

ARTICLE III. FIREFIGHTERS' PENSION PLAN AND TRUST FUND*

***Editor's note:** Ord. No. 00-47, § 1, adopted Sept. 20, 2000, repealed former Art. III, which pertained to the Firefighters' Pension Plan and Trust Fund. Section 2 of said ordinance enacted provisions designated as a new Art. III to read as herein set out. See the Code Comparative Table.

Cross references: Fire department, § 9-26 et seq.; tax levy on property insurance businesses, § 19-27.

State law references: Municipal firefighters pension trust funds, F.S. ch. 175.

Sec. 15-76. 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 this article 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 Miramar Firefighters Retirement Plan.

(c) The retirement plan shall have an effective date of October 1, 1999.

(Ord. No. 00-47, § 2, 9-20-00)

Sec. 15-77. 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, together with regular interest.

Active membership shall mean membership in the retirement plan as an employee.

Actuarial equivalent shall mean a benefit having the same present value as the benefit it replaces.

And shall have a conjunctive meaning.

Beneficiary shall mean any person, other than a retired member, receiving a retirement allowance or other benefit from the retirement plan. A retired member shall be referred to as a retiree.

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 Miramar, 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.

Disability shall mean the permanent and total incapacity to perform regular and continuous duties as a firefighter for the City of Miramar. The term regular and continuous as used in this definition shall not require that a firefighter be able to perform all of the duties set forth in the job description, but shall mean the ability to perform work within the classification of firefighter for which a position has been made available by the city, consistent with the physical or mental health of the member.

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 a member's fixed monthly compensation, including pick-up contributions for all straight time hours worked. Earnable compensation shall also include the following: incentive pay received by employees assigned to a permanent, non-shift, forty (40) work hour week position; dive team assignment pay; Fire Inspector assignment pay; pay to an employee assigned to work in any capacity not regularly part of the unit member's position (i.e. Public information officer or any position which is not a promotion); pay received by employees as rescue pay; and pay received by employees assigned to the fire life safety bureau. Compensation in excess of the limitation set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for eligible employees shall be not less than the amount which was allowed to be taken into account under the plan in effect on July 1, 1993. For this purpose, an eligible employee is an individual who was a member of the retirement system before September 30, 1996.

Employee shall mean a firefighter presently employed by the city. A firefighter who is reclassified, due to disability; as a city employee outside of the fire service shall have membership rights in the retirement plan applicable to that new class of employees.

Final monthly compensation shall mean a member's average monthly rate of earnable compensation from the city during the three (3) consecutive years of employment which is greater than the total of any other three (3) consecutive years; 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 for whom contributions to the retirement plan as required by this article who is certified as a firefighter as a condition of employment in accordance with the provisions of F.S. § 633.35, and whose duty it is to extinguish fires, to protect life and to protect property.

Fund shall mean the City of Miramar Firefighters Retirement Fund.

May shall mean a permissive term.

Member shall mean a firefighter actively employed by the city for whom contributions to the retirement plan are made as required by this ordinance. Members shall also include retired firefighters, but the fire chief may elect not to participate in the system by submitting written notice to the board of trustees.

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 with ten (10) years of pension benefits guaranteed (or an optional form of payout), 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 membership with a retirement benefit granted to the member pursuant to the provisions of this article.

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

Retirement plan shall mean the City of Miramar Firefighter's Retirement Plan.

Service shall mean active service as an employee.

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.

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 this article.

Minimum vesting shall mean ten (10) years of credited service before the member is entitled to retirement benefits except for service-incurred disability retirement income or service incurred death benefits.

(Ord. No. 00-47, § 2, 9-20-00; Ord. No. 04-23, § 2, 9-1-04)

Sec. 15-78. Administration of the retirement plan.

(a) The sole and exclusive administration of, and the responsibility for, the proper effective operation of the retirement plan and for making the provisions of this article is vested in a board of trustees.

(b) The board of trustees shall consist of five (5) persons; two (2) of whom shall be legal residents of the City of Miramar and who shall be appointed by the city commission. Two (2) members of the board of trustees shall be firefighters elected by a majority of the firefighters who are active members of the plan. A fifth member of the board shall be chosen by a majority of the other four (4) trustees, and such person's name shall be submitted to the city commission for appointment. The city commission shall appoint the fifth member selected by the other four (4) trustees as a ministerial duty.

