

**TEMPLE TERRACE CODE
RETIREMENT AND PENSIONS**

Section 18.195 FIREFIGHTERS' RETIREMENT SYSTEM.

Section 18.195.1 DEFINITIONS.

(a) As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated:

Accumulated Contributions means a Member's own contributions without interest. For those members who purchase credited service with interest or at no cost to the system, only that portion of any payment representing the amount attributable to member contributions based on the applicable member contribution rate, shall be included in accumulated contributions. Accumulated contributions also includes the amount the Member contributes to the Trust Fund which represents the actuarial equivalent of the value of benefits attributable to the purchase of military service prior to employment pursuant to Section 18.195.20 and attributable to the purchase of fire service prior to employment pursuant to Section 18.195.26. (*Ord. No. 1265, 2-16-10*)

Actuarial Equivalent means a benefit or amount of equal value, based upon actuarial assumptions and an interest rate as determined by the Board of Trustees after advice by the Fund's Actuary.

Average Final Compensation means the average of the four (4) highest calendar years of compensation or salary for credited service of the last ten (10) calendar years prior to retirement, termination or death. The amount of vacation payoff shall not be included in one of the four (4) highest calendar years of compensation but shall be added to such before dividing by 48 to obtain the average final monthly compensation. For in-line-of-duty disability benefits, if less than four (4) years of credited service have been completed, the term "Average Final Compensation" means the average annual compensation of the total number of years of credited service. Each year used in the calculation of Average Final Compensation shall commence on January 1. When the last calendar year prior to retirement, termination, or death does not constitute a full calendar year, such partial calendar year may be used in connection with part of another calendar year, pursuant to written rules adopted by the Board of Trustees. (*Ord. No. 1231, 6-17-08*)

Beneficiary means the person or persons entitled to receive benefits hereunder at the death of a Member who has or have been designated in writing by the Member and filed with the Board. If no such designation is in effect, or if no person so designated is living, at the time of death of the Member, the Beneficiary shall be the estate of the Member.

Board means the Board of Trustees, which shall administer and manage the System herein provided and serve as trustees of the Fund.

City means City of Temple Terrace, Florida.

Code means the Internal Revenue Code of 1986, as amended from time to time.

Credited Service means the aggregate number of years and fractional parts of years of service as a Firefighter with Member contributions to the System, omitting intervening years or fractional parts of years when such Firefighter may not be employed by the City. No 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 Firefighter repays into the Fund the amount he or she has withdrawn, plus interest determined by the Board. The Member shall have 120 days after his or her reemployment to make repayment. A Firefighter may voluntarily leave his accumulated contributions in the Fund for a period of five (5) years after leaving the employ of the Fire Department pending the possibility of being rehired, without losing credit for the time of active participation as a Firefighter. If the Firefighter is not reemployed within five (5) years, then the Accumulated Contributions will be returned upon request of the Member. (*Ord. No. 1265, 2-16-10*)

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The years or fractional parts of years that a Firefighter serves in the military service of the Armed Forces of the United States or the United States Merchant Marine, voluntarily or involuntarily, after initial employment with the City shall be added to his years of Credited Service for all purposes, including vesting, pursuant to applicable provisions of federal and state law.

Credited service shall also include military service prior to employment purchased pursuant to Section 18.195.20.

Credited service shall also include prior service as a firefighter for some other employer, as long as the firefighter is not entitled to receive a benefit for such other prior service as a firefighter, purchased pursuant to Section 18.195.26. (*Ord. No. 1231, 6-17-08*)

Effective Date means August 1, 1972.

Firefighter means an actively employed full-time person employed by the City, including his initial probationary employment period, who is certified as a Firefighter as a condition of employment in accordance with the provisions of § 633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life and to protect property. The term shall also mean any person whose name is carried on the active membership roll of the Temple Terrace Fire Department as a volunteer firefighter, and whose duty it is to extinguish fires, to protect life and to protect property.

Fund means the trust fund established herein as part of the System.

Member means an actively employed Firefighter who fulfills the prescribed membership requirements. Benefit improvements which, in the past, have been provided for by amendments to the System adopted by city ordinance, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to Members who terminate employment or who retire or enter the Deferred Retirement Option Program prior to the effective date of any ordinance adopting such benefit improvements, unless such ordinance specifically provides to the contrary.

Plan year means the twelve (12) month period beginning October 1 and ending September 30 of the following year.

Retiree means a member who has entered retirement status.

Retirement means a member's separation from employment as a firefighter with the City with eligibility for receipt of benefits under the system, or entry into the Deferred Retirement Option Program.

System means the City of Temple Terrace Firefighters' Retirement System as contained herein and all amendments thereto, and rules adopted pursuant thereto.

(b) **Masculine Gender.** The masculine gender, where used herein, unless the context specifically requires otherwise, shall include both the feminine and masculine genders.

Section 18.195.2 MEMBERSHIP.

(a) **Conditions of Eligibility.**

- (1) All Firefighters as of the Effective Date, and all future new Firefighters, shall become Members of this System as a condition of employment.
- (2) All Firefighters shall be required to complete a complete medical examination as prescribed by the City.

(b) **Membership.**

Each Firefighter shall complete a form prescribed by the Board designating a beneficiary or beneficiaries.

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Section 18.195.3 BOARD OF TRUSTEES.

(a) The sole and exclusive administration of and responsibility for the proper operation of the System and for making effective the provisions of this article are hereby vested in a Board of Trustees. The Board is hereby designated as the plan administrator. The Board shall consist of five (5) Trustees, two of whom, unless otherwise prohibited by law, shall be legal residents of the municipality, who shall be appointed by the City Council of the City; and two of whom shall be full-time Firefighter Members of the System, who shall be elected by a majority of the Firefighters who are Members of the System. The fifth Trustee shall be chosen for a two (2) year term by a majority of the previous four Trustees as provided for herein, and such person's name shall be submitted to the City Council of the City. Upon receipt of the fifth person's name, the City Council of the City shall, as a ministerial duty, appoint such person to the Board of Trustees as its fifth Trustee. The fifth Trustee shall have the same rights as each of the other four Trustees appointed or elected as herein provided and shall serve a two (2) year term unless the office is sooner vacated and may succeed himself in office. Each resident shall serve as Trustee for a period of two (2) years, unless sooner replaced by the City Council of the City at whose pleasure the Trustee shall serve, and may succeed himself as a Trustee. Each Firefighter Trustee shall serve as Trustee for a period of two (2) years, unless he sooner retires, leaves employment as a Firefighter with the City, enters DROP, or otherwise vacates his office as Trustee, whereupon a successor shall be chosen in the same manner as the departing Trustee. Each Firefighter may succeed himself in office. The Board shall meet at least quarterly each year. The Board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

(b) The Trustees shall, by a majority vote, elect a Chair, Vice Chair, and a Secretary. The Secretary of the Board shall keep a complete minute book of the actions, proceedings, or hearings of the Board. The Trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

(c) Each Trustee shall be entitled to one vote on the Board. Three (3) affirmative votes shall be necessary for any decision by the Trustees at any meeting of the Board. A Trustee shall have the right to abstain from voting as the result of a conflict of interest provided that Trustee complies with the provisions of § 112.3143, Florida Statutes.

(d) The Board shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the System. The compensation of all persons engaged by the Board and all other expenses of the Board necessary for the operation of the System shall be paid from the Fund at such rates and in such amounts as the Board shall agree.

(e) The duties and responsibilities of the Board shall include, but not necessarily be limited to, the following:

- (1) To construe the provisions of the System and determine all questions arising thereunder.
- (2) To determine all questions relating to eligibility and membership.
- (3) To determine and certify the amount of all retirement allowances or other benefits hereunder.
- (4) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the System.
- (5) To distribute to Members, at regular intervals, information concerning the System.
- (6) To receive and process all applications for membership and benefits.

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- (7) To authorize all payments whatsoever from the Fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the System and Fund.
- (8) To have performed actuarial studies and valuations, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the System.
- (9) Make the final determination of a member's eligibility for the disability benefits provided herein.
- (10) To perform such other duties as are specified in this Article.
- (11) To perform such other duties as are specified in Section 175.071, Florida Statutes.

Section 18.195.4 FINANCES AND FUND MANAGEMENT.

Establishment and Operation of Fund.

(a) As part of the System, there exists the Fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the System.

