan.

*Benefit* means the monies provided to the member or beneficiary upon the occurrence of:

- (1) Retirement;
- (2) Disability; or

(3) Termination of employment as provided by the plan pursuant to the provisions of this article.

*City commission* shall mean the duly constituted governing body of the city. City commissioners shall be deemed "general employees" for the purposes of this article.

*Contribution* means the employee's regular contribution, the city's contribution and all other contributions to the funds as more particularly described in sections 11-26 and 11-65.

*Creditable service* means full-time service with the city as a salaried employee during which time the employee contributed the prescribed payment to the plan or complied with the buy-back provisions of this article. Notwithstanding the preceding sentence, effective November 1, 2013, creditable service shall also include the full-time service of dispatchers and communication supervisors who are laid off by the city and become employees of Broward County or an entity designated as the operator of the Consolidated Regional E-911 Communications System pursuant to the participation agreement between Broward County and the city which is effective October 1, 2013, and who elect to continue their participation in the plan and continue to contribute the prescribed employee contribution to the plan. Additionally, except as otherwise provided herein, time spent in the military services of the United States by any such employee shall be added to the years of service; however, to receive credit for such service the employee must have left city employment to enter military service and reentered employment by the city within one (1) year of the date of release from military service.

- (a) For members of the police officers' retirement plan who are employed by the city on or after September 13, 2004 and who retire or enter the DROP on or after the effective date of this ordinance and who have ten (10) or more years of creditable service based on city employment, creditable service shall also include up to four (4) years of active service in the U.S. Armed Forces or full-time employment as a police officer with another governmental entity prior to employment by the city, purchased by the member in accordance with this paragraph; provided the member has not received and will not receive a benefit from another retirement plan based on such prior employment. The member may purchase credited service under the plan for all or a portion of the maximum period of active service in the U.S. Armed Forces or full-time employment as a police officer with another governmental entity prior to employment by the city allowed herein, by paying into the fund the full actuarial cost of such service, as determined by the plan actuary, plus the full cost of any actuarial

Code of Ordinances calculations required. Payment for such service must be made in full prior to entering the DROP or separation from city employment, whichever occurs earlier. In the event full payment is not made prior to such date, the member shall receive only the amount of creditable service for which payment of the full actuarial cost has been made. Payment for the purchase of prior service pursuant to this paragraph may be made either by a cash lump sum payment or a direct transfer of funds from a member's account in the city's 457 plan. Notwithstanding any other provision of this paragraph, a member of the police officers' retirement plan who is hired by the city on or after September 13, 2004, terminates city employment and is subsequently rehired by the city as a police officer on or after September 30, 2015, shall be eligible to purchase creditable service for full-time employment as a police officer with another governmental entity during the period between the date of termination and the date of rehire in accordance with this paragraph; and the benefits for such service shall be as provided in section 11-66(a).

- (b) For members of the firefighters' retirement plan who retire or enter the DROP on or after September 25, 2012 and who have ten (10) or more years of creditable service based on city employment, creditable service shall also include up to four (4) years of active service in the U.S. Armed Forces or full-time employment as a firefighter, as defined in F.S. § 175.032(8)(a), with another governmental entity prior to employment by the city, purchased by the member in accordance with this paragraph; provided the member has not received and will not receive a benefit from another retirement plan based on such prior employment. The member may purchase credited service under the plan for all or a portion of the period of full-time employment as a firefighter with another governmental entity and active duty military service in the armed forces of the United States prior to employment by the city allowed herein, by paying into the fund the full actuarial cost of such service, as determined by the plan actuary, plus the full cost of any actuarial calculations required. The total combined purchase of prior governmental and military service as provided herein shall not exceed four (4) years of credited service. Payment for such service must be made in full prior to entering the DROP or separation from city employment, whichever occurs earlier. In the event full payment is not made prior to such date, the member shall receive only the amount of creditable service for which payment of the full actuarial cost has been made. Payment for the purchase of prior service pursuant to this paragraph may be made either by a cash lump sum payment or a direct transfer of funds from a member's account in the city's 457 plan.

*Custodian* means the trust department of any bank or savings association that is a qualified public depository as defined in F.S. § 280.02, which depository shall conform to and be bound by all of the provisions of F.S. Ch. 280.

*Division* means the bureau of municipal police officers and firefighters' retirement fund in the division of retirement, state department of insurance.

*Election* means the first election of each board held during the month of September, 1989 and thereafter the regular elections held on even number years in the month of March starting 1992.

*Firefighter* means any person employed full time solely in a constituted fire department of the city, who is certified as a firefighter as a condition of employment in accordance with the provisions of F.S. § 633.35 and whose duty is to extinguish fires, to protect life and protect property. This definition includes all supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time firefighters; provided, the fire chief may elect not to participate in the Firefighters' Retirement Plan by filing an irrevocable written election with the Board of Trustees of such plan within thirty (30) days following the effective date of this ordinance [effective retroactive of January 25, 2008, except at otherwise specifically provided herein] or date of appointment as chief, whichever is later.

*General employee* means all full-time employees (except temporary, substitute and seasonal employees) hired by the city who are not firefighters or police officers, or fire recruits as those terms are defined in this chapter; provided, if the police chief elects not to participate in the Police Officers' Retirement Plan in accordance with this section, or if the fire chief elects not to participate in the Firefighters' Retirement Plan in accordance with this section, the police chief or fire chief shall be deemed to be a general employee for purposes of this article. Notwithstanding the preceding sentence, effective November 1, 2013, general employee shall include dispatchers and communication supervisors who are laid off by the city and become employees of Broward County or an entity designated as the operator of the Consolidated Regional E-911 Communications System pursuant to the participation agreement between Broward County and the city which is effective October 1, 2013, and who elect to continue their participation in the plan and continue to contribute the prescribed employee contribution to the plan.

*Hired* means, as to a permanent full-time employee, the date he was employed full time

by the city.  
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*Management* means all members of the general employees' retirement plan who are entitled to receive benefits provided to the city's executive/management supervisory/professional personnel, excluding any hourly employee who is appointed to serve in a general executive/management or supervisory/professional position in a temporary or acting capacity.

*Medical board* means the physician or physicians appointed by the retirement board in connection with applications to the retirement board for service incurred disability benefits as more particularly described in section 11-33 hereof.

*Members* means all full-time employees of the city, police officers, firefighters, and general employees, unless otherwise provided by this article.

*Noninvestment expense* means the cost of administering the plan.

*Nonservice incurred disability retirement* means a total and permanent disability by a member of the plan that is not a service incurred disability, as more specifically set forth in section 11-30.

*Plan, the plan, retirement plan, retirement system, the system and pension plan* shall be construed to refer to each of the retirement plans created in section 11-16, unless it is clearly indicated to the contrary.

*Police officer* means any person who is appointed or employed full time by the city who is certified or required to be certified as a law enforcement officer in compliance with F.S. § 943.14, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime as the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers; provided, the police chief may elect not to participate in the Police Officers' Retirement Plan by filing an irrevocable written election with the board of trustees of such plan within thirty (30) days following the effective date of this ordinance or date of appointment as chief, whichever is later.



*Police officer or member of the police officers' retirement plan hired on or after September 30, 2015* means any police officer hired or rehired on or after September 30, 2015, with the exception of three (3) expressly named candidates listed in the September 2, 2015 memorandum from the human resources director to the FOP president who were being processed to fill three (3) vacant police officer positions on September 30, 2015, provided they are hired as a police officer on or before December 30, 2015. Upon their employment as a police officer in accordance with the preceding sentence, the three (3) candidates will be deemed to have been hired on September 29, 2015 for all purposes of the police officers' retirement plan, except that their creditable service shall commence on their actual date of hire as a police officer.

*Regular contributions* means the amounts contributed to the plan periodically from the salary of a member.

*Regular interest* means interest at the rate or rates determined by the board for purposes of computing the actuarial equivalent.

*Retirement* means a member's withdrawal from service to the city at the normal or early retirement age after having obtained a vested interest in the plan with the benefits granted to the member pursuant to the provisions of this article.

*Retirement ages* for the respective plans shall be as follows:

- (1) a. For the City Firefighter Retirement Plan, the normal retirement age for members who retire or terminate employment prior to January 1, 2004, is fifty (50) years. Early retirement age is forty-seven (47) years. For members of the City Firefighter Retirement Plan hired prior to September 25, 2012 who retire or terminate employment on or after January 1, 2004, the normal retirement age is forty-five (45) for employees with at least twenty-five (25) years of creditable service; age forty-eight (48) for employees with at least twenty-one (21) years of creditable service, provided that an employee may elect to accelerate this normal retirement age by one (1) year (i.e. to age forty-seven (47) with at least twenty (20) years of creditable service); and age fifty (50) for employees with at least ten (10) years of creditable service.
- b. The normal and early retirement ages for members of the Firefighters' Retirement Plan hired or rehired on or after September 25, 2012 are specified in section 11-65.

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- (2) a. For the city police officers' retirement plan, the normal retirement age is fifty-three (53) years or upon completion of twenty (20) years of creditable service to the city. Early retirement age shall be forty-seven (47) years.
  - b. Notwithstanding any other provision of subsection (a) above, the normal and early retirement ages for members of the police officers' retirement plan hired or rehired on or after September 30, 2015 are specified in subsection 11-66(a).
  - (3) a. For the City General Employees' Retirement Plan, the normal retirement age for members who separate from city employment or retire prior to January 1, 2004, shall be sixty (60) years. The early retirement age for such members is fifty-five (55) years.
  - b. For members of the City General Employees' Retirement Plan hired prior to October 1, 2009 who separate from city employment or retire on or after January 1, 2004, the normal retirement age shall be fifty-eight (58) years. The early retirement age for such members is fifty-three (53) years.
  - c. For members of the City General Employees' Retirement Plan hired prior to October 1, 2009 who separate from city employment and retire, or enter the DROP, on or after October 1, 2007 with at least thirty (30) years of creditable service, the normal retirement age shall be fifty-three (53) years.
  - d. The normal and early retirement ages for members of the general employees' retirement plan, including management and senior management personnel, hired or rehired on or after October 1, 2009, are specified in section 11-62.

*Retirement board, the board, board, board of trustees or the pension board* shall be construed to refer to each of the retirement boards more particularly described in section 11-11, unless it is clearly indicated to the contrary.

*Retirement plan trust fund, fund* means the sum total of all monies received by each board which includes, but is not limited to, employees' regular contributions, the city contribution, state monies and private donations, gifts, and contributions as more particularly described in subsection 11-13(c).

*Salary* means the total actual fixed cash compensation paid yearly on behalf of the members by the city for services rendered. This includes regular pay, overtime, holiday and other payroll cash incentives and general monthly expense allowances. Lump sum pay outs of accrued benefits upon termination of employment shall not be included in salary. Auto allowances, uniform allowances, mileage and travel reimbursements shall not be included in

Code of Ordinances salary. Income from private details (work assignments paid for by individuals other than the city) shall not be included in "salary" for purposes of this article. Notwithstanding the foregoing definition, effective August 9, 2011, overtime pay for hours earned after August 9, 2011 in excess of three hundred (300) hours of overtime per year shall not be included in the "salary" of police officers for purposes of this article. Notwithstanding the foregoing definition, effective October 1, 2012 overtime pay in excess of three hundred (300) hours per year shall not be included in the "salary" of firefighters for purposes of this article. Notwithstanding the foregoing definition, effective October 1, 2013 overtime pay in excess of three hundred (300) hours per fiscal year shall not be included in the salary of general employees for purposes of this article. For the purpose of the preceding sentence and effective October 1, 2016, overtime pay shall include only those overtime hours that are compensated at time and one-half (½) the employee's regular rate of pay. Notwithstanding any other provision of the foregoing definition, effective September 15, 2015, salary for members of the police officer's retirement plan shall exclude all payments for accrued unused sick and annual leave. Effective September 30, 2015, salary for members of the police officers' retirement plan who are hired or rehired on or after that date shall exclude all overtime pay. Notwithstanding the foregoing definition, any retroactive pay attributable to a cost of living increase or increase in the salary range for fiscal years 2014/2015, 2015/2016 of 2016/2017 provided to members of the general employees' retirement plan or the fire chief on or after September 28, 2016 shall not be included in the salary of any such member who retired or entered the DROP before September 28, 2016 for purposes of this article.

*Senior management* means management personnel, who are also assistant city manager, department directors or charter officers, including any police chief or fire chief who elects not to participate in the Police Officers' Retirement Plan or Firefighters' Retirement Plan in accordance with this section, but excluding any employee who is appointed to serve as an assistant city manager, department director or charter officer in a temporary or acting capacity.

*Service incurred disability* means a total and permanent disability arising directly from the performance by any member of the plan of service-related duties to the city, as more particularly set forth in subsection 11-28(b).

*Social security coverage* means old-age survivors' insurance, as provided by the Federal Social Security Act.

*Total and permanent disability* means an injury, disease or condition which permanently

incapacitates a member, either physically or mentally impairing the member from:

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- (1) His regular and continuous duty as an employee within his classification from performing services to the city if the member is applying for service incurred disability retirement;
- (2) From rendering efficient service to the city, if the member is applying for nonservice incurred disability retirement.

*Unfunded liability* means unfunded actuarial liability which is the excess of the actuarial accrued liability of the plan over the value of its present assets.

*Vested interest, vested benefit* means that length of creditable service that establishes a present or future benefit to a member pursuant to the plan. Vesting shall occur upon a total of ten (10) years of full-time employee regular contributions since April 10, 1972 for police and firefighters. Vesting shall occur upon a total of five (5) years of full-time employee regular contributions since April 10, 1972 for general employees hired prior to October 1, 2009. The vesting period for members of the general employees' retirement plan, including management and senior management personnel, hired or rehired on or after October 1, 2009, is specified in section 11-62. In the event of the termination or partial termination of any of the city retirement plans, the participant's accrued pension benefit in the terminated or partially terminated plan shall become non-forfeitable, i.e., one hundred (100) percent vested, to the extent funded.

(Code 1972, § 16-2; Ord. No. 124-X-O, § 1(16-2), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-Q, § 1, 12-18-91; Ord. No. 124-X-W, § 1, 4-12-94; Ord. No. 124-X-Y, § 1, 10-11-94; Ord. No. 124-X-98-A, § 1, 4-28-98; Ord. No. 124-X-99-D, § 1, 7-27-99; Ord. No. 124-X-99-E, § 1, 9-13-99; Ord. No. 124-X-00-D, § 1, 10-24-00; Ord. No. 124-X-01-A, § 1, 1-23-01; Ord. No. 124-X-01-D, § 1, 11-13-01; Ord. No. 124-X-03-B, § 1, 12-23-03; Ord. No. 124-X-03-C, § 1, 12-23-03; Ord. No. 124-X-05-A, § 1, 1-25-05; Ord. No. 124-X-05-B, § 1, 1-25-05; Ord. No. 124-X-05-D, § 1, 5-17-05; Ord. No. 124-X-05-E, § 1, 6-28-05; Ord. No. 124-X-07-B, § 1, 10-23-07; Ord. No. 124-X-07-C, § 1, 10-23-07; Ord. No. 124-X-08-A, § 1, 2-26-08; Ord. No. 124-X-09-A, § 2, 10-13-09; Ord. No. 124-X-10-A, § 1, 4-27-10; Ord. No. 124-X-11-A, § 1, 8-9-11; Ord. No. 124-X-12-A, § 2, 9-25-12; Ord. No. 124-X-13-C, § 2, 10-22-13; Ord. No. 124-X-15-A, § 1, 3-24-15; Ord. No. 124-X-15-B, § 2, 9-15-15; Ord. No. 124-X-16-B, § 2, 6-14-16; Ord. No. 124-X-16-C, § 2, 7-12-16; Ord. No. 124-X-16-D, § 2, 9-28-16)

**Editor's note**— The definitions of firefighter, general employee and senior management shall be effective retroactive to January 25, 2008, except as otherwise specifically provided herein, pursuant to § 6 of Ord. No. 124-X-08-A, adopted February 26, 2008.

**Cross reference**— Definitions and rules of construction generally, § 1-2.

**Secs. 11-4—11-10. - Reserved.**

## **DIVISION 2. - BOARDS**

### **Sec. 11-11. - Selection; composition.**

(a) *Firefighters and police retirement plans boards.* The boards for the firefighters and the police retirement plans shall consist of five (5) members (which may include participants of any deferred retirement option plan who have at least eighteen (18) months remaining in the deferred retirement option plan at the time they take office), none of whom shall be elected city officials, and who shall be selected as follows:

- (1) Two (2) members who shall be current members of the plan shall be elected in the manner provided in subsection (f) of this section by the members of the respective employee group that contribute to each plan.
- (2) Two (2) members who shall be legal residents of the city and current members or former city employees who are vested in the plan shall be appointed by the city commission.
- (3) The fifth member shall be chosen by a majority vote of the previous four (4) members of the board, and such person's name shall be submitted to the city commission. Upon receipt of the fifth person's name, the city commission shall, as a ministerial act, duly appoint such person to the board as the fifth member.

(b) *General employees' retirement plan board.* The board for the general employees' retirement plan shall consist of seven (7) members, none of whom shall be elected officials, all of whom shall be members of the general employees' retirement plan (including participants of any deferred retirement option plan who have at least eighteen (18) months remaining in the deferred retirement option plan at the time they take office) and shall be selected as follows:

- (1) Three (3) members shall be elected in the manner provided in subsection (f) of this section by the members of the general employees' retirement plan.

Code of Ordinances (2) Three (3) members shall be appointed by the city commission. All city commission appointees shall serve two-year terms, subject to removal under the same conditions as other city commission appointees to city boards.

(3) One (1) member (the "seventh member") shall be selected by majority vote of the six (6) other members. Within sixty (60) days of April 26, 2000, and, subsequently, within sixty (60) days of the board's last meeting in March in even numbered years, or within sixty (60) days of a vacancy occurring in the seat of the seventh member, the board, by affirmative vote of at least four (4) members, must select a seventh member. In making the selection, the board must first consider any plan members whose names appeared on the ballot in the last pension board election, but who were not elected as one (1) of the three (3) voting members of the board. The board may then consider any other plan members for the seat. If at least four (4) board members are unable to agree on the selection of the seventh member, the members shall each state on the record why they believe an individual, or group of individuals, under consideration is not acceptable to them. If the board has not selected a seventh member within sixty (60) days, the city commission shall select a plan member as the seventh member.

(4) One (1) alternate member shall be elected by the members of the general employees' retirement plan at the time when the other three (3) employee members are elected. The alternate member shall assume the position of any of the elected members upon a vacancy occurring in an elected member's position. The alternate member shall not serve merely on the absence or disability of an elected member. At the time an alternate member assumes the position of any elected member, the person who received the next highest number of votes in the most recent election and is willing to serve shall become the alternate member.

(c) *Terms of office.* The term of office for each board member shall be two (2) years. Elections shall be held in even numbered years in the month of March. The terms of the fifth members of the police and fire retirement boards shall coincide with the terms of the elected members on the board. All elected members of the board, including the alternate member shall at all times while holding office as a board member be a full-time employee of the city and a member of the respective employee group making regular contributions to the plan. Commission appointments shall be made in odd numbered years in the month of March, except that appointments to the general employees' retirement plan

Code of Ordinances board shall occur in even numbered years beginning in the month of April 2000 and in March of subsequent even-numbered years. The terms of all board members shall extend until the selection of their successors.

- (d) *Forfeiture of office.* A board member who loses a qualification for office shall forfeit his position on the board, and the vacancy shall be filled as provided in subsection (e) of this section.
- (e) *Filling a vacancy.*
  - (1) The vacancy of an elected board member shall be filled immediately by the alternate board member. If there is no eligible alternate board member, then an election shall be conducted as soon as possible to fill the vacancy of the elected board member and the alternate board member.
  - (2) The vacancy of an appointed board member shall be filled in the same manner provided for the original appointment.
- (f) *Election procedures.* Elections shall be conducted by the city clerk pursuant to procedures established by resolution of the city commission. The elections of the elected employee board members and the alternate board member shall be by secret ballots. The city clerk and, after the first election, the boards, may make recommendations of procedures to be included in the city commission resolution or for amendments to be made from time to time.

(Ord. No. 124-X-O, § 1(16-3), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-S, § 1, 2-9-93; Ord. No. 124-X-U, § 2, 12-14-93; Ord. No. 124-X-00-A, § 1, 4-25-00; Ord. No. 124-X-01-B, § 1, 6-12-01; Ord. No. 124-X-12-C, § 1, 12-28-12)

## **Sec. 11-12. - Organization.**

- (a) Each board shall by majority vote of its members elect a chairman and secretary.
- (b) Any and all acts and decisions of the police officers' and firefighters' retirement plan boards shall be effectuated by vote of a majority of the members of the board. Four (4) members of the general employees' retirement board, shall constitute a quorum. The affirmative vote of a quorum of the general employees' retirement board shall be needed for purposes of selecting and retaining consultants, professionals and trustees and for making changes and/or altering the investment of plan funds. However, no member of any board shall vote or take part in any board action in connection with his own participation in the plan, and no unfair discrimination shall be shown to any individual member of the plan.

(c) If two (2) or more vacancies exist on each board, then the majority of the then existing members of the board may meet only for the purpose of arranging for an election to fill the vacancies.

(d) Board members shall serve without compensation, except for payment of expenses incurred in the course of carrying out plan business.

(Ord. No. 124-X-O, § 1(16-4), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-S, § 1, 2-9-93; Ord. No. 124-X-99-A, § 1, 4-12-99)

### **Sec. 11-13. - Powers and duties.**

(a) The general administrative duties of each board shall be:

- (1) To maintain such records as are necessary for the financial accounting and reporting of a plan's funds;
- (2) To maintain such records as are necessary for the actuarial valuation of the plan, including investigation into the mortality, service and compensation experience of its members and beneficiaries;
- (3) To compile such other administrative or investment information as is necessary for the management of the plan;
- (4) To process, certify and/or respond to all correspondence, bills and statements received by the plan or board as well as all applications submitted to the board for benefits;
- (5) To establish and maintain communications with city departments and other local, state and federal governmental agencies as is necessary for the management of the plan, including preparing, filing and distributing such reports and information as are required by law to be prepared, filed or distributed on behalf of the plan;
- (6) To establish and perform such other functions as are necessary to manage and operate the plan or as otherwise required by law;
- (7) To make such rules and regulations as are necessary for the effective administration of the plan;
- (8) The secretary of each board shall keep a complete minutes book of the actions, proceedings or hearings of the board;
- (9) Each board shall provide an annual detailed statement to each of its members concerning the plan.