(c) All trustees shall serve a term of two (2) years. If a vacancy shall occur prior to the expiration of a member's term, a replacement member shall be chosen in the same manner as the person who has left office. A replacement trustee shall serve a full term measured from the date of replacement. All trustees shall serve until their replacements are selected.

(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 by the board, including, but not limited to reimbursement for leave time used for educational conferences approved by the board. The board shall be permitted to prescribe uniform rules for reimbursement for travel expenditures. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by Florida law.

(f) The board of trustees shall select by majority vote a chair and 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 kept in written form and maintained by the board.

(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 regarding the financial and actuarial status of the plan;

(9) To retain and compensate such professional and technical experience as is necessary to fulfill its fiduciary responsibilities;

(10) To make recommendations regarding changes in the provisions of the plan;

(11) To assure the prompt deposit of all member contributions, city

contributions, Chapter 175 monies, 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 so retained.

(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 F.S. § 768.28. 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.

(p) The board shall have the authority to provide for a pre-entry physical exam to determine the existence of pre-existing conditions. The medical provider performing the examination shall retain the records of the exam until such time as the member shall apply for a disability retirement. No medical condition revealed in the pre-entry physical shall be grounds for denying membership in the plan provided, however, that any condition of health determined to exist at the time of entry into the plan may not be the source of a service-connected disability retirement. In the event that the pre-entry physical exam shall reveal a medical condition which, in the opinion of the medical provider, warrants immediate medical attention, the medical provider shall be authorized to communicate directly with the member to advise as to the existence of the condition and to recommend a course of treatment.

(Ord. No. 00-47, § 2, 9-20-00; Ord. No. 04-23, § 3, 9-1-04)

Sec. 15-79. Contributions.

(a) The city shall pick-up, rather than deduct from each member's pay, beginning with the date of employment, eight (8) percent of the member's earnable compensation. Beginning the first full payroll period after October 1, 2004, the city shall pick-up, rather than deduct from each member's pay, an amount which is determined by the Fund's actuary to be the member's contribution. This rate of contribution shall be equal to eight and forty-seven one hundredths (8.47) percent of a member's earnable compensation plus any additional amount necessary to continue to render the cost of the deferred retirement option plan set forth in section 15-92 cost neutral to the city. The monies so picked-up shall be deposited in the fund on a bi-monthly basis. An account record shall

be maintained continuously for each member. Pick-up contributions shall continue until death, disability or termination of service, whichever shall occur first. Contributions shall remain in the fund unless withdrawn as provided in the plan. No member shall have the option to choose to receive the contributed amounts directly instead of having them paid by the city directly to the plan. All such pick-up contributions by the city shall be deemed and be considered as part of the member's accumulated contributions and subject to all provisions of the plan pertaining to accumulated contributions of members. The intent of this provision is to comply with Section 414(h)(2) of the Internal Revenue Code. For the purpose of accruing and calculating pension benefits, Social Security benefits, overtime compensation, percentage increases to base pay, supplemental percentage payments for particular assignments, education, experience, longevity, years of service, payroll steps, licensure or training, and for paying Social Security taxes, and for such other purposes except as specified in this plan, the amount of employee contributions "picked-up" or paid by the city will be added to the amount distributed on a current basis in order to determine total wages, salary, pay or compensation.

(b) All benefits payable under this plan are in lieu of a refund of accumulated contributions. In any event, however, each member shall be guaranteed the payment of benefits at least equal in total amount to the member's accumulated contributions.

(c) 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 within five (5) business days of receipt by the city. State monies shall be used to provide extra benefits to firefighters over and above those provided to general employees of the city.

(d) The city shall contribute to the retirement plan an amount which when combined with (i) member contributions, (ii) applicable Chapter 175 monies, and (iii) investment return, will be sufficient to maintain the plan on a sound actuarial basis.

(e) Expenses, charges and fees attributable to the management of the plan shall be paid from the fund.

(f) 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.

(g) The board of trustees shall be responsible, pursuant to florida law, for the adoption of an actuarial valuation to be used in making funding decisions for the plan. The board of trustees shall retain the services of an enrolled actuary who shall advise the board on the reasonable and appropriate actuarial assumptions and cost methods to be used in the valuation of the plan. The valuation recommended by the board's actuary shall be forwarded to the city manager, or his designee, to review the reasonableness and appropriateness of the assumptions and cost methods. If the city manager or his designee has a different opinion as to the reasonableness and appropriateness, the city manager or designee shall confer with the actuary for the board in an effort to concur. If the two (2) individuals cannot agree, they may select an independent actuary who shall assist the board's actuary and the city manager or his designee in reaching a mutually acceptable solution and, if the individuals cannot concur, the independent actuary may propose an alternative solution to assist in resolving any such actuarial difference of opinion. The valuation shall be developed in accordance with accepted standards of actuarial practice, based on the board actuary's best estimate of anticipated future experience of the plan. The valuation adopted by the board shall, in accordance with state law, be submitted to the division of retirement. Pursuant to F.S. § 175.061(1), the board is solely responsible for the administration of the trust fund.

