

Sec. 12-41. - Retirement plan established; name; operative date.

- (a) A retirement plan is hereby established and placed under the exclusive administration and management of a board of trustees for the purpose of providing retirement benefits pursuant to the provisions of the plan and Chapter 175, Florida Statutes, and for defraying the reasonable expenses of the retirement plan.
- (b) The retirement plan established by this article shall be known as the City of Coral Springs Firefighters Retirement Plan.
- (c) The retirement plan shall have an effective date of February 8, 2003. [It should be noted that the retirement plan has a retroactive effective date of December 31, 2002.]

(Ord. No. 2003-101, § 2(Art. I), 3-4-03; Ord. No. 2003-107, § 2, 4-15-03)

Sec. 12-42. - Definitions.

The following words and phrases as used in this article shall have the following meanings:

Accumulated contributions shall mean the sum of all amounts deducted from a member's compensation or picked up on behalf of a member, including interest.

Actuarial equivalent shall mean that any benefit payable under the terms of this system other than the normal form of benefit shall have the same actuarial present value on the date the payment commences as the normal form of benefit. The actuarial equivalence shall be adopted by the board with the advice of the actuary for the plan.

And shall have a conjunctive meaning.

Beneficiary shall mean any person receiving a retirement allowance or other benefit from the retirement plan.

Benefit shall mean a retirement allowance or other payment provided by the retirement plan.

Board or board of trustees shall mean the board of trustees of the retirement plan.

City shall mean the City of Coral Springs, Florida.

Credited service shall mean membership credit upon which a member's eligibility to receive benefits under the retirement plan is based or upon which the amount of such benefits is to be determined. Service is defined as years and completed months.

Deferred vested member shall mean a member no longer employed by the city but who has earned the right to a retirement benefit under the terms of the plan.

Disability shall mean the permanent and total incapacity to perform regular and continuous duties as a firefighter for the City of Coral Springs.

Early service retirement shall mean a member's withdrawal from service under circumstances permitting the payment of a retirement benefit before such member is eligible for normal service retirement.

Earnable compensation shall mean the fixed monthly compensation of a firefighter. The annual limit on compensation imposed by section 401(a)(17) of the Internal Revenue Code, as adjusted for cost of living increases under section 401(a)(17)(B) of the Internal Revenue Code, shall apply to the earned income of each non-eligible participant to the extent required by guidelines issued by the Internal Revenue Service. The limit imposed by section 401(a)(17) of the Internal Revenue Code shall not apply to an eligible participant. For the purposes of this paragraph, an eligible participant is any individual who first became a member of the retirement plan before January 1, 1996. A non-eligible participant is any member who is not an eligible participant.

Effective date shall mean February 8, 2003. [It should be noted that the retirement plan has retroactive effective date of December 31, 2002.]

Employee shall mean a person employed on a full time basis by the city as a firefighter. Employee shall not mean a volunteer firefighter.

Final monthly compensation shall mean a member's average monthly rate of earnable compensation from the city during the three (3) years of employment which is greatest within the last ten (10) years of employment; provided that if a member has been employed for fewer than three (3) years, such average shall be taken over the period of actual employment.

Firefighter shall mean any person who is certified as a firefighter in accordance with the provisions of section 633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life, and to protect property.

Fund shall mean the City of Coral Springs Firefighters Retirement Plan.

May shall mean a permissive term.

Member shall mean a person actively employed by the city for whom contributions to the retirement plan are made as required by the plan.

Minimum vesting shall mean ten (10) years of credited service or age fifty-six (56) with three (3) years of credited service for those individuals that are members of the plan as of the effective date or ten (10) years of credited service for those individuals who become members after the effective date, before the member is entitled to retirement benefits except for service-incurred disability retirement income or service-incurred death benefits.

Option shall mean one (1) of several choices available to members with respect to the manner in which a retirement allowance may be paid.

Pension shall mean a series of periodic payments, usually for life, payable in monthly installments.

Pick-up amounts shall mean employer contributions derived from a member's earnable compensation through a reduction in the member's earnable compensation.

Plan year shall mean the period from October 1 through September 30 of the following year.

Retirement shall mean a member's withdrawal from active service with a benefit granted to the member pursuant to the provisions of the plan.

Retirement allowance shall mean a pension provided by the retirement plan.

Retirement plan or plan shall mean the City of Coral Springs Firefighters Retirement Plan.

Service shall mean active service as a full time, paid firefighter employee of the City of Coral Springs.

Service retirement shall mean a member's retirement from active service under circumstances permitting payment of a retirement allowance without reduction because of age or length of service and without special qualifications such as disability. Service retirement shall be considered normal retirement.

Spouse shall mean the lawful husband or wife of a member or retiree at the time benefits commence, unless a new designation has been made in writing to the board in accordance with the provisions of this plan. This section shall be interpreted under Florida choice of law rules.

Trustee shall mean a member of the board of trustees of the retirement plan.

Vested benefit shall mean an immediate or deferred benefit to which a member has gained a non-forfeitable right under the provisions of the plan.

(Ord. No. 2003-101, § 2(Art. II), 3-4-03; Ord. No. 2003-107, § 2, 4-15-03; Ord. No. 2011-111, § 2, 6-21-11)

Sec. 12-43. - Membership.

- (a) Each firefighter in the full time employ of the city on the effective date of this plan shall be a member of the plan provided they have completed an enrollment form and submitted any other information required by the board. There shall be no period of minimum employment prior to eligibility for membership. Volunteer firefighters of the city shall not be eligible for membership in the plan. The fire chief shall have an option to participate, or not participate, in the plan.
- (b) Any person who has previously been required as a condition of employment to become a member of the retirement plan or any person hired after the effective date of this article shall become a member of the retirement plan as a condition of employment.
- (c) All persons joining the retirement plan after the effective date of this article may be required, as a condition of entry into the plan, to submit to such medical examination as the board shall determine. The results of such medical examination are solely for the purpose of determining pre-existing medical conditions for disability benefit purposes and may not be used to decline membership in the plan to any person.
- (d) Upon entry into the plan, a member shall sign such forms as are prescribed by the board which shall include, but not be limited to, acceptance of the terms and conditions of the plan; designation of beneficiary or beneficiaries and authorization for the pick-up of employee contributions. Members may, prior to retirement, change previously designated beneficiaries.

(Ord. No. 2003-101, § 2(Art. III), 3-4-03)

Sec. 12-44. - Administration of the retirement plan.

- (a) The sole and exclusive administration of, and the responsibility for, the proper effective operation of the retirement plan is vested in a board of trustees.
- (b) The board of trustees shall consist of five (5) persons, two (2) trustees shall be members elected by the firefighter members of the plan. Two (2) trustees shall be residents of the city who are designated by the city manager and approved by the city commission. The fifth member of the board shall be chosen by a majority of the other four (4) members of the board and appointed by the city commission as a ministerial act.
- (c) All trustees elected after August 1st, 2010 shall serve a term of four (4) years and shall continue to serve until their successors are appointed and elected. In order to provide for staggered terms of the trustees, the initial term for one (1) trustee elected by the members and one (1) trustee appointed by the city commission shall be for one (1) year. The members and city commission shall expressly designate which appointed or elected trustee is to serve the initial shortened term.
- (d) The board of trustees shall prescribe a uniform election procedure for the selection of the active member trustees.
- (e) All trustees shall serve without compensation, but they shall be reimbursed from the fund for all necessary expenses authorized in advance by the board. The board shall be permitted to prescribe uniform rules for reimbursement for travel expenditures.
- (f) The board of trustees shall biennially select a chairman and a secretary who shall execute all documents on behalf of the board.
- (g) A majority of the members of the board shall constitute a quorum for the transaction of business and shall have full power to act under the terms of the plan. Three (3) concurring votes shall be required of the board to take action.
- (h) The board shall keep minutes of all meetings and a record of any action taken by the board shall be maintained by the board as required by Florida law.