(b)



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Each board shall be a legal entity which, in addition to the powers and responsibilities contained herein, has the power to bring and defend lawsuits of every kind, nature and description for the protection of the fund assets and for the protection of each board and the performance of its duties.

- (c) Each board shall be vested with full legal title to the retirement plan trust fund and shall hold the funds as an irrevocable trust to be applied in accordance with the provisions of this article. All payments made to each fund by the city, by the members of the plan, by the state, if applicable, any private donations or gifts and all assets whatsoever of each fund and its income, without distinction between principal and income, shall be held by each board in a single respective fund. The board members shall be the named fiduciaries of the fund and, in that capacity, shall hold, manage, control, and safeguard the fund solely in the interests of members of the plan in the following manner:
  - (1) For the exclusive purpose of providing benefits to members and their designated beneficiaries and to defray reasonable expenses of administering the plan;
  - (2) With the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;
  - (3) Invest and reinvest plan funds as more particularly described in section 11-15;
  - (4) By diversifying the investments of the fund so as to minimize the risk of loss, unless under particular circumstances it is clearly prudent not to do so;
  - (5) To administer the plan funds in accordance with the laws, statutes, ordinances, rules and regulations of the board, documents and other instruments governing the fund.
- (d) Each board shall have the authority to retain its own legal counsel, accountants, actuaries, auditors, trustees, financial advisors and other professional consultants to assist the board in the performance of its trust duties. Each board may act without independent investigation upon the professional advice of advisors so retained.
- (e) Each board shall meet at least quarterly each year.
- (f) On or before May fifteenth of each year or a later date as may be authorized by the city manager, which date shall be no later than July first, the board shall certify to the city manager:
  - (1) The amount of appropriation necessary to pay the normal costs and unfunded liability contributions to the plan for the next fiscal year;
  - (2) The amount of appropriation requested to pay the noninvestment expenses of the plan for the next fiscal year.

(g) Each year on or before March fifteenth each board, if applicable, shall submit the following information to the state department of management services in order for the plan to receive a share of the state funds for the then current calendar year; when any of these items would be identical with the corresponding item submitted for a previous year, it shall not be necessary to submit duplicate information, but the board should make reference to the item in such previous year's report:

- (1) A certified copy of each and every instrument constituting or evidencing the plan.  
This includes the formal plan, including all amendments, the trust agreement, copies of all insurance contracts, and formal announcement material;
  - (2) An independent audit of each fund by a certified public accountant for the most recent fiscal year showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year;
  - (3) A certified statement listing the investments of the plan and a description of the methods used in valuing the investments;
  - (4) A statistical exhibit showing the total number of police officers, firefighters, or general employees, whichever is appropriate, the number included in the plan, and the number of ineligible persons classified according to the reasons for their being ineligible;
  - (5) A certified statement describing the methods, factors, and actuarial assumption used in determining the cost of the plan;
  - (6) A certified statement by an enrolled actuary showing the results of the latest triennial valuation of the plan and a copy of the detailed worksheets showing the computations used in arriving at the results;
  - (7) A statement of the amount the city or other income source has contributed toward the plan for the most recent fiscal year and will contribute toward the plan for the current fiscal year.
- (h) Each board shall provide for an actuarial valuation of the plan at least once every three (3) years commencing from the last actuarial report of the plan. Such valuation shall be prepared by an enrolled actuary. These actuarial studies shall be conducted as more specifically described in section 11-14, and valuation shall be subject to the following:
- (1) The assets of the plan shall be valued at cost or market or on such other basis as may be approved by the division;
  - (2)

Code of Ordinances Minimum actuarial assumptions and methods to be used in valuing the liabilities will be provided by the department of management services and revised from time to time by it. The basis and methods used may not be less conservative than those set forth by the department of management services;

- (3) A report of the valuation, including actuarial assumptions and type and basis of funding, shall be made to the division within three (3) months after the date of valuation. If any benefits are insured with a commercial insurance company, the report should include a statement of the relationship of the plan benefits to the insured benefits and, in addition, the name of the insurer, basis of premium rates, mortality table, interest rate, and method used in valuing the benefits.
- (i) Each board shall have the authority to issue drafts upon the plan funds in accordance with the provisions of this article and the rules and regulations of the board. All such drafts shall be numbered consecutively, be signed by the chairman and secretary, and state upon their faces the purpose for which the drafts are drawn. The financial institution acting as the depository of plan fund shall retain such drafts when paid as permanent vouchers for disbursements made and shall provide a copy of same to the board. No monies shall otherwise be drawn from the plan funds.
- (j) Each board may convert any securities of the fund in order to fulfill the duties and responsibilities of the board.
- (k) Each board shall keep in convenient form such data as is necessary for an actuarial valuation of the plan and for checking the actuarial experience of the plan fund.
- (l) The sole and exclusive administration of and responsibility for the proper operations of the plan funds are vested in the board; however, nothing herein shall empower the board to amend the provisions of the plan without the approval of the city commission.
- (m) Neither the board nor any of its members shall be liable for making, retaining, or selling any investment or reinvestment made as herein provided, nor for any loss or diminishment of the fund, except that which is due to negligence, willful misconduct, or lack of good faith.
- (n) Prior to the first meeting of the city commission to consider any transaction which affects the board directly or indirectly concerning the pension fund, the city shall give timely notice to each pension board.

(Ord. No. 124-X-O, § 1(16-5), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-Y, § 2, 10-11-94; Ord. No. 124-X-99-B, § 1, 4-27-99)

## Sec. 11-14. - Actuarial studies.

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- (a) At least once in each two-year period, each board shall cause an actuarial investigation to be made into the mortality, service and compensation experience of the members and beneficiaries of the plan. Taking into account the result of this investigation, each board shall adopt for the plan such mortality, service and other tables as are necessary and proper.
- (b) The actuarial value of assets held by the plan shall be designated as the lower of moving market value average (three (3) years) or statement value. Each board may approve other methods of determining the actuarial value of plan assets if such other methods are recommended by the actuary retained by the board and found by the department of insurance to be in compliance with state law. Prior to the first meeting of the board to consider a change in the method of determining the actuarial value of plan assets, the board shall give timely, written notice to the city of the proposed change.
- (c) Actuarial assumptions based on three-year experience analyses may be modified by each board at such times as it deems appropriate, but not more frequently than once annually. At all times the board shall comply with the requirements of subsection 11-13(h)(2). When a change in actuarial assumptions is considered by the board, sixty (60) days' notice shall be given to the city manager prior to the first meeting of the board to consider any such change or any proposal or recommendation related thereto. Thereafter, reasonable notice shall be given to the city manager of any and all subsequent meetings at which the issue of a change in the actuarial assumptions or a related proposal or recommendation is to be considered.

(Ord. No. 124-X-O, § 1(16-6), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-Y, § 3, 10-11-94)

## Sec. 11-15. - Investment authority.



- (a) Trust funds may be invested in:
  - (1) Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund or a savings and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund;
  - (2) Obligations of the United States or obligations guaranteed as to principal and

## Code of Ordinances interest by the government of the United States;



- (3) Bonds, stocks, and other evidence 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 provided:
  - a. Bonds must hold a rating in one (1) of the three (3) highest classifications by a major rating service;
  - b. Except as provided in paragraph c., all securities must be issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, any state or organized territory of the United States, or the District of Columbia, and is listed on any one or more of the national stock exchanges.
  - c. Not more than twenty-five (25) percent of the assets of the fund may be invested in foreign securities.
  - d. Each board shall not invest more than five (5) percent of its assets in the common stock or capital stock of any one (1) issuing company, nor shall any plan invest in the aggregate of five (5) percent of the outstanding stock of any one (1) issuing company, nor shall the aggregate of its investments under this paragraph at fair market value in common stock and capital stock exceed sixty-five (65) percent of the retirement plan trust fund's assets at acquisition, nor grow to exceed seventy (70) percent of the retirement plan fund assets.
- (4) Bonds issued by the State of Israel.
- (5) Annuity and life insurance contracts with life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the members in the trust fund shall be entitled under the provisions of this system and pay the initial and subsequent premiums thereon.
- (6) Real property, limited to open ended broadly diversified core collective real property investment vehicles and equity real estate securities, as permitted by F.S. § 215.47. Diversification shall be by property type and region. Total real estate investments shall be limited to no more than fifteen (15) percent of the total portfolio, and no more than five (5) percent of the total portfolio may be invested in any one real estate investment vehicle or security. Any real estate investment shall require that the underlying real property included in the real estate portfolio be appraised at least once every three (3) years by an independent property appraiser retained by the real estate manager and appraised internally, at least annually. Each investment shall be

Code of Ordinances measured against an appropriate benchmark, as recommended by the board's investment consultant and approved by the board. Direct investment in individual properties shall be prohibited.

- (b) Pursuant to written agreement, each board shall retain one (1) or more financial consultants for the management of the fund property. The board shall convey property of the fund to custodians approved by the board to be held in trust for investment and reinvestment in accordance with the following provisions of this article:
  - (1) Each board shall establish written guidelines and objectives against which the investment performance of any financial consultant retained by the board shall be measured. If a financial consultant fails to meet the guidelines and objectives or fails to perform in accordance with its contractual agreement with the board, the financial consultant may be terminated by the board. The performance of the investment portfolio of the plan shall be not less than ninety (90) percent of the median performance of comparable portfolios. If the performance falls below that minimum standard, the board may at its option remove the financial consultant.
  - (2) Upon written request of the board, the custodian shall distribute cash and properties in the fund to the board or its designee. In requesting the custodian to make such disposition, the board shall follow the provisions of this article and shall not direct that any payment be made that would cause any part of the fund to be used for or diverted for purposes other than providing benefits to members and designated beneficiaries of the retirement plan and defraying reasonable expenses of administering the plan. Any written request of the custodian from the board shall constitute a certification that the distribution, as requested, is one that the board is authorized to direct, and the custodian shall not be required to investigate the application of such money by the board or its designee.
- (c) Each board shall have a continuing duty to observe and evaluate the performance of the custodian and the financial consultants retained by the board. The board shall, in selecting custodians and other financial consultants, exercise all judgment and care under the circumstances then prevailing, which person's prudence, discretion and intelligence is exercised in the management of his own affairs.
- (d) At least once every three (3) years, the board shall retain an independent consultant professionally qualified to evaluate the performance of financial consultants approved by the board. The independent consultant shall make recommendations to the board regarding the selection of the financial consultants for the next investment term. These

Code of Ordinances recommendations shall be considered by the board at its next regularly scheduled meeting. The time, date, place and subject of this meeting shall be advertised in a newspaper of general circulation in the city at least ten (10) days prior to the date of the meeting.

- (e) The boards of the police officers and firefighters retirement plans shall identify and publicly report any direct or indirect holdings they may have in any scrutinized company, as defined in F.S. § 215.473, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in that company. The divestiture of any such security shall be completed by September 30, 2010. The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by F.S. § 215.473, and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of effecting compliance with that section, the pension fund shall designate terror-free plans that allocate their funds among securities not subject to divestiture. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this subsection.

(Ord. No. 124-X-O, § 1(16-7), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-S, § 2, 2-9-93; Ord. No. 124-X-X, § 1, 8-9-94; Ord. No. 124-X-Y, § 4, 10-11-94; Ord. No. 124-X-95-A, § 1, 12-12-95; Ord. No. 124-X-10-A, § 2, 4-27-10; Ord. No. 124-X-16-E, § 2, 11-22-16)

## **Sec. 11-16. - Records.**

- (a) Each board shall require that custodians controlling any plan fund property keep accurate detailed accounts of all investments, receipts, disbursements and other transactions pertaining to such fund property. Each board shall require that all accounts, books, and records relating thereto be open for inspection and audit at all reasonable times by the city, the board, or their designees.
- (b) Each board's secretary shall keep a record of all of its proceedings which shall be maintained and open to public inspection in accordance with F.S. Ch. 119, the Public Records Law, and F.S. Ch. 286, the Sunshine Law. Such records shall reflect a complete

Code of Ordinances and comprehensive account of the discussions and actions taken by the board. All board meetings shall be tape recorded. Copies of the minutes shall be sent promptly to the city clerk, as the custodian of records.

- (c) Notices of all boards meetings shall be posted at least five (5) days prior to the meeting. Notices shall contain, at a minimum, the meeting agenda and the date, time and place of the meeting. At least one notice shall be delivered to the city clerk to be posted at City Hall.

(Ord. No. 124-X-O, § 1(16-8), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-V, § 1, 3-22-94; Ord. No. 124-X-Y, § 5, 10-11-94; Ord. No. 124-X-06-A, § 1, 7-25-06)

**Secs. 11-17—11-25. - Reserved.**

### **DIVISION 3. - PLAN**

#### **Sec. 11-26. - Contributions.**

- (a) *Member contributions.* Regular contributions of each member of the plan shall be made each pay period as follows:

- (1) Members of the firefighters' plan shall pay seven and sixty-three hundredths (7.63) percent of their salaries. Effective the first pay period in January 2002, firefighter contributions to the pension plan will increase by an additional one (1) percent, bringing the contribution rate to eight and sixty-three hundredths (8.63) percent. Effective the first pay period in January 2003, firefighter contributions to the pension plan will increase by an additional one (1) percent, bringing the contribution rate to nine and sixty-three hundredths (9.63) percent. Effective the first pay period in January 2004, firefighter contributions to the pension plan will increase by an additional one (1) percent, bringing the contribution rate to ten and sixty-three hundredths (10.63) percent. Based on the cost sharing adjustment in subsection 11-26(b)(3) and effective for the plan year beginning October 1, 2004, firefighter contributions to the pension plan will be fifteen and twenty-three hundredths (15.23) percent. Effective the first full pay period after October 1, 2004, firefighter contributions to the pension plan will be ten and sixty-three hundredths (10.63) percent. Effective September 25, 2012, firefighter contributions to the pension plan will be nine and ninety-five hundredths (9.95) percent, and effective the first full pay period following November 13, 2012 firefighter contributions to the pension plan will



Code of Ordinances be ten and sixty-three hundredths (10.63) percent. Notwithstanding the preceding sentence, members of the firefighter plan hired or rehired on or after September 25, 2012 shall make contributions to the pension plan in accordance with subsection 11-65(b).

- (2) Members of the police plan shall pay seven and fifteen hundredths (7.15) percent of their salaries. Effective the first full pay period after October 1, 2004, members of the police officers' retirement plan shall pay eight and fifteen hundredths (8.15) percent of their salaries. Effective the first full pay period after October 1, 2005, members of the police officers' retirement plan shall pay nine and fifteen hundredths (9.15) percent of their salaries. Based on the cost sharing adjustment in subsection 11-26(b) (3) and effective the first full pay period after October 1, 2006, members of the police officers' retirement plan shall pay fourteen and thirty hundredths (14.3) percent of their salaries. Notwithstanding the preceding sentence, effective the first full pay period after October 1, 2006, members of the police officers' retirement plan shall pay nine and eighty-four hundredths (9.84) percent of their salaries. Notwithstanding the foregoing paragraph, members of the police officers' retirement plan hired or rehired on or after September 30, 2015 shall make contributions to the plan in accordance with subsection 11-66(b).
- (3) Effective the first full pay period after October 1, 2005, contributions to the pension plan by members of the general employees' plan who are not management or senior management personnel will be eight (8) percent of their salaries, unless the city's portion of the total cost of the plan exceeds fourteen (14) percent of the covered payroll for contributing plan members, in which case the excess shall be divided equally between the city and contributing plan members as provided in subsection (b). Beginning with the first pay period following June 12, 2001, members of the general employees' plan who are management or senior management personnel hired prior to October 1, 2009 shall pay seven and one-fourth (7.25) percent of their salaries, unless total required contributions exceed fifteen (15) percent of budgeted payroll for plan members in a given fiscal year, in which case such members shall pay seven and one-fourth (7.25) percent of their salaries plus the amount of any excess. Notwithstanding any provisions of this paragraph (3) and subsection (b) below, effective the first full pay period after October 1, 2009, the member contribution for general employees hired prior to October 1, 2009 who are not management or senior management shall not exceed nine and fifty-one hundredths (9.51) percent for the term of the 2014-2017 collective bargaining agreement between the city and fraternal

Code of Ordinances order of police for general employees, (including any time periods after contract expiration but prior to a successor agreement becoming effective). The member contributions of general employees, including management and senior management personnel, hired or rehired on or after October 1, 2009, shall be as specified in section 11-62.

- (4) City contributions shall be deposited in the respective trust funds immediately after each pay period for police officers and firefighters plans.
- (b) *City contributions.* The city's annual fiscal contribution to the plan, based on an actuarial study, shall provide for the following:
  - (1) Noninvestment expenses of the plan.
  - (2) Amortization of unfunded liability of the plan.
  - (3) An annual contribution in an amount which, together with the contributions from the employees and the amount derived from the state and other income sources authorized by law will be sufficient to meet the normal cost of the plan and to fund the actuarial deficiency over a period of not more than thirty (30) years. However, effective the first full pay period after October 1, 2004, should the city's portion of the total cost for the firefighter plan in a given fiscal year exceed nineteen and two-tenths (19.2) percent of the budgeted payroll for contributing members of the system excluding DROP participants for that year, any excess over nineteen and two-tenths (19.2) percent shall be rounded to the nearest one-tenth ( 1/10; ) of one (1) percent of budgeted payroll for contributing members and the resulting amount shall be divided in two (2) with members paying half the excess and the city paying the other half for that fiscal year. Should the city's portion of the total cost for the police plan exceed eleven and one-half (11.5) percent of the total budgeted payroll for members of the system effective the first full pay period after October 1, 2004, thirteen (13) percent effective the first full pay period after October 1, 2005 or eighteen (18) percent effective the first full pay period after October 1, 2006, any excess over the applicable percentage shall be rounded to the nearest one-tenth ( 1/10; ) of one (1) percent of budgeted payroll and the resulting amount shall be divided in two (2) with members paying half the excess and the city paying the other half for that fiscal year. Effective the first full pay period after October 1, 2005, should the city's portion of the total cost for the general employees' plan in a given fiscal year exceed fourteen (14) percent of the budgeted payroll for contributing members of the system for that year excluding DROP participants, any excess over fourteen (14) percent shall be rounded

Code of Ordinances to the nearest one-tenth ( 1/10 ) of one (1) percent of such budgeted payroll and the resulting amount shall be divided in two (2) with members paying half the excess and the city paying the other half for that fiscal year. Any plan containing a "twenty and out" retirement benefit shall fund the cost of the benefit in excess of the cost of the benefit for normal retirement, solely from employee contributions regardless of the extent of the city's contribution funding other benefits.

- (4) Notwithstanding the provisions of paragraph (3), above, effective the first full pay period after October 1, 2006, the city's annual contribution applicable to members of the police officers' retirement plan shall be an amount which, together with the contributions from such members and the amount derived from the state and other income sources authorized by law will be sufficient to meet the normal cost of the plan and to fund the actuarial deficiency over a period of not more than thirty (30) years; and the cost sharing provisions of paragraph (3), above, shall be inapplicable to such members.
- (5) All contributions made by the city to the plan for any given fiscal year shall be made evenly at the same intervals as the city payroll period.
- (6) Effective as of the first payroll check issued after January 1, 1990, for the purpose of this article the city shall pick up the employee contribution at the rate set forth in this section, as that term is defined in section 414(h)(2) of the Internal Revenue Code of 1986, as amended. Furthermore, for purpose of this article, the amount picked up by the city shall be treated as the employee contribution under state law.
- (7) City contributions shall be deposited in the respective trust funds at least quarterly for police officers and firefighters plans.
- (8) Notwithstanding the provisions of paragraph (3), above, effective October 1, 2008, the city's annual contribution applicable to members of the firefighters' retirement plan shall be an amount which, together with the contributions from such members and the amount derived from the state and other income sources authorized by law will be sufficient to meet the normal cost of the plan and to fund the actuarial deficiency over a period of not more than thirty (30) years; and the cost sharing provisions of paragraph (3), above, shall be inapplicable to such members.

(c) *State monies.*

(1)

Code of Ordinances Any monies received or receivable by reason of the laws of the state for the express purpose of funding and paying for the benefits of firefighters or police officers shall be deposited in the respective trust funds within five (5) days of receipt. The monies are to be used exclusively to provide benefits for the plan members as provided by state law.

- (2) In accordance with Chapter 185, Florida Statutes, and pursuant to agreements between the city and the fraternal order of police and police benevolent association, all Chapter 185 premium tax revenues received during each fiscal year up to two million one hundred thirty-seven thousand eight hundred ninety-five (\$2,137,895.00) dollars shall be used to reduce the city's annual required contribution to the police officers retirement plan. Any Chapter 185 premium tax revenues received during any fiscal year in excess of two million one hundred thirty-seven thousand eight hundred ninety-five (\$2,137,895.00) dollars shall be held in reserve in the police officer's retirement plan, and may be used to provide defined contribution benefits through the police officers' share plan pursuant to section 11-67. The police officers' share plan shall not be funded until Chapter 185 premium tax revenues received in any fiscal year exceed two million one hundred thirty-seven thousand eight hundred ninety-five (\$2,137,895.00) dollars. If, during any fiscal year, Chapter 185 premium tax revenues exceed two million one hundred thirty-seven thousand eight hundred ninety-five (\$2,137,895.00) dollars, the city and the fraternal order of police shall negotiate the use of Chapter 185 premium tax revenues that exceed two million one hundred thirty-seven thousand eight hundred ninety-five (\$2,137,895.00) dollars and the resulting agreement shall determine the "available funds" that will be used to fund the share plan.
- (3) In accordance with F.S. Chapter 175, and pursuant to agreements between the city and the International Association of Firefighters, all Chapter 175 premium tax revenues received during each fiscal year up to two million fifty-five thousand one hundred twenty-seven dollars (\$2,055,127.00) shall be used to reduce the city's annual required contribution to the firefighters' retirement plan. Any Chapter 175 premium tax revenues received during any fiscal year in excess of two million fifty-five thousand one hundred twenty-seven dollars (\$2,055,127.00) shall be held in reserve in the firefighters' retirement plan, and may be used to provide defined contribution benefits through the firefighters' share plan pursuant to section 11-68. The firefighters' share plan shall not be funded until Chapter 175 premium tax revenues received in any fiscal year exceed two million fifty-five thousand one

hundred twenty-seven dollars (\$2,055,127.00). If, during any fiscal year, Chapter 175 premium tax revenues exceed two million fifty-five thousand one hundred twenty-seven dollars (\$2,055,127.00), the city and the International Association of Firefighters shall negotiate the use of Chapter 175 premium tax revenues that exceed two million fifty-five thousand one hundred twenty-seven dollars (\$2,055,127.00) and the resulting agreement shall determine the "available funds" that will be used to fund the share plan.