(b) The actual custody and supervision of the Fund (and assets thereof) shall be vested in the Board. Payment of benefits and disbursements from the Fund shall be made by the disbursing agent but only upon written authorization from the Board.

(c) All funds of the Firefighters' Retirement System may be deposited by the Board with the Finance Director of the City, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the City. However, any funds so deposited with the Finance Director of the City shall be kept in a separate fund by the Finance Director or clearly identified as such funds of the Firefighters' Retirement System. In lieu thereof, the Board shall deposit the funds of the Firefighters' Retirement System in a qualified public depository as defined in § 280.02, Florida Statutes, which depository with regard to such funds and securities shall conform to and be bound by all of the provisions of Chapter 280, Florida Statutes. In order to fulfill its investment responsibilities as set forth herein, the Board may retain the services of a custodian bank, an investment advisor registered under the Investment Advisors Act of 1940 or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment manager shall have discretion, subject to any guidelines as prescribed by the Board, in the investment of all Fund assets.

(d) All funds and securities of the System may be commingled in the Fund, provided that accurate records are maintained at all times reflecting the financial composition of the Fund, including accurate current accounts and entries as regards the following:

- (1) Current amounts of Accumulated Contributions of Members on both an individual and aggregate account basis, and
- (2) Receipts and disbursements, and
- (3) Benefits payments, and
- (4) Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the City, and

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- (5) All interest, dividends and gains (or losses) whatsoever, and
- (6) Such other entries as may be properly required so as to reflect a clear and complete financial report of the Fund.

(e) An independent audit shall be performed annually by a certified public accountant for the most recent fiscal year of the System 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. Such report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.

(f) The Board shall have the following investment powers and authority:

- (1) The Board shall be vested with full legal title to said Fund, subject, however, and in any event to the authority and power of the Temple Terrace City Council to amend or terminate this Fund, provided that no amendment or Fund termination shall ever result in the use of any assets of this Fund except for the payment of regular expenses and benefits under this System. All contributions from time to time paid into the Fund, and the income thereof, without distinction between principal and income, shall be held and administered by the Board or its agent in the Fund and the Board shall not be required to segregate or invest separately any portion of the Fund.
- (2) The investment of the assets of the Fund shall be subject to the limitations and conditions set forth in Section 215.47(1), (6), (8), (9), (11), and (17), Florida Statutes, except as prohibited in paragraph (f)(4). (*Ord. No. 1265, 2-16-10*)
- (3) Pursuant to Section 112.661, Florida Statutes, the Board shall adopt a written investment policy.
- (4) Investment activity in the following is prohibited:
 - a. Short sales, margin purchases and borrowing.
 - b. Private placements and other restricted securities.
 - c. Commodities.
 - d. Puts, calls, straddles and hedging.
 - e. Warrants and other options, except as part of the purchase of another security.
 - f. Municipal and County bonds.
 - g. More than twenty-five (25) percent of the Fund's assets in foreign securities on a market-value basis. (*Ord. No. 1265, 2-16-10*)
- (5) At least once every three (3) years, and more often as determined by the Board, the Board shall retain a professionally qualified independent consultant, as defined in § 175.071, Florida Statutes, to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the Board at its next regularly scheduled meeting.

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- (6) The Board may retain in cash and keep unproductive of income such amount of the Fund as it may deem advisable, having regard for the cash requirements of the System.
- (7) Neither the Board nor any trustee shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the Fund, except that due to his or its own negligence, willful misconduct or lack of good faith.
- (8) The Board may cause any investment in securities held by it to be registered in or transferred into its name as Trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the Fund.
- (9) The Board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the Trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the Fund which it may deem to be to the best interest of the Fund to exercise.
- (10) The Board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.
- (11) Where any action which the Board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as Trustee under this Ordinance, can reasonably be taken or performed only after receipt by it from a Member, the City, or any other entity, of specific information, certification, direction or instructions, the Board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.
- (12) Any overpayments or underpayments from the Fund to a Member, Retiree or Beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the Board. Overpayment shall be charged against payments next succeeding the correction. Underpayments shall be made up from the Fund.
- (13) The Board shall sustain no liability whatsoever for the sufficiency of the Fund to meet the payments and benefits provided for herein.
- (14) In any application to or proceeding or action in the courts, only the Board shall be a necessary party, and no Member or other person having an interest in the Fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.
- (15) Any of the foregoing powers and functions reposed in the Board may be performed or carried out by the Board through duly authorized agents, provided that the Board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said Fund shall always remain in the Board.

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Section 18.195.5 CONTRIBUTIONS.

(a) Member Contributions.

- (1) Amount. Effective January 8, 2006, members of the System shall be required to make regular contributions to the Fund in the amount of ten and fifty-one hundredths percent (10.51%) of his Salary. Member contributions withheld by the City on behalf of the Member shall be deposited with the Board immediately after each pay period. The contributions made by each Member to the Fund shall be designated as employer contributions pursuant to § 414(h) of the Internal Revenue Code of 1986. Such designation is contingent upon the contributions being excluded from the Members' gross income for Federal Income Tax purposes. For all other purposes of the System, such contributions shall be considered to be Member contributions. (*Ord. No. 1157, 1-3-06*)
- (2) Method. Such contributions shall be made by payroll deduction.

(b) State Contributions. Any monies received or receivable by reason of laws of the State of Florida, for the express purpose of funding and paying for retirement benefits for Firefighters of the City shall be deposited in the Fund comprising part of this System immediately and under no circumstances more than five (5) days after receipt by the City.

(c) City Contributions. So long as this System is in effect, the City shall make quarterly contributions to the Fund in an amount equal to the difference in each year, between the total aggregate Member contributions for the year, plus state contributions for such year, and the total cost for the year, as shown by the most recent actuarial valuation of the System. The total cost for any year shall be defined as the total normal cost plus the additional amount sufficient to amortize the unfunded past service liability as provided in Part VII of Chapter 112, Florida Statutes.

(d) Other. Private donations, gifts and contributions may be deposited to 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 have otherwise been required City contributions.

Section 18.195.6 BENEFIT AMOUNTS AND ELIGIBILITY.

(a) Normal Retirement Date. A Member's normal retirement date shall be the first day of the month coincident with or next following the earlier of the completion of twenty-five (25) years of Credited Service or attainment of age fifty-five (55) and the completion of ten (10) years of Credited Service. A Member may retire on his normal retirement date or on the first day of any month thereafter, and each Member shall become 100% vested in his accrued benefit on the Member's normal retirement date. Normal retirement under the System is retirement from employment as a firefighter with the City on or after the normal retirement date.

(b) Normal Retirement Benefit. A Member retiring hereunder on or after his normal retirement date shall receive monthly benefit which shall commence on the first day of the month coincident with or next following his retirement date and be continued thereafter during Member's lifetime, ceasing upon death, but with one hundred twenty (120) monthly payments guaranteed in any event. In the event the member dies after retirement but before he has received retirement benefits for a period of ten (10) years, the same monthly benefit shall be paid to the beneficiary (or beneficiaries) as designed by the firefighter for the balance of such ten (10) year period.

- (1) The amount of monthly retirement income payable to a Firefighter who retires on or after his or her normal retirement date shall be an amount equal to the number of his or her years of credited service prior to October 1, 1981, multiplied by 2.5% plus the number of his or her

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years of credited service after October 1, 1981, multiplied by 3% of the average of the highest five years of the last ten years of compensation as a Firefighter.

- (2) For Firefighters who separate from employment as a firefighter or who enter DROP, whichever comes first, on or after October 1, 2003, but prior to January 1, 2006, the monthly retirement benefit shall equal three percent (3%) for each year of credited service, multiplied by the average compensation of the best four (4) years of the last ten (10) years of credited service as a firefighter prior to retirement, termination, or death, or entry into DROP, whichever comes first.
- (3) For Firefighters who separate from employment as a firefighter or who enter DROP, whichever comes first, on or after January 1, 2006, the monthly retirement benefit shall equal three percent (3.0%) for each year of credited service prior to June 1, 2001 and three and five-tenths percent (3.5%) for each year of credited service after June 1, 2001, multiplied by the average compensation of the best four (4) years of the last ten (10) years of credited service as a firefighter prior to retirement, termination, or death, or entry into DROP, whichever comes first. The actuarial cost of increasing the benefit accrual rate from three percent (3.0%) to three and five-tenths percent (3.5%) for credited service after June 1, 2001 shall first be borne by increasing members' contributions from 6.8% to 10.51% of the members' salary, then by the use of the annual premium tax revenues in excess of \$93,191.00 per calendar year up to a maximum additional annual amount of \$85,182, and then, if necessary, by city contributions. (*Ord. No. 1157, 1-3-06*)

(c) Early Retirement Date. A Member may retire on his early retirement date which shall be the first day of any month coincident with or next following the later of the attainment of age fifty (50) and the completion of ten (10) years of Credited Service. Early retirement under the System is retirement from employment as a firefighter with the City on or after the early retirement date and prior to the normal retirement date.