(Ord. No. 00-47, § 2, 9-20-00; Ord. No. 04-23, § 4, 9-1-04)

Sec. 15-80. Fund management and investments.

(a) The plan is hereby established, pursuant to authority granted in the City Charter, 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;
- (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) Time or savings accounts or certificates of deposit in a national bank, a state bank insured by the Bank Insurance Fund, or a savings, building and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.
- (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 three (3) 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 and financial institutional futures, listed options, stock index futures, which may be used under specific instruction of managers;

(7) Common stock, preferred stock and interest-bearing obligations of corporations having an option to convert into common stock issued by a corporation. Investment in foreign securities shall be limited to ten (10) percent of the total fund, at cost.

(8) Index funds and collective investment funds.

(9) Any other investment permitted by law.

(d) The board may determine the percentage of each type of investment to be held without regard to the limitations set forth in F.S. Ch. 175.

(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 convey property of the plan 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 judgment 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 the 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.

(Ord. No. 00-47, § 2, 9-20-00; Ord. No. 04-23, § 5, 9-1-04)

Sec. 15-81. Service retirement benefits: cost of living adjustments.

(a) A member may retire on the first day of the month coincident with or next following the earlier of: the date upon which the member completes twenty-five (25) years of credited service, regardless of age; or the date upon which the member attains age fifty-five (55) with ten (10) years of credited service. There shall be no mandatory retirement age.

(b) A normal retirement benefit shall be determined by multiplying three (3) percent of final monthly compensation by the number of years of credited service. The normal form of payment shall be for life, with one hundred twenty (120) payments guaranteed. The amount provided in this section shall not exceed any limitation established by state or

federal law, and shall not exceed eighty (80) percent of final monthly compensation. Notwithstanding the foregoing, the minimum benefit provided under this Plan shall meet the requirement of F.S. Ch. 175.

(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 and shall continue until the death of the member. In the event that a member shall retire in the middle of the month, the retirement benefit shall commence on the first day of the following month, but the member shall receive credit for the partial month preceding the actual date that payment commenced.

(d) Early retirement shall be available to a member on the first day of the month coincident with or next following attainment of age fifty (50) and a completion of ten (10) years of credited service.

(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 commence on the normal retirement date of the member. This shall mean the date upon which the member attains age fifty-five (55) with ten (10) years of credited service. A deferred payment shall be determined in the same manner as a normal retirement, except that final monthly compensation and credited service shall be based upon the early retirement date.

(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 normal retirement date shall be the date upon which the member would have attained age fifty-five (55) with ten (10) years of credited service. The actuarial reduction factor applied to the benefit shall be three (3) percent for each year by which the starting date of the benefit 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. The present value of payments to a retiring member must be equal to at least fifty (50) percent of the total value of payments to a retiring member and designated beneficiary. Election of the retirement option shall be on a form prescribed by the board.

(1) *Life annuity.* A member may elect to receive an enhanced annuity payable for life. There shall be no guaranteed payment in excess of the accumulated contributions of the member, which contributions shall be paid to the member's estate or designated beneficiary should the member die prior to receiving payments equal to said contributions.

(2) *Joint and last survivor option.* A member may elect to receive a 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. The

member may elect to receive the payment of a benefit of seventy-five (75) percent, sixty-six and two-thirds (66 2/3) percent or fifty (50) percent of the member's monthly retirement allowance to be paid at the member's death to his or her joint designated survivor named by the member at the time of or prior to retirement. The reduced retirement benefit shall be the actuarial equivalent of the amount of the retirement compensation otherwise payable to the member. 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, or in the case of a spouse, the marriage is dissolved, 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. A member may, at that time, elect a life annuity or a ten (10) year certain and life thereafter benefit.