- (d) *Private donations, gifts and contributions.* Private donations, gifts and contributions may be deposited in the fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources may be used only for additional benefits for members, as determined by the board, and may not be used to reduce what would otherwise have been required city contributions.

(Ord. No. 124-X-O, § 1(16-9), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-S, § 3, 2-9-93; Ord. No. 124-X-Y, § 6, 10-11-94; Ord. No. 124-X-99-G, § 1, 12-23-99; Ord. No. 124-X-01-B, § 2, 6-12-01; Ord. No. 124-X-02-B, § 1, 3-12-02; Ord. No. 124-X-03-B, § 2, 12-23-03; Ord. No. 124-X-04-B, § 1, 9-28-04; Ord. No. 124-X-05-A, § 2, 1-25-05; Ord. No. 124-X-05-D, § 2, 5-17-05; Ord. No. 124-X-05-F, § 1, 9-27-05; Ord. No. 124-X-06-B, § 1, 9-26-06; Ord. No. 124-X-07-A, § 1, 7-10-07; Ord. No. 124-X-08-B, § 1, 3-18-08; Ord. No. 124-X-08-C, § 1, 10-14-08; Ord. No. 124-X-09-A, § 3, 10-13-09; Ord. No. 124-X-12-A, § 3, 9-25-12; Ord. No. 124-X-12-B, § 2, 11-13-12; Ord. No. 124-X-15-A, § 2, 3-24-15; Ord. No. 124-X-15-B, § 3, 9-15-15; Ord. No. 124-X-16-B, § 3, 6-14-16; Ord. No. 124-X-16-C, § 3, 7-12-16; Ord. No. 124-X-16-D, § 3, 9-28-16)

**Editor's note—** Pursuant to § 6 of Ord. No. 124-X-08-B, § 11-26(a)(3) shall be effective retroactive to October 1, 2007.

## Sec. 11-27. - Compulsory participation.

- (a) Participation in the firefighters and police officers plans shall be compulsory as to all firefighters and police officers as those terms are defined in section 11-3 of this chapter.
- (b) Participation in the general employee plan shall be compulsory as to all persons in the full-time employ of the city, except:
- (1) All police officers as defined in section 11-3 of this chapter and as of October 1, 1991, all police recruits who are employed by the city and attending a police academy in preparation of certification as a police officer, who are not yet certified law

Code of Ordinances enforcement officers in the state. Upon request of a particular police recruit, or police officer, the employee contribution which may have been made to the general employees retirement fund as of the date of hire shall be refunded.

- (2) All firefighters as defined in section 11-3 of this chapter.
- (3) The assistant city manager, for whom, as of the date of hire, the employee contributions, if any, shall be refunded upon request of the particular employee and shall not be deducted from the employee's salary. The city, to the extent permitted by law, shall make a tax deferred contribution to a deferred compensation plan from the date of hire or promotion to the position listed above (whichever is later) for such employee, from the employee's departmental funds in an amount equal to the rate of contribution made by the city for general employees in the retirement plan, but not less than the annual rate of four thousand seven hundred fifty dollars (\$4,750.00). The city's contribution to an employee's deferred compensation account shall not decrease below the percentage rate in effect when the employee begins receiving such contribution.
- (4) Notwithstanding the provisions of this subsection (b), the city manager shall have sixty (60) days from the date of hire or promotion to the position of city manager to elect to participate or not participate in the general employee plan. Such election shall be irrevocable. Upon the city manager's election not to participate in the general employee plan, all employee contributions made from date of hire or promotion to the position of city manager shall be refunded, and no employee contributions shall be deducted from the city manager's salary thereafter.

**Note—** See editor's note following this § 11-27 regarding effective dates.

- (5) Notwithstanding the provisions of this subsection (b), the city commissioner elected to mayor shall have sixty (60) days from the effective date of this section to elect to participate or not participate in the general employee plan. Such election shall be irrevocable. Upon the mayor's election not to participate in the general employee plan, all employee contributions shall be refunded, and no employee contributions shall be deducted from the mayor's salary thereafter.

**Note—** See editor's note following this § 11-27 regarding effective dates.

(Ord. No. 124-X-O, § 1(16-10), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-Q, § 1, 12-18-91; Ord. No. 124-X-T, § 1, 12-14-93; Ord. No. 124-X-98-A, § 3, 4-28-98; Ord. No. 124-X-13-A, §§ 1, 5, 1-8-13)

**Editor's note**— It should be noted that § 5 of Ord. No. 124-X-13-A provides, "Section 5. Code of Ordinances Effective Date. The amendments to Section 11-27(b)(4) of this Ordinance shall be effective retroactive to December 1, 2012. The amendments to Section 11-27(b)(5) of this Ordinance shall be effective immediately upon its passage."

### **Sec. 11-28. - Normal or early service retirement.**

Any member who has attained normal or early retirement age and who has attained a vested interest in the plan may retire on such date or on the first day of any months thereafter and receive the benefits of the plan upon application to the board, and payable on the first day of each month commencing with the actual date of retirement. Effective November 1, 2013, dispatchers and communication supervisors who are laid off by the city and become employees of Broward County or an entity designated as the operator of the Consolidated Regional E-911 Communications System pursuant to the participation agreement between Broward County and the city which is effective October 1, 2013, who attain a vested interest in the plan, and who elect to continue their participation in the plan and continue to contribute the prescribed employee contribution to the plan, shall be eligible to retire upon reaching normal or early retirement age, regardless of their continued employment with Broward County or the operator.

(Ord. No. 124-X-O, § 1(16-11(A)), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-13-C, § 3, 10-22-13)

### **Sec. 11-29. - Service incurred disability retirement.**

#### **(a) Eligibility.**

- (1) Any member of the plan may apply for and receive service incurred disability retirement benefits only for a total and permanent disability as part of and in connection with the member's performance of services for the city. Any member of the plan shall be entitled to service incurred disability retirement unless the disability is a result of:
  - a. Excessive and habitual use of drugs, intoxicants or narcotics;
  - b. Injury or disease sustained by the member while illegally participating in fights, riots, civil insurrections and/or committing a crime;
  - c. Injury or disease sustained by the member while serving in any of the armed forces;

Code of Ordinances d. Injury or disease sustained by the member after his employment with the city has been terminated;

- e. Injury or disease sustained by the member while working (either as an employee or through some other contractual arrangement) for anyone other than the city, performing a job function the same as or related to the member's city job function and arising out of the scope of such other employment or contractual arrangement; however, this section shall not exclude recovery by police officers while engaged and enforcing the laws of the state;
  - f. For members of the general employees' retirement plan, a condition which gave rise to the permanent and total disability which existed prior to the member's employment and/or which was evidenced during the member's preemployment physical.
- (2) Any police or firefighter member of the plan who becomes totally and permanently incapacitated as part of and in connection with the member's performance of service to the city (service incurred disability) as the result of a condition or impairment of health caused by tuberculosis, hypertension, heart disease, or hardening of the arteries may be retired by the board, provided that the medical board, after a medical examination of such member, shall certify that such member is totally incapacitated for further performance of service to the city, that such incapacity is likely to be permanent and that such member should be retired on a service incurred disability benefit. For the purposes of this subsection, any condition or impairment of health of any such member caused by tuberculosis, hypertension, heart disease, or hardening of the arteries, resulting in total or partial disability or death, shall be presumed to be accidental and suffered in the line of duty unless the contrary be shown by competent evidence; and condition or impairment of health caused directly or proximately by exposure, which exposure occurred in the active performance of duty at some definite time or place without willful negligence on the part of the member resulting in total or partial disability shall be presumed to be accidental and suffered in the line of duty; however, that such member shall have successfully passed a physical examination including an electrocardiogram which failed to reveal any evidence of such condition, and further that such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance.

(b)



*Determination of service incurred disability.* All questions relating to eligibility for initial payment or continuance of service incurred disability benefits shall be determined by each board, taking into consideration the recommendations of the medical board and such other evidence of which the board may avail itself. The criteria which the board shall follow in its determination shall be as follows:

- (1) Determine whether the member's application is proper and timely;
  - (2) Based on all evidence submitted to the board, determine whether the application satisfies the definition of total and permanent service incurred disability, including the listed exclusions;
  - (3) Determine whether the disability is to be considered a service incurred disability;
  - (4) *Establish a date of disability.* This date may be the date of injury causing the disability or the date when the member could no longer perform his regular and continuous duties, if the date of injury cannot be determined.
- (c) Any plan member receiving service incurred disability retirement benefits may elect to convert to normal or early retirement upon meeting all eligibility criteria. Plan members receiving disability retirement benefits may elect to continue making regular contributions to the retirement system and, based on such contributions, to earn additional service credit toward normal or early retirement benefits.

(Ord. No. 124-X-O, § 1(16-11(B)), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-Y, § 7, 10-11-94; Ord. No. 124-X-96-A, § 1, 12-10-96; Ord. No. 124-X-00-B, § 1, 6-13-00)

### **Sec. 11-30. - Nonservice incurred disability retirement.**

- (a) *Eligibility.* Any member of the plan who has attained a vested interest may apply for and receive nonservice incurred disability retirement only for a total and permanent disability. Any member of the plan shall be entitled to nonservice incurred disability retirement benefits as provided for in this article unless the disability is the result of any of the items listed in section 11-29(a)(1) of this article.
- (b) *Determination of nonservice incurred disability.* The determination shall be made in the same manner provided for the determination of service incurred disability as set forth in section 11-29(b) of this article.

(Ord. No. 124-X-O, § 1(16-11(C)), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90)

### **Sec. 11-31. - Normal retirement benefits.**

- (a)

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General employee members hired prior to October 1, 2009, firefighter members who terminated employment prior to January 1, 2004, and police officer members who terminated employment prior to January 1, 2006, who retire at or after reaching the normal retirement age and who have attained a vested interest in the plan shall be entitled to a retirement benefit of four (4) percent of average final compensation for each of the first ten (10) years of creditable service, plus two (2) percent of average final compensation for each year thereafter. Effective January 1, 2004 for members of the general employees pension plan hired prior to October 1, 2009 who separate from city employment and retire with normal retirement benefits on or after January 1, 2004, the multiplier for employees who retire after that date shall be increased by one (1) percent of average final compensation after the first ten (10) years of creditable service (i.e., raising the multiplier from forty (40) percent to forty-one (41) percent), and by increasing the multiplier an additional one (1) percent of average final compensation after twenty (20) years of creditable service (i.e., raising the multiplier from sixty-one (61) percent to sixty-two (62) percent). Completed months of partial years of service shall be included in the benefit calculation. Members retiring under this section shall receive monthly benefits which shall commence on their retirement dates and be continued thereafter during the members' lifetime, ceasing upon death, unless a survivor option has been selected pursuant to section 11-36. The normal retirement benefits of general employees, including management and senior management personnel, hired or rehired on or after October 1, 2009, shall be as specified in section 11-62.

- (b) Notwithstanding the provisions of paragraph (a), members of the city firefighter retirement plan hired prior to September 25, 2012, who retire or terminate employment on or after January 1, 2004, shall be entitled to a retirement benefit of three (3) percent of average final compensation for each year of creditable service for the first fifteen (15) years of creditable service, plus three and one-half (3½) percent of average final compensation for each year thereafter of creditable service (with a maximum benefit cap of eighty (80) percent). For example, an employee with twenty-five (25) years of creditable service would receive the maximum retirement benefit of eighty (80) percent of average final compensation. In no event would any employee receive a benefit that is less than two (2) percent of average final compensation for each year of creditable service. Any employee who is actively employed on October 1, 2001, and retires or enters the DROP after January 1, 2004, shall receive a pension benefit calculated in accordance with paragraph (a), above, or in accordance with this paragraph (b), whichever provides a greater benefit. Completed months of partial years of service shall be included in the

benefit calculation. Notwithstanding the provisions of this subsection (b) to the contrary, members of the city firefighter plan hired or rehired on or after September 25, 2012 shall be entitled to a retirement benefit as provided in subsection 11-65(a).

- (c) Notwithstanding the provisions of paragraph (a), members of the police officers' retirement plan who retire or terminate employment on or after January 1, 2006, shall be entitled to a retirement benefit of three (3) percent of average final compensation for each year of creditable service for the first ten (10) years of creditable service, four (4) percent of average final compensation per year for years eleven (11) through twenty (20) of creditable service, and two (2) percent of average final compensation per year for years twenty-one (21) through twenty-five (25) of creditable service (with a maximum benefit cap of eighty (80) percent). For example, a police officer with twenty-five (25) years of creditable service would receive the maximum retirement benefit of eighty (80) percent of average final compensation. In no event shall any police officer receive a benefit that is less than two (2) percent of average final compensation for each year of creditable service. Any police officer who was actively employed on October 1, 2003, and retires or enters the DROP on or after January 1, 2006, shall receive a pension benefit calculated in accordance with paragraph (a), above, or in accordance with this paragraph (c), whichever provides a greater benefit. When determining which formula creates the greater benefit, after the benefit under paragraph (a) is calculated, an additional two (2) percent will be added to the total percentage derived under paragraph (a) for police officers who were vested in the plan as of January 1, 2006 and who retire or enter the DROP after that date; and an additional two (2) percent will be added to the total percentage derived under paragraph (a) for police officers who are actively employed until normal retirement at age fifty-three (53) with ten (10) or more years of creditable service. Notwithstanding any other provision of this subsection (c), members of the police officers' retirement plan hired or rehired on or after September 30, 2015 shall be entitled to a retirement benefit as provided in subsection 11-66(a).

- (d) All members of the plan may select benefits described in section 11-36 instead of the benefits described in this section and sections 11-32 and 11-33.

(Ord. No. 124-X-O, § 1(16-12(A)), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-Y, § 8, 10-11-94; Ord. No. 124-X-03-B, § 3, 12-23-03; Ord. No. 124-X-03-C, § 2, 12-23-03; Ord. No. 124-X-05-G, § 1, 12-13-05; Ord. No. 124-X-06-A, § 2, 7-25-06; Ord. No. 124-X-09-A, § 4, 10-13-09; Ord. No. 124-X-12-A, § 4, 9-25-12; Ord. No. 124-X-15-B, § 4, 9-15-15; Ord. No. 124-X-16-B, § 4, 6-14-16; Ord. No. 124-X-16-C, § 4, 7-12-16)

## Sec. 11-32. - Early retirement benefits.

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- (a) The monthly amount of retirement benefit payable to a member who retires at the early retirement age and who has attained a vested interest in the plan shall be entitled to a retirement benefit of an amount equal to the actuarial equivalent of the retirement benefit allowance otherwise available upon the attainment of normal retirement age. In no event, however, shall the early retirement reduction exceed three (3) percent for each year by which the member's age at retirement preceded the member's normal retirement age. Notwithstanding the provisions of this subsection (a) to the contrary, early retirement benefits for members of the firefighter plan hired on or after September 25, 2012 shall be calculated in accordance with subsection 11-65(a)(3). Notwithstanding any other provision of this subsection (a), early retirement benefits for members of the police officers' retirement plan hired or rehired on or after September 30, 2015 shall be calculated in accordance with subsection 11-66(a).
- (b) Any member of the plan who has recovered from service incurred disability and who wishes to retire at early retirement age may do so, provided the member pays the full employee contribution for the period of time the member was out on disability within one (1) year of recovery, and the member shall be entitled to receive benefits in the amount set forth in subsection (a) of this section.
- (c) Any member of the plan may select benefits described in section 11-36 instead of the benefits described in subsection (a) of this section.

(Ord. No. 124-X-O, § 1(16-12(B)), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-12-A, § 5, 9-25-12; Ord. No. 124-X-15-B, § 5, 9-15-15; Ord. No. 124-X-16-C, § 5, 7-12-16)

## Sec. 11-33. - Service incurred disability benefits.



### (a) *Application.*

- (1) In order for the board to consider a member's request for service incurred disability benefits, the member must apply in writing to the board. This application must be made as soon as is practicable following the date when the disability condition arose. Unless extenuating circumstances can be proven to the satisfaction of the board, an application date more than six (6) months following the date when the disability condition arose or first became evident shall be grounds for the denial of the application by the board. Upon receipt of proper application by the board, the board shall arrange for a physical examination of the applicant by the medical board.

Code of Ordinances (2) When a member submits a proper application for a service incurred disability retirement benefit, the board shall designate a medical board to be composed of up to three (3) physicians. The qualifications of the physicians chosen by the board shall be related to the medical condition or conditions forming the basis upon which the member is applying for service incurred disability retirement benefits. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this article, 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 of the medical board shall be determined by the board.

(b) *Benefits, offsets and annual adjustments.*

- (1) The initial amount of service incurred disability benefit is seventy-five (75) percent of the member's salary in effect on the date of disability, as determined by the board, subject in any event to each of the offsets and annual adjustments listed in this article, or the optional allowance selected by the member and as provided for in section 11-36 if the member dies after attaining a vested interest in the plan. In no event shall the offsets reduce the service incurred disability benefit of a police officer or firefighter below the member's accrued benefit or forty-two (42) percent of the member's average final compensation, whichever is greater. Notwithstanding any other provision of this subsection (b)(1), service incurred disability benefits for members of the police officers' retirement plan hired or rehired on or after September 30, 2015 shall be calculated in accordance with subsection 11-66(a).
- (2) Service incurred disability retirement benefits shall be reduced by any disability benefits paid by workers' compensation to the extent permitted by law and to the extent that the total of these benefits exceeds the member's average periodic wage, subject to annual benefit adjustments as set forth in this article. Any cost of living adjustments in the disability retiree's workers' compensation benefits shall not serve to reduce further the disability benefit payable from the plan. In the case of a lump sum settlement paid by workers' compensation, the lump sum shall offset the service incurred retirement benefit payable from the plan to the extent the payment exceeds the member's average periodic wage, until the early or normal retirement age or until the service incurred disability will equal the total amount of the lump sum.

(3)

Code of Ordinances The monthly service incurred disability retirement benefit of each person who first qualifies for the benefits on or after January 11, 2005 shall be adjusted annually as described herein. First, the sum of the following items shall be calculated for the previous calendar year:

- a. The service incurred disability retirement benefit paid from the plan;
  - b. The workers' compensation disability benefits, excluding medical reimbursements, less any cost of living adjustments since the benefit first went into effect, to the extent permitted by law;
  - c. Any salary received by a member of the firefighters' retirement plan or general employees' retirement plan, or in the case of a member of the police officers' retirement plan employed by the city on or after September 13, 2004 who is determined to be disabled on or after the effective date of this ordinance, any salary received in excess of ten thousand dollars (\$10,000.00), or in the case of a member of the police officers' retirement plan who is determined to be disabled after August 9, 2011, any salary received in excess of fifty thousand dollars (\$50,000.00), as evidenced by federal tax returns and all required attachments and forms from the date of disability shall then be subtracted from this sum appended thereto, which shall be furnished to the city on a yearly basis, excluding any sick and vacation pay received from the city pursuant to the disability, as determined by the board; and
  - d. Any net earnings from self-employment income received by a member of the firefighters' retirement plan or general employees' retirement plan, or in the case of a member of the police officers' retirement plan employed by the city on or after September 13, 2004 who is determined to be disabled on or after the effective date of this ordinance, any net earnings from self-employment income in excess of ten thousand dollars (\$10,000.00), or in the case of a member of the police officers' retirement plan who is determined to be disabled after August 9, 2011, any salary received in excess of fifty thousand dollars (\$50,000.00).
- (4) If there is any excess of the sum of the four (4) items listed above in subsection (b)(3) of this section over the pre-disability salary of the member, then the service incurred disability retirement benefit payable from the plan shall be reduced. The amount of the annual reduction shall be equal to fifty (50) percent of the first ten thousand dollars (\$10,000.00) of the excess plus one hundred (100) percent of the excess, if any, which exceeds ten thousand dollars (\$10,000.00). The annual

Code of Ordinances reduction so computed shall then be divided by twelve (12) to make it a monthly reduction. The monthly reduction shall then be subtracted from the monthly service incurred disability retirement benefit which has most recently been paid.

- (5) If the sum of the four (4) items listed above in subsection (b)(3) hereof is less than the service incurred disability retirement benefit computed in accordance with subsection (b)(3) above, prior to the offset provided by subsection (b)(2) above, then the service disability retirement benefit payable from the plan shall be increased. The amount of the annual increase shall be equal to the amount of the service incurred disability retirement benefit computed in accordance with subsection (b)(1) above, prior to the offset provided by subsection (b)(2) above, minus the sum of the four (4) items listed above in subsection (b)(3). The annual increase so computed shall then be divided by twelve (12) to make it a monthly increase. The monthly increase shall then be added to the monthly benefit which has most recently been paid. The newly adjusted disability retirement benefit shall be paid for twelve (12) months.

(c) *Terms of payment.* Service incurred disability retirement benefits shall commence on the earlier of:

- (1) The first day of the month coincident with or next following the date of disability, established by the board; or
- (2) The ninetieth day following the day the member tendered a completed application for disability to this board.

If the member has selected an option allowance, the date for commencement of benefits shall be as provided in section 11-36. The benefits shall continue to be paid on the first day of each subsequent month until the death or recovery of the disabled retiree.

(d) *Disability retiree affidavit.*

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

(2)

Code of Ordinances *Authority for reexamination.* Each member who first qualifies for or is then receiving benefits on or after the effective date of this ordinance from which this article is derived shall be subject to periodic reexamination by the medical board selected by the board to determine if such disability has ceased to exist. Such reexamination shall not be permitted more often than twice in any calendar year.