(d) Early Retirement Benefit. A Member retiring hereunder on his early retirement date may receive either a deferred or an immediate monthly retirement benefit payable in the same form as for normal retirement as follows:

- (1) A deferred monthly retirement benefit which shall commence on what would have been his normal retirement date had he remained a Firefighter and shall be continued on the first day of each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement on his normal retirement date except that Credited Service and Average Final Compensation shall be determined as of his early retirement date; or
- (2) An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in paragraph (1) above, which is actuarially reduced from the amount to which he would have been entitled had he retired on the date which would have been the Member's normal retirement date had he continued employment, with the same number of years of Credited Service as at the time his benefits commence and based on his Average Final Compensation at that date. In no event shall the early retirement reduction exceed three percent (3%) for each year by which the Member's age at retirement precedes the Member's normal retirement age.

(e) Lump-sum payment of small retirement income. Notwithstanding any provision of the plan to the contrary, if the monthly retirement income payable to any person entitled to benefits hereunder is less than \$100, or if the single-sum value of the accrued retirement income is less than \$5,000, as of the date of retirement or termination of service, whichever is applicable, the Board, in the exercise of its discretion, may specify that the actuarial equivalent of such retirement income be paid in a lump sum.

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Section 18.195.7 COST-OF-LIVING ADJUSTMENT.

(a) The retirement benefit for a Firefighter retiring after October 1, 2000 but before April 1, 2004 under the early or normal retirement provisions of the Fund shall be automatically increased by three (3) percent each year beginning on October 1 immediately following the Firefighter's 56th birthday and ending on October 1 immediately following the Firefighter's 70th birthday. For purposes of this paragraph (a), "retiring" means a Firefighter who separates from city employment as a firefighter other than because of disability or death who upon separation is immediately eligible for receipt of retirement benefits under the retirement plan, or who in lieu of terminating employment as a firefighter enters the Deferred Retirement Option Program (DROP). Provided however, for a Firefighter retiring after October 1, 2000, but before April 1, 2004, the Board of Trustees is authorized after advice by the Fund's Actuary to make an adjustment as a result of changing the month in which cost-of-living adjustments begin or are adjusted.

(b) For a Firefighter who separates from employment as a Firefighter or enters DROP, whichever comes first, on or after April 1, 2004, who has twenty-five (25) years or more of creditable service as a Firefighter, or who was granted line of duty disability retirement benefits by the Board of Trustees, or who was granted line of duty death benefits by the Board of Trustees, or who at the time of separation from employment as a Firefighter or entry into DROP had completed ten (10) or more years of creditable service as a Firefighter and had attained age fifty-five (55), the monthly retirement benefit payable shall be automatically increased by three (3) percent each year beginning on October 1 immediately following the Firefighter's 56th birthday and ending on October 1 immediately following the Firefighter's 70th birthday.

(c) Those persons who are eligible to receive monthly retirement benefits after the death of the Firefighter who was eligible for cost of living adjustments under paragraph (a) or (b) shall receive the cost-of-living adjustments at the same time the Firefighter would have received the cost-of-living adjustments but for the death of the Firefighter.

Section 18.195.8 DEFERRED RETIREMENT OPTION PROGRAM (DROP).

(a) Definitions. As used in this Subsection, the following definitions apply:

- (1) "DROP" shall mean the City of Temple Terrace Firefighters' Deferred Retirement Option Program as set forth in this Subsection.
- (2) "DROP Account" shall mean the account established for each DROP participant under Subsection (c).

(b) Participation.

- (1) Eligibility to Participate.

In lieu of terminating employment as a Firefighter, any Firefighter actively employed by the City and who is eligible to receive a normal retirement pension under the Firefighters' Pension Trust Fund may elect to defer receipt of such service retirement pension and to participate in the DROP.

- (2) Election to Participate.

A Firefighter's election to participate in the DROP must be made in writing in a time and manner determined by the Firefighters' Pension Trust Fund Board and shall be effective on the first day of the first calendar month which is at least thirty (30) business days after it is received by the Board. Member contributions to the Fund shall cease beginning with the first pay period after entry into DROP.

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(3) Period of Participation.

A Firefighter who elects to participate in the DROP under Subsection (b), paragraph (2), shall participate in the DROP for a period not more than 60 months. An election to participate in DROP shall constitute an irrevocable election to resign from service as a firefighter with the City not later than 60 months from the beginning of participation in DROP. A Firefighter may participate only once.

(4) Termination of Participation.

- a. A Firefighter participating in the DROP shall cease participating in the DROP by terminating employment as a Firefighter.
- b. Upon a Firefighter's termination of participation in the DROP, amounts shall cease to be credited to the DROP Account under Subsection (c), paragraph (2) and the DROP Account shall cease being credited with interest and investment earnings or losses under Subsection (c), paragraph (2)b. Upon termination of employment as a Firefighter any amounts remaining in the DROP account shall be paid in accordance with the provisions of Subsection (d).
- c. A Firefighter who elects to terminate participation in the DROP under this Subsection (b), paragraph (4) shall not be permitted to again become a participant in the DROP.

(5) Effect of DROP Participation on the Firefighters' Pension Trust Fund.

- a. A Firefighter's Credited Service and accrued benefit under the Firefighters' Pension Trust Fund shall be determined on the date participation in the DROP first becomes effective. The Firefighter shall not accrue any additional Credited Service or any additional benefits under the Firefighters' Pension Trust Fund (except for cost-of-living adjustments provided by the system) while a participant in the DROP. After a Member commences participation, he shall not be permitted to again contribute to the Firefighters' Pension Trust Fund nor shall he be eligible for disability or other pre-retirement benefits.
- b. No amounts shall be paid to a Firefighter from the Firefighters' Pension Trust Fund while the Firefighter is a participant in the DROP. No amounts shall be paid from the Firefighters' Pension Trust Fund until the Firefighter terminates employment as a Firefighter. Unless otherwise specified in the Firefighters' Pension Trust Fund, amounts credited to the Firefighter's DROP account shall be paid directly to the Firefighter only after the first day of the month coincident with or next following the termination of employment as a Firefighter.

(c) Funding.

- (1) **Establishment of DROP Account.** A DROP Account shall be established for each Firefighter participating in the DROP. A Firefighter's DROP Account shall consist of amounts credited to the DROP under Subsection (c), paragraph (2) and interest earnings on those amounts. With respect to the earnings to be credited, prior to entering the DROP, a Firefighter shall make an election to have his or her Account credited with either: i) a flat 6.5 % per annum, compounded quarterly, or ii) the actual investment return of the Trust Fund, net of all investment costs. The Firefighter may prospectively change the method of crediting earnings once during his or her period of participation in the DROP effective at the beginning of the next fiscal year quarter.

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(2) **Transfers from Retirement.**

- a. As of the first day of each month of a Firefighter's period of participation in the DROP, the monthly retirement benefit which would have been received under the Firefighters' Pension Trust Fund had the Firefighter terminated employment as a Firefighter and elected to receive monthly benefit payments thereunder shall be credited to a DROP Account.

A Firefighter's period of participation in the DROP shall be determined in accordance with the provisions of Subsection (b), paragraphs (3) and (4), but in no event shall it continue past the date of termination as a Firefighter.

- b. Except as otherwise provided in Subsection (b), paragraph (4) b., amounts credited to a Firefighter's DROP account under this Subsection (c), paragraph (2) shall be credited or debited with interest as follows:

1. After each fiscal year quarter, the average daily balance in a Firefighter's deferred retirement option account shall be credited with the flat interest rate or credited or debited at a rate equal to the actual net rate of investment return realized by the Firefighters' Pension Trust Fund for that quarter, as previously elected by the Firefighter. "Net investment return" for the purpose of this paragraph is the total return of the assets in which the Firefighter's DROP account is invested by the Board of Trustees net of brokerage commissions, management fees and transaction costs.