- (i) The board of trustees shall have the authority to make such uniform rules and regulations and to take such action as may be necessary to carry out the provisions of the plan and all decisions of the board of trustees, made in good faith, shall be final, binding and conclusive on all parties.
- (j) The board of trustees shall be deemed the named fiduciary of the plan and shall discharge its responsibilities solely in the interest of the members and beneficiaries of the plan for the exclusive purpose of providing benefits to the members and their beneficiaries and to defray the reasonable expenses of the plan. The trustees shall exercise those fiduciary responsibilities with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a similar character and with similar aims.
- (k) The board of trustees shall have the following administrative duties:
 - (1) To maintain such records as are necessary for calculating and distributing retirement benefits;
 - (2) To maintain such records as are necessary for financial accounting and reporting of retirement plan funds;
 - (3) To maintain such records as are necessary for actuarial evaluation of the retirement plan, including investigations into the mortality, service and compensation experience of its members and beneficiaries;
 - (4) To compile such other administrative or investment information as is necessary for the management of the retirement plan;
 - (5) To process, certify and/or respond to all correspondence, bills and statements received by the retirement plan, as well as all applications submitted to the board for retirement benefits;
 - (6) To establish and maintain communication with city departments and other agencies of government as is necessary for the management of the retirement plan, including preparing, filing and distributing such reports and information as are required by law to be prepared, filed or distributed on behalf of the retirement plan;
 - (7) To determine all questions relating to and process all applications for eligibility, participation and benefits;
 - (8) To distribute at regular intervals to employees, a comprehensive summary plan description and periodic reports, not less than biennially regarding the financial and annual actuarial status of the plan;
 - (9) To retain and compensate such professional and technical advisors as is necessary to fulfill its fiduciary responsibilities;
 - (10) To make recommendations regarding changes in the provisions of the plan to the city;
 - (11) To assure the prompt deposit of all member contributions, city contributions, monies received pursuant to Chapter 175, Florida Statutes, and investment earnings;
 - (12) To establish a uniform set of rules and regulations for the management of the trust;
 - (13) To take such other action as the trustees shall deem, in their sole and exclusive discretion, as being necessary for the efficient management of the plan.
- (l) The board shall have the authority to retain its own legal counsel, accountants, actuaries and other professional advisors to assist the board in the performance of its duties. The board may act without independent investigation upon the professional advice of the advisors retained by the plan.
- (m) The board is authorized to prosecute or defend actions, claims or proceedings of any nature or kind for the protection of the fund assets or for the protection of the board in the performance of its duties.
- (n) Neither the board nor any of its individual members shall have any personal liability for any action taken in good faith. The trustees individually and the board as a whole shall be entitled to the protections in Section 768.28, Fla. Stat. The trustees shall also be authorized to purchase from the

assets of the fund, errors and omission insurance to protect the trustees in the performance of their duties. Such insurance shall not provide protection against a trustee's fraud, intentional misrepresentation, willful misconduct or gross negligence.

- (o) No trustee shall be responsible at his or her own expense, to take legal action to correct the misconduct of any other member of the board of trustees. A trustee shall have an affirmative obligation, however, to publicly reveal any misfeasance, malfeasance or nonfeasance by a co-trustee, and upon making such revelation in a public meeting, shall be relieved further individual responsibility of the actions of that co-trustee.

(Ord. No. 2003-101, § 2(Art. IV), 3-4-03; Ord. No. 2010-109, § 2, 9-7-10)

Sec. 12-45. - Contributions.

- (a) The city shall pick-up, rather than deduct from each member's pay, beginning with the first date of membership in the plan, the sum of eight hundred seventy-five hundredths (8.75) per cent of the earnings of firefighters. These contributions, although designated as member contributions, shall be paid by the city and treated as picked-up contributions under section 414(h)(2) of the Internal Revenue Code. The member shall have no right to receive the picked-up amounts directly instead of having them paid to the plan.
- (b) On the date that this Ordinance becomes effective, member contributions shall be increased to 15.04%, of the earnings of the firefighter, which is an increase of 6.29% of the earnings of the firefighters. Also on the date this Ordinance becomes effective, \$787,791.00, of accumulated excess Chapter 175 premium tax revenue shall be used to reduce the employee contribution back to 8.75% of firefighter earnings, which is the level it was prior to the effective date of this Ordinance. The use of the accumulated excess Chapter 175 premium tax revenue to reduce the employee contribution back to the level in effect prior to the adoption of this Ordinance shall result in credit against the city's contribution in the amount of \$480,437.00 for fiscal year ending September 30, 2015, and a credit against the city's contribution in the amount of \$146,907.00, for fiscal year ending September 30, 2016 and a credit of \$160,447.00 for fiscal year ending September 30, 2017.
- (c) All benefits payable under this plan are in lieu of a refund of accumulated contributions. In any event, however, each member or designated beneficiary shall be guaranteed the payment of benefits at least equal in total amount to one hundred twenty (120) payments.
- (d) Any monies received or receivable by reason of the laws of the State of Florida for the express purpose of funding or paying for retirement benefits for firefighters shall be deposited into the fund immediately, but in no event later than five (5) business days of receipt by the city.
- (e) The city shall make such contribution, on not less than a quarterly basis, under the Florida Protection of Public Employee Retirement Benefits Act and Chapter 175, Florida Statutes, which together with contributions picked-up on behalf of members, plan earnings and state insurance premium tax rebates, will maintain the fund on a sound actuarial basis, as determined by the board in conjunction with its actuary.
- (f) Expenses, charges and fees attributable to the management of the plan shall be paid from the fund.
- (g) The city shall have no right, title or interest in the fund or in any part thereof, and no contribution made thereto shall revert to the city, except such part of the fund, if any, which remains therein after the satisfaction of all liabilities to persons entitled to benefits under the plan.

(Ord. No. 2003-101, § 2(Art. V), 3-4-03; Ord. No. 2011-111, § 3, 6-21-11; Ord. No. 2011-102, § 2, 2-15-11; Ord. No. 2014-124, § 2, 11-5-14)

Sec. 12-46. - Fund management and investments.

- (a) The plan is hereby established as an irrevocable trust fund into which shall be deposited all of the assets of the plan of every kind and description.
- (b) The actual custody and supervision of the fund shall be vested in the board. All assets of the plan may be commingled, provided that accurate records are maintained at all times reflecting the financial composition of the fund, including accurate accounts regarding the following:
 - (1) Current amounts of accumulated contributions of members, both on an individual and aggregate basis;
 - (2) Receipts and disbursements;
 - (3) Benefits payments;
 - (4) All contributions from the city;
 - (5) All contributions from the State of Florida pursuant to Chapter 175, Florida Statutes;
 - (6) All interest, dividends, gains and losses from investment;
 - (7) Such other entries as may be required for a clear, complete financial report of the status of the fund.
- (c) The board shall establish a written investment policy, with the advice and counsel of such advisors as the board deems necessary, and said investment policy shall set forth the types of securities and other types of investments into which shall be placed the assets of the fund. The policy shall further set forth appropriate limitations on those investments, including, but not limited to, anticipated rate of return, quality of investment, class of investment and acceptable risk. The board shall have the authority to invest and reinvest the assets of the plan in such securities or property, real or personal, as the board deems appropriate, including, but not limited to:
 - (1) Bonds, notes, or other obligations of the United States or any of its agencies, or those guaranteed by the United States or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof;
 - (2) Accounts or certificates of deposit in any bank or other financial institution incorporated under the laws of the State of Florida, or any national bank organized under the laws of the United States, or authorized to do business and situated in the State of Florida, to the extent that such certificates of deposit are secured by the deposits of securities of the United States government;
 - (3) Notes secured by first mortgages on real property insured or guaranteed by the Federal Housing Administration or the Veterans Administration;
 - (4) Interest-bearing obligations with a fixed maturity of any corporation organized under the laws of the United States, any state or organized territory of the United States and the District of Columbia; provided that such obligations are rated by at least two (2) nationally recognized ratings services in any one (1) of the four (4) highest classifications approved by the comptroller of the currency for the investment of funds of national banks or, if only one (1) nationally recognized ratings service shall rate such obligations, such ratings service must have rated such obligation in any one (1) of the three (3) highest rating classifications as set forth in this subsection;
 - (5) Bonds issued by the State of Israel;
 - (6) Real estate, which may be in the form of commingled ownership
 - (7) Common stock, preferred stock and interest-bearing obligations of domestic corporations having an option to convert into common stock issued by a corporation organized under the laws of the United States, any state or organized territory of the United States and the District of Columbia. The board of trustees shall determine the per centage of the portfolio to be held in equities.