(e) *Recovery from service incurred disability.* In the event a member who has been retired on a service incurred disability gains his health and is able to perform the duties he was performing for the city prior to his date of disability, or in the case of a member of the police officers' retirement plan, obtains employment with any employer as a certified police officer or certified firefighter, the board shall:

- (1) Discontinue the benefits upon such reemployment, retirement, or death.
- (2) A member reemployed by the city shall be given credit for service during the period of disability for a period not to exceed three hundred fifty (350) weeks for purposes of determining subsequent retirement benefits, provided the employee contribution based on the last full month's salary is made within one (1) year by the member in full for the period of time the member was disabled.
- (3) The member shall be recommended for reemployment with the city to the city manager and shall be returned to the member's previous position with the city as soon as there is an opening in the position. The member shall be paid at a rate equal to the same step in the pay scale in effect when the disability occurred.

(Ord. No. 124-X-O, § 1(16-12(C)), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-Y, § 9, 10-11-94; Ord. No. 124-X-96-A, § 2, 12-10-96; Ord. No. 124-X-00-B, § 2, 6-13-00; Ord. No. 124-X-05-A, § 3, 1-25-05; Ord. No. 124-X-11-A, § 2, 8-9-11; Ord. No. 124-X-15-B, § 6, 9-15-15)

#### **Sec. 11-34. - Nonservice incurred disability benefits.**

- (a) Whenever any member of the plan has attained a vested interest in the plan and is regularly contributing to the plan and shall, while holding such office or employment, become permanently and totally disabled, physically or mentally or both, from rendering useful and efficient service to the city, such member may retire from office or employment, and the member shall be entitled to apply for retirement benefits as hereinafter described so long as his total and permanent disability continues, on his own monthly requisition, provided the member has followed the application procedures established in section 11-33(a). The member shall then be entitled to receive disability



Code of Ordinances benefits in an amount equal to the normal retirement benefit, which amount shall not be less than twenty-five (25) percent nor more than fifty (50) percent of average final compensation until:

- (1) The member reaches his normal or early retirement age, at which time the member elects to receive normal or early retirement benefits in lieu of disability benefits;
  - (2) The board determines the member is able to perform services to the city although such services may be different from those which were assigned to the member prior to the disabling event or the member is receiving disability payments from social security;
  - (3) The member is reemployed by the city or elsewhere or if the member dies. If reemployed by the city, the member shall not be entitled to credit for service during the period of disability for purposes of determining subsequent retirement benefit.
- (b) Notwithstanding any provision of this section to the contrary, with respect to any member of the police officers' retirement plan who is employed by the city on or after September 13, 2004 and who is determined to be permanently and totally disabled in accordance with this section on or after the effective date of this ordinance, the fifty (50) percent of average final compensation maximum benefit provided in subsection (a) shall not be applicable.
- (c) Notwithstanding any provision of this section to the contrary, with respect to any member of the firefighter retirement plan who is employed by the city on or after October 1, 2004 and who is determined to be permanently and totally disabled in accordance with this section on or after that date, the fifty (50) percent of average final compensation maximum benefit provided in subsection (a) shall not be applicable, and such member's benefit shall not be less than his/her accrued benefit under the plan.
- (d) Notwithstanding any other provision of this section, nonservice incurred disability benefits of members of the police officers' retirement plan hired or rehired on or after September 30, 2015 shall be calculated in accordance with subsection 11-66(a).

(Ord. No. 124-X-O, § 1(16-12(D)), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-Y, § 10, 10-11-94; Ord. No. 124-X-96-A, § 3, 12-10-96; Ord. No. 124-X-05-A, § 4, 1-25-05; Ord. No. 124-X-05-D, § 3, 5-17-05; Ord. No. 124-X-15-B, § 7, 9-15-15)

## **Sec. 11-35. - Death benefits.**

- (a)

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In the event of the death of a member before attaining a vested interest in the plan, the designated beneficiary shall receive one hundred (100) percent of the member's regular contribution without interest.

- (b) In the event of the death of a member after attaining a vested interest in the plan but prior to retirement, the designated beneficiary shall only receive one hundred (100) percent of the member's regular contribution without interest, unless the member has made a written selection of an optional allowance in accordance with section 11-36 of this article, in which case the surviving spouse shall secure the benefits of the option selected by the member, the benefit to begin on the earliest date the member could have retired. Members of the general employees' plan who are actively employed by the city on or after October 1, 2005 and not participating in the DROP may designate a joint pensioner, who may or may not be the member's spouse, for the purpose of receiving benefits under this subsection.
- (c) If a member dies after attaining a vested interest in the plan but prior to retirement, the designated beneficiary shall receive one hundred (100) percent of the member's regular contributions without interest, unless the member has designated a joint pensioner in accordance with this subsection, in which case the joint pensioner shall receive the benefits of the option selected by the member commencing on the earliest date the member could have retired. The provisions of this subparagraph shall supersede the provisions of subsection (b) above for members of the police officers' and firefighters' retirement plans. If the joint pensioner dies before the member's retirement under the plan, the option elected will be canceled automatically and a retirement income will be payable to the member upon retirement in accordance with sections 11-31 or 11-32 as if the election had not been made, unless another joint pensioner is designated in accordance with the provisions of this section 11-36 prior to retirement.
- (d) Notwithstanding any provision of this section to the contrary, if a member of the police officers' retirement plan who is employed by the city on or after September 13, 2004 and on the effective date of this ordinance, dies after attaining ten (10) or more years of creditable service but prior to retirement, said member's beneficiary shall be entitled to receive an amount equal to the benefit that would have been payable at early or normal retirement age based on the member's creditable service at death, but payable as if the member had died on the day after commencement of benefits. Said benefit shall commence on the date the member would have reached early or normal retirement age. If such member did not select an optional form of benefit under section 11-36, the benefit

under this paragraph shall be payable to the member's designated beneficiary, or if there is no designated beneficiary, to the member's estate, for a period of ten (10) years. If the member selected an optional form of benefit under section 11-36, the benefit under this paragraph shall be paid to the member's joint pensioner in accordance with the optional form of benefit selected.

- (e) If a member of the police officers' retirement plan who is employed by the city on or after September 13, 2004 and on the effective date of this section, dies as a result of a service incurred injury, the member's designated beneficiary shall receive a benefit equal to the greater of seventy-five (75) percent of average final compensation or the benefit provided by subsection (d) of this section, payable to the beneficiary for life and if the member has no designated beneficiary, payable to the member's estate for ten (10) years. Said benefit shall commence on the first day of the month coincident with or next following the date of the member's death.
- (f) Notwithstanding any provision of this section to the contrary, if a member of the firefighter retirement plan who is employed by the city on or after October 1, 2004 dies after attaining a vested interest in the plan but prior to retirement, said member's designated beneficiary shall be entitled to receive an amount equal to the benefit that would have been payable to the member upon early or normal retirement age based on the member's creditable service at death, but payable as if the member had died on the day after commencement of benefits. Said benefit shall commence on the date the member would have reached early or normal retirement age. If such member did not select an optional form of benefit under section 11-36, the benefit under this paragraph shall be payable to the designated beneficiary, or if there is no designated beneficiary, to the member's estate, for a period of ten (10) years. If the member selected an optional form of benefit under section 11-36 of the pension plan, the benefit shall be paid to the member's joint pensioner in accordance with the optional form of benefit selected.
- (g) Notwithstanding any other provision of this section, the benefits payable in the event of death prior to retirement of a member of the police officers' retirement plan hired or rehired on or after September 30, 2015 shall be calculated in accordance with subsection 11-66(a).

(Ord. No. 124-X-O, § 1(16-12(E)), 9-12-89; Ord. No. 124-X-00-B, § 3, 6-13-00; Ord. No. 124-X-05-A, § 5, 1-25-05; Ord. No. 124-X-05-D, § 4, 5-17-05; Ord. No. 124-X-05-F, § 2, 9-27-05; Ord. No. 124-X-15-B, § 8, 9-15-15)

## **Sec. 11-36. - Optional benefits.**

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(a) *Selection of benefits.*

- (1) Each member shall make a written selection of one (1) of the following retirement benefits initially at the time the member attains a vested interest in the plan, and the member may change the selection at any time prior to retiring:
  - a. *Option 1.* Any member who retires at the normal retirement age and who has attained a vested interest in the plan may select to receive the normal retirement benefits described in section 11-31;
  - b. *Option 2.* Any member who retires at the early retirement age and who has attained a vested interest in the plan may select to receive the early retirement benefits described in section 11-32;
  - c. *Option 3.*
    1. For the general employees plan, any member who has attained a vested interest in the plan shall have the right to select to receive a reduced retirement benefit with the provision that the surviving spouse shall continue to draw such reduced retirement benefit. The amount of such reduced retirement benefit shall be the actuarial equivalent of the amount of such retirement compensation otherwise payable to the member or such member may direct that the payment of a benefit of fifty (50) percent of the member's monthly retirement allowance to be paid at the member's death to his spouse nominated and designated by him at the time of or before retirement, such benefit to be payable during the lifetime of the spouse. Members of the general employees plan who are actively employed by the city on or after October 1, 2005 and not participating in the DROP may designate a joint pensioner, who may or may not be the member's spouse, for the purpose of receiving benefits under this paragraph.
    2. For the police officers and firefighters plans, any member who has attained a vested interest in the plan shall have the right to select to receive a reduced retirement benefit that shall be the actuarial equivalent of the amount of such retirement compensation otherwise payable to the member and such member may direct that the payment of a benefit of one hundred (100) percent, seventy-five (75) percent, sixty-six and two-thirds (66 2/3 ) percent, or fifty (50) percent of the member's monthly retirement allowance to be

Code of Ordinances paid at the member's death to his joint pensioner nominated and designated by him at the time of or before retirement, such benefit to be payable during the lifetime of the joint pensioner.

- d. *Option 4.* Any member who has attained a vested interest in the plan and who becomes eligible for retirement and continues to be employed shall be construed to have selected the option herein which will afford the surviving spouse or joint pensioner the greatest amount of benefits. Should such member die after attaining a vested interest in the plan, but before retiring, his surviving spouse or joint pensioner shall be entitled to receive either the accumulated contributions of such member at the date of death or the reduced retirement benefit set forth in Option 3, calculated on the assumption that such member retired on the date of his death;
  - e. *Option 5.* Any member who has attained vested interest in the plan, upon normal or early retirement age and if, as the result of an accidental injury or illness incurred in the line of duty, the member shall have been so seriously disabled that he is unable to execute and file a designation of an optional allowance, the board may, with the consent of the designated beneficiary, designate an option, and if such condition shall have delayed the application for retirement and the selection of an option, the board may waive the requirement as to the member's life for thirty (30) days after the retirement date and may declare such optional allowance irrevocably effective immediately upon the member's retirement.
  - f. Notwithstanding any benefit or optional benefit elected or received by the member if such member dies after retirement benefit installments have commenced, the excess, if any, of his total contributions made to the plan, without interest, over the benefit received by him shall be paid to the designated beneficiary.
- (b) *Reduced retirement allowance.* In the event a member elects to receive a reduced retirement allowance under Option 3 and has nominated and designated his spouse or a joint pensioner other than his spouse at or prior to the time of retirement as the person to receive payment of the benefit upon the member's death, the total minimum value of the allowance during the member's life and the succeeding benefit shall be computed to be of equivalent actuarial value to the allowance which he would otherwise have received.

(c)

*Limitations.* In no event shall any language contained herein be construed as authorizing or allowing any member the right or privilege to exercise more than one (1) option enumerated in this section.

(d) *Pop-up option.* (The following section is applicable to members of the general employees, firefighters, and police officers' retirement plans, as set forth below.)

- (1) Notwithstanding the provisions of subsection (c), in the event that a member of the general employees' retirement plan has elected a reduced retirement annuity with a survivorship interest for the spouse, and the member's spouse predeceases the member, the survivorship benefit shall be deemed canceled and the member's annuity shall be recalculated as an actuarial equivalent life annuity effective on the first day of the month following the death of the member's spouse. An eligible member, by electing this option, consents to the actuarial adjustment of the member's retirement benefits sufficient to cover the cost of this option. This section (1) shall apply to all current members and retired members of the plan.
- (2) Notwithstanding the provisions of subsection (c), in the event that a member of the firefighters' retirement plan who retires or terminates employment on or after January 1, 2004, has elected a reduced retirement annuity with a survivorship interest, and the member's joint pensioner predeceases the member, the survivorship benefit shall be deemed canceled and the member's annuity shall be recalculated as an actuarial equivalent life annuity effective on the first day of the month following the death of the member's joint pensioner. An eligible member, by electing this option, consents to the actuarial adjustment of the member's retirement benefits sufficient to cover the cost of this option.
- (3) Notwithstanding the provisions of subsection (c), in the event that a member of the police officers' retirement plan retires or terminates employment on or after October 1, 2007, and such member has elected a reduced retirement annuity with a survivorship interest, and the member's joint pensioner predeceases the member, the survivorship benefit shall be deemed canceled and the member's annuity shall be recalculated as an actuarial equivalent life annuity effective on the first day of the month following the death of the member's joint pensioner. An eligible member, by electing this option, consents to the actuarial adjustment of the member's retirement benefits sufficient to cover the cost of this option.

(e)

*Designation of joint pensioner by police officers and firefighters.* In lieu of the benefit provided under Option 3, above, a police officer or firefighter who has attained a vested interest in the plan shall have the right to select to receive a reduced retirement benefit with the provision that a joint pensioner designated by the member shall continue to draw such reduced retirement benefit. The amount of such reduced retirement benefit shall be the actuarial equivalent of the amount of such retirement compensation otherwise payable to the member or such member may direct that the payment of a benefit of fifty (50) percent of the member's monthly retirement allowance to be paid at the member's death to the joint pensioner, such benefit to be payable during the lifetime of the joint pensioner. The joint pensioner must be designated in writing by the member on a form provided by the pension board prior to retirement. If no joint pensioner is designated prior to retirement, survivor benefits, if any, shall be paid in accordance with subsections (a) through (c), above. A police officer or firefighter will have the power to change such joint pensioner designation from time to time, but any such change shall be deemed a new election and will be subject to approval by the board of trustees. If a member elects an option with a joint pensioner and the member's retirement benefits have commenced, the member may thereafter change the designated joint pensioner up to two (2) times. The consent of a member's joint pensioner or of the board of trustees to any such change shall not be required. The amount of the retirement income payable to the member upon designation of a new joint pensioner shall be actuarially redetermined by the application of actuarial tables and calculations to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit and that there is no impact to the plan. Each such designation will be made in writing on a form prepared by the board of trustees and on completion will be filed with the board of trustees. In the event that no joint pensioner survives the member, such benefits as are payable in the event of the death of the member subsequent to his or her retirement shall be paid as provided in section 11-35.

- (f) Unless the member has elected a different benefit option under this section, normal retirement benefits, early retirement benefits or disability benefits payable to members of the police officers' retirement plan who were employed by the city on or after September 13, 2004 and who retire or enter the DROP on or after the effective date of this section, shall be payable to such member for life (or in the case of disability, until recovery or death); and if such member dies within ten (10) years following the commencement of retirement benefits or entry into the DROP, the benefit payable to the member shall be paid to the member's designated beneficiary for the balance of the ten-year period.

- (g) Effective October 1, 2004 for members of the firefighter retirement plan employed by the city on or after that date who retire or enter the DROP after that date, normal retirement benefits, early retirement benefits or disability benefits shall be payable to such member for life (or in the case of disability, until recovery or death), unless the member elects a different option pursuant to section 11-36; and if such member dies within ten (10) years following the commencement of retirement benefits or entry into the DROP, the same monthly benefit shall be paid to the member's designated beneficiary for the remainder of the ten-year period.
- (h) Effective October 1, 2016 for members of the general employees' retirement plan, any such member who selects an optional form of benefit with a joint pensioner may change the designated joint pensioner one (1) time during either DROP participation or within five (5) years following retirement and separation from City employment. Any such member who has selected a joint and survivor benefit option may, as an alternative to changing the designated joint pensioner, change his/her benefit option to a single life annuity one (1) time during either DROP participation or within five (5) years following retirement and separation from city employment, with the consent of the member's spouse if the spouse was the joint pensioner/joint annuitant. The amount of retirement income payable to the member upon designation of a new joint pensioner or upon changing from a joint and survivor benefit option to a life annuity shall be actuarially redetermined by the application of actuarial tables and calculations to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit, taking into account the current health of the joint pensioner to be excluded, and other relevant factors, such that there is no actuarial impact to the plan. In the absence of proof of good health of the joint pensioner being replaced, the actuary shall assume the joint pensioner has deceased for purposes of calculating the new benefit. The member shall be required to pay all costs associated with making a change in accordance with this subsection (h), including the cost of the actuarial calculations, as determined by the plan actuary. A request to change a joint pensioner or to change a benefit option must be made in writing on a form prepared by the board of trustees, and filed with the board of trustees. In the event that no joint pensioner survives the member, such benefits as are payable in the event of the death of the member subsequent to his or her retirement shall be paid as provided in section 11-35.

(Ord. No. 124-X-O, § 1(16-12(F)), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-Y, § 11, 10-11-94; Ord. No. 124-X-98-A, § 2, 4-28-98; Ord. No. 124-X-99-D, § 2, 7-27-99; Ord. No. 124-X-99-G, § 2, 12-23-99; Ord. No. 124-X-00-B, § 4, 6-13-00; Ord. No. 124-X-03-C, § 3, 12-23-03;



Ord. No. 124-X-05-A, § 6, 1-25-05; Ord. No. 124-X-05-D, § 5, 5-17-05; Ord. No. 124-X-05-F, § 3, 9-27-05; Ord. No. 124-X-07-A, § 2, 7-10-07; Ord. No. 124-X-10-A, § 3, 4-27-10; Ord. No. 124-X-16-D, § 4, 9-28-16)

### **Sec. 11-37. - Benefits payable to minors or incompetents.**

Whenever any person entitled to payments under this plan shall be a minor or under other legal disability or otherwise incompetent as defined by law, the board may fully discharge its obligations to provide benefits under this article by payment to the trustee or other designated guardian of the minor or incompetent. In the absence of a claim presented by a duly appointed guardian or personal representative, the board may, in its discretion, apply to a court of competent jurisdiction for such order as is necessary to properly fulfill its obligations to pay benefits in accordance with this article as provided by law.

(Ord. No. 124-X-O, § 1(16-12(G)), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90)

### **Sec. 11-38. - Termination of employment and buy-back provisions.**

#### *(a) Termination of employment.*

##### *(1) Vested member.*

- a. Should any member who has a vested interest in the plan and who has contributed to the plan leave the service of the city, he may leave the contributions in the plan and receive a deferred benefit. The deferred benefit shall be calculated in the same manner as set forth in section 11-31 using years of creditable service and average final compensation as of the actual date of termination. The commencement date of the benefit shall be the normal or early retirement age, based on creditable service as set forth in section 11-3 in the definition of "retirement ages." A member may elect to accept a refund of one hundred (100) percent of his contribution to the plan, without interest. Any member who accepts such refund shall be forever barred from receiving prior creditable service under the provisions of this article, except in accordance with the buy-back provisions in this article. If a general employee member hired before October 1, 2009 should leave the service of the city with a vested interest in the plan, leave their contributions in the plan and return to city employment on or after October 1, 2009, such member's benefits for the initial period of service shall be determined in accordance with the provisions of the plan in effect

Code of Ordinances on the date the member initially terminated city employment; and benefits for the period of service commencing on or after October 1, 2009 shall be determined in accordance with section 11-62.

- b. In the event a member who leaves the service of the city who has attained a vested interest in the plan dies prior to the commencement of benefits at the normal or early retirement age, the designated beneficiary shall receive one hundred (100) percent of the member's contribution to the fund, unless the beneficiary is a joint annuitant and an optional benefit has been selected by the member.
- c. The benefits payable to a member who has a vested interest in the plan and who leaves the service of the city prior to retirement, shall be those benefits in effect on the date that the member terminates city employment.
- d. Notwithstanding any other provision of the police officers' retirement plan, if a police officer hired before September 30, 2015 terminates employment with ten (10) or more years of creditable service, leaves his or her contributions in the plan, and is subsequently rehired by the city as a police officer on or after September 30, 2015, the member shall be entitled to a benefit as follows:
  - 1. For creditable service up to the member's initial termination date, a benefit calculated in accordance with the plan provisions in effect on the date of the member's termination.
  - 2. For creditable service after the date of rehire, a benefit calculated in accordance with subsection 11-66(a).

(2) *Nonvested member.*

- a. Should any member of the plan leave the service of the city other than by death or disability before having become a vested member of the plan, such member may elect to receive a refund of one hundred (100) percent of the member's contributions to the plan, without interest. Any member who accepts such refund shall be forever barred from receiving prior creditable service under the provisions of this article, except in accordance with the buy-back provisions in this article.
- b. Any member of the plan who leaves the service of the city other than by death or disability before having attained a vested interest of the plan may leave such contributions in the plan for a period not exceeding five (5) years pending reemployment with the city. If a member is reemployed within those five (5)

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years, the member shall receive credit for such prior service. Any member who fails to be reemployed by the city within those five (5) years may elect to receive a refund of one hundred (100) percent of the member's contributions to the plan, without interest. Any member who accepts such a refund shall be forever barred for receiving prior creditable service under the provisions of this article, except in accordance with the buy-back provisions in this article. Notwithstanding any other provision of the police officers' retirement plan, if a police officer hired before September 30, 2015 terminates employment with less than ten (10) years of creditable service, leaves his or her contributions in the plan, and is subsequently rehired by the city as a police officer within five (5) years following termination and on or after September 30, 2015, the member shall be entitled to a benefit as provided in subsection (a)(1)d. If a general employee member hired before October 1, 2009 should leave the service of the city before having become a vested member of the plan, leave their contributions in the plan and return to city employment on or after October 1, 2009, such member's benefits for the initial period of service shall, upon vesting, be determined in accordance with the provisions of the plan in effect on the date the member initially terminated city employment; and benefits for the period of service commencing on or after October 1, 2009 shall be determined in accordance with section 11-62.