(3) *Ten (10) year certain and life thereafter* . A member may elect to receive an unreduced life annuity with one hundred twenty (120) guaranteed payments. If the member shall die prior to receiving one hundred twenty (120) payments, the remaining benefits shall be paid to the beneficiary designated by the member. In the event that no beneficiary has been designated, the member's estate shall be the recipient of the remaining balance of payments. This shall be the normal form of retirement.

(4) *Other options* . The board may, by uniform rule, establish any other optional form of payment, which is the actuarial equivalent of any other form of retirement provided for in this plan, or which optional form of payment is cost neutral to the plan. The board, in its sole discretion, may make lump sum distribution which is the actuarial equivalent of the monthly benefit if the lump sum is less than five thousand dollars (\$5,000.00) or if the monthly income payable is less than one hundred dollars (\$100.00).

(i) It is the intention of the city that the purchasing power of a retirement benefit be preserved. The board shall determine, in consultation with the actuary, a cost of living adjustment necessary to maintain a member's purchasing power at seventy-five (75) percent of its value on date of retirement utilizing the cost of living index for urban areas maintained by the Bureau of Labor Statistics of the United States Department of Labor. In no event shall the annual cost of living benefit be less than three (3) percent per year. The three (3) percent minimum adjustment shall apply to members of the plan who were employed by the city as firefighters on or after October 1, 1999 and survivors of such members. Retirees, survivors and separated, vested members shall only be entitled to receive the cost-of-living adjustment necessary to maintain purchasing power at seventy-five (75) percent of its value on the date the member's benefit commenced.

(Ord. No. 00-47, § 2, 9-20-00; Ord. No. 04-23, § 6, 9-1-04)

Sec. 15-82. Buyback for military or prior firefighter service.

(a) Any member of the plan who is employed by the city prior to entry into military service and who takes a leave of absence for the purpose of entering into voluntary or involuntary military service in the Armed Forces of the United States and thereafter re-enters the employ of the city as a firefighter within one (1) year of the date of release from active military service, shall be entitled to up to five (5) years of service credits for the period of absence provided the member has served that time in the military.

(b) Any vested member who has served on active military duty but is ineligible to claim credit for service under section 15-82(a) may receive credit for a maximum of four (4) years of military service time, provided that for each year being purchased the

member pays to the pension plan the contributions that the member would have paid had the member been employed for that period of time, based upon the employee's starting salary at the time of employment. See City Code section 15-84 (e).

(c) Any member of the plan who was employed by the city as a firefighter and received a refund of contributions shall be entitled to purchase the prior service credit upon re-entering the employ of the city as a firefighter. Such service shall be purchased by contributing the amount of refunded contributions plus interest at a rate of five and one half (5 1/2) percent per annum.

(d) Any vested member of the plan who was employed as a firefighter with another state, local or federal agency, shall be entitled to purchase up to four (4) years of service credit provided that for each year being purchased, the member pays 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 the pension benefit for prior service in any other pension plan supported by public funds except military service, may not use that service for this pension plan. A member who is receiving, or who will receive any other pension in which other service was used by the employee in that other pension plan shall not be eligible for prior service buyback as provided in this section.

(f) The contribution for military or prior service buyback 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 this section. If installment payments are not completed at the time an employee retires, the employee shall not receive military or prior service credit for the remaining period for which payments were not made. An employee making installment payments shall pay interest at a rate of five and one-half (5 1/2) percent per annum.

(Ord. No. 00-47, § 2, 9-20-00; Ord. No. 04-23, § 7, 9-1-04)

Sec. 15-83. 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 firefighter. Disability shall not be determined based solely on the fact that a member cannot perform all of the duties of a firefighter as set forth in the job description. The definition of disability shall be applied to an individual who because of illness, injury, or disease, cannot perform any job in the fire department which is within the member's physical or mental capabilities and further provided that a vacancy exists which will be made available by the city. The city shall be required to accommodate disabled workers in accordance with state and federal law and shall not withhold assignment to vacant positions on the basis that a member is not capable of performing all of the tasks of a firefighter. A disability benefit cannot be based on a condition which pre-existed membership in the plan unless the cause of the disability would reasonably be expected to give rise to a disability in a person without the pre-existing condition.

(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, or presumed by law to have occurred, 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 shall be paid in equal monthly installments in an amount equal to sixty-six and two-thirds ($66 \frac{2}{3}$) percent of the member's final monthly compensation as of the date of disability retirement, together with any additional accrued benefits in excess of sixty-six and two-thirds ($66 \frac{2}{3}$) percent which have been earned by the member as the result of additional service. Upon written election of a member, a service-incurred disability may be paid under any of the optional forms set forth in section 15-81(h).

