

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, RESTATING ARTICLE II ENTITLED "GENERAL EMPLOYEES", CHAPTER 14 ENTITLED "PENSIONS AND RETIREMENT PROGRAMS"; PROVIDING FOR SIMPLIFIED, UPDATED, AND MODERNIZED LANGUAGE; PROVIDING A LIMITATION ON NUMBER OF POST-RETIREMENT BENEFICIARY CHANGES; REMOVING AGE SEVENTY MANDATORY RETIREMENT AGE; CLARIFYING OPTIONAL FORMS OF RETIREMENT; ACKNOWLEDGING TRUSTEES' DUTY TO ATTEND PENSION SCHOOLS AND OTHER EDUCATIONAL FUNCTIONS; AMENDING THE COMPOSITION OF THE BOARD OF TRUSTEES; PROVIDING FOR IRS LANGUAGE CONCERNING PREVIOUS EMPLOYEES; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of Trustees of the Riviera Beach General Employees Retirement System requested a Restatement of Amended Plan of the City General Employees' Retirement System (hereinafter the "Plan") to make the Plan clearer and easier to use; and

WHEREAS, the Board of Trustees desires to simplify and modernize the language used within the Plan document; and

WHEREAS, the Board of Trustees deem it in the best interest of the Retirement System to limit post-retirement beneficiary changes to two times; and

WHEREAS, the Plan contains an age seventy mandatory retirement age, and the Board of Trustees desires to better comply with state and federal laws by removing such mandatory retirement age; and

WHEREAS, the optional forms of benefits as set forth in the plan may be more easily understood by characterizing straight life annuities as an option; and

WHEREAS, the Board of Trustees wish to acknowledge and affirm their duty to attend educational functions for pension plan trustees; and

WHEREAS, the Plan otherwise requires updates to keep up with changes in laws and changes to City administration.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, that:

SECTION 1: Article II of Chapter 14 of the City's Code of Ordinances, governing the Riviera Beach General Employees Retirement System, is hereby restated and amended to read as follows:

Sec. 14-21. Definitions.

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

Accumulated contributions means the total of a member's contributions under the prior plan and amended plan.

Agreement means this written instrument setting forth the provisions of the system.

Amended plan effective date means November 1, 1972.

Amended plan or system means the ~~city~~ City of Riviera Beach general employees' retirement system as contained in this article and all amendments thereto.

Anniversary date means October 1 of each year.

Average monthly earnings means one-twelfth of the arithmetic average of annual earnings for the highest two consecutive years of the last ten years preceding the actual retirement or termination date of a member.

Beneficiary means the person entitled to receive any benefits hereunder at the death of a member who has been designated in writing by the member and filed with the board. If no such designation is in effect at the time of death of the member, or if no person so designated is living at that time, the board shall have the authority to designate the beneficiary or beneficiaries as provided in this article.

Board means the ~~administrative~~ Board of Trustees, which shall supervise, administer and manage the system provided in this article.

Continuous service means uninterrupted service by a member (expressed as years and completed months), from the date ~~he~~ the member last entered employment as an ~~general~~ employee until the date ~~his~~ employment shall be terminated by death, retirement or discharge; provided, however, the continuous service of any member shall not be deemed to be interrupted by:

- (1) Any authorized leave of absence, or ~~or~~ ~~vacation~~ ~~or~~ ~~period~~ ~~of~~ ~~suspension~~, provided that all members similarly situated in similar circumstances shall be treated alike pursuant to uniform nondiscriminatory rules.

- (2) Any service, voluntary or involuntary, in the armed forces of the United States, provided the member is legally entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), and any amendments thereto, or any law applicable to such reemployment, and provided further that such member shall apply for reemployment ~~within three months~~ according to the law following release from the military ~~termination of such service~~.