(b) *Buy-back provisions (the following section is applicable only to members of the general employees' retirement plan).*

- (1) Any member who has terminated employment with the city and has received a return of contributions may, upon regaining employment with the city, buy-back prior service, including up to five (5) years of intervening, non-pensionable government service, by restoring to the plan the full amount of the employee contribution refunded; and, for each year of intervening, non-pensionable government service claimed, an amount equal to the applicable member contribution rate in effect for the plan, including any cost-sharing amount, for each year of such intervening service, based on the member's city salary at the time of reemployment; together with interest at the board's assumed rate of investment return at the time the buy back is completed. Credit for one (1) year of intervening government service may be purchased for each year of prior creditable service a member elects to buy back up to a maximum of five (5) years. For members who are reemployed on or after October 1, 2009, the benefits for prior service or intervening government service purchased pursuant to this paragraph (1) shall be as provided in section 11-62.

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- (2) Members who wish to buy-back prior service must file with the board a notification of their intention to participate in the buy-back within sixty (60) days after reinstatement of employment where the right to buy-back prior service credit is irrevocably waived. In the case of a member who has not previously bought back prior service credit, but who has been employed for more than sixty (60) days as of the effective day of this section, such member shall have sixty (60) days from the effective date of this section to provide the notification to the board of the intention to buy-back prior service credits or the right to the buy-back is irrevocably waived.
- (3) The buy-back must be completed within one (1) year following notification to the board of the intention to participate in the buy-back. Interest due on the buy-back shall be at the board's assumed rate of investment return for the period from the date of reemployment to the date of repayment. Failure to complete the buy-back within one (1) year period shall result in a forfeiture of the right to the buy-back and an immediate refund of all buy-back contributions, without interest. The buy-back contribution may be made by a cash payment to the fund, through authorization of additional pickup contributions, or by transfer of assets from another qualified retirement plan.
- (4) No credit for prior service shall be granted nor may any benefit be based on prior service until full repayment is made in accordance with this section.
- (5) The cost attributable to buy-backs under this section shall be in addition to the maximum cost attributable to the city under section 11-26(b)(3) of the City Code.
- (c) Any sitting city commissioner, any future city commissioner, and the city manager shall be eligible to buy-back service in accordance with the provisions of subsection (b)(3), (4) and (5) above from the date the commissioner or manager was first elected or employed, including up to five (5) years of intervening, non-pensionable government service, and upon payment of the full amount of the contributions the city commissioner or manager would have made if a plan member, together with interest at the board's assumed rate of investment return at the time the buy back is completed. If commissioners or the city manager wish to buy-back, they must file with the board a notification of their intention to participate in the buy-back within sixty (60) days from the effective date of this ordinance for sitting commissioners and the city manager and within sixty (60) days from their re-election for any future commissioners. If notice is not given, the right to buy-back is irrevocably waived.
- (d)

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No police officer or firefighter will receive credit for years or fractional parts of years of service if he or she has withdrawn his or her contributions to the fund for those years or fractional parts of years of service, unless the police officer or firefighter repays into the fund the amount he or she has withdrawn, plus interest as determined by the board, within ninety (90) days after his or her employment. Notwithstanding any other provision of the police officers' retirement plan, if a police officer hired before September 30, 2015 terminates employment and withdraws his or her contributions to the fund, and is subsequently rehired by the city as a police officer on or after September 30, 2015, the member shall be entitled to receive credit for the initial period of employment by repaying into the fund the amount he or she has withdrawn, plus interest as determined by the board, within ninety (90) days after the date of rehire, and shall receive a benefit for such service calculated in accordance with the plan provisions in effect on September 29, 2015 or the initial termination date, whichever is earlier.

- (e) Notwithstanding any other provision of the plan, if a general employee who was hired before October 1, 2009 is laid off by the city, elects to leave his or her contributions in the plan during the period of such layoff, and is recalled to full-time city employment within twelve (12) months following the layoff, such member shall accrue benefits and make member contributions under the plan provisions applicable to members hired before October 1, 2009. Such members who are recalled to full-time city employment more than twelve (12) months following a layoff shall accrue benefits and make member contributions in accordance with the provisions of section 11-62.

(Ord. No. 124-X-O, § 1(16-13), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-U, § 1, 12-14-93; Ord. No. 124-X-Y, § 12, 10-11-94; Ord. No. 124-X-96-A, §§ 4, 5, 12-10-96; Ord. No. 124-X-98-A, § 4, 4-28-98; Ord. No. 124-X-00-B, § 5, 6-13-00; Ord. No. 124-X-05-H, § 1, 12-13-05; Ord. No. 124-X-09-A, § 5, 10-13-09; Ord. No. 124-X-15-B, § 9, 9-15-15; Ord. No. 124-X-16-B, § 5, 6-14-16; Ord. No. 124-X-16-D, § 5, 9-28-16)

### Sec. 11-39. - Employment after retirement.

- (a) Any member of the plan who has accepted and is receiving retirement compensation under this article shall have compensation suspended during any period of reemployment in any capacity whatsoever by the city. Any member receiving retirement compensation under this article who becomes reemployed by the city shall furnish timely notice in writing to the city and the board of the fact that he is prohibited from receiving

Code of Ordinances retirement compensation and salary at the same time and should he fail to do so, and should he receive and retain both benefits and compensation, his future benefits may be reduced pursuant to section 11-43.

- (b) The reemployment by the city of any person who has accepted and is receiving retirement compensation under this section shall have no effect on the average final compensation or the aggregate number of years of service of such person, nor shall any deductions for retirement contributions be made from the salary paid such person with respect to such reemployment.
- (c) Any member eligible to receive benefits under this article and workers' compensation benefits may receive both so long as the total plan benefits and workers' compensation benefits does not exceed the average final compensation. If such total exceeds the average final compensation, the benefits shall be reduced by the amount of such excess.
- (d) The provisions of (a) above shall not apply to retired police officers who are re-employed as reserve officers to provide traffic control and security at the Broward Civic Arena; or to dispatchers and communication supervisors who are laid off by the city and become employees of Broward County or an entity designated as the operator of the Consolidated Regional E-911 Communications System pursuant to the participation agreement between Broward County and the city which is effective October 1, 2013, and who are reemployed by the city on a part-time basis which does not qualify for membership in the plan or any other fringe benefits from the city.

(Ord. No. 124-X-O, § 1(16-14), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-98-B, § 1, 5-12-98; Ord. No. 124-X-09-A, § 6, 10-13-09; Ord. No. 124-X-13-C, § 4, 10-22-13)

#### **Sec. 11-40. - Designated beneficiary.**

- (a) Any member of the plan may file, in writing, a designation of beneficiary. It shall be the duty of the board to refund one hundred (100) percent, without interest, of the contributions made to the plan by such deceased member to such designated beneficiary. If the member who attained a vested interest in the plan dies prior to retiring and has made a written selection of an optional allowance in accordance with section 11-36, the designated beneficiary shall be paid as provided therein.
- (b) Any member of the plan may in writing change the designated beneficiary, and a retired police officer or firefighter may change his or her designated beneficiary up to two (2) times.
- (c)

Code of Ordinances Upon failure of a member of the general employees plan to designate a beneficiary, the refund of the member's contribution shall be made to the person in the same order as provided by state law for wages due deceased employees. Upon failure of a member of the police officers and firefighters plans to designate a beneficiary, the refund of the member's contribution shall be made to the estate of the deceased employee.

- (d) Any member of the police officers and firefighters plans may designate a choice of one (1) or more persons, named sequentially or jointly, as his or her beneficiary (or beneficiaries).

(Ord. No. 124-X-O, § 1(16-15), 9-12-89 Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-99-G, § 3, 12-23-99; Ord. No. 124-X-06-A, § 3, 7-25-06; Ord. No. 124-X-10-A, § 4, 4-27-10)

#### **Sec. 11-41. - Assignment prohibited.**

The present or future right of a member to monies in the plan, to retirement benefit, to an optional allowance, to death benefit, or to the return of contributions or any other right accrued or accruing to any member under the provisions of this article shall be unassignable, except as specifically provided for in this article and as provided by law, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law or any other process of law whatsoever.

(Ord. No. 124-X-O, § 1(16-16), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90)

#### **Sec. 11-42. - Protection against fraud; penalty.**

Whoever, with the intent to deceive, shall make any statement or report required under this article which is untrue or whoever shall falsify or permit to be falsified any record of this plan shall be guilty of a misdemeanor of the second degree and shall be punishable as provided by law in section 1-15 of this Code.

(Ord. No. 124-X-O, § 1(16-17), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90)

#### **Sec. 11-43. - Errors.**

Should any change or error discovered in the plan records result in any member or designated beneficiary receiving from the plan more or less than he would have been entitled to receive had the records been correct, the board shall have the power to correct such error

and, as far as possible, adjust the payments in such a manner that the actuarial equivalent of the benefit to which the member or designated beneficiary was correctly entitled shall be paid.

(Ord. No. 124-X-O, § 1(16-18), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90)

#### **Sec. 11-44. - Bonding; fiduciary; insurance.**

- (a) Within sixty (60) days of election or appointment, every fiduciary of the trust fund may be bonded. Such bond shall provide protection to the trust fund against loss by reason of acts of fraud or dishonesty on the part of the bonded individual, directly or through connivance of others.
- (b) The board may purchase insurance for the trust fund and for members of the board to cover liability or loss as occurring by reason of any act or omission of a fiduciary; however, such insurance permits recourse by the insured against the fiduciary in case of a breach of fiduciary obligations by such fiduciary.

(Ord. No. 124-X-O, § 1(16-19), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90)

#### **Sec. 11-45. - Members' rights to plan.**

No member or other person shall have any interest in or to the trust fund or any part of the assets thereof, except as expressly provided in this article.

(Ord. No. 124-X-O, § 1(16-20), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90)

#### **Sec. 11-46. - Tax considerations.**

It is intended that the plan be and remain tax exempt pursuant to the Internal Revenue Code of 1986, as amended. The provisions of this article shall be interpreted in accordance with such intent. The city commission may enact ordinances and resolutions to implement such tax exempt status.

(Ord. No. 124-X-O, § 1(16-21), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90)

#### **Sec. 11-47. - Plan amendments.**



The city commission shall have continuing power to amend or supplement this article. Code of Ordinances

The boards may make recommendations for amendments to this article to the city commission. No amendment shall be adopted which shall reduce the then accrued benefits of members or designated beneficiaries covered by accumulated reserves, which reserves shall constitute a trust fund for the payment of such benefits.

(Ord. No. 124-X-O, § 1(16-22), 9-12-89; Ord. No. 124-X-P, § 1, 12-18-90; Ord. No. 124-X-U, § 3, 12-14-93)

#### **Sec. 11-48. - Limitation on benefits.**

- (1) In no event may a member's annual benefit exceed the lesser of:
  - (a) The maximum amount provided in Section 415(b) of the Internal Revenue Code (adjusted for cost of living in accordance with the Internal Revenue Code and regulations adopted thereunder but only for the year in which such adjustment is effective), or
  - (b) For a person who first became a member of the plan on or after January 1, 1980, one hundred (100) percent of the member's average final compensation. This limitation shall not apply to supplemental retirement benefits or to pension increases attributable to cost-of-living adjustments.
- (2) If the member has less than ten (10) years of service with the city, the applicable limitation in paragraph (1)(a) or paragraph (1)(b) of this subsection shall be reduced by multiplying such limitation by a fraction, not to exceed one (1). The numerator of such fraction shall be the number of years, or part thereof, of service with the city; the denominator shall be ten (10) years.
- (3) For purposes of this subsection, "annual benefit" means a benefit payable annually in the form of a straight life annuity with no ancillary or incidental benefits and with no member or rollover contributions. To the extent that ancillary benefits are provided, the limits set forth in paragraph (1)(a) and (1)(b) above will be reduced actuarially, using an interest rate assumption equal to the greater of five (5) percent or the rate used for actuarial equivalence, to reflect such ancillary benefits.
- (4) If distribution of retirement benefits begins before age sixty-two (62), the dollar limitation as described in paragraph (1)(a) and (1)(b) shall be reduced actuarially using an interest rate assumption equal to the greater of five (5) percent or the interest rate used for actuarial equivalence; however, retirement benefits shall not be reduced below seventy-

Code of Ordinances five thousand dollars (\$75,000.00) if payment begins at or after age fifty-five (55) and not below the actuarial equivalent of seventy-five thousand dollars (\$75,000.00) if payment of benefits begins before age fifty-five (55). For a police officer or firefighter member with fifteen (15) or more years of service with the city, the reductions described above shall not apply. If retirement benefits begin after age sixty-five (65), the dollar limitation of paragraph (1) shall be increased actuarially using an interest assumption equal to the lessor of five (5) percent or the rate used for actuarial equivalence.

- (5) For the purpose of applying the provisions of this section, actuarial equivalence shall be determined based on mortality tables adopted by the pension board and an interest rate of five (5) percent.

(Ord. No. 124-X-W, § 2, 4-12-94; Ord. No. 124-X-02-A, § 1, 1-22-02)

#### **Sec. 11-49. - Required distribution of benefits.**

The plan shall comply with the minimum distribution requirements in section 401(a)(9) of the Internal Revenue Code, and regulations promulgated thereunder.

(Ord. No. 124-X-W, § 3, 4-12-94; Ord. No. 124-X-06-A, § 4, 7-25-06)

#### **Sec. 11-50. - Direct transfers of eligible rollover distributions.**

- (a) *General.* 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, 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.*

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

Code of Ordinances (2) *Eligible retirement plan.* An eligible retirement plan is 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(c) 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 of the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

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

(4) *Direct rollover.* A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(Ord. No. 124-X-Y, § 13, 10-11-94)

## **Sec. 11-51. - Dissolution of marriage.**

Unless otherwise specifically required by state or federal law, no benefits payable under the retirement plan shall be payable to any person other than as provided for in this article. In the event that a member's interest in benefits under this article are subject to distribution under the terms of a dissolution of marriage order, the member shall be responsible to notify and provide the board with a copy of the proposed distribution order prior to its entry by the court in order to insure its compliance with the provisions of this plan. The board shall provide technical assistance to members in dissolution of marriage proceedings for the preparation of the proper form of an order distributing the member's interest in accordance with the terms of this plan. In the event that a member fails to seek the technical advice of the board and it becomes necessary for the board to expend the funds in the correction or modification of any dissolution of marriage or property distribution order, the member consents to repay the board's expenses, including attorney's fees, in the correction of that order. Any sums owed pursuant to this section shall become a lien against the member's account, notwithstanding any other provision of this article. A lien established in this section shall be satisfied by reduction of payments made to a member either at the time contributions are returned or retirement benefits commence.

(Ord. No. 124-X-95-A, § 2, 12-12-95)

## Code of Ordinances **Sec. 11-52. Supplemental benefit for police officers; deferred retirement option program for police officers.**

- (a) This section applies only to the police officers' retirement plan.
- (b) Deferred retirement option program for police officers (DROP).
  - (1) A deferred retirement option plan ("DROP") is hereby established for eligible police officers.
  - (2) Eligibility and participation:
    - a. A police officer who reaches normal retirement age (age fifty-three (53) with ten (10) years of creditable service or completion of twenty (20) years of creditable service regardless of age) shall be eligible to participate in the DROP. Notwithstanding any other provision of this subsection, DROP eligibility and participation for members of the police officers' retirement plan hired or rehired on or after September 30, 2015 shall be determined in accordance with subsection 11-66(a).
    - b. A member's election to participate in the DROP shall be irrevocable.
    - c. An eligible member who elects to participate in the DROP on or after January 1, 2006 within five (5) years following the member's earliest normal retirement date may participate in the DROP for a maximum of sixty (60) months from the date of entry into the DROP. An eligible member may elect to participate in the DROP with thirty (30) days' advance written notice to the city at any time after reaching the earliest normal retirement date or during the applicable DROP period; however, in no event will the DROP period for a member who elects to participate in the DROP on or after January 1, 2006, be extended beyond sixty (60) months from the date the member enters the DROP or one hundred twenty (120) months after the member's earliest normal retirement date, whichever occurs first. On or after January 1, 2006, a member who delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement date may elect to enter the DROP, upon thirty (30) days' advance written notice to the city, and for every month the member delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement date, the maximum DROP period shall be reduced by one (1) month. Example: A member who enters the DROP on or after January 1, 2006 within sixty (60) months after reaching his/her earliest normal retirement date shall be eligible to participate in the DROP for a maximum of sixty (60) months from the date the member enters the DROP. If the same

Code of Ordinances member waits seventy-two (72) months after reaching his/her earliest normal retirement age before entering the DROP, the member will be able to participate in the DROP for a maximum of forty-eight (48) months. A member who elects to participate in the DROP can elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days' advance written notice to the city.

- d. Effective July 10, 2007, the provisions of this subparagraph d. shall apply in lieu of subparagraph c. to members of the police officers' retirement plan. An eligible member who elects to participate in the DROP within five (5) years following the member's earliest normal retirement date may participate in the DROP for a maximum of seventy-two (72) months from the date of entry into the DROP. An eligible member may elect to participate in the DROP with thirty (30) days' advance written notice to the city at any time after reaching the earliest normal retirement date or during the applicable DROP period; however, in no event will the DROP period for a member who elects to participate in the DROP be extended beyond seventy-two (72) months from the date the member enters the DROP or one hundred thirty-two (132) months after the member's earliest normal retirement date, whichever occurs first. A member who delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement date may elect to enter the DROP, upon thirty (30) days' advance written notice to the city, and for every month the member delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement date, the maximum DROP period shall be reduced by one (1) month. Example: A member who enters the DROP within sixty (60) months after reaching his/her earliest normal retirement date shall be eligible to participate in the DROP for a maximum of seventy-two (72) months from the date the member enters the DROP. If the same member waits seventy-two (72) months after reaching his/her earliest normal retirement age before entering the DROP, the member will be able to participate in the DROP for a maximum of sixty (60) months. A member who elects to participate in the DROP can elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days' advance written notice to the city. Notwithstanding any other provision in this subparagraph d., any member covered by this subparagraph d. who was participating in the DROP on May 22, 2007 and July 10, 2007 shall be eligible to extend their DROP participation period and their resignation from city

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employment by up to twelve (12) months, by submitting a signed DROP election extension form provided by the city. The signed DROP election extension form must be received by the city finance department within sixty (60) days following the effective date of this ordinance and prior to the end of the member's original DROP period.

- e. Notwithstanding the provisions of subparagraphs c. and d., effective August 9, 2011, the provisions of this subparagraph e. shall apply in lieu of subparagraphs c. and d. to members of the police officers' retirement plan who enter the DROP on or after that date, and to members who are participating in the DROP on that date and elect to extend their DROP participation period in accordance with this subparagraph e. An eligible member who elects to participate in the DROP within five (5) years following the member's earliest normal retirement date may participate in the DROP for a maximum of eighty-four (84) months from the date of entry into the DROP. An eligible member may elect to participate in the DROP with thirty (30) days advance written notice to the city at any time after reaching the earliest normal retirement date or during the applicable DROP period; however, in no event will the DROP period for a member who elects to participate in the DROP be extended beyond eighty-four (84) months from the date the member enters the DROP or one hundred forty-four (144) months after the member's earliest normal retirement date, whichever occurs first. A member who delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement date may elect to enter the DROP, upon thirty (30) days advance written notice to the city, and for every month the member delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement date, the maximum DROP period shall be reduced by one (1) month.  
*Example:* A member who enters the DROP within sixty (60) months after reaching his/her earliest normal retirement date shall be eligible to participate in the DROP for a maximum of eighty-four (84) months from the date the member enters the DROP. If the same member waits seventy-two (72) months after reaching his/her earliest normal retirement age before entering the DROP, the member will be able to participate in the DROP for a maximum of seventy-two (72) months. A member who elects to participate in the DROP can elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days' advance written notice to the city. Notwithstanding any other provision in this subsection (2), any member who was participating in the DROP

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on August 9, 2011 shall be eligible to extend their DROP participation period and their resignation from city employment by up to twelve (12) months for a maximum of eighty-four (84) months, by submitting a signed DROP election extension form provided by the city. The signed DROP election extension form must be received by the city finance department within ninety (90) days following August 9, 2011 and prior to the end of the member's original DROP period. Provided however, to be eligible to extend the DROP participation period to eighty-four (84) months, a member must agree that all DROP account earnings earned from the date of DROP entry to the date the member's election to extend DROP participation takes effect shall be recalculated at an interest rate of six (6) percent, and DROP earnings for the entire period of DROP participation following such election shall be credited at an interest rate of six (6) percent.

(3) *DROP plan features:*

- a. An eligible member who elects to participate in the DROP will be considered to have retired for purposes of the pension plan. The member's monthly retirement benefit, determined in accordance with the plan based on years of creditable service and average final compensation at the time the member enters the DROP, will be paid into his or her DROP account every month during the DROP period. No member contributions shall be required after a member enters the DROP, and the member will not accrue any additional creditable service or any additional benefits under the pension plan after entering the DROP.
- b. A member who elects to participate in the DROP shall not be eligible for disability or preretirement death benefits under the pension plan. In addition, members who elect to participate in the DROP shall not receive supplemental retirement benefits until after the DROP period.
- c. As a condition of participating in the DROP, the member must agree to terminate city employment at the conclusion of the DROP period and to submit an irrevocable letter of resignation stating this prior to entering the DROP.
- d. Participation in the DROP is not a guarantee of employment, and DROP participants will be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.
- e. During a member's participation in the DROP, the member's monthly retirement benefit will be paid into the DROP account. For members who are participating in the DROP on August 9, 2011, the member's DROP account will earn interest at

Code of Ordinances the same rate as the investment earnings assumption for the pension plan (compounded monthly). The investment earnings assumption may be adjusted

up or down during a member's participation in the DROP, which will result in a change in the prospective interest rate credit on the member's DROP account. Members who commence participation in the DROP on or after August 9, 2011 shall make a one-time irrevocable election, at the time the member enters the DROP, between the following two (2) options to determine how interest will accrue to the member's DROP account:

- A) *Option One:* The member's DROP account will earn interest at six (6) percent per annum; or
  - B) *Option Two:* The member's DROP account will be invested as directed by the member among investment options selected by the pension board. The rate of return would be based on the actual rate of return on the investment option selected by the member.
- f. Within thirty (30) days following a DROP participant's termination of city employment or death, the member's entire DROP account balance shall be distributed to the member (or in the event of the member's death, to the member's designated beneficiary or estate in accordance with paragraph (2)g. below) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover will be accomplished in accordance with section 11-50 of the pension plan.
  - g. If a DROP participant dies before his or her DROP account is distributed, the participant's designated beneficiary shall have the same rights as the participant with respect to the distribution of the DROP account. If the member has not designated a beneficiary, the DROP account balance shall be paid to the member's estate.
  - h. The pension board shall adopt any necessary rules for administering the DROP.