2. A Firefighter's DROP account shall only be credited or debited with earnings while the Firefighter is a participant in the DROP.

(d) **Distribution of DROP Accounts on Termination of Employment.**

(1) **Eligibility for Benefits.**

- a. As soon as administratively practicable following termination of employment, a Firefighter shall receive the balance in the DROP Account by direct rollover or in a cash lump sum, or a combination of both. No amounts shall be paid to a Firefighter from the DROP prior to termination of employment as a Firefighter.
- b. Notwithstanding the preceding, if a Firefighter dies before benefits commence, the balance in the DROP Account shall be paid to the stated beneficiary(s).
- c. The distribution of a Firefighter's DROP Account shall be made as soon as administratively practicable following the Firefighter's termination of employment.

- (2) **Proof of Death and Right of Beneficiary or Other Person.** The Board may require and rely upon such proof of death and such evidence of the right of any beneficiary or other person to receive the value of a deceased Firefighter's Drop Account as the Board may deem proper and its determination of the right of that beneficiary or other person to receive payment shall be conclusive.

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(e) Administration of DROP.

- (1) **Board Administers the DROP.** The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility of overseeing the investment of the DROP assets shall be placed in the Firefighters' Pension Trust Fund Board.
- (2) **Individual Balances, Records and Reports.** The Board shall maintain, or cause to be maintained, records showing the operation and condition of the DROP, including records showing the individual balances in each Firefighter's DROP Account, and the Board shall keep or cause to be kept in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The Board shall prepare or cause to be prepared and distributed to Firefighters participating in the DROP and other individuals or filed with the appropriate government agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Internal Revenue Code, the applicable portions of the Employee Retirement Income Security Act and any other applicable laws.
- (3) **Establishment of Rules.** Subject to the limitations of the DROP, the Board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The Board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a participant in the DROP). The determination of the Board as to the interpretation of the DROP or its determination of any disputed questions shall be conclusive and final to the extent permitted by applicable law. The Board shall also oversee the investment of the DROP's assets.
- (4) **Limitation of Liability.**
 - a. The Trustees shall not incur any liability individually or on behalf of any other individuals for any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.
 - b. Neither the Board nor any Trustee of the Board shall be responsible for any reports furnished by any expert retained or employed by the Board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The Board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.
- (5) **Expenses.** To compensate the Firefighters' Pension Trust Fund for the expenses of administering and operating the DROP, the Board may elect to charge each Firefighter's DROP Account an annual administrative fee which shall be reviewed and subject to increase or decrease annually.

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(f) **General Provisions.**

- (1) **Amendment of DROP.** The DROP may be amended at any time and from time to time, and retroactively, if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, except as otherwise prohibited by law, no amendment shall make it possible for any part of the DROP funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP Account of any Firefighter.
- (2) **Information.** Each Firefighter, beneficiary or other person entitled to a benefit, before any benefit shall be payable under the DROP, shall file with the Board the information that it shall require to establish benefits under the DROP.
- (3) **Prevention of Escheat.** If the Board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the Board may, no earlier than three months from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the Board or the City. If such person has not made written claim therefor within three months of the date of the mailing, the Board may, if it so elects and upon receiving advice from counsel to the DROP, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the DROP. Upon such cancellation, the DROP shall have no further liability therefor except that, in the event such person or his beneficiary later notifies the Board of his whereabouts and requests the payment or payments due him under the DROP, the amount so applied shall be paid to him in accordance with the provisions of the DROP.
- (4) **Written Elections, Notification.**
 - a. Any elections, notifications or designations made by a Firefighter pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules, uniformly applicable to all employees similarly situated. The Board reserves the right to change from time to time the manner for making notifications, elections or designations by Firefighters under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, the new administrative procedures shall prevail.
 - b. Each Firefighter who has a DROP Account shall be responsible for furnishing the Board with a current address and any subsequent changes in address. Any notice required to be given to a Firefighter hereunder shall be deemed given if directed to the last such address given to the Board and mailed by registered or certified United States mail.
- (5) **Benefits Not Guaranteed.** All benefits payable under the DROP shall be paid only from the assets of the DROP and neither the City nor the Board shall have any duty or liability to furnish the DROP with any funds, securities or other assets.

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Section 18.195.9 PRE-SEPARATION DEATH.

In the event a Member (an actively employed and contributing Firefighter who fulfills the prescribed membership requirements of the City of Temple Terrace Firefighters' Retirement Trust Fund) dies prior to separation from employment as a firefighter or prior to entry into DROP, whichever comes first:

(a) **Prior to Vesting.** The Beneficiary of a deceased Member who was not yet vested shall receive a refund of one-hundred percent (100%) of the Member's accumulated contributions.

(b) **Deceased Members Vested or Eligible for Retirement.** The Beneficiary of any Member who dies while actively employed as firefighter with the City of Temple Terrace and who, at the date of his death was vested or eligible for early or normal retirement shall be entitled to a benefit as follows:

- (1) If the Member was vested, but not yet eligible for normal or early retirement benefits, the Beneficiary shall receive a benefit payable for ten years, beginning on the date that the deceased Member would have been eligible for early or normal retirement benefits, at the option of the Beneficiary. The benefit shall be calculated as for normal retirement based on the deceased Member's credited service and average final compensation as of the date of the Member's death and reduced as for early retirement, if applicable.
- (2) If the deceased Member was eligible for normal or early retirement benefits, the Beneficiary shall receive a benefit payable for ten years, beginning on the first day of the month following the Member's death or at the deceased Member's otherwise normal retirement date, at the option of the Beneficiary. The benefit shall be calculated as for normal retirement based on the deceased Member's credited service and average final compensation as of the date of the Member's death and reduced as for early retirement, if applicable.
- (3) A Beneficiary may, in lieu of any benefit provided for in (1) or (2) above elect to receive a refund of the deceased Member's accumulated contributions, without interest.
- (4) A Beneficiary may, in lieu of any benefit provided for in (1) or (2) above, elect to receive a monthly amount payable for the life of the Beneficiary which monthly amount shall be the actuarial equivalent of the benefit provided for in (1) or (2) above. The Beneficiary may elect the date on which said monthly amount will commence.

(c) **Member Who Dies In the Line of Duty.** Upon determination by the Board of Trustees that a Member died in the line of duty on or after October 1, 2003, regardless of length of service, the following benefits shall be paid:

- (1) As soon as is administratively possible, a total sum of \$10,000 to the Member's Beneficiary.
- (2) Beginning on the first day of the month following the Member's death a monthly benefit payable for fifteen years (180 monthly payments) equal to fifty percent (50%) of the Member's annualized salary based on salary earned during the last full pay period immediately prior to death shall be paid to the Member's Beneficiary.
- (3) Beginning on the first day of the month following the Member's death a monthly benefit equal to seven and one-half percent (7 1/2%) of the Member's annualized salary based on salary earned during the last full pay period prior to death shall be paid to each minor child of the Member with the last monthly payment being on the first of the month immediately following the child's 18th birthday. Provided however, the combined monthly benefits paid to minor children shall not exceed fifteen percent (15%) of the Member's salary.

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- (4) In lieu of the benefits provided in Subsection 18.195.9(c)(2), the Beneficiary may elect any of the benefits provided in Subsection 18.195.9(b).
- (5) Once a firefighter enters DROP, or separates from employment as a firefighter, whichever comes first, the firefighter shall not be eligible for the in line of duty death benefits provided in Section 18.195.9(c).

(d) As used in Section 18.195.9, "Beneficiary" means one or more persons, named sequentially or jointly, who has or have been designated by the Member, on a form provided for that purpose, signed and filed with the Board of Trustees to receive the benefit, if any, which may be payable. If no beneficiary is named in the manner provided herein, or if no Beneficiary designated survives the Member, the death benefit, if any, shall be paid by the Board of Trustees to the estate of such deceased Member, provided that the Board of Trustees, in its discretion, may direct that the commuted value of any remaining monthly benefits payments be paid in a lump sum. Each designation may be revoked by the Member by signing and filing with the Board of Trustees a new designation of beneficiary form.

(e) The Board of Trustees shall make such rules as are necessary for the effective administration of this section, including a designation of beneficiary form.