(e) Effective September 1, 2004, the non-service incurred disability benefit shall be paid on a monthly basis in an amount equal to three (3) percent of final monthly compensation, multiplied by the number of years of credited service, but shall not be less than thirty (30) percent of average monthly compensation. Upon the written election of a member, a non-service incurred disability may be paid under any of the optional forms set forth in section 15-81(h).

(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 and return to active fire service. At the option of the member, a conversion of a service-incurred disability retirement may be made to a normal service retirement with credited service for all years of disability based on the salary applicable at time of disability. This election may be made for a period not to exceed thirty (30) days after the member reaches normal retirement age and receives written notice of the right of election from the plan. In the event of the death of a member who is retired on a disability benefit and has not received one hundred twenty (120) payments, 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. During the period of disability, member contributions shall be suspended unless the member is receiving a pay supplement in addition to disability benefits provided under the Florida Workers' Compensation Act. In such event, there shall be a member contribution from that amount representing the supplemental pay. In the event a member's disability is converted to a service retirement as set forth in this section, the member shall be accorded credited service for the period of disability.

(h) The board of trustees shall have the continuing right to require disabled members to submit to a medical examination to determine that the member remains disabled. In order for a member to be deemed recovered, the medical board 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 fire service available for the member consistent with the member's medical condition.

(i) Upon finding that a member is no longer disabled, the member shall return to work for the city at the same rank and position previously occupied and shall be placed into the appropriate step in the pay plan which the member would have occupied but for the disability. The member shall again become an active member of the plan. If the member declines reemployment with the city, the member shall be deemed to have terminated employment on the date that the disability commenced. In such event, the member may receive a return of contributions unless, prior to that date, the member has received disability benefits equal to or greater than the amount of the accumulated contributions, with interest at the rate of five and one-half ($5 \frac{1}{2}$) percent. 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 for performance of firefighter duties. This section shall not apply to the receipt of workers' 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 the 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 its 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 while serving in the armed forces; or
- (4) Injury or disease sustained after the termination of employment.

(Ord. No. 00-47, § 2, 9-20-00; Ord. No. 04-23, § 8, 9-1-04)

Sec. 15-84. 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.
- (b) A member who shall leave the service of the city prior to eligibility for normal service retirement or early service retirement, but who has completed ten (10) years of creditable service 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.
- (c) 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, at the rate of five and one-half (5 1/2) percent.
- (d) A member who elects a lump sum return of contributions releases and discharges the City of Miramar and the retirement plan from the right to any other benefits from the plan.
- (e) If a member who has terminated service prior to retirement re-enters the fire service of the city, the member will be entitled to reinstate the credited service that the member had on the date of termination in lieu of the benefits to which the member became entitled at time of separation. If, at the time of separation, the member withdrew the member's accumulated contributions, credited service can only be restored by repaying to the pension plan an amount equal to the accumulated contributions plus five and one-half (5 1/2) percent interest from the date the contributions were withdrawn.

(Ord. No. 00-47, § 2, 9-20-00)

Sec. 15-85. Death benefits.

- (a) In the event of the death of a member from non-duty related causes prior to vesting, the member's designated beneficiary shall be paid from the fund an amount equal to the member's accumulated contributions, unless the member meets the criteria set forth in subsection (c), below.
- (b) Duty related death.
- (1) In the event of a member's death from duty related causes, the member shall be presumed to have completed twenty-five (25) years of credited service and there shall be payable to the member's designated beneficiary a death benefit in an amount equal to the value of a one hundred (100) percent joint and survivor annuity, utilizing the member's salary at time of death.
- (2) In the event that the member was vested, but died before actual retirement, a death benefit shall be paid from the fund to the beneficiary. The amount of the benefit shall be computed as though the member had retired on the date of death and had chosen the one hundred (100) percent joint and survivor option. The board may, in its discretion, pay the benefit in another form if the board deems it to be in the best interest of the beneficiary. The actuarial value of any other form

of benefit may not exceed the actuarial value of the one hundred (100) percent joint and survivor option.

(3) In the event that the death of a member is from a cause arising in the line of duty, or presumed by law to have occurred in the line of duty, the member shall be presumed to have retired on a normal service retirement with twenty-five (25) years of credited service on the day prior to the member's death. This survivorship benefit shall be paid to the member's spouse.