(c) *Supplemental benefit.*

- (1) Police officers who retire and begin receiving normal or early retirement benefits on or after August 14, 2001, shall receive a supplemental monthly benefit in the initial amount of ten dollars (\$10.00) per year of creditable service, up to a maximum of two hundred dollars (\$200.00) per month until age sixty-five (65), and six dollars and twenty-five cents (\$6.25) per year of creditable service up to a maximum of one



Code of Ordinances hundred twenty-five dollars (\$125.00) per month thereafter, contingent on the annual adjustment described in paragraph (d), below. Police officers who terminate employment and begin receiving normal or early retirement benefits on or after January 1, 2006, shall receive a supplemental monthly benefit in the initial amount of sixteen dollars and twenty-five cents (\$16.25) per year of creditable service up to a maximum of three hundred twenty-five dollars (\$325.00) per month until age sixty-five (65), and ten dollars (\$10.00) per year of creditable service up to a maximum of two hundred dollars (\$200.00) per month thereafter, contingent on the annual adjustment described in paragraph (d) below. Police officers who terminate employment and begin receiving normal or early retirement benefits on or after October 1, 2007, shall receive a supplemental monthly benefit in the initial amount of twenty-five dollars (\$25.00) per year of creditable service up to a maximum of five hundred dollars (\$500.00) per month until age sixty-five (65), and fifteen dollars (\$15.00) per year of creditable service up to a maximum of three hundred dollars (\$300.00) per month thereafter, contingent on the annual adjustment described in paragraph (d) below.

- (2) Each retiree's supplemental benefit shall be in addition to the normal retirement benefit paid under the current plan, and shall be paid only if the retiree is then alive. Each retiree's supplemental benefit shall be determined on an annual basis, and the amount of the benefit may vary from year to year or the benefit may be discontinued entirely, based on the adjustment described in paragraph (d), below.
- (d) Should legislation be enacted or agency action implementing the legislation be taken, or if there is an administrative or court decision interpreting such legislation, and if the legislation, agency action or decision results in an increase in required employer contributions to the pension fund, the benefits described in paragraph (c), above, shall be adjusted to offset the increased employer contributions resulting from the state legislation, agency action or decision. Once the amount of the increased employer contribution resulting from state legislation, agency action or decision is determined, the city shall adjust the benefits in paragraph (c), above, to produce a decrease in employer contributions equal to the increased employer contribution resulting from state legislation, agency action or decision. Any such adjustment shall be made effective as the date the legislation, agency action or decision becomes effective. To the extent the effective date of such legislation, agency action or decision is retroactive, then the adjustment in benefits provided in paragraph (c) shall also be retroactive.

(Ord. No. 124-X-99-C, § 1, 5-25-99; Ord. No. 124-X-01-C, § 1, 9-25-01; Ord. No. 124-X-02-D, § 1, 8-13-02; Ord. No. 124-X-05-A, § 7, 1-25-05; Ord. No. 124-X-05-G, § 2, 12-13-05; Ord. No. 124-X-05-H, § 2, 12-13-05; Ord. No. 124-X-06-A, § 5, 7-25-06; Ord. No. 124-X-07-A, § 3, 7-10-07; Ord. No. 124-X-11-A, § 3, 8-9-11; Ord. No. 124-X-15-B, § 10, 9-15-15)

**Sec. 11-53. - Retirement benefits for management and senior management personnel hired prior to October 1, 2009.**

- (a) Management personnel hired prior to October 1, 2009 who terminate employment and begin receiving normal or early retirement benefits on or after September 13, 1999, shall receive the same retirement benefits as general employees, except as follows:
  - (1) The normal retirement age shall be fifty-five (55) years. The early retirement age shall be fifty (50) years.
  - (2) The early retirement reduction shall be equal to one (1) percent for each year by which the member's age at retirement precedes the member's normal retirement age.
  - (3) Beginning one (1) year after retirement or entry into the deferred retirement option plan, a two (2) percent annual increase in retirement benefits for management personnel employed as of June 12, 2001.
  - (4) Effective October 1, 2001, the normal or early retirement benefit of management personnel shall be increased by one (1) percent of average final compensation after the first five (5) years of creditable service in a management position, and by an additional one (1) percent of average final compensation after ten (10) years of creditable service in such position.
- (b) Senior management personnel hired prior to October 1, 2009 who terminate employment and begin receiving normal or early retirement benefits on or after September 13, 1999, shall receive the same retirement benefits as general employees and management personnel, except as follows:
  - (1) Average final compensation shall mean the salary of the best twelve (12) consecutive months of creditable service.
  - (2) For members who terminate employment or enter the DROP before October 1, 2001, the retirement benefit shall be equal to five (5) percent of average final compensation for each of the first seven (7) years of creditable service, four (4) percent of average final compensation for each of the next three (3) years of creditable service, and two (2) percent of average final compensation for each year of

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creditable service thereafter. For members who terminate employment or enter the DROP on or after October 1, 2001, the retirement benefit shall be equal to five (5) percent of average final compensation for each of the first ten (10) years of creditable service and two (2) percent of average final compensation for each year of creditable service thereafter, up to a maximum of eighty (80) percent of average final compensation.

- (3) Beginning one (1) year after retirement or entry into the deferred retirement option plan, a two and one-half (2.5) percent annual increase in retirement benefits.
- (4) *Coordination of benefits.* Notwithstanding any other provision of this plan, an employee who is appointed to serve as interim city manager on or after January 1, 2008 and who, prior to such appointment, was employed in a position covered by the firefighters' retirement plan, shall become a senior management member of the general employees' retirement plan upon the effective date of such appointment. Thereafter, the employee shall be considered to be a new member of the general employees' retirement plan upon the effective date of such appointment, and shall be entitled to the benefits specified in this section, except that all of the employee's prior creditable service under the firefighters' retirement plan shall count for vesting purposes only as creditable service under the general employees' retirement plan.
- (c) Notwithstanding the provisions of section 11-26(a)(3), beginning with the first pay period following March 12, 2002, members of the general employees' plan who are management or senior management personnel hired prior to October 1, 2009 shall pay regular contributions of eight and seven-tenths (8.70) percent of their salaries. Notwithstanding the provisions of section 11-26(b), if the additional benefits for such senior management and management personnel in this section cause the city's annual contribution to the plan to exceed ten (10) percent of total budgeted payroll for members of the system for any year, the city shall fund the amount of the excess. Notwithstanding the provisions of sections 11-26(a)(3), 11-26(b), or this subsection (c), members of the general employees' plan who are management or senior management personnel hired prior to October 1, 2009 shall pay regular contributions of eleven and three-quarters (11.75) percent for the term of the 2012-2014 collective bargaining agreement between the city and Fraternal Order of Police for general employees, (including any time periods after contract expiration but prior to a successor agreement becoming effective).

(d)

Code of Ordinances If retirement benefits provided to management and senior management personnel are limited at the time of retirement by application of Section 415(d) of the Internal Revenue Code, as the dollar limit is adjusted in accordance with Section 415(d), future benefit payments will be increased to reflect the adjusted limit, but not to exceed the earned benefit at retirement.

- (e) Management and senior management personnel may select a form of benefit in accordance with section 11-36, subject to the following modifications:
  - (1) The standard benefit for senior management members and city commissioners shall be a one hundred (100) percent joint and survivor annuity, assuming the joint annuitant is within ten (10) years of age of the member. If a member's joint annuitant is more than ten (10) years older or younger than the member, the standard benefit will be adjusted to be actuarially equivalent to the benefit of a joint annuitant ten (10) years older or younger than the member, as applicable. A senior management or city commissioner member who has attained a vested interest in the plan shall have the right to select to receive an optional retirement benefit in the form of a life annuity, or a fifty (50), sixty-six and two-thirds ( $66 \frac{2}{3}$ ), or seventy-five (75) percent joint and survivor annuity. If an optional retirement benefit is selected, the amount of the retirement benefit shall be the actuarial equivalent of the amount of the standard benefit otherwise payable to the member; and if a joint and survivor annuity is selected, the adjusted benefit shall be payable for the joint lifetime of the member and the joint annuitant.
  - (2) The standard benefit for management members other than city commissioners shall be a fifty (50) percent joint and survivor annuity, assuming the joint annuitant is within ten (10) years of the age of the member. If a member's joint annuitant is more than ten (10) years older or younger than the member, the standard benefit will be adjusted to be actuarially equivalent to the benefit of a joint annuitant ten (10) years older or younger than the member, as applicable. A management member who has attained a vested interest in the plan shall have the right to select to receive an optional retirement benefit in the form of a life annuity, or a sixty-six and two-thirds ( $66 \frac{2}{3}$ ), seventy-five (75) percent or one hundred (100) percent joint and survivor annuity. If an optional retirement benefit is selected, the amount of the retirement benefit shall be the actuarial equivalent of the amount of the standard benefit

Code of Ordinances otherwise payable to the member; and if a joint and survivor annuity is selected, the adjusted benefit shall be payable for the joint lifetime of the member and the joint annuitant.

- (3) For purposes of this section, "actuarial equivalent" shall mean a benefit of equivalent value determined using the RP-2000 Combined Healthy Participant Mortality Table for males and females and interest at the board's annual assumed rate of investment return. For purposes of this section, "joint annuitant" shall mean a person designated in writing by the member to receive the benefits provided in this section, who may or may not be the member's spouse.
- (f) Termination of employment and reemployment of vested management and senior management personnel.
- (1) Notwithstanding any other provision of the plan to the contrary, the refunds and benefits payable to vested management and senior management personnel who terminate city employment prior to retirement shall be governed solely by this subsection. Should any management or senior management member who has a vested interest in the plan and who has contributed to the plan leave the service of the city prior to early or normal retirement, the member may leave the contributions in the plan and receive a deferred benefit. The deferred benefit shall be calculated in the same manner as set forth in section 11-31, using years of creditable service and average final compensation as of the actual date of termination. The commencement date of the benefit shall be the normal or early retirement age, based on creditable service as set forth in section 11-3 in the definition of "retirement ages." Alternatively, the member may elect to accept a refund of one hundred (100) percent of his contributions to the plan, without interest. Any member who accepts such refund shall be forever barred from receiving prior creditable service under the provisions of this article, except for the buy-back provisions in this section. The benefits payable to a member who has a vested interest in the plan and who leaves the service of the city prior to retirement shall be those benefits in effect on the date that the member terminates city employment.
  - (2) Should any management or senior management member who has a vested interest in the plan, terminated city employment and left his contributions in the plan be reemployed by the city, such member's prior creditable service shall be connected with creditable service earned after reemployment, upon completion of three (3) years of full-time service with the city after reemployment. Should any such member

Code of Ordinances terminate city employment sooner than three (3) years following reemployment, the member's benefit for the period of prior service shall be calculated separately from the benefit accrued after reemployment, and the benefit for the period of prior service shall be based on the plan provisions in effect on the date the member initially terminated employment. The benefit for the two (2) periods of service shall then be added together, and paid at normal or early retirement age.

- (3) Notwithstanding any other provision of this subsection, if a management or senior management member hired before October 1, 2009 should leave the service of the city, leave their contributions in the plan and return to city employment on or after October 1, 2009, such member's benefits for the initial period of service shall, upon vesting, be determined in accordance with the provisions of the plan applicable to the member on the date the member initially terminated city employment; and benefits for the period of service commencing on or after October 1, 2009 shall be determined in accordance with section 11-62.
- (g) Buy back of prior city service and intervening government service by management and senior management personnel.
  - (1) Notwithstanding any other provision of the plan to the contrary, the purchase of prior city service and intervening government service by management and senior management personnel shall be governed solely by this subsection. Any management or senior management member who has terminated employment with the city and has received a return of contributions may, upon regaining employment with the city, buy-back periods of prior service with the city and intervening government service, in accordance with this subsection. Credit for prior service with the city may be purchased by restoring to the plan the full amount of the employee contribution refunded, together with interest at the board's assumed rate of investment return for the period from the date contributions were refunded to the date of repayment. Credit for up to five (5) years of intervening government service may also be purchased by paying into the pension fund an amount equal to the applicable member contribution rate in effect for each such year or fraction thereof, including any cost sharing amount determined in accordance with section 11-53(c), based on the member's annual salary rate at the time of reemployment, for each year or fraction thereof purchased, together with interest at the board's assumed rate of investment return for the period from the date of reemployment to the date of repayment. No portion of the credit for intervening government employment

Code of Ordinances purchased under this subsection may be based in whole or part or upon any service with respect to which the member is receiving or will receive in the future a retirement benefit or pension from a different employer's retirement system or plan. Notwithstanding any other provision of this paragraph, the contributions and benefits for prior service or intervening government service purchased by a management or senior management member who is hired or rehired on or after October 1, 2009, shall be as provided in section 11-62.

- (2) Management and senior management members who wish to buy-back prior city service or intervening government service must file with the board a notification of their intention to participate in the buy-back within ninety (90) days after reemployment, or the right to buy-back such prior service credit is irrevocably waived.
  - (3) The buy-back must be completed within two (2) years following notification to the board of the intention to participate in the buy-back. Failure to complete the buy-back within the two-year period shall result in a forfeiture of all prior city service or intervening government service for which full payment, including interest, has not been made. The buy-back contribution may be made by a cash payment to the fund, through authorization of additional pickup contributions, or by transfer of assets from another qualified retirement plan.
  - (4) No credit for prior city service or intervening government service shall be granted nor may any benefit be based on such service until full payment is made in accordance with this section, and the member has completed five (5) years of city service after reemployment as a management or senior management member. In the event a management or senior management member purchases credit for prior city service or intervening government service, but does not remain employed in a management or senior management position for five (5) years following reemployment, the amount paid for such service credit shall be refunded, without interest.
  - (5) The cost attributable to buy-backs under this section shall be in addition to the maximum cost attributable to the city under section 11-26(b)(3) of the City Code.
- (h) Deferred retirement option plan.
- (1) A deferred retirement option plan (DROP) is established for management and senior management personnel, effective June 12, 2001.
  - (2) Management and senior management personnel who attain age fifty (50) with five (5) more years of creditable service shall be eligible to participate in the DROP.
  - (3)

Code of Ordinances A member's election to participate in the DROP shall be irrevocable. A member who elects to participate in the DROP can elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days advance written notice to the city.

- (4) An eligible management member may participate in the DROP for a maximum of sixty (60) months. An eligible senior management member who is not participating in the DROP on the effective date of this ordinance may participate in the DROP for a maximum of seventy-two (72) months. With respect to any senior management member who is in the DROP as of the effective date of this ordinance, such member's DROP period may, at the member's request, be extended to a maximum of seventy-two (72) months. An eligible member may elect to participate in the DROP with thirty (30) days advance written notice to the city at any time after attaining age fifty (50). Notwithstanding any provision of this section to the contrary, an eligible management or senior management member who enters the DROP on or after October 1, 2008 may elect to participate in the DROP within five (5) years following the member's earliest normal retirement age, with thirty (30) days advance written notice to the city, for a maximum of seventy-two (72) months. Any such member who delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement age may elect to enter the DROP, upon thirty (30) days' advance written notice to the city, and for every month the member delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement age, the maximum DROP period shall be reduced by one (1) month. Notwithstanding the two preceding sentences, any management or senior management member who was eligible to enter the DROP on September 30, 2008, but was not participating in the DROP on that date may elect to enter or participate in the DROP retroactive to such date, in accordance with the provisions of this section 11-53(d) in effect on that date. Such election must be submitted in writing on a form provided by the city to the City Finance Department within sixty (60) days after this ordinance takes effect. A management or senior management member who was eligible to enter the DROP on September 30, 2008, and who does not submit a written election in accordance with the preceding sentence shall forfeit the right to enter or participate in the DROP retroactive to September 30, 2008, in accordance with the provisions of this section 11-53(d) in effect on that date. With respect to any management member who is participating in the DROP on October 1, 2008, such member's DROP period may, at the member's request, be extended to a maximum of seventy-two (72) months. A management



Code of Ordinances member who is participating in the DROP on October 1, 2008 and wishes to extend DROP participation pursuant to the preceding sentence must submit an extension request to the City Finance Department prior to the end of the member's original DROP period, and on or before December 31, 2008, on a form provided by the city.

- (5) An eligible member who elects to participate in the DROP will be considered to have retired for purposes of the pension plan. The member's monthly retirement benefit, determined in accordance with the plan based on years of creditable service and average final compensation at the time the member enters the DROP, will be paid into his or her DROP account every month during the DROP period. No member contributions shall be required after a member enters the DROP, and the member will not accrue any additional creditable service or any additional benefits under the pension plan after entering the DROP.
- (6) A member who elects to participate in the DROP shall not be eligible for disability or preretirement death benefits under the pension plan.
- (7) As a condition of participating in the DROP, an eligible member who is not a member of the city commission or a Charter officer must agree to terminate city employment at the conclusion of the DROP period and to submit an irrevocable letter of resignation stating this prior to entering the DROP. Eligible members who are city commissioners or Charter officers shall not be required to terminate city employment at the conclusion of the DROP period, and may elect to resume participation in and accrue additional benefits under the general employees' retirement plan.
- (8) Participation in the DROP is not a guarantee of employment, and DROP participants will be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.
- (9) During a member's participation in the DROP, the member's monthly retirement benefit will be paid into the DROP account. The DROP account of a member who enters the DROP prior to October 1, 2009 will earn interest at the same rate as the investment earnings assumption for the pension plan. The investment earnings assumption may be adjusted up or down during a member's participation in the DROP, which will result in a change in the prospective interest rate credit on the member's DROP account. The DROP account of a member who enters the DROP on or after October 1, 2009 will earn interest at the rate of four (4) percent per year, compounded annually.

(10)

Code of Ordinances Within thirty (30) days following a DROP participant's termination of city employment or death, the member, or in the event of the member's death the member's designated beneficiary, may submit a written election on a form approved by the board, to receive the member's entire DROP account balance, which shall be distributed to the member (or in the event of the member's death, to the member's designated beneficiary or estate in accordance with paragraph (11), below) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover will be accomplished in accordance with section 11-50 of the pension plan. In the event a member or designated beneficiary does not submit a written election to receive a distribution of the member's DROP account balance within thirty (30) days following the member's termination of city employment or death, the DROP account shall be maintained but shall not earn interest.

(11) If a DROP participant dies before his or her DROP account is distributed, the participant's designated beneficiary shall have the same rights as the participant with respect to the distribution of the DROP account. If the member has not designated a beneficiary, the DROP account balance shall be paid to the member's estate.

(12) The pension board shall adopt any necessary rules for administering the DROP.

(i) The contributions and benefits for management and senior management personnel hired or rehired on or after October 1, 2009 shall be as specified in section 11-62.

(Ord. No. 124-X-99-E, § 2, 9-13-99; Ord. No. 124-X-00-C, § 1, 7-11-00; Ord. No. 124-X-00-D, § 2, 10-24-00; Ord. No. 124-X-01-B, § 3, 6-12-01; Ord. No. 124-X-02-C, § 1, 3-26-02; Ord. No. 124-X-05-H, § 3, 12-13-05; Ord. No. 124-X-06-A, § 6, 7-25-06; Ord. No. 124-X-08-A, § 2, 2-26-08; Ord. No. 124-X-08-C, § 2, 10-14-08; Ord. No. 124-X-09-A, § 7, 10-13-09; Ord. No. 124-X-12-C, § 2, 12-28-12; Ord. No. 124-X-15-A, § 3, 3-24-15; Ord. No. 124-X-16-B, § 6, 6-14-16)

**Editor's note—** Pursuant to § 6 of Ord. No. 124-X-08-A, § 11-53(b)(4) shall be effective retroactive to January 25, 2008, except as otherwise specifically provided herein.

## **Sec. 11-54. - Retirement incentive program for firefighters.**

(a) This section applies only to the City of Sunrise Firefighters' Retirement Plan.

(b)

## Code of Ordinances

*Retirement incentive program for firefighters.* During a "window period" of thirty (30) calendar days, commencing on February 27, 2002, eligible firefighters may elect to

participate in the retirement incentive program described in this section. The election to participate in the retirement incentive program shall be irrevocable. Eligible firefighters who elect to participate in the retirement incentive program must retire and separate from city employment no later than April 15, 2002 unless they elect to participate in the deferred retirement option plan in accordance with paragraph (4), below, in which case they must terminate city employment no later than April 15, 2005. Eligible firefighters may elect to participate in the retirement incentive program in accordance with all of the following conditions:

- (1) For the purpose of this section, "eligible firefighter" means a firefighter who is at least age forty-six (46) and has completed or will complete twenty-six (26) years of creditable service no later than April 15, 2002; or a firefighter who is at least age fifty (50) and has completed at least ten (10) years of creditable service no later than April 15, 2002.
- (2) Except as otherwise provided in this section, the pension benefit for those eligible firefighters who elect the retirement incentive program will be determined in accordance with section 11-31 of the plan.
- (3) Eligible firefighters who elect to participate in the retirement incentive program shall be entitled to unreduced retirement benefits based upon their years of creditable service and average final compensation on the date of retirement, using the current benefit formula. In addition, eligible firefighters who elect to participate in the retirement incentive program shall have an additional three (3) percentage points added to their benefit multiplier. For example, a firefighter who has twenty-seven (27) years of service under the current formula has earned a benefit multiplier of seventy-four (74) percent. Under the retirement incentive program, an additional three (3) percentage points would be added to the benefit multiplier, resulting in a multiplier of seventy-seven (77) percent for a an eligible twenty-seven (27) year firefighter.
- (4) Eligible firefighters who elect the retirement incentive program may also elect to participate in a deferred retirement option plan (DROP) for a maximum of thirty-six (36) months. Alternatively, such firefighters may elect a "BAC-DROP" option for up to eighteen (18) months, which will reduce the maximum thirty-six (36) month DROP period by the same amount of time (e.g., an eligible firefighter who elects to take eighteen (18) months of BAC-DROP could also elect to continue working under the

Code of Ordinances DROP for a maximum of eighteen (18) months, which results in a combined total of thirty-six (36) months of both BAC-DROP and DROP). Under the BAC-DROP option, a firefighter receives a lump sum distribution of up to eighteen (18) months of retirement benefits upon entry into the DROP, deposited into the DROP account. The firefighter's monthly pension benefit is then actuarially reduced to reflect the cost to the pension plan of the lump sum distribution. As a condition of the DROP, eligible firefighters will be required to submit an irrevocable letter of resignation with an effective date not later than the end of the maximum DROP period, and submit an irrevocable written DROP/BAC-DROP election on forms provided by the City. DROP participation must commence no later than April 15, 2002.