- (8) Foreign securities, not to exceed twenty-five (25) per cent of the portfolio, on a market-value basis. The investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law.
- (9) Any other investment permitted by law.
- (d) The board shall, in consultation with its investment advisors, determine the per centage of each type of investment to be held.
- (e) The board shall be authorized to retain one (1) or more money managers for the management of property held in the plan, and the board shall make available the plan assets to such money managers for investment and reinvestment in accordance with the terms of this article and the investment policies established by the board. Any such money manager contracting with the board for the investment of its assets shall be deemed a fiduciary of the plan.
- (f) The board shall have a continuing duty to observe and evaluate the performance of any money manager retained by the board. The board shall, in selecting a money manager or other investment counsel, exercise all judgement and care in the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs.
- (g) The board shall require that any money manager or other agent who has custody or control of any property of the plan to keep accurate and detailed accounts of all investments, receipts, disbursements and other transactions pertaining to such trust property, and the board shall further require that all accounts, books and records pertaining thereto be open for inspecting and audit at all reasonable times by the city, the board or its designees.
- (h) The board shall also keep accurate and detailed accounts of all investments, receipts, disbursements or other transactions pertaining to the trust property and all accounts, books and records pertaining thereto shall be open to inspection and audit at all reasonable times by the city or its designees.
- (i) The board of trustees shall be authorized to enter into an agreement with the board of trustees of any other city defined benefit retirement plan for the purpose of comingling assets for investment purposes.

(Ord. No. 2003-101, § 2(Art. VI), 3-4-03; Ord. No. 2010-100, § 2, 2-2-10)

Sec. 12-47. - Prior service credit.

- (a) Credited service includes; time worked as a paid full time firefighter, as defined in § 175.032(8)(a), Florida Statutes, for the city prior to the effective date of the Plan, as set forth in this Article, and pursuant to subsection (b) of this section, so long as the firefighter is not entitled to receive a benefit for such other prior service as a firefighter. Credited service shall not be granted for time worked prior to the effective date of the Plan, in a code enforcement position. The Plan actuary shall calculate the full actuarial cost of purchasing prior firefighters service awarded under this subsection.
- (b) Those persons who are members as of the effective date shall have the option of transferring by way of rollover into the plan from their city 401(a) retirement account the amount necessary to purchase all prior service credit in the plan. Only 401(a) account balances attributable to prior firefighter service with the city may be used to purchase service credit in the plan. Those persons who rollover their entire 401(a) account balance attributable to firefighter service with the city shall have their normal service retirement benefit calculated using a three and one-quarter (3.25) per cent multiplier for prior service credit granted under this article. Those persons who do not transfer their 401(a) account balance to the plan shall have their normal service retirement benefit calculated using a two and one-quarter (2.25) per cent multiplier for prior service credit granted under this article. If the member's 401(a) account balance exceeds the amount necessary to purchase all prior firefighter service with the city, the member shall only be required to transfer the amount necessary to

purchase the prior service in order to receive a three and one-quarter (3.25) per cent multiplier for the prior service granted under this article.

- (c) Members who did not elect to buy back service credits pursuant to section (b) above as of June 1, 2003 and who were members as of the effective date of the plan, shall be afforded a one (1) time opportunity to buy back past service credits on or before April 1, 2004. The plan actuary shall calculate the full actuarial cost of purchasing prior firefighter service awarded under this section; however, the full cost of the actuarial calculation shall be at the sole expense of the member.
- (d) Members who were hired from the City of Parkland as full time firefighters on March 1, 2004, shall be afforded a one-time opportunity to buy back past service credits in order to receive a three and one-quarter (3.25) per cent multiplier for the prior service granted under this article on or before July 1, 2004. The plan actuary shall calculate the full actuarial cost of purchasing prior firefighter service awarded under this section; however, the full cost of the actuarial calculation shall be at the sole expense of the member.
- (e) Credited service shall also include certain Military service as provided for in section 12-49.
- (f) Notwithstanding the above, any member employed as of January 1, 2009 may increase the multiplier for service prior to the plan effective date to three and one-half (3.5) per cent, by paying the full cost to the plan by June 30, 2009.
- (g) A purchase by a member under subsection (f) to increase the multiplier for prior certified service with the City of Coral Springs Fire Department prior to the plan effective date to three and one-half (3.5) per cent may be completed by means of any of the following (or a combination thereof):
 - (1) A lump-sum, after-tax payment, subject to the limits of Section 415(n) of the Internal Revenue Code;
 - (2) An eligible rollover distribution from a 401(a) qualified plan, a 403(a) annuity plan, a government 457(b) plan, a 403(b) tax- sheltered annuity plan, or a 408(a) or 408(b) individual retirement account or annuity, as permitted under the Internal Revenue Code;
 - (3) A trustee-to-trustee transfer from a Code Section 457(b) governmental plan or a Code Section 403(b) plan permitted under the Internal Revenue Code as a transfer for "permissive service credit" as defined by Code Section 415(n); or
 - (4) A trustee-to-trustee transfer from a Code Section 401(a) plan.

(Ord. No. 2003-101, § 2(Art. VII), 3-4-03; Ord. No. 2004-101, § 2, 3-2-04; Ord. No. 2004-112, § 2, 6-15-04; Ord. No. 2005-107, § 2, 4-12-05; Ord. No. 2008-122, § 2, 12-16-08; Ord. No. 2008-123, § 2, 1-6-09; Ord. No. 2009-107, § 2, 7-7-09)

Sec. 12-48. - Service retirement benefits.

- (a) Firefighters who become members upon or after the effective date may retire on the first day of the month coincident with or next following the date on which the member has attained the age of fifty-five (55) having completed ten (10) years of credited service, the date on which the member has attained the age of fifty-two (52) having completed twenty (20) years of credited service, or the date on which the member has completed twenty-five (25) years regardless of age. There shall be no mandatory retirement age.
- (b) The monthly retirement benefit shall be an amount equal to three and one-half (3.50) per cent of final monthly compensation multiplied by the number of years of credited service, except for credit received for service prior to the effective date, which shall be computed based on the applicable multiplier as set forth in section 12-47. For any firefighter who retires or enters the DROP after January 1, 2015, the initial maximum monthly normal retirement benefit shall be no more than eighty-seven and one-half per cent (87.5%) of average monthly earnings.