(f) For purposes of Section 18.195.9(a) and (b), a Member who leaves employment to perform qualified military service (as defined in Section 414(u) of the Internal Revenue Code) and who dies while performing qualified military service, the Beneficiary of the deceased Member shall be entitled to those benefits as set forth in subparagraph (a) or (b) of Section 18.195.9 as if the deceased Member had resumed and then terminated employment on account of death, provided:

- (1) If the Member has withdrawn his accumulated contributions, such withdrawn contributions are repaid, plus interest determined by the Board.
- (2) The Member shall be entitled to credited service from the date the Member leaves employment to perform qualified military service until the date of death while performing qualified military service, but not to exceed two (2) years.
- (3) This subparagraph (f) shall apply to deaths occurring on or after January 1, 2007.

(Ord. No. 1265, 2-16-10)

Section 18.195.10 DISABILITY.

(a) **Disability Benefits On-Duty.** Any Member who shall have become totally and permanently disabled while an active Member of the City Fire Department to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, which disability was directly caused by the performance of his duty as a Firefighter, shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to the appropriate accrual rate(s) set forth under "Normal Retirement Benefit" multiplied by the total years of Credited Service multiplied by his Average Final Compensation, but in any event the minimum amount paid to the Member shall be forty-two percent (42%) of the Average Final Compensation of the Member, and the maximum amount shall be one hundred percent (100%) of his Average Final Compensation. *(Ord. No. 1198, 1-16-07)*

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(b) **Disability Benefits Not In Line of Duty.** Any Member with ten (10) years or more Credited Service who shall have become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, which disability is not directly caused by the performance of his duties as a Firefighter shall be entitled to a monthly pension equal to the appropriate accrued rate(s) set forth under "Normal Retirement Benefit" multiplied by the total years of Credited Service multiplied by his Average Final Compensation, but in any event, the minimum amount paid to the Member shall be twenty-five percent (25%) of his Average Final Compensation, and the maximum amount shall be one hundred percent (100%) of his Average Final Compensation. (*Ord. No. 1198, 1-16-07*)

(c) **Conditions Disqualifying Disability Benefits.** Each Firefighter who is claiming disability benefits shall establish, to the satisfaction of the Board that such disability was not occasioned primarily by:

- (1) Excessive or habitual use of any drugs, intoxicants or narcotics.
- (2) Injury or disease sustained while willfully and illegally participating in fights, riots or civil insurrections or while committing a crime.
- (3) Injury or disease sustained while serving in any branch of the Armed Forces.
- (4) Injury or disease sustained after his employment as a Firefighter with the City shall have terminated.

(d) **Physical Examination Requirement.** A Firefighter shall not become eligible for disability benefits until and unless he undergoes a physical examination by a qualified physician or physicians and/or surgeon or surgeons, who shall be selected by the Board for that purpose.

Any Firefighter receiving disability benefits under provisions of this article may be periodically re-examined by a qualified physician or physicians and/or surgeon or surgeons who shall be selected by the Board, to determine if such disability has ceased to exist. If the Board finds that the retiree is no longer permanently and totally disabled to the extent that he is unable to render useful and efficient service as a Firefighter, the Board shall recommend to the City that the retiree be returned to performance of duty as a Firefighter, and the retiree so returned shall enjoy the same rights that Member had at the time he was placed upon pension. In the event the retiree so ordered to return shall refuse to comply with the order within thirty (30) days from the issuance thereof, Member shall forfeit the right to his pension.

The cost of the physical examination and/or re-examination of the Firefighter claiming and/or receiving disability benefits shall be borne by the Fund.

If the Firefighter recovers from disability and re-enters the service of the City as a Firefighter, his service will be deemed to have been continuous, but the period beginning with the first month for which he received a disability retirement income payment and ending with the date he reentered the service of the City will not be considered as Credited Service for the purposes of the System.

The Board shall have the power and authority to make the final decisions regarding all disability claims.

(e) **Disability Payments.** The monthly benefit to which a Member is entitled in the event of the Member's disability retirement shall be payable on the first day of the first month after the Board determines such entitlement. However, the monthly retirement income shall be payable as of the date the Board determined such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be:

- (1) If the Firefighter recovers from the disability prior to his normal retirement date, the payment due next preceding the date of such recovery, or

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- (2) If the Firefighter dies without recovering from disability or attains his normal retirement date while still disabled, the payment due next preceding his death or the 120th monthly payment, whichever is later.

Provided, however, the disability retiree may select, at any time prior to the date on which benefit payments begin, an optional form of benefit payment as described in subsection 18.195.12, which shall be the actuarial equivalent of the normal form of benefit.

(f) A Member who separates from employment as a firefighter with the City of Temple Terrace Fire Department shall not be eligible for disability benefits unless the Member files a complete application for disability benefits on the required form within sixty (60) calendar days of the date of separation. A Member who has filed a complete application for disability benefits on the required form who thereafter separates from employment (either voluntarily or involuntarily) may continue to seek disability benefits, and, if eligible, may start receipt of normal or early retirement benefits. If, at a later date, the Member is determined by the Board of Trustees to be eligible for disability benefits, such disability benefits shall be paid retroactive to the first day of the month following the last day the Member works prior to retiring or separating from employment. A Member, who files an application for disability benefits who is determined by the Board of Trustees not to be totally and permanently disabled who does not separate from employment as a firefighter, may reapply for disability benefits only if there has been a change of circumstances. Change of circumstances may include, but is not limited to, additional injury or injuries, additional diagnostic test or tests, or application of disability benefits based on another medical condition. Any final order of the Board of Trustees in connection with an application for disability benefits shall be subject to review by way of filing a timely petition for writ of certiorari in the Thirteenth Judicial Circuit in and for Hillsborough County, Florida. The Board of Trustees does not grant a rehearing in connection with any final order entered by the Board of Trustees, unless ordered by the court.

Section 18.195.11 VESTING.

If a Member terminates his employment as a Firefighter with the City, either voluntarily or by discharge, and is not eligible for any other benefits under this System, Member shall be entitled to the following:

(a) If the Member has less than ten (10) years Credited Service upon termination, the Member shall be entitled to a refund of his Accumulated Contributions or Member may leave it deposited with the Fund.

(b) If the Member has ten (10) or more years of Credited Service upon termination, the Member shall be entitled to a monthly retirement benefit, determined in the same manner as for normal or early retirement and based upon the Member's Credited Service, average final compensation and the benefit accrual rates as of the date of termination, payable to him commencing at Member's otherwise normal or early retirement date, provided he does not elect to withdraw his accumulated contributions and provided Member survives to his otherwise normal or early retirement date. If the Member does not withdraw his accumulated contributions and does not survive to his otherwise normal or early retirement date, his designated beneficiary shall be entitled to a benefit as provided herein for a deceased Member, vested or eligible for retirement under pre-retirement death.

(c) Any vested Member of the System whose position is terminated, for whatever reason, but who remains employed by the City in some other capacity, shall have all retirement benefits accrued up to the date of such termination under this System preserved, provided he does not elect to withdraw his accumulated contributions from this System. Such accrued retirement benefits shall be payable at his otherwise early (reduced as for early retirement) or normal retirement date hereunder, or later, in accordance with the provisions of this System.

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Section 18.195.12 OPTIONAL FORMS OF RETIREMENT INCOME.

(a) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified herein, a Firefighter, upon written request to the Board, may elect to receive a retirement income or benefit of actuarial equivalent value payable in accordance with one of the following options:

- (1) A retirement income of larger monthly amount payable to the retiree for his lifetime only.
- (2) A retirement income of a modified monthly amount, payable to the retiree during the joint lifetime of the retiree and a joint pensioner designated by the retiree, and following the death of the retiree, one hundred percent (100%), seventy-five percent (75%), sixty-six and two-thirds percent ($66 \frac{2}{3}\%$), or fifty percent (50%) of such monthly amount payable to the joint pensioner for the lifetime of the joint pensioner.