- (5) Eligible firefighters who elect to participate in the retirement incentive program will be permitted to purchase a "pop-up" survivorship benefit. Under the "pop-up", the pension benefit of a member who has selected a joint survivor benefit option will be actuarially increased upon the death of the joint pensioner.
- (6) Eligible firefighters who elect to participate in the retirement incentive program will also be able to elect an optional COLA benefit. Under the present plan, a retiree receives an annual two (2) percent COLA adjustment commencing at the end of the fourth year following initial receipt of retirement benefits. In lieu of the present COLA, eligible firefighters who elect to participate in the retirement incentive program could elect to receive a one (1) percent annual COLA adjustment commencing twelve (12) months after initial receipt of retirement benefits, which would increase to a two (2) percent annual COLA at the end of the sixth year following initial receipt of retirement benefits.
- (7) Any firefighter who retired on or after October 1, 2001, but who is still employed with the city and in the DROP on the date this section is adopted will have the option of having his/her retirement benefits redetermined under the retirement incentive program set forth in this section 11-54, provided that this option must be made in writing and received by the city by March 28, 2002.

(Ord. No. 124-X-99-F, § 1, 10-26-99; Ord. No. 124-X-02-B, § 2, 3-12-02)

## **Sec. 11-55. - Deferred retirement option plan.**

- (a) A deferred retirement option program ("DROP") shall be established for firefighters effective September 30, 2001, in accordance with this section.
- (b) Eligibility and participation.

## Code of Ordinances

(1) A firefighter who attains normal retirement age with at least ten (10) years of creditable service shall be eligible to participate in the DROP.

(2) A member's election to participate in the DROP shall be irrevocable.

(3) An eligible member may participate in the DROP for a maximum of thirty-six (36) months. Eligible members who enter the DROP on or after January 1, 2004, may participate in the DROP/BAC-DROP for a maximum of sixty (60) months. However, effective January 1, 2004, members who were not eligible for the retirement incentive program in section 11-54 and who entered the DROP prior to January 1, 2004, may extend their participation in the DROP for up to an additional twenty-four (24) months, for a total maximum DROP period of sixty (60) months (five (5) years). Alternatively, such employees may elect a "BAC-DROP" option for up to eighteen (18) months, which will reduce the maximum sixty (60) month DROP period by the same amount of time (e.g., an eligible employee who elects to take eighteen (18) months of BAC-DROP could also elect to continue working under the DROP for a maximum of forty-two (42) months, or an eligible member could elect to take twelve (12) months of BAC-DROP and forty-eight (48) months of DROP, etc.). Under the BAC-DROP option, a member receives a lump sum distribution of up to eighteen (18) months of retirement benefits upon entry into the DROP, deposited into the DROP account. The member's monthly pension benefit is then actuarially reduced to reflect the cost to the pension plan for the lump sum distribution. Eligible members who enter the DROP within twelve (12) months after reaching their earliest normal retirement age or within thirty (30) days after January 1, 2004, whichever occurs later, may participate in the DROP/BAC-DROP for a maximum of sixty (60) months (five (5) years). An eligible member who wishes to participate in the DROP/BAC-DROP must provide at least thirty (30) days advance written notice to the city of his or her election to participate in the DROP. A member who elects to participate in the DROP may elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days advance written notice to the city. On or after January 1, 2004, members may defer entry into the DROP beyond the twelve (12) months following their earliest normal retirement age, but for each year (or portion thereof) of such additional deferred entry into the DROP, the maximum DROP period will be reduced by one (1) year.

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*Example 1:* A member who has twenty-five (25) years of creditable service at age forty-five (45) may elect to enter the DROP (with an eighty (80) percent multiplier) up to reaching age forty-six (46), and may then participate in the DROP/BAC-DROP for up to sixty (60) months. If the same member defers entry into the DROP until after age forty-six (46) up to age forty-seven (47), his/her multiplier remains at eighty (80) percent but the value of the pension benefit increases with pay raises, and the member may then participate in the DROP/BAC-DROP for up to forty-eight (48) months.

*Example 2:* A member who reaches normal retirement age with twenty-one (21) years of creditable service at age forty-eight (48) may defer entry into the DROP for up to another twelve (12) months, accrue up to an additional year of creditable service under the pension plan (up to twenty-two (22) years of creditable service or a sixty-nine and one-half (69.5) percent multiplier), and then participate into the DROP/BAC-DROP for up to sixty (60) months. If the same member defers entry into the DROP until after age forty-nine (49) up to age fifty (50), he or she will accrue additional benefits under the pension plan (up to twenty-three (23) years of creditable service or a seventy-three (73) percent multiplier), and may then participate in the DROP/BAC-DROP for up to forty-eight (48) months. If the same member defers entry into the DROP until after age fifty (50) up to age fifty-one (51), he or she will accrue additional benefits under the pension plan (up to twenty-four (24) years of creditable service or a seventy-six and one-half (76.5) percent multiplier), and then participate in the DROP/BAC-DROP for up to thirty-six (36) months.

*Example 3:* A member who reaches normal retirement age with twenty-one (21) years of creditable service at age fifty (50) may defer entry into the DROP for up to twelve (12) months, accrue up to an additional year of creditable service under the pension plan (up to twenty-two (22) years of creditable service or a sixty-nine and one-half (69.5) percent multiplier), and then participate in the DROP/BAC-DROP for up to sixty (60) months. If the same member defers entry into the DROP until after age fifty-one (51) up to age fifty-two (52), he or she will accrue additional benefits under the pension plan (up to twenty-three (23) years of creditable service or a seventy-three (73) percent multiplier), and may then participate in the DROP/BAC-DROP for up to forty-eight (48) months. If the same member defers entry into the DROP until after age fifty-two (52) up to age fifty-three (53), he or she will accrue additional benefits

Code of Ordinances under the pension plan (up to twenty-four (24) years of creditable service or a seventy-six and one-half (76.5) percent multiplier), and then participate in the DROP/BAC-DROP for up to thirty-six (36) months.

*Example 4:* A member who reaches normal retirement age with ten (10) years of creditable service at age fifty (50) may defer entry into the DROP by up to twelve (12) months, accrue additional benefits under the pension plan, and then participate in the DROP/BAC\_DROP for up to sixty (60) months. If the same member defers entry into the DROP for more than twelve (12) and up to twenty-four (24) months beyond his normal retirement age, he will accrue additional benefits (up to twelve (12) years of creditable service) and may participate in the DROP/BAC-DROP for up to forty-eight (48) months. If the same employee defers entry into the DROP for more than twenty-four (24) and up to thirty-six (36) months beyond his normal retirement age, he will accrue additional benefits (up to thirteen (13) years of creditable service) and may participate in the DROP/BAC-DROP for up to thirty-six (36) months.

- (4) Notwithstanding any provision of this section to the contrary, an eligible member who enters the DROP on or after May 17, 2005 and who elects to participate in the DROP within five (5) years following the member's earliest normal retirement age may participate in the DROP, with thirty (30) days advance written notice to the city, for a maximum of sixty (60) months. In no event will the DROP period be extended beyond sixty (60) months from the date the member first enters the DROP or one hundred twenty (120) months after the member's earliest normal retirement age, whichever occurs first. Any such member who defers entry into the DROP beyond sixty (60) months following the member's earliest normal retirement age may elect to enter the DROP with thirty (30) days written notice, and for every month the member delays entry into the DROP beyond sixty (60) months following the member's earliest normal retirement age, the maximum DROP period shall be reduced by one (1) month. A member who elects to participate in the DROP can elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days advance written notice to the city.

*Example:* A member who enters the DROP on or after the effective date of this ordinance and within sixty (60) months after reaching his/her earliest normal retirement age shall be eligible to participate in the DROP for a maximum of sixty (60) months from the date the member enters the DROP. If the same member waits

Code of Ordinances seventy-two (72) months after reaching his/her earliest normal retirement age before entering DROP, the member will be able to participate in the DROP for a maximum of forty-eight (48) months.

- (5) Effective June 10, 2008, the provisions of this subparagraph (5) shall apply in lieu of subparagraph (4) to eligible members of the firefighters' retirement plan. An eligible member who elects to participate in the DROP within five (5) years following the member's earliest normal retirement age may participate in the DROP, with thirty (30) days advance written notice to the city, for a maximum of seventy-two (72) months. In no event will the DROP period be extended beyond seventy-two (72) months from the date the member first enters the DROP or one hundred thirty-two (132) months after the member's earliest normal retirement age, whichever occurs first. A member who delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement age may elect to enter the DROP upon thirty (30) days advance written notice to the city, and for every month the member delays entry into the DROP beyond sixty (60) months after reaching the earliest normal retirement age, the maximum DROP period shall be reduced by one (1) month. A member who elects to participate in the DROP can elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days advance written notice to the city. Notwithstanding any other provision in this subparagraph (5), a member who is participating in the DROP on or after June 10, 2008 shall be eligible to extend their DROP participation period and their resignation from city employment by up to one (1) year, by submitting a signed DROP election extension form provided by the city. The signed DROP election extension form must be received by the City Finance Department within sixty (60) days following the effective date of this ordinance, and prior to the end of the member's original DROP period.

*Example:* A member who enters the DROP on or after June 10, 2008 and within sixty (60) months after reaching his/her earliest normal retirement age shall be eligible to participate in the DROP for a maximum of seventy-two (72) months from the date the member enters the DROP. If the same member waits seventy-two (72) months after reaching his/her earliest normal retirement age before entering DROP, the member will be able to participate in the DROP for a maximum of sixty (60) months.

- (6) Notwithstanding any provision of this subsection (b) to the contrary, an eligible member who enters the DROP on or after September 25, 2012 and who elects to participate in the DROP within five (5) years following the member's earliest normal



Code of Ordinances retirement age may participate in the DROP, with thirty (30) days advance written notice to the city, for a maximum of eighty-four (84) months. In no event will the DROP period be extended beyond eighty-four (84) months from the date the member first enters the DROP or one hundred forty-four (144) months after the member's earliest normal retirement age, whichever occurs first. Any such member who defers entry into the DROP beyond sixty (60) months following the member's earliest normal retirement age may elect to enter the DROP with thirty (30) days advance written notice to the city, and for every month the member delays entry into the DROP beyond sixty (60) months following the member's earliest normal retirement age, the maximum DROP period shall be reduced by one (1) month. A member who elects to participate in the DROP can elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days advance written notice to the city. Notwithstanding any other provision in this subparagraph (6), a member who commenced participation in DROP on or after October 1, 2010 and who is participating in the DROP on September 25, 2012 shall be eligible to extend their DROP participation period and their resignation from city employment by up to one (1) year, by submitting a signed DROP election extension form provided by the city. The signed DROP election extension form must be received by the city finance department within ninety (90) days following September 25, 2012, and prior to the end of the member's original DROP period. Provided however, to be eligible to extend the DROP participation period to eighty-four (84) months, a member must agree that all DROP account earnings earned from the date of DROP entry to the date the member's election to extend DROP participation takes effect shall be recalculated at an annual interest rate of six (6) percent, and DROP earnings for the entire period of DROP participation following such election shall be credited at an annual interest rate of six (6) percent. An eligible member who enters the DROP on or after September 25, 2012 may elect a "BAC-DROP" option of up to twenty-four (24) months, which will reduce the maximum eighty-four-month DROP period by the same amount of time (e.g., an eligible employee who elects to take twenty-four (24) months of BAC-DROP could also elect to continue working under the DROP for a maximum of sixty (60) months, or an eligible member could elect to take twelve (12) months of BAC-DROP and seventy-two (72) months of DROP, etc.). Under the BAC-DROP option, a member receives a lump sum distribution of up to twenty-four (24) months of retirement

Code of Ordinances benefits upon entry into the DROP, deposited into the DROP account. The member's monthly pension benefit is then actuarially reduced to reflect the cost to the pension plan for the lump sum distribution.

*Example:* A member who enters the DROP/BAC-DROP on or after September 25, 2012 and within sixty (60) months after reaching his/her earliest normal retirement age shall be eligible to participate in the DROP/BAC-DROP for a maximum of eighty-four (84) months from the date the member enters the DROP/BAC-DROP. If the same member waits seventy-two (72) months after reaching his/her earliest normal retirement age before entering DROP/BAC-DROP, the member will be able to participate in the DROP/BAC-DROP for a maximum of seventy-two (72) months.

(c) DROP plan features.

- (1) An eligible member who elects to participate in the DROP will be considered to have retired for purposes of the pension plan. The member's monthly retirement benefit, determined in accordance with the plan based on years of creditable service and average final compensation at the time the member enters the DROP, will be paid into his or her DROP account every month during the DROP period. No member contributions shall be required after a member enters the DROP, and the member will not accrue any additional creditable service or any additional benefits under the pension plan after entering the DROP.
- (2) A member who elects to participate in the DROP shall not be eligible for disability or preretirement death benefits under the pension plan.
- (3) As a condition of participation in the DROP, the member must agree to terminate city employment at the conclusion of the DROP period and to submit an irrevocable letter of resignation stating this prior to entering the DROP.
- (4) During a member's participating in the DROP, the member's monthly retirement benefit will be paid into the DROP account. The member's DROP account will earn interest at the same rate as the investment earnings assumption for the pension plan. The investment earnings assumption may be adjusted up or down during a member's participation in the DROP, which will result in a change in the prospective interest rate credit on the member's DROP account. Notwithstanding the provisions of this paragraph (4) to the contrary, the DROP account of a member commencing participation in the DROP on or after September 25, 2012, or a DROP participant electing to extend DROP participation period to eighty-four (84) months in accordance with section 11-55(b)(6), will earn interest at six (6) percent per annum.

(5) Within thirty (30) days following a DROP participant's termination of city employment or death, the member, or in the event of the member's death the member's designated beneficiary, may submit a written election on a form approved by the board, to receive the member's entire DROP account balance, which shall be distributed to the member (or in the event of the member's death to the member's designated beneficiary or estate in accordance with paragraph (6) below) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover would be accomplished in accordance with section 11-50 of the pension plan. In the event a member or designated beneficiary does not submit a written election to receive a distribution of the member's DROP account balance within thirty (30) days following the member's termination of city employment or death, the DROP account shall be maintained but shall not earn interest.

(6) If a DROP participant dies before his or her DROP account is distributed, the participant's designated beneficiary shall have the same rights as the participant with respect to the distribution of the DROP account. If the member has not designated a beneficiary, the DROP account balance shall be paid to the member's estate.

(7) The pension board shall adopt any necessary rules for administering the DROP.

(Ord. No. 124-X-01-A, § 2, 1-23-01; Ord. No. 124-X-03-C, § 4, 12-23-03; Ord. No. 124-X-05-D, § 6, 5-17-05; Ord. No. 124-X-05-H, § 4, 12-13-05; Ord. No. 124-X-08-C, § 3, 10-14-08; Ord. No. 124-X-12-A, § 6, 9-25-12)

**Editor's note—** The benefits provided in this section shall not be included in any actuarial valuation before October 1, 2001, and shall not result in any changes in contributions until on or after October 1, 2001.

## **Sec. 11-56. - Cost of living adjustment for firefighters.**

(a) Effective September 30, 2001, an annual two (2) percent cost of living adjustment (COLA) is created for firefighters. COLA payments shall commence at the end of the fourth year following initial receipt of retirement benefits for all members who reach early or normal retirement age and begin receiving early or normal retirement benefits (either directly or through the DROP) after September 30, 2001, and the beneficiaries of such members. Notwithstanding the foregoing, members who retire or terminate employment on or after January 1, 2004, may elect, in lieu of the two (2) percent COLA described above, a one (1)

Code of Ordinances percent annual COLA commencing twelve (12) months after initial receipt of retirement benefits, which would increase to a two (2) percent annual COLA at the end of the sixth year following initial receipt of retirement benefits. Also, effective January 1, 2004, the COLA payments for those members who participate in the DROP for more than three (3) years shall commence twelve (12) months after the DROP participant separates from city employment.

- (b) Effective October 1, 2013, the annual COLA shall be increased to two and one-half (2½) percent for firefighter members who terminate employment and begin receiving normal retirement benefits or enter DROP on or after October 1, 2010, and the beneficiaries of such members. The two and one-half (2½) percent COLA shall commence at the end of the seventh year following initial receipt of retirement benefits. Members who entered the DROP prior to October 1, 2010, and are actively employed and participating in the DROP on August 16, 2011 shall be eligible for the two and one-half (2½) percent COLA, payable on October 1, 2013 or the end of the seventh year following the member's initial receipt of benefits, whichever occurs later.

(Ord. No. 124-X-01-A, § 3, 1-23-01; Ord. No. 124-X-03-C, § 5, 12-23-03; Ord. No. 124-X-13-B, § 2, 8-13-13)

**Editor's note—** The benefits provided in this section shall not be included in any actuarial valuation before October 1, 2001, and shall not result in any changes in contributions until on or after October 1, 2001.

#### **Sec. 11-57. - Reserved.**

**Editor's note—** Ord. No. 124-X-16-C, § 6, adopted July 12, 2016, repealed § 11-57, which pertained to state action resulting in increased city contributions to the firefighters' retirement plan and derived from Ord. No. 124-X-01-A, § 4, 1-23-01.

#### **Sec. 11-58. - Supplemental benefits for general employees.**

- (a) This section applies only to the general employees' retirement plan.
- (b) 13th check.
  - (1) Each eligible person shall receive a 13th check in accordance with this subsection. For purposes of the 13th check, an eligible person is any bargaining unit employee who is a member of the general employees' retirement plan and who terminates employment with immediate eligibility for early or normal retirement benefits, or

enters the DROP, after May 27, 2003, and the beneficiaries of such members. An eligible person must be receiving retirement benefits, or participate in the DROP, to receive the 13th check.

- (2) The total cost of the 13th check shall be funded solely from the cumulative net actuarial gains of the plan, with all actuarial gains and losses (including but not limited to investment gains and losses) accruing after October 1, 2000, less the amounts previously paid out for 13th checks and amounts credited to the city in accordance with this section, taken into account.
- (3) The amount of the 13th check will vary from person to person, based on the monthly retirement benefit each receives, and shall be determined in November and paid on or before December 15 each year based on the cumulative net actuarial gain for the plan as identified in the latest actuarial gain for the plan as identified in the latest actuarial valuation report. The maximum amount of the 13th check shall not exceed one hundred (100) percent of the monthly retirement benefit payable to each eligible person. The amount of the first 13th check shall be prorated for any person who has not received retirement benefits for at least twelve (12) months prior to payment of the first 13th check. The prorated amount shall be based on the time elapsed from payment of the first retirement benefit check through the end of the month immediately preceding payment of the first 13th check.
- (4) If the cumulative net actuarial gain in any plan year is less than the total amount required to fund the maximum 13th check benefit, the amount paid to each eligible person shall be prorated based on the net actuarial gain available. If the cumulative net actuarial gain in any plan year is zero or less, no 13th check shall be paid that year. However, notwithstanding any provision to the contrary, effective January 1, 2004 each eligible person will receive at least one-half (½) of the maximum amount of a 13th check irrespective of the net actuarial gain available and any eligible person who retires and begins receiving retirement benefits after the 13th check benefit takes effect but before February 1, 2004, shall also be eligible for this benefit after January 1, 2004. Notwithstanding any provision to the contrary, effective October 1, 2007 each employee who terminates employment with immediate eligibility for early or normal retirement benefits or enters the DROP after October 1, 2007, will receive at least seventy-five (75) percent of the maximum amount of a 13th check irrespective of the net actuarial gain available

(5)

Code of Ordinances If the cumulative net actuarial gain in any plan year exceeds the amount needed to fund the maximum 13th check benefit, the remaining amount of the excess up to the total amount of all 13th checks paid shall be credited against the city's contributions to the pension fund. Any cumulative net actuarial gains that remain after payment of the 13th check and city contributions credits shall be brought forward to the next year for calculation purposes only.

(Ord. No. 124-X-03-A, § 1, 5-27-03; Ord. No. 124-X-04-A, § 1, 1-13-04; Ord. No. 124-X-05-C, § 1, 1-25-05; Ord. No. 124-X-07-C, § 2, 10-23-07)

### **Sec. 11-59. - Deferred retirement option program for general employees.**

- (a) This section applies only to the general employees' retirement plan.
- (b) Deferred retirement option program (DROP) for general employees who are not management or senior management.
  - (1) Effective January 1, 2004, a deferred retirement option plan ("DROP") is hereby established for eligible general employees.
  - (2) Eligibility and participation:
    - a. A general employee who attains early or normal retirement age shall be eligible to participate in the DROP.
    - b. An employee's election to participate in the DROP shall be irrevocable.
    - c. An eligible member may participate in the DROP for a maximum of sixty (60) months. Effective October 1, 2005, eligible employees may enter the DROP at any time between early or normal retirement age and the five-year anniversary of the earliest normal retirement age. An eligible employee who wishes to participate in the DROP must provide at least thirty (30) days' advance written notice to the city of his or her election to participate in the DROP. An employee who elects to participate in the DROP may elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days' advance written notice to the city.
    - d. Effective October 1, 2005, an eligible employee who delays entry into the DROP until after the five-year anniversary date of the earliest normal retirement age may elect to enter the DROP, upon thirty (30) days' written notice, for a declining maximum DROP period. For every month the employee delays entry in the DROP after the five-year anniversary of the earliest normal retirement age, the maximum DROP period will be reduced by one (1) month.