- (c) A service retirement benefit shall be payable on the first day of each month. The benefit shall commence on the first day of the month coincident with or next following the member's actual retirement. In the event that the member dies after retirement, but before receiving retirement benefits for a period of 120 months, the remaining benefits shall be paid to the beneficiary designated by the member for the balance of the 120-month period. In the event that no beneficiary has been designated, the member's estate shall be the recipient of the remaining balance of payments.
- (d) Early retirement shall be available to firefighter members on the first day of the month coincident with or next following the attainment of age fifty (50) and the completion of ten (10) years of continuous credited service. Firefighters exercising this option shall have their pension benefits reduced by two (2) per cent for each year below normal retirement.
- (e) A member electing early retirement may receive either a deferred payment or an immediate payment under the following formula:
 - (1) A deferred payment shall be equal to the normal retirement benefit and payable at the normal retirement date. This shall mean the date upon which the member attains normal retirement age with ten (10) years of continuous credited service.
 - (2) An immediate retirement benefit may commence on the first day of the month coincident with or next following the date of early retirement. The benefit shall be determined for normal retirement and then actuarially reduced for the number of actual years and months at which the starting date of the benefit precedes the normal retirement date. The early retirement reduction is two (2) per cent for each year at which the early retirement date precedes the normal retirement date.
- (f) The payment of the early retirement income shall be subject to the same conditions as normal retirement income.
- (g) In the event a member elects early retirement, the benefit formula in effect on the early retirement date shall be applicable to the member.
- (h) A member entitled to a normal or early service retirement benefit shall have the right at any time prior to the date upon which the first payment is received to elect to have the benefit payable under one (1) of the options provided in this plan. A member shall be permitted to revoke any such election and to elect a new option at any time prior to the receipt of the first payment. Each retirement option shall be the actuarial equivalent of the other retirement options available. Election of the retirement option shall be on a form prescribed by the board.
 - (1) Joint and last survivor option. A member may elect to receive a reduced benefit for life and to have the benefit (or a designated fraction of the benefit) continued after the member's death and during the lifetime of a designated survivor. A member may choose a fifty (50) per cent, sixty-six and two-thirds ($66\frac{2}{3}$) per cent, seventy-five (75) per cent or one hundred (100) per cent joint and last survivor option. A designated survivor may be any natural person, but need not be the spouse of the member. In the event that the designated survivor dies before the member's benefit payments begin, this option shall be canceled automatically and a retirement income shall be payable to the member as if the election had never been made.
 - (2) A retirement income of larger monthly amount, payable to the firefighter for his or her lifetime only.
 - (3) Other options. The trustees may authorize the payment of the retirement benefit in any form which is the actuarial equivalent of the other forms of retirement provided in this plan.
 - (4) Retired firefighter. A retired firefighter may change his or her designation of joint annuitant or beneficiary up to two times as provided in F.S. § 175.333 without the approval of the board of trustees or the current joint annuitant or beneficiary. The retiree is not required to provide proof of the good health of the joint annuitant or beneficiary being removed, and the joint annuitant or beneficiary being removed need not be living. The amount of the retirement income payable to the firefighter upon the designation of a new beneficiary or joint annuitant shall be actuarially

redetermined so that it is the actuarial equivalent of the benefit that was being paid. The board reserves the right and authority to develop rules and regulations for the actuarial reduction.

- (i) Deferred retirement option plan.
 - (1) A deferred retirement option plan ("DROP") is hereby created.
 - (2) A member shall become eligible for participation in the DROP plan on the first day of the month coincident with or next following the attainment of normal retirement eligibility as defined in section 12-48(a).
 - (3) At the time of a member's entry into the DROP, the member's credited service, accrued benefit and average monthly earnings shall be calculated as if the member had actually retired from service. There shall be no further member contributions after entry into the DROP. No additional credited service shall be earned after entry into the DROP. Any changes in plan benefits shall not apply to members in the DROP, unless otherwise applicable to retired members of the plan.
 - (4) The member shall select the retirement option from the list available in section 12-48(h) of the City Code and shall designate any beneficiary. In the absence of a beneficiary designation or should the designated beneficiary pre-decease the member, the member's estate shall be the contingent beneficiary.
 - (5) The maximum period of DROP participation shall be five (5) years.
 - (6) An election to participate in the DROP plan shall constitute an irrevocable election to resign from the service of the city not later than sixty (60) months after commencement of DROP participation. Members electing the DROP will be required to submit an irrevocable letter of resignation dated sixty (60) months from the date of election as a requirement for DROP participation. Consistent with the provisions of the Older Workers' Benefits Protection Act, 29 U.S.C. § 626(f), as amended, all DROP participants shall be given forty-five (45) days in which to consider the terms of the DROP agreement and, after election to participate in the DROP, shall have seven (7) days following the execution of such agreement to revoke said agreement.
 - (7) Upon entry into the DROP, an amount equal to the member's monthly retirement benefit shall be transferred to an account within the plan designated by the member for investment. Members may direct their DROP money to any of the investment options approved by the city for the deferred compensation program established pursuant to Section 457 of the Internal Revenue Code. DROP balances shall be readjusted to take account of any cost-of-living adjustments available under the plan to retired members.
 - (8) There shall be no guaranteed rate of investment return on DROP deposits. Upon transfer of the DROP money to the account designated by the member, neither the city or the retirement fund shall have any obligation to the member concerning investment gains or losses. Transfers between accounts shall be in accordance with the rules of the deferred compensation program.
 - (9) The decision to participate in the DROP is irrevocable.
 - (10) Upon entry into the DROP, a member shall no longer be eligible for death or disability benefits under the plan. In the event of a disability or death, the member shall be presumed to have retired on a normal retirement on the day prior to the disability or death. Distribution from the DROP account shall be made to the member, or in the case of the member's death, to the member's designated beneficiary.
 - (11) No member may receive a distribution from the DROP until actual separation from service. Distribution may be in a lump sum, periodic payments, an annuity, or a combination. A member may also elect to rollover the DROP account to another qualified retirement plan, including an individual retirement account. Distribution must commence not later than provided in Section 401(a)(9) of the Internal Revenue Code. It is the intent of the city that this plan at all times be a qualified plan as determined by Section 401(a) of the Internal Revenue Code.

- (12) During DROP participation, a member shall be considered a retiree with deferred receipt of benefits for all plan purposes. For all other purposes, the member shall be considered an active employee of the city entitled to all rights of employment.
- (13) The board of trustees shall be empowered to promulgate uniform rules for the administration of the DROP, provided the rules are not inconsistent with the provisions of this plan.
- (j) For all members actively employed as a full-time firefighter as of February 15, 2011, the benefit formula as currently calculated in section 12-48, whether for a normal, early, or delayed retirement and as calculated in section 12-50 for a disability retirement, shall be adjusted annually by one (1) per cent, (hereinafter the "cost of living adjustment" or "COLA"), as of the first day of January after five (5) years from commencement of benefits or from the member's Deferred Retirement Option Plan ("DROP") entry date. A one (1) per cent plus a prorated portion of the COLA will be applied on the first January 1st five (5) years subsequent to eligibility.

(Ord. No. 2003-101, § 2(Art. VIII), 3-4-03; Ord. No. 2005-107, § 3, 4-12-05; Ord. No. 2008-122, § 4, 12-16-08; Ord. No. 2008-123, § 2, 1-6-09; Ord. No. 2010-100, § 3, 2-2-10; Ord. No. 2011-111, § 4, 6-21-11; Ord. No. 2011-102, § 3, 2-15-11; Ord. No. 2014-123, § 2, 11-5-14)

Sec. 12-49. - Military service.