(b) The Firefighter upon electing any option of this section will designate the joint pensioner to receive the benefit, if any, payable under the plan in the event of his death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner. A Member may change his joint pensioner at any time. If a Firefighter has elected an option with a joint pensioner and his retirement income benefits have commenced, he may thereafter change his designated joint pensioner at any time, but may only change his joint pensioner and not the option previously selected. The consent of a Firefighter's joint pensioner to any such change shall not be required. Upon change of a retiree's joint pensioner in accordance with this section, the amount of the retirement income payable to the retiree shall be actuarially redetermined to take into account the age of the former joint pensioner, the new joint pensioner and the retiree and to ensure that the benefit paid is the actuarial equivalent of the present value of the retiree's then-current benefit at the time of the change. Any such retiree shall pay the actuarial recalculations expenses after the second change.

Each request for a change will be made in writing on a form prepared by the Board and on completion will be filed with the Board. (*Ord. No. 1265, 2-16-2010*)

(c) Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations.

- (1) If a Firefighter dies prior to his normal retirement date or early retirement date, whichever first occurs, no benefit will be payable under the option to any person, but the benefits, if any, will be determined under Section 18.195.9.
- (2) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the Firefighter's retirement under the plan, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the Firefighter upon his retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the Firefighter prior to his retirement.
- (3) If a Firefighter continues beyond his normal retirement date pursuant to the provisions of Section 18.195.6 and dies prior to his actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the Firefighter in the amount or amounts computed as if the Firefighter had retired under the option on the date on which his death occurred.

(d) No Firefighter may make any change in his retirement option after the date of cashing or depositing his first retirement check.

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Section 18.195.13 BENEFICIARIES.

(a) Each Firefighter may, on a form provided for that purpose, signed and filed with the Board, designate a choice of one or more persons, named sequentially or jointly, as his beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of his death. Each designation may be revoked or changed by such Firefighter by signing and filing with the Board a new designation-of-beneficiary form. Upon such change, the rights of all previously designated beneficiaries to receive only benefits under the system shall cease.

(b) If a deceased Firefighter fails to name a Beneficiary in the manner prescribed in Subsection 1 above, or if the Beneficiary (or Beneficiaries) named by a deceased Firefighter predeceases the Firefighter, the death benefit, if any, which may be payable under the System with respect to such deceased Firefighter, shall be paid to the estate of the Firefighter and the Board, in its discretion, may direct that the commuted value of the remaining monthly income benefits be paid in a lump sum.

(c) Any payment made to any person pursuant to this section shall operate as a complete discharge of all obligations under the System with regard to the deceased Member and any other persons with rights under the System and shall not be subject to review by anyone but shall be final, binding and conclusive on all persons ever interested hereunder.

Section 18.195.14 REPORTS TO DIVISION OF RETIREMENT.

Each year and no later than March 15th, the Board shall file a report with the Division of Retirement containing the documents and information required by Section 175.261, Florida Statutes.

Section 18.195.15 ROSTER OF RETIREES.

The Secretary of the Board or designee shall keep a record of all persons enjoying a pension under the provisions of this retirement system in which it shall be noted the time when the pension is allowed and when the same shall cease to be paid. Additionally, the Secretary or designee shall keep a record of all members of the retirement system in such a manner as to show the name, address, date of employment and date such employment is terminated.

Section 18.195.16 REPEAL OR TERMINATION OF SYSTEM.

(a) This article establishing the System and Fund, and subsequent ordinances pertaining to said System and Fund, may be modified, terminated, or amended, in whole or in part; provided that if this or any subsequent ordinance shall be amended or repealed in its application to any person benefiting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the Member or Beneficiary shall not be affected thereby, except to the extent that the assets of the Fund may be determined to be inadequate. Plan repeal or termination of System shall be consistent with Section 175.361, Florida Statutes, and Federal law.

(b) If this article shall be repealed, or if contributions to the System are discontinued, or if there is a transfer, merger or consolidation of government units, services or functions as provided in Chapter 121, Florida Statutes, the Board shall continue to administer the System in accordance with the provisions of this article, for the sole benefit of the then Members, any Beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the options provided for in this article who are designated by any of said Members. In the event of repeal, discontinuance of contributions, or transfer merger or consolidation of government units, services or functions, there shall be full vesting (100%) of benefits accrued to date of repeal and the assets of the System shall be allocated in an equitable manner to provide benefits on a proportionate basis to the persons so entitled in accordance with the provisions thereof.

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(c) The following shall be the order of priority for purposes of allocating the assets of the System as of the date of repeal of this article, or if contributions to the System are discontinued with the date of such discontinuation being determined by the Board.

- (1) Apportionment shall first be made in respect of each retired Firefighter receiving a retirement or disability benefit hereunder on such date, each person receiving a benefit on such date on account of a retired or disabled (but since deceased) Firefighter, and each Firefighter who has, by such date, become eligible for normal retirement but has not yet retired, an amount which is the Actuarial Equivalent of such benefit, based upon the actuarial assumptions in use for purposes of the most recent actuarial valuation, provided that, if such asset value be less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such asset value.
- (2) If there be any asset value remaining after the apportionment under paragraph (1), apportionment shall next be made in respect of each Firefighter in the service of the City on such date who has completed at least ten (10) years of Credited Service and who is not entitled to an apportionment under paragraph (1), in the amount required to provide the Actuarial Equivalent, as described in (1) above, of the accrued normal retirement benefit, based on the Credited Service and average monthly earnings as of such date, and each vested former Member then entitled to a deferred benefit who has not, by such date, begun receiving benefit payments, in the amount required to provide said Actuarial Equivalent of the accrued normal retirement benefit, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.
- (3) If there be any asset value after the apportionments under paragraphs (1) and (2), apportionment shall be made in respect of each Firefighter in the service of the City on such date who is not entitled to an apportionment under paragraphs (1) and (2) in the amount equal to Member's Accumulated Contributions, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder such latter amount be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.
- (4) If there be any asset value remaining after the apportionments under paragraphs (1), (2), and (3), apportionment shall lastly be made in respect of each Firefighter included in paragraph (3) above to the extent of the Actuarial Equivalent, as described in paragraph (1) above, of the accrued normal retirement benefit, less the amount apportioned in paragraph (3), based on the Credited Service and average monthly earnings as of such date, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such amounts shall be reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.
- (5) In the event that there be asset value remaining after the full apportionment specified in paragraphs (1), (2), (3), and (4), such excess shall be returned to the City, less return of the State's contributions to the State, provided that, if the excess is less than the total contributions made by the City and the State to the date of termination such excess shall be divided proportionately to the total contributions made by the City and the State.

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

If, at any time during the first ten (10) years after the effective date of the ordinance originally establishing this System, the System shall be terminated or the full current costs of the System shall not have been met, anything in the System to the contrary notwithstanding, City contributions which may be used for the benefit of any one of the twenty-five (25) highest paid Firefighters on the effective date, whose anticipated annual retirement allowance provided by the City's contributions at Member's normal retirement date would exceed \$1,500, shall not exceed the greater of either a) \$20,000, or b), an amount computed by multiplying the smaller of \$10,000 or twenty percent (20%) of such Firefighter's average annual earnings during his last five (5) years of service by the number of years of service since the effective date.

In the event that it shall hereafter be determined by statute, court decision, ruling by the Commissioner of Internal Revenue, or otherwise, that the provisions of this paragraph are not then necessary to qualify the System under the Internal Revenue Code, this paragraph shall be ineffective without the necessity of further amendment of this ordinance.

(d) After all the vested and accrued benefits provided hereunder have been paid and after all other liabilities have been satisfied, then and only then shall any remaining funds revert to the general fund of the City.

Section 18.195.17 EXEMPTION FROM EXECUTION, NON-ASSIGNABILITY.

Except as otherwise provided by law, the pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of this article and the Accumulated Contributions and the cash securities in the Fund created under this article are hereby exempted from any state, county or municipal tax and shall not be subject to execution, attachment, garnishment or any legal process whatsoever and shall be unassignable, provided however, the following deductions may be made:

(a) Federal income tax shall be withheld in accordance with federal law, unless the payee elects otherwise on Form W-4P.

(b) Upon receipt of written authorization from the retiree or eligible dependents, premiums for life, health, accident, hospitalization, or annuity insurance, or all of any kinds of insurance that the City is required to offer retirees and their eligible dependents pursuant to Section 112.0801, Florida Statutes.

(c) Repayment of overpayments from the City of Temple Terrace Firefighters' Retirement System upon notification to the payee.

(d) Payments to an alternate payee for alimony or child support pursuant to an income deduction order under Section 61.1301, Florida Statutes.