### (3) DROP plan features:

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- a. An eligible member who elects to participate in the DROP will be considered to have retired for purposes of the pension plan. The member's monthly retirement benefit, determined in accordance with the plan based on years of creditable service and average final compensation at the time the member enters the DROP, will be paid into his or her other DROP account every month during the DROP period. No member contributions shall be required after a member enters the DROP, and the member will not accrue any additional creditable service or any additional benefits under the pension plan after entering the DROP.
- b. A member who elects to participate in the DROP shall not be eligible for disability or preretirement death benefits under the pension plan.
- c. As a condition of participating in the DROP, the member must agree to terminate city employment at the conclusion of the DROP period, and to submit an irrevocable letter of resignation stating this prior to entering the DROP. Employees who elect to participate in the DROP must also submit an irrevocable written DROP election on forms provided by the city prior to entering the DROP.
- d. Participation in the DROP is not a guarantee of employment, and DROP participants will be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.
- e. During a member's participation in the DROP, the member's monthly retirement benefit will be paid into the DROP account. The DROP account of a member who enters the DROP prior to October 1, 2009 will earn interest at the same rate as the investment earnings assumption for the pension plan. The investment earnings assumption may be adjusted up or down during a member's participation in the DROP, which will result in a change in the prospective interest rate credit on the member's DROP account. The DROP account of a member who enters the DROP on or after October 1, 2009 will earn interest at the rate of four (4) percent per year, compounded annually.
- f. Within thirty (30) days following a DROP participant's termination of city employment or death, the member, or in the event of the member's death the member's designated beneficiary, may submit a written election on a form approved by the board, to receive the member's entire DROP account balance, which shall be distributed to the member (or in the event of the member's death to the member's designated beneficiary or estate in accordance with paragraph

Code of Ordinances (2)g. below) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover would be accomplished in accordance with section 11-50 of the pension plan. In the event a member or designated beneficiary does not submit a written election to receive a distribution of the member's DROP account balance within thirty (30) days following the member's termination of city employment or death, the DROP account shall be maintained but shall not earn interest.

g. If a DROP participant dies before his or her DROP account is distributed, the participant's designated beneficiary shall have the same rights as the participant with respect to the distribution of the DROP account. If the member has not designated a beneficiary, the DROP account balance shall be paid to the member's estate.

h. The pension board shall adopt any necessary rules for administering the DROP.

(c) An eligible member may participate in the DROP for a maximum of sixty (60) months. Effective October 1, 2005, eligible employees may enter the DROP at any time between early or normal retirement age and the five-year anniversary of the earliest normal retirement age. An eligible employee who wishes to participate in the DROP must provide at least thirty (30) days' advance written notice to the city of his or her election to participate in the DROP. An employee who elects to participate in the DROP may elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days' advance written notice to the city. Effective February 26, 2008, an eligible member may participate in the DROP for a maximum of seventy-two (72) months. Any such member who is participating in the DROP on February 26, 2008 may elect to extend the period of DROP participation and city employment by up to twelve (12) months, by submitting a written election to the city within thirty (30) days after the effective date of this section.

(Ord. No. 124-X-03-B, § 4, 12-23-03; Ord. No. 124-X-05-F, § 4, 9-27-05; Ord. No. 124-X-05-H, § 5, 12-13-05; Ord. No. 124-X-08-B, § 2, 3-18-08; Ord. No. 124-X-09-A, § 8, 10-13-09)

**Editor's note—** Pursuant to § 6 of Ord. No. 124-X-08-B, § 11-59(c) shall be effective retroactive to October 1, 2007.

## **Sec. 11-60. - Cost of living adjustment for police officers.**

(a)



Effective January 1, 2006, an annual two (2) percent cost of living adjustment (COLA) shall be provided to members of the police officers' retirement plan who terminate employment and begin receiving normal retirement benefits (either directly or through the DROP) on or after January 1, 2006, and the beneficiaries of such members, in accordance with this section. The COLA shall commence at the end of the fifth year following initial receipt of retirement benefits, or for DROP participants, five (5) years after entry into the DROP.

- (b) Effective October 1, 2008, an annual two and one-half (2.5) percent COLA shall be provided to members of the police officers' retirement plan who terminate employment and begin receiving normal retirement benefits (either directly or through the DROP) on or after October 1, 2008, and the beneficiaries of such members, in accordance with this section. The COLA shall commence at the end of the fifth year following initial receipt of retirement benefits, or for DROP participants who participate in the DROP for more than five (5) years, upon termination of employment. Notwithstanding any other provision of this subsection, members of the police officers' retirement plan who are hired or rehired on or after September 30, 2015 shall not be entitled to a COLA; except that a police officer hired before September 30, 2015 who terminates employment and is subsequently rehired by the city as a police officer on or after September 30, 2015 may be entitled to a COLA based on creditable service during his/her initial period of city employment, as provided in section 11-38.

(Ord. No. 124-X-05-G, § 3, 12-13-05; Ord. No. 124-X-08-C, § 4, 10-14-08; Ord. No. 124-X-15-B, § 11, 9-15-15)

## **Sec. 11-61. - Construction of plan.**

This plan shall in all cases be construed to comply with the applicable requirements of the Internal Revenue Code, including but not limited to applicable requirements contained in Sections 401 and 415, and regulations promulgated thereunder. Notwithstanding any other provision of this plan to the contrary, in the event of a mandatory cash distribution to a member that is not otherwise required by law, such distribution shall be made only upon the written request of the member and completion by the member of a written election on a form approved by the board, to either receive a cash lump sum or to roll over the distribution in accordance with section 11-50.

(Ord. No. 124-X-05-H, § 6, 12-13-05)

**Editor's note**— Ord. No. 124-X-05-H, § 6, adopted Dec. 13, 2005, amended the Code by adding provisions designated as a new § 11-60. Inasmuch as Ord. No. 124-X-05-G, § 3, adopted Dec. 13, 2005 already added provisions so designated, the provisions of Ord. No. 124-X-05-H have been included herein as a new § 11-61 at the discretion of the editor. See also the Code Comparative Table.

**Sec. 11-62. - Benefits and member contributions for general employees, including management and senior management personnel, hired or rehired on or after October 1, 2009.**

- (a) Notwithstanding any other provision of the plan, general employees, including management and senior management personnel, hired or rehired on or after October 1, 2009, shall receive the same retirement benefits as general employees hired or rehired prior to that date who are not management or senior management personnel, except as follows:
  - (1) The normal retirement age shall be age sixty-two (62) or older with six (6) years of creditable service
  - (2) The early retirement age shall be age fifty-seven (57) with six (6) years of creditable service.
  - (3) The vesting period shall be six (6) years of full-time contributing employment with the city.
  - (4) Upon reaching normal retirement age, a member is entitled to a normal retirement benefit of two and one-half percent (2.5%) of average final compensation for each year of creditable service, up to a maximum benefit of eighty percent (80%) of average final compensation.
- (b) Notwithstanding any other provision of the plan, general employees, excluding management and senior management personnel, hired or rehired on or after October 1, 2009 shall contribute eight (8) percent of their salary to the plan for the term of the 2014-2017 collective bargaining agreement between the city and fraternal order of police for general employees (including any time periods after contract expiration but prior to a successor agreement becoming effective). Thereafter, the member contribution shall be subject to adjustment in accordance with the cost-sharing provisions found in section 11-26 of the plan.
- (c)

Code of Ordinances Notwithstanding any other provision of the plan, management and senior management personnel hired or rehired on or after October 1, 2009 shall contribute eight (8) percent of their salary to the plan.

(Ord. No. 124-X-09-A, § 9, 10-13-09; Ord. No. 124-X-15-A, § 4, 3-24-15; Ord. No. 124-X-16-B, § 7, 6-14-16; Ord. No. 124-X-16-D, § 6, 9-28-16)

### **Sec. 11-63. - Supplemental benefit for firefighters.**

- (a) Effective October 1, 2009, firefighters who terminate employment and begin receiving normal or early retirement benefits (i.e., employees who retire/DROP and terminate) on or after October 1, 2007, shall receive a supplemental monthly benefit in the initial amount of twenty-five dollars (\$25.00) per year of creditable service, up to a maximum of five hundred dollars (\$500.00) per month until age sixty-five (65), and fifteen dollars (\$15.00) per year of creditable service up to a maximum of three hundred dollars (\$300.00) per month thereafter, contingent on the annual adjustment described in section 11-57. Each retiree's supplemental benefit shall be in addition to the normal or early retirement benefit paid under the plan, and shall be paid only if the retiree is then alive. Each retiree's supplemental benefit shall be determined on an annual basis, and the amount of the benefit may vary from year to year or the benefit may be discontinued entirely, based on the adjustment described in section 11-57.

(Ord. No. 124-X-09-A, § 10, 10-13-09)

### **Sec. 11-64. - Termination of police or firefighter plan and distribution of fund.**

Upon termination of the police or firefighter plans for any reason, the rights of all members to benefits accrued to the date of such termination and the amounts credited to the employees' accounts are nonforfeitable. The fund shall be distributed in accordance with the following procedures:

- (1) The board shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits after taking into account the expenses of such distribution. The board shall inform the city if additional assets are required, in which event the city shall continue to financially support the plan until all nonforfeitable benefits have been funded.
- (2)

Code of Ordinances The board shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each police officer or firefighter entitled to benefits under the plan as specified in subsection (3).

- (3) The board shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.
- (4) The board shall distribute, in accordance with subsection (2) above, the amounts determined under subsection (3) above.
- (5) If there is asset value remaining after the full distribution specified in subsection (3), and after the payment of any expenses incurred with such distribution, such excess shall be returned to the city, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the city and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the city and the state.

(Ord. No. 124-X-10-A, § 5, 4-27-10)

## **Sec. 11-65. - Provisions for firefighters hired or rehired on or after September 25, 2012.**

- (a) *Benefits.* Members of the firefighters' plan hired or rehired on or after September 25, 2012 shall be entitled to the applicable benefits provided in sections 11-2 through 11-61, except as follows:
  - (1) The normal retirement age for firefighters hired or rehired on or after September 25, 2012 shall be age fifty-five (55) or older with ten (10) years of creditable service or age fifty-two (52) with twenty-five (25) years of creditable service.
  - (2)

## Code of Ordinances

Upon reaching the normal retirement age, a firefighter hired or rehired on or after September 25, 2012 shall be entitled to a retirement benefit of three (3) percent of average final compensation for each of the first twenty-five (25) years of creditable service, plus one (1) percent each year thereafter, for a maximum benefit of eighty (80) percent. For example: a member who retires with twenty-five (25) years of creditable service will receive a benefit of seventy-five (75) percent of average final compensation, and an employee who retires with thirty (30) years of creditable service will receive a benefit of eighty (80) percent of average final compensation.

- (3) A firefighter hired or rehired on or after September 25, 2012 may elect an early retirement benefit upon reaching age fifty (50) with ten (10) or more years of creditable service. The early retirement benefit will be reduced by three (3) percent for each year by which the member's age at retirement precedes age fifty-five (55).
- (b) *Contributions.* Members of the firefighters' plan hired or rehired on or after September 25, 2012 shall make regular contributions to the plan of nine (9) percent of salary. Notwithstanding the preceding sentence, effective the first full pay period following November 13, 2012 members of the firefighter plan hired or rehired on or after September 25, 2012 shall make regular contributions to the plan of ten and sixty-three hundredths (10.63) percent of salary.

(Ord. No. 124-X-12-A, § 7, 9-25-12; Ord. No. 124-X-12-B, § 3, 11-13-12; Ord. No. 124-X-16-C, § 7, 7-12-16)

### **Sec. 11-66. - Provisions for police officers hired or rehired on or after September 30, 2015.**

- (a) *Benefits.* Members of the police officers' retirement plan hired or rehired on or after September 30, 2015 shall be entitled to the applicable benefits provided in sections 11-2 through 11-61, except as follows:
  - (1) The normal retirement age for police officers hired or rehired on or after September 30, 2015 shall be age fifty-five (55) or older with ten (10) years of creditable service or age fifty-two (52) with twenty-five (25) years of creditable service.
  - (2) Upon reaching the normal retirement age, a police officer hired or rehired on or after September 30, 2015 shall be entitled to a retirement benefit of three (3) percent of average final compensation for each of the first twenty (20) years of creditable service, plus two (2) percent each year thereafter, for a maximum benefit of seventy (70) percent. For example, an employee at retirement age with twenty-five (25) years

Code of Ordinances of creditable service will receive a benefit of seventy (70) percent of average final compensation. Provided, in no event shall any such member receive a benefit that is less than two and three-fourths (2.75) percent for each year of credited service.

- (3) A police officer hired or rehired on or after September 30, 2015 may elect an early retirement benefit upon reaching age fifty (50) with ten (10) or more years of creditable service. The early retirement benefit will be reduced by three (3) percent for each year by which the member's age at retirement precedes age fifty-five (55).
- (4) Average final compensation for a police officer hired or rehired on or after September 30, 2015 shall be based upon the best five (5) consecutive years of the employee's last ten (10) years of creditable service.
- (5) "Salary" for a police officer hired or rehired on or after September 30, 2015 shall exclude all overtime pay.
- (6) Upon reaching normal retirement eligibility, a police officer hired or rehired on or after September 30, 2015 may participate in the DROP for a maximum of four (4) years. Upon reaching normal retirement eligibility, such police officer shall have a maximum of six months to elect DROP participation and enter into the DROP. Until the police officers' retirement plan is fully funded (i.e., when the plan fiduciary net position as a percentage of the total pension liability is one hundred (100) percent or greater), the DROP interest rate for such police officers shall be zero (0) percent. Should the police officers' retirement plan become fully funded, DROP interest shall be earned at a rate based on the actual return of the plan with a minimum of zero (0) percent and a maximum of four (4) percent. A police officer may defer entry into the DROP for up to six (6) months beyond their earliest normal retirement date. Failure to begin DROP participation on or before the first available day after (6) months following a member's earliest normal retirement date shall result in the member forfeiting all rights to DROP participation.
- (7) A 13th Check Benefit will be paid to retired police officers hired or rehired on or after September 30, 2015 for years of excess investment earnings, if the funded status of the plan is one hundred (100) percent or greater (i.e., when the plan fiduciary net position as a percentage of the total pension liability is one hundred (100) percent or greater). The amount of the 13th check benefit shall be based on the retired member's monthly retirement benefit and shall not exceed one hundred (100) percent of the monthly retirement benefit payable to the eligible retiree. The amount of the 13th check benefit shall be prorated if the excess investment earnings are

Code of Ordinances insufficient to fund the full benefit. "Excess investment earnings" means market rate investment earnings on police officers' retirement plan assets (net of expenses) that exceed the assumed rate of return for a given plan year.

- (8) Service-connected disability benefits for a police officer hired or rehired on or after September 30, 2015 shall be a maximum of seventy (70) percent of salary at the time of disability, less offsets for workers' compensation disability benefits, salary and net earnings from self-employment as provided in section 11-33, with a minimum benefit of forty-two (42) percent of average final compensation.
- (10) A police officer hired or rehired on or after September 30, 2015 shall be eligible for non-service connected disability benefits upon reaching ten (10) years of creditable service. Upon the pension board's determination that such police officer is eligible for a non-service connected disability, the benefit shall be equal to the member's accrued benefit as of the date of disability, which amount shall not be less than twenty-five (25) percent nor more than fifty (50) percent of average final compensation.
- (11) The service-connected pre-retirement death benefit for a police officer hired or rehired on or after September 30, 2015 shall be equal to the member's accrued benefit, up to seventy-five (75) percent of average final compensation, actuarially adjusted for the beneficiary's age and payable immediately and for the lifetime of the member's beneficiary. If there is no beneficiary, then the benefit shall be payable to the member's estate for ten (10) years.
- (12) A police officer hired or rehired on or after September 30, 2015 shall be eligible for non-service connected pre-retirement death benefits upon reaching ten (10) years of creditable service. Non-service connected pre-retirement death benefits shall be equal to a member's accrued benefit, actuarially adjusted for the beneficiary's age, with the benefit commencing on the date the member would have attained early or normal retirement age.
- (b) *Contributions.* Members of the police officers' plan hired or rehired on or after September 30, 2015 shall make regular contributions to the plan of eight (8) percent of salary.

(Ord. No. 124-X-15-B, § 12, 9-15-15)

## **Sec. 11-67. - Police officers' share plan.**

A share plan shall be established for police officer members as follows:

- Code of Ordinances
- (a) For accounting purposes, an individual share account shall be established for each active member (including DROP participants) of the pension plan. The plan shall account for each member's share account balance as provided herein.
  - (b) Each active plan member who has at least one (1) full year of credited service on the last day of the fiscal year in which there are available funds shall receive an equal share of the available funds, less administrative expenses, deposited into his/her share account.
  - (c) On January 1 of each year, share accounts will be credited with the earnings of the share plan in the proportion that the individual account bears to the total of all accounts.
  - (d) The plan administrator shall provide an annual statement to the board of trustees and each share plan member on or before April 1 each year, showing each member's Individual share account balance and the interest credited to the member's account that year.
  - (e) The expense of administering the share plan for the preceding plan year shall be determined by the board of trustees and charged against the available funds received for that year, before allocations are made to member share accounts.
  - (f) A member's share account shall be distributed to the member within sixty (60) days following retirement. A member's share account distribution may be rolled over to another qualified plan in accordance with section 11-50. If a member dies before retirement, the member's share account balance on the date of death shall be distributed to the member's designated beneficiary(ies).
  - (g) In the event a share plan member separates from city employment before attaining ten (10) years of creditable service, or separates from city employment after attaining ten (10) years of credited service but elects to receive a refund of member contributions in lieu of any benefit from the plan, the member shall forfeit his/her share account balance. Forfeitures shall not be used to increase the benefits of any plan member, and will be used to reduce plan expenses and/or employer contributions.

(Ord. No. 124-X-15-B, § 13, 9-15-15; Ord. No. 124-X-16-A, s; 2, 1-26-16)

#### **Sec. 11-68. - Firefighter' share plan.**

A share plan shall be established for firefighter members as follows:



- Code of Ordinances
- (a) For accounting purposes, an individual share account shall be established for each active member (including DROP participants) of the pension plan. The plan shall account for each member's share account balance as provided herein.
  - (b) Each active plan member who has at least one (1) full year of credited service on the last day of the fiscal year in which there are available funds shall receive an equal share of the available funds, less administrative expenses, deposited into his/her share account.
  - (c) On January 1 of each year, share accounts will be credited with the earnings of the share plan in the proportion that the individual account bears to the total of all accounts.
  - (d) The plan administrator shall provide an annual statement to the board of trustees and each share plan member on or before April 1 each year, showing each member's Individual share account balance and the interest credited to the member's account that year.
  - (e) The expense of administering the share plan for the preceding plan year shall be determined by the board of trustees and charged against the available funds received for that year, before allocations are made to member share accounts.
  - (f) A member's share account shall be distributed to the member within sixty (60) days following retirement. A member's share account distribution may be rolled over to another qualified plan in accordance with section 11-50. If a member dies before retirement, the member's share account balance on the date of death shall be distributed to the member's designated beneficiary(ies).
  - (g) In the event a share plan member separates from City employment before attaining ten (10) years of creditable service, or separates from City employment after attaining ten (10) years of credited service but elects to receive a refund of member contributions in lieu of any benefit from the plan, the member shall forfeit his/her share account balance. Forfeitures shall not be used to increase the benefits of any plan member, and will be used to reduce plan expenses and/or employer contributions.

(Ord. No. 124-X-16-C, § 8, 7-12-16)

**Secs. 11-69—11-99. - Reserved.**

## **ARTICLE III. - SOCIAL SECURITY<sup>[2]</sup>**

## Code of Ordinances

**Sec. 11-100. - Policy.**

It is hereby declared to be the policy and purpose of the city to extend, effective as of October 1, 1961, to the employees and officials thereof, not excluded by law, nor excepted herein, the benefits of the system of old age and survivors' insurance as authorized by the Federal Social Security Act and amendment thereto, and by F.S. Chapter 650, and to cover by such plan all services defined by F.S. § 650.02 performed in the employ of the city by employees and officials thereof.

(Code 1972, § 16-31; Ord. No. 124-X-16-A, § 4, 1-26-16)

**Sec. 11-101. - Agreement with state.**

The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the state for the purpose of extending the benefits provided by the system of old age and survivors' insurance to the employees and officials of this city, which agreement shall provide for such methods of administration of the plan by the city as are found by the state agency to be necessary and proper, and shall be effective with respect to services in employment covered by such agreement performed on and after October 1, 1961.

(Code 1972, § 16-32; Ord. No. 124-X-16-A, § 4, 1-26-16)

**Sec. 11-102. - Salary withholdings.**

Withholdings from salaries, wages or other compensation of employees and officials for the purposes provided herein are hereby authorized to be made, and shall be made, in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state agency designated by laws or regulations to receive such amounts.

(Code 1972, § 16-33; Ord. No. 124-X-16-A, § 4, 1-26-16)

**Sec. 11-103. - City contributions.**

Code of Ordinances There shall be appropriated from available funds, derived from building permits and franchise fees, such amounts, at such times, as may be required to pay promptly the contributions and assessments required of the city as employer by applicable state or federal laws or regulations, which shall be paid over to the lawfully designated state agency at the times and in the manner provided by law and regulation.

(Code 1972, § 16-34; Ord. No. 124-X-16-A, § 4, 1-26-16)

### **Sec. 11-104. - Records.**

The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations, and shall adhere to the regulations of the state.

(Code 1972, § 16-35; Ord. No. 124-X-16-A, § 4, 1-26-16)

### **Sec. 11-105. - Adoption of Social Security Act.**

The city does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges, and other conditions thereunto appertaining, of Title II of the Social Security Act as amended, for and on behalf of all officers and employees of its departments and agencies to be covered under the agreement.

(Code 1972, § 16-36; Ord. No. 124-X-16-A, § 4, 1-26-16)

### **Sec. 11-106. - Custodian of funds.**

The finance director is hereby designated as the custodian of all sums withheld from the compensation of officers and employees and of the appropriated funds for the contribution of the city and the finance director is hereby made the withholding and reporting agent and charged with the duty of maintaining personnel records for the purposes of this article.

(Code 1972, § 16-37; Ord. No. 124-X-16-A, § 4, 1-26-16)

< Sec. 10-32. - Amendment.

Chapter 12 - SOLID WASTE >