(4) If the member has minor children, who are not also the children of the surviving spouse, the death benefit shall be divided with fifty (50) percent of the benefit being paid to the surviving spouse, and the remaining fifty (50) percent divided among the minor children. As each minor child reaches the age of majority, the remaining minor child(ren) shall receive an increased share of the survivorship benefit.

(5) Should the surviving spouse die prior to the surviving spouse's child(ren) with the deceased member reaching the age of majority, marriage or adoption, then the surviving children of the surviving spouse shall each be entitled to a pro rata share of the surviving spouse's benefit until the child reaches the age of majority, is adopted or married.

(6) This line of duty death benefit shall only apply to a member with a surviving spouse, or surviving minor children.

(c) In the event that a non-vested member dies from non-duty related causes and has sufficient accumulated sick, comp or vacation time to reach ten (10) years of credited service, it shall be presumed that the member completed ten (10) years of credited service and the member's unused leave accounts shall be reduced accordingly. Payment shall be as set forth in subsection (b) above.

(d) In the event of the death of a retiree, death benefits, if any, shall be paid in accordance with the optional form of benefit chosen at the time of retirement.

(Ord. No. 00-47, § 2, 9-20-00; Ord. No. 04-23, § 9, 9-1-04)

Sec. 15-86. 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, as that term is defined under the Internal Revenue Code.

(b) No member's annual benefit shall exceed the amounts permitted in Section 415 of the Internal Revenue Code.

(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 (70 1/2), or April 1st of the year following the calendar year in which the member retires.

When a distribution of the participant's entire interest is not made in a lump sum, the distribution will be made in 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.

(d) 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 (70 1/2)).
- (e) Direct transfers of eligible distributions shall be made as follows:
- (1) *General.* This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this subsection, 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.
 - (2) *Definitions.*
 - a. *Eligible rollover distribution.* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of a distributee, except that an eligible rollover distribution does not include: any distribution that is one (1) of a series of a substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includable in gross income.
 - b. *Eligible retirement plan.* An eligible retirement plan is an individual retirement account described in Section 408(a) of the Internal Revenue Code, an Individual Retirement Annuity described in Section 408(b) of the Internal Revenue Code, an Annuity Plan described in Section 403(a) of the Internal Revenue Code, or a qualified trust described in Section 401 (a) of the Internal Revenue Code that accepts a distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
 - c. *Distributee.* A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.
 - d. *Direct rollover.* A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.
- (f) *Rollover from qualified plans.*
- (1) A member may roll over all or a part of his or her interest in another

qualified plan to the fund, provided all of the following requirements are met:

- a. Some or all of the amount distributed from the other plan is rolled over to this plan no later than the 60th day after distribution was made from the plan, or if distributions are made in installments, no later than the 60th day after the last distribution was made.
- b. The rollover is made in cash.
- c. The member certifies that the distribution is eligible for a rollover.
- d. Any amount which the trustees accept as a rollover to the fund shall, along with any earning allocated to them, be fully vested at all times.

(2) A rollover may also be made to this plan from an individual retirement account qualified under Section 408 of the Internal Revenue Code when the individual retirement account was merely used as a conduit for funds from another qualified plan and the rollover is made in accordance with the rule provided in paragraph (1) above. Amounts rolled over may be segregated from other fund assets. The trustees shall separately account for gains, losses, and administrative expenses of these rollovers. In addition, the fund may accept the direct transfer of a member's benefits from another qualified retirement plan or an Internal Revenue Code Section 457 plan. The fund shall account for direct transfers in the same manner as a rollover and shall obtain certification from the member that the amounts are eligible for a rollover or direct transfer to the fund.

(Ord. No. 00-47, § 2, 9-20-00; Ord. No. 04-23, § 10, 9-1-04)

Sec. 15-87. Amendment or termination of the system.

(a) It is the intention of the city and the board that this pension 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. No amendment shall result in members receiving lower benefits than those in effect on the date the member commenced service with the city.

(b) In the event of termination or partial termination of the plan, each participant's accrued pension benefit shall become nonforfeitable (one hundred (100) percent vested) to the extent funded. At such time, the funds shall be appropriated and distributed in accordance with the provisions of Chapter 175.