(e) Payments to the Internal Revenue Service for federal income tax levies upon notification to the Board of Trustees by the Internal Revenue Service.

(f) Upon receipt of written authorization from the retiree or eligible dependents, premiums for life, health, accident, hospitalization, or annuity insurance, or all of any kinds of such insurance offered by or through a certified bargaining unit of the City of Temple Terrace.

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(g) Pursuant to Section 175.061(7), Florida Statutes, as amended effective July 1, 2009, the Board of Trustees may by rule also authorize its custodian to withhold from the retirement payment those funds necessary to pay for premiums for accident, health, and long-term care insurance for the retiree and the retiree's spouse and dependents upon receipt of written authorization from the retiree, or retiree's surviving spouse, or retiree's beneficiary.
(Ord. No. 1265, 2-16-10)

Section 18.195.18 PENSION VALIDITY.

The Board shall have the power to examine into the facts upon which any pension shall heretofore have been granted under any prior or existing law, or shall hereafter be granted or obtained erroneously, fraudulently or illegally for any reason. The Board is empowered to purge the pension rolls or to correct the pension amount of any person heretofore or hereafter granted a pension under prior or existing law or heretofore granted a pension under this pension plan if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any person who has heretofore under any prior or existing law been or who shall hereafter under this article be erroneously, improperly or illegally classified. Any overpayments or underpayments shall be corrected and paid or repaid in a reasonable manner determined by the Board.

Section 18.195.19 INDEMNIFICATION.

(a) To the extent not covered by insurance contracts in force from time to time, the City shall indemnify and hold harmless members of the Board from all personal liability for damages and costs, including court costs and attorneys' fees, arising out of claims, suits, litigation, or threat of same, herein referred to as "claims", against these individuals because of acts or circumstances connected with or arising out of their official duty as members of the Board. The City reserves the right, in its sole discretion, to settle or not settle the claim at any time, and to appeal or to not appeal from any adverse judgment or ruling, and in either event will indemnify and hold harmless any members of the Board from the judgment, execution, or levy thereon.

(b) This Section shall not be construed so as to relieve any insurance company or other entity liable to defend the claim or liable for payment of the judgment or claim, from any liability, nor does this Section waive any provision of law affording the City immunity from any suit in whole or part, or waive any other substantive or procedural rights the City may have.

(c) This Section shall not apply nor shall the City be responsible in any manner to defend or pay for claims arising out of acts or omissions of members of the Board which constitute felonies or gross malfeasance or gross misfeasance in office.

Section 18.195.20 MILITARY SERVICE PRIOR TO EMPLOYMENT

The years and fractional parts of years that a member has served on active military service of the Armed Forces of the United States or the United States Merchant Marine, voluntarily or involuntarily, and honorably or under honorable conditions, prior to first and initial employment with the City Fire Department shall be added to his or her years of creditable service provided that:

(a) The member contributes to the Trust Fund an amount which represents the actuarial equivalent of the value of the benefits attributable to such service credits on the date of deposit, along with the costs of all professional services rendered to the Board in connection with the calculation.

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(b) The maximum number of years of prior military service credits which may be purchased is four (4) years.

(c) The amounts to be deposited shall be calculated using the mortality table and interest rate determined by the Board of Trustees after advice by the Fund's actuary.

Section 18.195.21 EXCISE TAX ON FIRE AND TORNADO LOSS INSURANCE.

(a) There is hereby assessed, imposed and levied on every insurance company, corporation or other insurer now engaging in or carrying on, or which shall hereafter engage in or carry on, the business of property insurance, as shown by the records of the Department of Insurance of the State of Florida, an excise or license tax in addition to any license tax or excise tax now levied by the City of Temple Terrace, which said tax shall be in the amount of 1.85% of the gross amount of receipts of premiums from policyholders on all premiums collected on property insurance policies covering property within the corporate limits of the City of Temple Terrace.

(b) The license or excise tax herein levied shall be payable and collected in the manner provided for by Chapter 175, Florida Statutes.

Section 18.195.22 APPLICABLE FEDERAL AND STATE LAW.

The applicable provisions of federal and state law now existing or as they may exist in the future are incorporated herein by reference, except for provisions of applicable law which are permissive or not preemptive and not authorized herein. The board of trustees is hereby authorized to adopt written rules setting forth the specifics of applicable mandatory provisions of federal and state law as they now exist or may exist in the future. Applicable mandatory provisions of federal and state law include, but are not limited to, the following:

(a) Applicable provisions of the Internal Revenue Code, including, but not limited to, Sections 401(a)(17) and 415 of the Internal Revenue Code.

(b) Uniformed Services Employment and Reemployment Rights Act (USERRA), relating to military service.

(c) Chapter 61, Florida Statutes, including, but not limited to, income deduction orders.

(d) Section 112.18, Florida Statutes, concerning presumptions for certain conditions relative to disability.

(e) Section 112.181, Florida Statutes, relating to special provisions relative to certain communicable diseases.

(f) Section 112.3173, Florida Statutes, relating to forfeiture of retirement benefits.

(g) Chapter 112, Part III, Florida Statutes, relating to the Code of Ethics for Public Officers and Employees.

(h) Chapter 112, Part VII (Sections 112.60 – 112.67), Florida Statutes, cited as the "Florida Protection of Public Employee Retirement Benefits Act."

(i) Section 112.661, Florida Statutes, relating to investment policies.

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- (j) Chapter 119, Florida Statutes, relating to public records.
- (k) Section 175.071, Florida Statutes, relating to the general powers and duties of the board of trustees.
- (l) Section 175.195, Florida Statutes, relating to false, misleading or fraudulent statements made to obtain public retirement benefits.
- (m) Section 175.221, Florida Statutes, relating to lump-sum payment of small retirement income.
- (n) Section 175.231, Florida Statutes, relating to the presumption that certain diseases of firefighters were suffered in the line of duty.
- (o) Section 175.241, Florida Statutes, relating to exemption from tax and execution.
- (p) Section 175.351, Florida Statutes, relating to municipalities having their own pension plan for firefighters.
- (q) Subsections 215.47(1)-(8), (10) and (16), Florida Statutes, concerning authorized investments.
- (r) Section 286.0105, Florida Statutes, relating to notices of meeting and hearings.
- (s) Section 286.011, Florida Statutes, relating to public meetings.
- (t) Section 286.012, Florida Statutes, relating to voting requirements.

Section 18.195.23 ADMINISTRATION OF RETIREMENT SYSTEM.

(a) The Board of Trustees shall make such rules as are necessary for the effective administration of the retirement system, including but not limited to claims procedures, provided that such rules are not inconsistent with any applicable federal law, state law, or ordinance of the City of Temple Terrace, or with the terms of any collective bargaining agreement entered into by the City of Temple Terrace and the certified bargaining agents of the firefighters. Notwithstanding any other provision of the retirement system to the contrary, any provision of the retirement system shall be construed and administered in such a manner that the Fund will qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United States; and the Board of Trustees may adopt any rules to accomplish this purpose as is necessary to attain tax qualification. Any rules adopted by the Board of Trustees shall have the force of law and shall be considered part of the retirement system.

(b) All questions, disputes, claims appeals or controversies of whatever character, arising in any manner between any persons in connection with the City of Temple Terrace Firefighters' Retirement System, the plan of benefits or the operation thereof, whether related to:

- (1) Any claim for any benefit by any Member or any other person; or
- (2) The construction of the language or meaning of ordinances concerning the City of Temple Terrace Firefighters' Retirement System or rules and regulations, or policies adopted by the Trustees; or

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- (3) Construction of the language or meaning of any writings, decision, instrument or accounts in connection with the operation of the City of Temple Terrace Firefighters' Retirement System; or
- (4) Any other matter,

shall be submitted to the Trustees, and the decision of the Trustees shall be final and binding upon all persons dealing with the City of Temple Terrace Firefighters' Retirement System or claiming benefits thereunder. In reaching its decisions, the Trustees shall have full and complete discretionary authority to make eligibility determination or to construe the terms of the retirement system.

(c) The Board of Trustees has the power to construe all items, rules, conditions and limitations of the retirement system, and its construction made in good faith shall be final and conclusive upon all parties' interests.

(d) The powers and duties of the Board of Trustees or of any other persons as set out herein are not intended to be complete or exclusive but each such body or persons shall have such powers and duties as are reasonably implied under the terms of the ordinances concerning the City of Temple Terrace Firefighters' Retirement System.