- (a) Any member of the plan who is actively employed by the city prior to entry into military service and who takes a leave of absence, other than from a temporary position, for the purpose of entering into military service in the Armed Forces of the United States and thereafter re-enters the employ of the city, shall be entitled to receive service credit for the period of absence. The member must be entitled to re-employment under the provisions of the Uniformed Service Employment and Re-employment Rights Act and must return to his or her employment as a firefighter for the city within one (1) year from the date of release from such active service. No payment by the member is required for this service credit.
- (b) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by section 401(a)(37) of the Internal Revenue Code, survivors of a member in the plan, are entitled to any additional benefits that the plan would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed. In any event, a deceased member's period of qualified military service must be counted for vesting purposes.
- (c) Beginning January 1, 2009, to the extent required by section 414(u)(12) of the Internal Revenue Code, an individual receiving differential wage payments (as defined under section 3401(h)(2) of the Internal Revenue Code) from the city shall be treated as employed by the city, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the Internal Revenue Code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.
- (d) After ten (10) years of service, any member who has served on active military duty in the Armed Forces of the United States prior to entry into the plan may receive credit for a maximum of two (2) years of military service time in the plan, as well as for prior services as a firefighter (as defined in F.S. § 175.032 8(a)) for another employer as long as the member is not entitled to receive a benefit for such other prior service as a firefighter. In addition, members who have ten (10) years of service as of January 1, 2009 will have until June 30, 2009 to purchase up to two (2) additional years for military service prior to employment as well as prior service as a firefighter for some other employer as long as the member is not entitled to receive a benefit for such other prior service or as a firefighter. In no event shall purchased service exceed four (4) years. For each year being purchased the member must pay to the plan the full actuarial cost of the buyback utilizing the member's current salary at the time of the buyback.

- (e) A member who is receiving, or will receive a pension benefit for military service in any other state or local government pension plan supported by public funds, may not use that service for this pension plan. However, a member may receive a military pension as well as receive credit under this article based on the same military service.
- (f) The contribution for military buy-back required of the employee may be made in one (1) lump sum or may be made by payroll deductions in installments for a period of time which shall not exceed the number of years being purchased. An employee making installment payments shall complete all required payments prior to payment of any benefit under the plan. If installment payments are not completed at the time an employee retires, the employee shall not receive military credit for the remaining period for which payments were not made. An employee making installment payments shall pay a uniform rate of interest as determined by the board.

(Ord. No. 2003-101, § 2(Art. IX), 3-4-03; Ord. No. 2008-122, § 5, 12-16-08; Ord. No. 2008-123, § 2, 1-6-09; Ord. No. 2011-111, § 5, 6-21-11)

Sec. 12-50. - Disability.

- (a) A member shall be disabled under the terms of the plan if the member has suffered an illness, injury or disease which renders the member permanently and totally incapacitated, physically or mentally, from regular and continuous duty as a firefighter as determined by the board. Disability shall not be determined based solely on the fact that a member cannot perform all of the duties of his or her job grouping as set forth in the job description. The city shall be required to accommodate disabled workers in accordance with state and federal law.
- (b) A member shall be eligible for a service-incurred disability retirement from the entry date into the plan. A service-incurred disability retirement shall mean that the disability arose as a result of an act occurring in the performance of service with the city.
- (c) A member shall be eligible for a non-service incurred disability retirement upon the completion of ten (10) years of credited service. A non-service incurred disability shall be an illness, injury, or disease, which did not occur as a result of an act in the performance of service with the city.
- (d) The service-incurred disability benefit for a firefighter shall be paid in equal monthly installments in an amount equal to fifty-two and one-half (52.5) per cent of the member's final monthly compensation as of the date of disability retirement, together with any additional accrued benefits in excess of fifty-two and one-half (52.5) per cent which have been earned by the member as the result of additional service.
- (e) The non-service incurred disability benefit shall be paid on the same basis as normal retirement in an amount equal to the member's accrued benefit to date of disability, but shall be not less than thirty (30) per cent of final monthly compensation. For the purposes of a non-service incurred disability benefit, final monthly compensation shall be determined as of the last day the member was actively at work for the city.
- (f) Disability benefits shall be paid on the first day of each month. No benefit shall be paid until the board of trustees has actually considered and voted upon entitlement to disability.
- (g) Disability retirement income shall continue until the death of the member or recovery from disability as determined by the board. An employee on disability retirement may, upon reaching normal retirement age, elect to convert the disability retirement to a service retirement. In the case of such an election, the member may receive credited service for the years during which the member was disabled by contributing to the retirement plan the monies the employee would have contributed had the employee remained continuously in service. In the case of such an election, average compensation shall be based upon salary being paid to member at the time of disability. In the event of the death of a member who is retired on a disability benefit, and has not received payments equal to one hundred twenty (120) in number, the remaining unpaid benefits shall be paid to a designated beneficiary selected by the member and communicated to the board on the form prescribed by the

board. In the event that there is no designated beneficiary, the remaining unpaid benefits shall be paid to the estate of the deceased member. A member may elect a reduced joint and survivor benefit.

- (h) The board of trustees shall have the continuing right to require disabled members to submit to a medical examination to determine whether the member remains disabled. In order for a member to be deemed recovered, the medical committee must recommend to the board of trustees that the member has sufficiently recovered to again engage in the duties of a firefighter, and that the city has certified that it has a position within the city available for the member consistent with the member's medical condition.
- (i) Upon finding that a member is no longer disabled, the member may apply to return to work for the city at the same rank, pay level and position previously occupied. If member is re-employed, he or she shall again become an active member of the plan but shall receive no credited service for any period of time in which the member was receiving disability benefits. If the member declines re-employment within the city, the member shall be deemed to have terminated employment on the date that the disability benefit commenced.
- (j) No member shall be eligible to receive disability benefits from the retirement plan during any period of time that the member is receiving a salary from the city. This section shall not apply to the receipt of worker's compensation benefits.
- (k) Application for disability retirement shall be made on a form prescribed by the board of trustees. The member shall execute such medical releases as are necessary to permit the board of trustees to review the medical records needed to determine the question of disability and to discuss said records at a public meeting. Upon receipt of an application for disability, the board shall appoint a medical committee to be composed of not less than one (1) nor more than three (3) licensed physicians. The applicant for disability shall be required to submit to examination by the medical committee. The medical committee shall report its findings to the board of trustees which shall include a determination, to the extent reasonably possible, the origin of the disability, whether the disability is permanent, and whether the disability is total. In making that determination, the medical committee shall be bound by the definition of disability set forth in this plan.
- (l) Upon receipt of the report of the medical committee, the trustees shall schedule a public hearing at which time the board shall review all reports of the medical committee, together with any such documentary evidence as the applicant may wish to submit. The board shall conduct a preliminary determination as to whether the member is permanently and totally disabled based upon the written documentation presented. If the board does not grant the application based on the written documentation, it shall inform the member in writing of the reasons for the denial of the application. The member may, within thirty (30) days of receipt of the board's preliminary denial, request a full evidentiary hearing before the board. Said hearing will be conducted consistent with the principles of due process and the rules of evidence generally applicable to administrative proceedings shall apply. The board shall have the power to issue subpoenas compelling the attendance of witnesses. At said hearing the applicant may present such oral and written evidence as the applicant deems necessary to establish his or her burden of proof. The board may appoint special counsel as an advocate to cross-examine witnesses and to offer argument in opposition to the application. The attorney for the board shall not serve both as advocate and as advisor to the board in the same proceeding. The applicant and the board shall have the right to examine and cross-examine all witnesses. The decision of the board shall be based solely upon the evidence presented and the law applicable to this plan. Following the conclusion of the hearing, the board shall render an opinion in writing setting forth the reasons for the grant or denial of the benefit. In the event that the disability benefit is denied, the applicant shall have the right to judicial review by complaint for common law certiorari in the Circuit Court of Broward County.
- (m) The board of trustees may prescribe rules of procedure to implement the provisions of this plan relating to the conduct of disability hearings.
- (n) No member shall be granted a disability pension upon a determination by the board that the disability resulted from:

- (1) Excessive and habitual use of drugs, intoxicants or narcotics;
 - (2) Injury or disease sustained while willfully and illegally participating in fights, riots, civil insurrections or while committing a crime;
 - (3) Injury or disease sustained by the firefighter while serving in any armed forces;
 - (4) Injury or disease sustained by the firefighter after his or her employment has terminated.
- (o) A disabled member may choose any of the optional forms of retirement income.