In the event that the plan is terminated, the assets of the plan shall first be distributed to retired members and their beneficiaries. If there is any asset value remaining after the apportionment to retired members and their beneficiaries, apportionment shall next be made to each member in the service who has completed at least ten (10) years of credited service and has contributed to the fund for at least ten (10) years and who is not otherwise eligible to retire. If there is any asset value after the apportionments to retirees and their beneficiaries and to vested members of the plan, apportionment shall lastly be made in respect of each member in the service of the city in an amount not to exceed the total value of the member's contributions. In the event that there is any asset value remaining after full apportionment to all members and beneficiaries of the plan, the excess, if any, shall revert proportionately to the city and the State of Florida on the basis of contributions to the plan.

(Ord. No. 00-47, § 2, 9-20-00)

Sec. 15-88. 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.

(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 and payment of any such cost shall be a condition precedent to the receipt of benefits from the plan.

(Ord. No. 00-47, § 2, 9-20-00)

Sec. 15-89. 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 or minor child.

(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 this article 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.

(Ord. No. 00-47, § 2, 9-20-00)

Sec. 15-90. Post retirement supplement.

- (a) A post retirement supplement is hereby established.
- (b) Members retiring after October 1, 1999, shall receive a supplemental monthly payment. The monthly supplement shall be one hundred fifty dollars (\$150.00) if paid in the year 1999. This monthly supplement shall be adjusted for medical inflation in the year 2001 and each year thereafter by increasing the one hundred fifty dollars (\$150.00) by one (1) percent more than the cost-of-living increase for urban areas as determined by the Bureau of Labor Statistics.

(Ord. No. 00-47, § 2, 9-20-00)

Sec. 15-91. Utilization of Chapter 175 monies.

- (a) The city shall continue participation in the Chapter 175 insurance premium tax rebate program.
- (b) All Chapter 175 monies shall be used in accordance with law.
- (c) The board, by administrative rule, may implement the provisions of this section.

Sec. 15-92. Deferred retirement option plan ("DROP").

(a) *Eligibility*

- (1) Any active member of the retirement system may participate in the DROP upon becoming eligible for an unreduced service retirement.
- (2) The maximum DROP participation period shall be five (5) years commencing at the earliest date of eligibility. The available DROP participation period shall decline by one (1) month until the expiration of a sixty (60) month period beginning at earliest eligibility date.
- (3) Notwithstanding paragraph (2), any member who is eligible for normal retirement as of October 1, 2003, may elect to participate in the DROP for the full five-year period. This option is limited to only those members who are eligible for normal retirement on October 1, 2003 and from that date to September 1, 2004. However, the sixty-month period for participation in the DROP will begin to run as of September 1, 2004.

(b) *Election to participate.* A member electing DROP participation shall execute such forms as the board of trustees shall require. The DROP election shall be effective on the first day of the month following the date of election. Applications must be filed with the board not less than five (5) business days prior to the effective date.

(c) *Limitations on participation.*

- (1) DROP election shall be irrevocable following deposit of the first payment into the member's account.
- (2) A member may participate in the DROP only once. After DROP participation commences, a member may not rejoin the retirement system as an active member nor shall the member be eligible to receive disability or pre-retirement death benefits from the system.
- (3) A member shall continue to receive all other benefits guaranteed active members under any collective bargaining agreement or applicable city policy, unless otherwise addressed in this plan.

(d) *Contributions.* Upon DROP commencement, the member contributions shall be reduced to four (4) percent as provided in section 15-79(a) and shall be matched by the plan. The DROP shall remain cost neutral to the city at all times. Contributions will be credited to each individual member's DROP account.

(e) *Benefit calculation.*

(1) Upon commencement of DROP participation, a member's active participation in the system shall cease. The normal service retirement shall be calculated using the member's average of compensation and credited service as of the date of DROP participation. No further service shall be credited to a member. Members in the DROP are eligible for the cost-of-living (COLA) adjustment and monthly subsidy, which shall be credited to the member's DROP account.

(2) Accrual of vacation, holiday, personal and sick leave will continue during DROP participation in accordance with the collective bargaining agreement or applicable city policy.

(f) *Payments to the DROP account.*

(1) Upon DROP commencement, the member shall have the option to have the city pay a lump-sum contribution of the member's unused vacation, compensatory, personal and sick leave into the individual member's DROP account, as per the guidelines in the collective bargaining agreement or choose to have payout deposited to the member's DROP account upon termination. Once a member elects such a pay out at DROP commencement the member forfeits his/her rights to any future payouts of unused vacation, personal, or sick leave at the termination of DROP.