- (3) Further, a member may, ~~within the first year of employment with the City of Riviera Beach (or within 90 days of being notified of eligibility by the city for members employed prior to enactment of this ordinance amendment),~~ purchase up to five ~~(5)~~ years, not to exceed ~~sixty (60)~~ months of service, for service in the Armed Forces of the United States or United States Merchant Marines prior to employment with the city. Such prior service purchase shall be made by depositing with the pension fund the full actuarial costs of such years of service that would have occurred had the member been employed by the city for the number of years purchased. Such payment for said prior service may be made as a lump sum or in installments not to exceed the years of service purchased; however, the amount must be paid in full prior to retirement. Installment payments shall require interest at the actuarial rate of return for the years purchased, said interest to be determined by the fund actuary. Such purchase of prior service shall take effect upon vesting. If a member terminates service prior to vesting and receives a refund of employee contributions, the amount paid for such prior service shall also be refunded.

Eligibility to purchase prior service shall also be subject to the following:

- a. Prior service shall not be granted for service where the member is receiving or is entitled to receive a benefit from another governmental pension system.

- b. Prior service under this section shall be only provided for service in the Armed Forces of the United States or the United States Merchant Marines.

- c. Total prior service, for United States Armed Forces service, shall not exceed five years or sixty (60) months. Actual service credit purchased shall be added to the years of service with the city.

- d. ~~Election to purchase prior service, for prior service with the United States Armed Forces or United States Merchant Marines, shall be~~

~~made in writing to the administrative board. The cost of prior service purchased shall be the full actuarial cost of all service purchased hereunder computed as a lump sum payment into the plan. Actual payment may, at the member's option, be extended over a period of time not to exceed the years purchased and shall be subject to interest at the actuarial rate of return for the years purchased. Such payment may be by direct in-service transfer from a participant's member's deferred compensation account (457 account) pursuant to Section 457(e) (17) of the Internal Revenue Code or any other qualified plan. Full payment of such purchased prior service must be completed prior to the member's actual retirement.~~

- ~~(3) Notwithstanding the above paragraph (2) any participant having attained an age of at least 61 years and having at least eight and one-half years of continuous service with the City of Riviera Beach, that terminates employment with the City of Riviera Beach between September 1, 2008 and October 31, 2008 voluntary or involuntary, may purchase up to 18 months of continuous service for serving in the armed forces of the United States, prior to employment with the City of Riviera Beach. Such prior service purchase shall be made by depositing with the Pension Fund the full actuarial costs of such years of service that would have occurred had the member been employed by the City of Riviera Beach, for the number of years and months purchased. Payment for said prior service shall be made as a lump sum to be paid in full within 60 days of such member's termination date. Purchase of said prior service shall be considered in calculation of vesting and benefit entitlement. If the member fails to make such lump sum payment within the stated period of time herein no such continuous service shall be credited to the member.~~

~~Eligibility to purchase prior service under paragraph (3) shall also be subject to the following:~~

- ~~a. Prior service shall not be granted for service where the member is receiving or is entitled to receive a benefit from another governmental pension system.~~
 - ~~b. Prior service under this section shall be provided only for service in the Armed Forces of the United States.~~
- ~~(4 3) Any period of disability as approved by the board.~~

Earnings mean basic wages, excluding non-regular overtime, ~~bonuses~~ and any other non-regular payments. Basic wages includes salary, regular overtime, longevity, bonuses, and payments for earned, accrued and unused vacation, and sick leave accrued in accordance with section 112.66(11), Florida Statutes, as amended from time to time, and ~~unreimbursed overtime~~, provided, no such payments made to an individual member shall be credited in excess of any limitations which may apply to the majority of members for credit for such payments. Basic wages shall not include non-salaried portions of severance pay, travel allowances, car allowances, or clothing allowances. ~~Notwithstanding any other provision of this section, current employees, whose accrued and unused vacation and/or sick leave accruals are governed by a written employment contract with the city and who have given the city manager an irrevocable notice of voluntary retirement, said retirement to be effective on or before July 31, 2001, shall be permitted to incorporate accrued and unused vacation and/or sick leave as determined by resolution of the city council. For the purpose of applying the limitations set forth in sections 401(a) (17) and 415 of the Internal Revenue Code, Compensation shall include any elective deferral (as defined in Code section 402(g) (3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the member and which is not includible in the gross income of the member by reason of section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in subsection (a) of section 14 34 hereof, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the member by reason of section 132(f)(4) of the Internal Revenue Code.~~

Employee means all regular, full-time employees of the city, except for ~~police~~ and ~~firemen~~ public safety employees.

Fund means the trust fund established as part of the plan.