(Ord. No. 2003-101, § 2(Art. X), 3-4-03; Ord. No. 2008-122, § 6, 12-16-08; Ord. No. 2008-123, § 2, 1-6-09)

Sec. 12-51. - Vesting and termination.

- (a) Except as otherwise provided in this section, all rights to benefits under this plan shall terminate when a member's employment terminates for any reason other than normal service retirement, early service retirement, or disability retirement. Any member who completes ten (10) years of credited service and whose contributions remain in the plan has a vested right to accrued benefits from the plan. No member who has completed less than ten (10) years of credited service shall have a vested interest in any accrued benefit. In conformity with section 401(a)(8) of the Internal Revenue Code, any forfeitures of benefits by members or former members of the plan will not be used to pay benefit increases. However, such forfeitures shall be used to reduce employer contributions.
- (b) A member who shall leave the service of the city prior to the completion of ten (10) years of service shall be entitled to receive a refund of accumulated contributions, with interest which will be credited annually to the member's contributions at a rate of three (3) per cent. The member may voluntarily leave his or her contributions in the fund for a period of five (5) years after leaving the employ of the City of Coral Springs Fire Department, pending the possibility of being rehired by the same department, without losing credit for the time he or she has participated actively as a firefighter. If the member is not reemployed as a firefighter with the city within five (5) years, on and after March 28, 2005 his or her contributions, if one thousand dollars (\$1,000.00) or less, shall be returned without interest. If a member who is not vested is not reemployed within five (5) years, on and after March 28, 2005 his accumulated contributions, if more than one thousand dollars (\$1,000.00), will be returned only upon the written request of the member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the board. The return of such contributions shall operate as a complete release and discharge of the City of Coral Springs and the retirement plan from providing the member with any benefits from the plan.
- (c) A member, who has met the minimum vesting requirements as defined in section 12-42 of the plan and who shall leave the service of the city prior to eligibility for normal service retirement or early service retirement, shall be entitled to receive retirement benefits commencing at the regular normal service retirement date. Such benefits will be based on final monthly compensation and credited service as of the date of termination. At the member's option, benefits may also be paid at the member's early retirement date; provided, however, that the benefit shall be subject to the early retirement reduction.
- (d) Every member shall have the right to elect to receive, in lieu of all benefits under the plan, a return of the member's accumulated contributions, with interest, which shall be credited annually to the member's contributions at a rate of three (3) per cent.
- (e) A member who elects a lump sum return of contributions releases and discharges the City of Coral Springs and the retirement plan from the right to any other benefits from the plan.

(Ord. No. 2003-101, § 2(Art. XI), 3-4-03; Ord. No. 2004-126, § 2, 1-4-05; Ord. No. 2008-122, § 7, 12-16-08; Ord. No. 2011-111, § 6, 6-21-11)

Sec. 12-52. - Death benefits.

- (a) In the event of the death of a member prior to the time of becoming vested for early or normal retirement, the member's designated beneficiary shall be paid from the fund an amount equal to the member's accumulated contributions together with interest thereon, at such rate to be determined by the board.
- (b) In the event of the death of a member after vesting for early or normal retirement, a death benefit shall be paid from the fund in accordance with either (1) or (2) below, but not both. If the member has a surviving spouse or a surviving child(ren) under age eighteen (18), then the death benefit will be payable under either (1) or (2), whichever provides the greater death benefit on an actuarial basis. This does not preclude the member from designating a beneficiary or beneficiaries other than a surviving spouse or children, in which case that beneficiary or beneficiaries will be payable under (1). Otherwise, if the member has no surviving spouse and no surviving child under age eighteen (18), then the death benefit will be payable under (1) below. Once payments have commenced under either (1) or (2), as applicable, no additional death benefits will be payable other than those specified in the applicable section.
 - (1) The death benefit payable under this section 12-52(b)(1) shall be paid to the member's named beneficiary(ies) as of the first day of each month for one hundred twenty (120) months following the member's death. This death benefit is payable to the member's named beneficiary(ies) in equal shares or, if no beneficiary has been named, then to the member's estate. The amount of the monthly death benefit payable under this section is equal to the member's monthly accrued benefit. If a member who has designated a beneficiary, has chosen an optional form of benefit pursuant to F.S. § 175.171, and continues beyond normal retirement, the benefit payable to the beneficiary will be provided for the lifetime of the beneficiary, under the optional form selected.
 - (2) The death benefit payable under this section 12-52(b)(2) shall be paid as of the first day of each month for the life of the member's surviving spouse or, if there is no surviving spouse, then to the member's surviving child(ren), if any, until age eighteen (18). If there is no surviving spouse or surviving child under age eighteen (18), then no benefits are payable under this section. If there is more than one (1) surviving child under the age of eighteen (18), then the death benefit payable under this section shall be payable in equal shares to each of the member's surviving children until each child attains eighteen (18) years of age. The amount of the monthly death benefit payable under this section is equal to fifty (50) per cent of the member's average monthly earnings.
- (c) In the event that a designated beneficiary pre-deceases the member, or in the case of dissolution of marriage where the spouse is the designated beneficiary, the member may designate a new beneficiary as set forth in the plan. After retirement benefits have commenced, a retired member may change his or her designation of joint annuitant or beneficiary only twice, pursuant to F.S. § 175.333. Any benefit to be paid to a newly designated beneficiary shall be based on the age and gender of the new beneficiary.
- (d) The death benefit will be paid on the first day of the first month immediately following the members death, if administratively feasible.

(Ord. No. 2003-101, § 2(Art. XII), 3-4-03; Ord. No. 2008-122, § 8, 12-16-08)

Sec. 12-53. - Compliance with the Internal Revenue Code.

- (a) It is the intention of the city and of the board that the plan remain at all times a qualified plan, pursuant to sections 401(a) and 414(d) of the Internal Revenue Code or such other provision of the Internal Revenue Code as applicable and applicable Treasury Regulations and other guidance. All references to the Internal Revenue Code mean the Internal Revenue Code of 1986, as amended.

(b) Notwithstanding any other provisions of the plan to the contrary, the member contributions paid to and retirement benefits paid from the plan shall be limited to such extent as may be necessary to conform to the requirements of section 415 of the Internal Revenue Code for a qualified pension plan. For purposes of testing under section 415 of the Internal Revenue Code, the limitation year is the calendar year.

(1) Participation in Other Qualified Plans: Aggregation of Limits.

- a. The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in section 414(j) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan.
- b. The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in section 414(i) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan

(2) Basic 415(b) Limitation.