Section 18.195.24 CLAIMS PROCEDURES.

(a) The board shall establish administrative claims procedures to be utilized in processing written requests ("claims"), on matters which affect the substantial rights of any person ("claimant"), including members, retirees, beneficiaries, or any person affected by a decision of the board.

(b) The board shall have the power to subpoena and require the attendance of witnesses and the production of documents for discovery prior to and at any proceedings provided for in the board's claims procedures. The claimant may request in writing the issuance of subpoenas by the board. A reasonable fee may be charged for the issuance of any subpoenas not to exceed the fees set forth in Florida Statutes.

Section 18.195.25 MISCELLANEOUS.

(a) Since it is the intent of the City of Temple Terrace to qualify for premium tax monies collected pursuant to Chapter 175, Florida Statutes, all applicable mandatory provisions under Chapter 175, Florida Statutes, now existing or as they may exist in the future which establish minimum benefits and minimum standards for the operation and funding of the firefighters retirement plan are incorporated herein by reference; provided however, to the extent that the provisions herein exceed the minimum benefits and minimum standards, the provisions herein shall prevail.

(b) ***Interest of members in system.*** At no time prior to the satisfaction of all liabilities under the system with respect to retirees and members and their spouses or beneficiaries, shall any part of the corpus or income of the fund be used for or diverted to any purpose other than for their exclusive benefit.

(c) ***No reduction of accrued benefits.*** No amendment or ordinance shall be adopted by the city commission of the city which shall have the effect of reducing the then vested accrued benefits of members or a member's beneficiaries.

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(d) ***Qualification of system.*** It is intended that the system will constitute a qualified public pension plan under the applicable provisions of the code, as now in effect or hereafter amended. Any modification or amendment of the system may be made retroactively, if necessary or appropriate, to qualify or maintain the system as a plan meeting the requirements of the applicable provisions of the Code as now in effect or hereafter amended, or any other applicable provisions of the U.S. federal tax laws, as now in effect or hereafter amended or adopted, and the regulations issued there under.

(e) ***Use of forfeitures.*** Forfeitures arising from terminations of service of members shall serve only to reduce future city contributions.

SECTION 18.195.26 FIRE SERVICE PRIOR TO EMPLOYMENT.

The years and fractional parts of years that a member has served as a firefighter for some other employer, excluding the Armed Forces of the United States, prior to first and initial employment with the City Fire Department shall be added to his or her years of creditable service provided that:

(a) The member, prior to separation from employment or entry into DROP, whichever comes first, contributes to the Trust Fund an amount which represents the actuarial equivalent of the value of the benefits attributable to such service credits on the date of deposit, along with the costs of all professional services rendered to the Board in connection with the calculation.

(b) The member is not entitled to receive a benefit for such other prior service as a firefighter.

(c) The maximum number of years of prior firefighter service credits which may be purchased is four (4) years.

(d) The amounts to be deposited shall be calculated using the mortality table and interest rate determined by the Board of Trustees after advice by the Fund's actuary.
(Ord. No. 1231, 6-17-08)

(e) For purposes of determining credit for prior service as a firefighter, in addition to service as a firefighter in this state, credit shall be given for federal, other state, or county service if the prior service is recognized by the Division of State Fire Marshal as provided under Chapter 633, Florida Statutes, or the firefighter provides proof to the Board of Trustees that his or her service is equivalent to the service required to meet the definition of a firefighter under Section 175.032(8), Florida Statutes. (Ord. No. 1265, 2-16-10)

(Ord. No. 269, 8-1-72; Ord. No. 270, 8-1-72; Ord. No. 641, 12-15-87; Ord. No. 675, 11-1-88; Ord. No. 822, 11-3-92; Ord. No. 864, 4-19-94; Ord. No. 916, 4-16-96; Ord. No. 970, 2-3-98; Ord. No. 1026, 9-7-00; Ord. No. 1047, 6-19-01; Ord. No. 1109, 2-3-04; Ord. No. 1119, 8-3-04, Ord. No. 1157, 1-3-06, Ord. No. 1198, 1-16-07; Ord. No. 1231, 6-17-08, Ord. No. 1265, 2-16-10)

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Section 18.200 FLORIDA RETIREMENT SYSTEM.

Section 18.200.1 ADOPTION OF FLORIDA RETIREMENT SYSTEM.

The City of Temple Terrace, Florida, does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges, and other conditions thereunto appertaining, of the Florida Retirement System, for and on behalf of all officers and employees of its departments and agencies to be covered under the agreement. (*Ord. No. 272, 9-5-72*)

Section 18.200.2 BENEFITS EXTENDED TO EMPLOYEES AND OFFICIALS.

It is hereby declared to be the policy and purpose of the City of Temple Terrace, Florida, to extend, effective October 1, 1972, to the employees and officials thereof, not excluded by law or excepted herein, the benefits of the Florida Retirement System as authorized by Chapter 121, Fla. Stat., and amendments thereto, to cover by such plan all services which constitute employment as defined in Chapter 121, Fla. Stat., performed in the employ of the City of Temple Terrace, Florida, by employees and officials thereof. (*Ord. No. 272, 9-5-72*)

Section 18.200.3 EXCLUSIONS; REFERENDUM FOR ELECTING COVERAGE; COMPULSORY COVERAGE.

There is hereby excluded from this Chapter any authority to include in any agreement entered into under Section 18.200.4 hereof any service, position, employee, or official now covered by or eligible to be covered by an existing retirement system sponsored by the City of Temple Terrace, Florida, except social security only after holding a referendum, in which all employees and officials in the affected units have the right to participate. Only those employees and officials electing coverage under the Florida Retirement System by affirmative vote in said referendum shall be eligible for coverage, and those not participating or electing not to be covered by the Florida Retirement System shall remain in their present system and shall not be eligible for coverage. After said referendum is held, all future employees shall be compulsory members of the Florida Retirement System. (*Ord. No. 272, 9-5-72*)

Section 18.200.4 MAYOR AUTHORIZED TO EXECUTE AGREEMENTS AND AMENDMENTS FOR ADMINISTRATION OF PLAN.

The Mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the Department of Administration for the purpose of extending the benefits provided by the Florida Retirement System to the employees and officials of the City of Temple Terrace, Florida, as provided in Sections 18.200.2 and 18.200.3 hereof, which agreement shall provide for such methods of administration of the plan by the City of Temple Terrace, Florida, as are found by the administrator of the Florida Retirement System to be necessary and proper, and shall be effective with respect to services in employment covered by such agreement performed on and after the first day of October, 1972. (*Ord. No. 272, 9-5-72*)

Section 18.200.5 WITHHOLDING FROM SALARIES, WAGES, ETC.

Withholding from salaries wages, or other compensation of employees and officials for the purpose provided in Section 18.200.2 hereof are hereby authorized to be made, and shall be made, in the amounts and at such times as may be required by applicable state laws or regulations, and shall be paid over to the Administrator designated by said laws or regulations to receive such amounts. (*Ord. No. 272, 9-5-72*)

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Section 18.200.6 CONTRIBUTIONS BY CITY.

There shall be appropriated from available funds, derived from the general fund and gross revenue funds, such amounts and at such times as may be required to pay promptly the contributions and assessments required of the City of Temple Terrace, Florida, as employer, by applicable state laws or regulations, which shall be paid over the lawfully designated Administrator of the Florida Retirement System at the times and in the manner provided by law and regulation. (*Ord. No. 272, 9-5-72*)

Section 18.200.7 RECORDS AND REPORTS TO BE KEPT.

The City of Temple Terrace, Florida shall keep such records and make such reports as may be required by applicable state laws or regulations, and shall adhere to all laws and regulations relating to the Florida Retirement System. (*Ord. No. 272, 9-5-72*)

**Section 18.200.8 FISCAL DIRECTOR AS CUSTODIAN OF FUNDS; WITHHOLDING AND
REPORTING AGENT.**

The Fiscal Director of the City of Temple Terrace, Florida, is hereby designated the custodian of all sums withheld from the compensation of officers and employees as authorized herein and of the appropriated funds for the employer's contributions as provided in Section 18.200.6 hereof. Also, the Fiscal Director is hereby made the withholding and reporting agent and charged with the duty of maintaining records for the purposes of this Section. (*Ord. No. 272, 9-5-72*)

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