(2) Payments shall be made monthly to a member's DROP account in the amount which would be paid had the member separated from the city and commenced normal retirement.

(g) *DROP earnings.*

(1) At time of application to participate in the DROP, the member shall make an irrevocable election as to how his/her DROP contributions will be invested.

(2) The member shall choose one (1) of the following options:

a. Member accounts shall be credited/debited quarterly with the interest earned/lost at a rate equal to the fund's actual investment return, net of investment expenses.

b. Members shall be credited the then prevailing assumption rate minus one hundred fifty (150) basis points.

(3) If a member stays beyond the end of DROP eligibility, no interest shall be paid on any DROP account after termination of DROP eligibility and there shall be no future DROP deposits. No member shall receive DROP payment until actually separated from city employment.

(4) There shall be no fee charged for DROP administration.

(h) *DROP payout.*

(1) Upon termination of employment for any reason, DROP participation shall cease and any future retirement benefits shall be paid directly to the member, or in the case of death to the designated beneficiary.

(2) Payment shall be made from the DROP account no earlier than thirty (30)

days after the separation from the city. Payment shall be made:

- a. In a lump-sum.
- b. In annual installments in equal monthly installments.
- c. In equal monthly installments.
- d. To rollover to another qualified plan.
- e. In any combination of rollover, lump-sum and periodic payments.

(3) The board of trustees may accelerate or alter any payment schedule as may be required to comply with the provisions of IRC Sections 401(a)(9) and 415.

(4) No DROP payment may be made in a manner inconsistent with state or federal law.

(i) *Promotions.* Members shall be eligible for promotion during DROP participation; provided, however, that no such promotion shall affect the benefit rate calculated upon DROP commencement.

(j) *Death/disability during DROP.*

(1) Should a member die during DROP participation, the DROP account proceeds shall be distributed to the named beneficiary in a lump-sum amount and the member's retirement benefit shall be distributed to the named beneficiary as if the member had retired on the day the member entered the DROP. If no beneficiary is named or alive, the DROP account proceeds shall be deemed as part of the member's estate as if he/she had retired on the day prior to death.

(2) Should a member become disabled during DROP participation, the member's DROP participation shall cease and said member shall be entitled to DROP proceeds and begin receiving his retirement benefit as outlined within this program. DROP participants are not eligible for disability benefits.

(k) *Benefit amounts not guaranteed.* All benefits payable under this DROP program shall be paid solely from DROP assets. Neither the city nor the board of trustees shall have any duty to pay the member, except as set forth in this program. No rate of return on DROP assets is guaranteed and by their participation, members consent to the terms of this program and discharge the city and board of trustees from any and all liability, except as set forth in this program.

(Ord. No. 04-23, § 11, 9-1-04)

Secs. 15-93--15-131. Reserved.

Sec. 15-132. Coordination of benefits.

This plan will coordinate benefits with the Miramar general employees, police and ICMA pension plans (hereinafter, "city sponsored plans"). In the event that a participant of this plan has earned a minimum of ten (10) years of aggregate service in one (1) or more city sponsored plans, including this plan, the participant shall be eligible for coordination of benefits from the city sponsored plans, to the extent of any service credit used to determine eligibility for benefits in such plans. Upon the commencement of a service retirement, the participant shall receive payment from this plan in an amount equal to the accrued benefit based on credited service accrued while a participant is in this plan. In addition, the participant shall also be eligible for payment from any city sponsored plans, as appropriate, of a benefit equal to the years of

credited service in that plan based upon the average salary in effect at the time the participant terminated service with the city and at a formula rate in effect when the participant terminated membership in that plan. The benefits in the applicable city sponsored plan shall be available even though the participant shall not have otherwise vested under the terms of that plan.

In the event a participant of this plan shall transfer from this plan to another city sponsored plan, and the participant shall have accrued a total of ten (10) or more years of aggregate credited service in one (1) or more city sponsored plans, including this plan, the participant shall, upon retirement from such plan, be deemed vested in this plan and eligible to receive benefits accrued in this plan based upon aggregate years of service with the city, with benefits accrued in this plan based on credited service in this plan, average salary in effect at the time of retirement and the formula rate in effect when the participant transferred from this plan. This benefit shall be available even though the participant shall not have otherwise achieved a vested benefit in this plan; provided, however, that the participant, upon termination in this plan, kept his/her contributions on deposit in this plan.

(Ord. No. 01-22, § 1, 2-21-01)

Secs. 15-133--15-165. Reserved.