- a. A member may not receive an annual benefit that exceeds the dollar amount specified in section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable adjustments in section 415(b) of the Internal Revenue Code and subject to any additional limits that may be specified in the plan. In no event shall a member's benefit payable under the plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d) of the Internal Revenue Code and the regulations thereunder.
- b. For purposes of section 415(b) of the Internal Revenue Code, the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to section 415(n) of the Internal Revenue Code) and to rollover contributions (as defined in section 415(b)(2)(A) of the Internal Revenue Code). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(3) Adjustments to Basic 415(b) Limitation for Form of Benefit. If the benefit under the plan is other than the form specified in subsection (2)(b), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

- a. If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in Treasury Regulation section 1.415(b)-1(c)(2)(ii)] that takes into account the additional benefits under the form of benefit as follows:
- b. For a benefit paid in a form to which section 417(e)(3) of the Internal Revenue Code does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):
 - i. The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member, or
 - ii. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a five (5) per cent interest assumption (or the

applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the Internal Revenue Code); or

- c. For a benefit paid in a form to which section 417(e)(3) of the Internal Revenue Code applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the following assumptions):
 - i. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
 - ii. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a five and one-half (5.5) per cent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality table for the distribution under Treasury Regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the Internal Revenue Code); or
 - iii. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable mortality rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the Internal Revenue Code), divided by 1.05.
 - d. The actuary may adjust the 415(b) limit at the annuity starting date in accordance with the above subsections (b) and (c).
- (4) Benefits not Taken into Account for 415(b) Limitation. For purposes of this section, the following benefits shall not be taken into account in applying these limits:
- a. Any ancillary benefit which is not directly related to retirement income benefits;
 - b. That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
 - c. Any other benefit not required under section 415(b)(2) of the Internal Revenue Code and Treasury Regulations thereunder to be taken into account for purposes of the limitation of section 415(b)(1) of the Internal Revenue Code.

- (5) Other Adjustments in 415(b) Limitation.
- a. In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with Treasury Regulations pursuant to the provisions of section 415(b) of the Internal Revenue Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000.00) (as adjusted) annual benefit beginning at age sixty-two (62).
 - b. In the event the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustments provided for in (a) above shall not apply.
 - c. The reductions provided for in (a) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
- (6) Less than Ten (10) Years of Participation or Service Adjustment for 415(b) Limitations. The maximum retirement benefits payable to any member who has completed less than ten (10) years of participation shall be the amount determined under subsection (2), as adjusted under subsection (3) and/or (5), multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is ten (10). The limit under subsection (7) (concerning the ten thousand dollar (\$10,000.00) limit) shall be similarly reduced for any member who has accrued less than ten (10) years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below ten (10) per cent of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
- (7) Ten Thousand Dollar (\$10,000) Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under this plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000.00) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.
- (8) Effect of COLA on 415(b) Testing. Effective on and after January 1, 2009, for purposes of applying the limits under section 415(b) of the Internal Revenue Code (Limit), a plan member's applicable Limit will be applied taking into consideration cost of living increases as required by section 415(b) of the Internal Revenue Code and applicable Treasury Regulations.
- (9) Service Purchases under Section 415(n). If a member makes one (1) or more contributions to purchase permissive service credit under the plan, then the requirements of section 415(n) of the Internal Revenue Code will be treated as met only if:
- a. The requirements of section 415(b) of the Internal Revenue Code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of section 415(b) of the Internal Revenue Code, or
 - b. The requirements of section 415(c) of the Internal Revenue Code are met, determined by treating all such contributions as annual additions for purposes of section 415(c) of the Internal Revenue Code.
 - c. For purposes of applying this section, the plan will not fail to meet the reduced limit under section 415(b)(2)(C) of the Internal Revenue Code solely by reason of this subparagraph and will not fail to meet the percentage limitation under section 415(c)(1)(B) of the Internal Revenue Code solely by reason of this section.
 - d. For purposes of this section the term "permissive service credit" means service credit:
 - i. Recognized by the plan for purposes of calculating a member's benefit under the plan,

- ii. Which such member has not received under the plan, and
- iii. Which such member may receive only by making a voluntary additional contribution, in an amount determined under the plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the plan.

- e. The plan will fail to meet the requirements of this section if:
 - i. More than five (5) years of nonqualified service credit are taken into account for purposes of this subparagraph, or
 - ii. Any nonqualified service credit is taken into account under this paragraph before the member has at least five (5) years of participation under the plan.
- f. For purposes of paragraph (e), the term "nonqualified service credit" means permissive service credit other than that allowed with respect to:
 - i. Service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any state or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in section 415(k)(3) of the Internal Revenue Code),
 - ii. Service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed,
 - iii. Service as an employee of an association of employees who are described in clause (i), or
 - iv. Military service (other than qualified military service under section 414(u) of the Internal Revenue Code) recognized by the plan.

In the case of service described in clause (i), (ii), or (iii), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one (1) plan.

- g. In the case of a trustee-to-trustee transfer after December 31, 2001, to which section 403(b)(13)(A) of the Internal Revenue Code or section 457(e)(17)(A) of the Internal Revenue Code applies (without regard to whether the transfer is made between plans maintained by the same employer):
 - i. The limitations of paragraph (e) will not apply in determining whether the transfer is for the purchase of permissive service credit, and
 - ii. The distribution rules applicable under federal law to the plan will apply to such amounts and any benefits attributable to such amounts.

(10) Modification of Contributions for 415(c) and 415(n) Purposes. Notwithstanding any other provision of law to the contrary, the plan may modify a request by a member to make a contribution to the plan if the amount of the contribution would exceed the limits provided in section 415 of the Internal Revenue Code by using the following methods:

- a. If the plan requires a lump sum payment for the purchase of service credit, the plan may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under section 415(c) or 415(n) of the Internal Revenue Code.
 - b. If payment pursuant to subparagraph (a) will not avoid a contribution in excess of the limits imposed by section 415(c) or 415(n) of the Internal Revenue Code, the plan may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.
- (11) Reduction of Benefits Priority. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.
- (c) In no event may a member's retirement benefit be delayed beyond the later of April 1st following the calendar year in which the member attains age seventy and one-half (70½), or April 1st of the year following the calendar year in which the member retires.
 - (d) When a distribution of the participant's entire interest is not made in a lump sum, the distribution will be made in one (1) or more of the following ways: over the life of the participant; over the life of the participant and designated beneficiary; over a period certain not extending beyond the life expectancy of the participant; or over a period certain not extending beyond the joint life and last survivor expectancy of the participant and a designated beneficiary. Notwithstanding the other provisions of this rule or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section. The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of section 401(a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation section 1.401(a)(9)-6, Q&A-2. The death and disability benefits provided by the retirement system are limited by the incidental benefit rule set forth in section 401(a)(9)(G) of the Internal Revenue Code and Treasury Regulation section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed twenty-five (25) per cent of the cost for all of the members' benefits received from the plan.
 - (e) If the distribution has commenced before the participant's death, the remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the participant's death.

The method of distribution, if the participant dies before distribution is commenced, must satisfy the following requirements:

- (1) Any remaining portion of the participant's interest that is not payable to a beneficiary designated by the participant will be distributed within five (5) years after the participant's death;
- (2) Any portion of the participant's interest that is payable to a beneficiary designated by the participant will be distributed either: (i) within five (5) years after the participant's death; or (ii) over the life of the beneficiary, or over a period certain not extending beyond the life expectancy of the beneficiary, commencing not later than the end of the calendar year following the calendar year in which the participant died (or, if a designated beneficiary is the participant's surviving spouse, commencing not later than the end of the calendar year following the calendar year in which the participant would have attained age seventy and one-half (70½)).

- (f) Notwithstanding any provision of this plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution made directly to an eligible retirement plan specified by the distributee in a direct rollover.

For this purpose, an eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

- (1) Any periodic payments (not less frequently than annually) made for life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and designated beneficiary or for a specified period of ten (10) years or more;
- (2) Any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code;
- (3) The portion of any distribution that is not includable in gross income, unless such portion may be transferred only (i) to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in section 401(a) of the Internal Revenue Code; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in section 401(a) of the Internal Revenue Code or to an annuity contract described in section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includable; or (iii) on or after January 1, 2008, to a Roth IRA described in section 408A of the Internal Revenue Code; and
- (4) Any other distribution which the Internal Revenue Service does not consider eligible for rollover treatment, such as certain corrective distributions necessary to comply with the provisions of section 415 of the Internal Revenue Code or any distribution that is reasonably expected to total less than two hundred dollars (\$200.00) during the year.

The definition of eligible rollover distribution includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code.

An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution: (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, (iii) a qualified trust described in section 401(a) of the Internal Revenue Code, (iv) an annuity plan described in section 403(a) of the Internal Revenue Code, (v) an annuity contract described in section 403(b) of the Internal Revenue Code, (vi) a plan eligible under section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system, and (vii) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code.

A distributee includes a member or former member. A distributee with regard to the interest of a spouse or former spouse refers to a distributee's surviving spouse or a former spouse who has an interest in the distribution of benefits under the fund as the result of a domestic relations order, as defined in section 414(p) of the Internal Revenue Code. Effective October 1, 2010, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

A direct rollover is payment by the plan to the eligible retirement plan specified by the distributee.

- (g) A purchase of an increased multiplier for prior service, or a purchase of prior service credit authorized under this plan, may be completed by means of any of the following (or a combination thereof):
 - (1) A lump-sum, after-tax payment, subject to the limits of section 415(n) of the Internal Revenue Code;
 - (2) An eligible rollover distribution from a 401(a) qualified plan, a 403(a) annuity plan, a governmental 457(b) plan, a 403(b) tax-sheltered annuity plan, or a 408(a) or 408(b) individual retirement account of annuity, as permitted under the Internal Revenue Code;
 - (3) A trustee-to-trustee transfer from a section 457(b) governmental plan or a section 403(b) plan as permitted under the Internal Revenue Code as a transfer for "permissive service credit" as defined by section 415(n) of the Internal Revenue Code; or
 - (4) A trustee-to-trustee transfer from a plan under section 401(a) of the Internal Revenue Code.
- (h) The board may not engage in a transaction prohibited by section 503(b) of the Internal Revenue Code.

(Ord. No. 2003-101, § 2(Art. XIII), 3-4-03; Ord. No. 2009-107, § 3, 7-7-09; Ord. No. 2011-111, § 7, 6-21-11)

Sec. 12-54. - Amendment or termination of the system.

- (a) It is the intention of the city and the board that this plan shall constitute an irrevocable trust and no portion of the assets may revert to the employer until all other obligations of the plan, including the payment to the last surviving member and beneficiary has been paid.
- (b) In the event of termination or partial termination of the plan, each participant's accrued pension benefit shall become nonforfeitable (one hundred (100) per cent vested) to the extent funded. At such time, the funds shall be appropriated and distributed in accordance with the provisions of F.S. Ch. 175.
- (c) For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the plan may be terminated by the municipality or special fire control district. Upon termination of the plan by the municipality or special fire control district for any reason or because of a transfer, merger, or consolidation of governmental units, services, or functions as provided in F.S. Ch. 121, or upon written notice by the municipality or special fire control district to the board of trustees that contributions under the plan are being permanently discontinued, the rights of all employees to benefits accrued to the date of such termination and the amounts credited to the employees' accounts are nonforfeitable. The fund shall be distributed in accordance with the following procedures:
 - (1) The board of trustees shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits after taking into account the expenses of such distribution. The board shall inform the municipality or special fire control district if additional assets are required, in which event the municipality or special fire control district shall continue to financially support the plan until all nonforfeitable benefits have been funded.
 - (2) The board of trustees shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each firefighter entitled to benefits under the plan as specified in subsection (3).
 - (3) The board of trustees shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase

of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.

- (4) If there is asset value remaining after the full distribution specified in subsection (3), and after the payment of any expenses incurred with such distribution, such excess shall be returned to the municipality or special fire control district, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the municipality or special fire control district and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the municipality or special fire control district and the state.
- (5) The board of trustees shall distribute, in accordance with subsection (2), the amounts determined under subsection (3).

If, after 24 months after the date the plan terminated or the date the board received written notice that the contributions thereunder were being permanently discontinued, the municipality or special fire control district or the board of trustees of the firefighters' pension trust fund affected has not complied with all the provisions in this section, the department of management services shall effect the termination of the fund in accordance with this section.

(Ord. No. 2003-101, § 2(Art. XIV), 3-4-03; Ord. No. 2010-100, § 4, 2-2-10)

Sec. 12-55. - Distribution of marital interests in the plan.

- (a) In the event that the board is served with a domestic relations order or other legal process purporting to require the payment of any portion of a member's benefit to another person as a result of a dissolution of marriage, the board shall cause such order to be reviewed to determine compliance with the provisions of the plan. If benefits are payable pursuant to a qualified domestic relations order that meets the requirements of a domestic relations order as defined in section 414(p) of the Internal Revenue Code and the requirements for payment to an alternate payee under Florida law, then the applicable requirements of section 414(p) of the Internal Revenue Code will be followed by the plan.
- (b) The board of trustees shall be authorized to intervene in any such dissolution of marriage proceeding to ensure that such domestic relations order is otherwise consistent with the distribution of an interest in a public employees retirement plan under state law.
- (c) Any cost associated with the modification or correction of such domestic relations orders shall be the responsibility of the plan member.

(Ord. No. 2003-101, § 2(Art. XV), 3-4-03; Ord. No. 2011-111, § 8, 6-21-11)

Sec. 12-56. - Miscellaneous.

- (a) The present or future right of a person to money in the pension fund or to a retirement allowance, an optional allowance, a death benefit, the return of contributions, or any other right accrued or accruing under the provisions of this plan shall not be assignable and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law or any other process of law whatsoever, except with respect to alimony, child support or medical payments to a former spouse.
- (b) The board shall have the power to examine into the facts upon which any pension has been granted under any prior or existing law or which may be granted in the future or obtained erroneously, fraudulently, or illegally for any reason. The board is empowered to purge the pension rolls of any person who has been granted a pension under a prior or existing law, or who is hereafter granted a benefit under the plan if the granting of that pension is found to be erroneous, fraudulent, or illegal

for any reason; and to reclassify any pensioner who has under any prior or existing law or who may under this article be erroneously, improperly or illegally classified.

- (c) Should any change or error in retirement system records be discovered or result in any member or beneficiary receiving from the retirement plan more or less than he or she would have been entitled to receive had the records been correct, the board shall have the power to correct such error and, as far as possible, adjust the payments in such a manner that the actuarial equivalent of a benefit to which such member or beneficiary was correctly entitled shall be paid.
- (d) If any member or beneficiary is a minor or is under any other legal disability, the board of trustees shall have the power to withhold payment of benefits until the board is presented with proof satisfactory to the board of the appointment of a guardian. If the board becomes aware that any member or beneficiary is incapable of personally receiving and giving a valid receipt for any payment due under the plan, the board shall cause notice to be given to that participant or beneficiary of a hearing to determine whether said benefits should continue to be paid until the appointment of a guardian. During the pendency of any such hearing, however, the board may continue to pay benefits to the member or beneficiary and that such payment shall be a complete discharge of any liability under the plan for such payment.
- (e) Members entitled to a pension shall not forfeit same upon dismissal from the city, but shall be retired as herein described.

(Ord. No. 2003-101, § 2(Art. XVI), 3-4-03)