Insurance company means the insurance company which provided or provides insurance coverage required under the amended plan and prior plan.

Investment advisor means the person or entity which at any time serves as investment agent and investment advisor for the fund.

Member means an employee who fulfills the prescribed participation requirements.

Original effective date means November 1, 1965, the effective date of the prior plan.

Plan year means the period of one year commencing on any ~~November~~ October 1 and ending ~~October~~ September 30 in the succeeding calendar year.

Prior plan means the city employees' pension plan as it existed immediately preceding the adoption of this amended plan.

Spouse means the lawfully wedded wife or husband of a member ~~living with the member at the time of his death.~~

Trustee-Custodian means the entity chosen to serve as ~~trustee and~~ custodian of the fund established as part of the retirement system.

Sec. 14-22. Eligibility.

(a) *Conditions of eligibility.*

(1) ~~General~~ Employees who are ~~participants~~ members of the city's general employees' pension plan at the time of the adoption of this retirement system, shall be eligible to become members of this system.

(2) Any ~~future~~ employee hired prior to the 1st day of June 2015 ~~must~~ shall become a member upon employment and any employee hired on or after such date shall not be eligible to be a member of this plan.

a. Any employee must submit to an employment physical examination by the city's medical provider ~~physician~~ before such employee may be accepted as a member of the retirement plan.; ~~and~~

~~b. Upon commencement of active membership in the retirement plan, a member with a specific disability at the time of employment by the city shall waive in writing any right to a service-incurred and nonservice-incurred disability retirement allowance based on the member's pre-employment disability or any aggravations thereof. A member with a pre-employment disability shall be eligible for a service-incurred or nonservice-incurred disability retirement allowance only if it can be shown that such member would have been entitled to a service-incurred or nonservice-incurred disability retirement allowance notwithstanding the pre-employment disability.~~

(b) *Application.* Each employee shall complete an application form ~~within the time limit established by the board, covering the following points, as well as such other points or items as may be prescribed by the board:~~

(1) Such employee's acceptance of the terms and conditions of the system; and

- (2) ~~If requested,~~ Such employee's designation of a beneficiary or beneficiaries.
- (c) *Change in designation of beneficiary.* A member may from time to time change ~~his~~ the designated beneficiary by written notice to the board upon forms provided by the board. No change of beneficiary shall be effective until such written notice has been received by the board. Upon such change, the rights of all previously designated beneficiaries to receive any benefit under the plan shall cease. However, after retirement, a member may only change the designated beneficiary two times free of charge. Thereafter, the member must pay for any administrative charges associated with the change. Notwithstanding the above, no change of joint annuitant as provided in the optional forms of benefits (sec. 14-26) herein may be made after such optional form of benefit commences.
- (d) *Application procedures.*
- (1) Any member seeking benefits pursuant to any provision of this article shall make a written request for such benefits upon an application form which shall be supplied by the ~~personnel director~~ the board. Such form shall be filed with the ~~personnel director~~ plan administrator and will be considered a formal request to the board for pension benefits.
- (2) Upon receipt of the request for pension, the ~~pension secretary~~ plan administrator shall:
- a. In those cases where the ~~applicant~~ member has applied for any retirement benefits other than a disability pension, place the request for benefits on the agenda of the next scheduled meeting of the ~~administrative~~ board, which shall not be more than ~~forty-five~~ (45) days after the receipt of the application.
- b. In those cases where the ~~applicant~~ member has applied for pension benefits pursuant to section 14-24(c)(1) (service-incurred disability) or section 14-24(c)(2), (nonservice-incurred disability) submit the completed application to the board for its review at its next scheduled meeting, which shall be not more than ~~45~~ thirty (30) days after receipt of the completed application. A completed application for disability pension shall include ~~a certificate signed by a~~ medical records from treating doctors stating that the ~~applicant~~ member has been personally examined ~~by the doctor~~ and found mentally or physically, ~~totally and permanently~~ disabled in the further performance of the member's work duties. ~~in the employ of the city. The certificate shall be provided on a form to be supplied by the personnel director.~~ All costs in completing

the application, including medical fees, shall be paid by the ~~applicant~~ member. Upon its review of the completed application, the board shall approve the application, deny the application specifically stating the reasons therefor or set up an appointment for the ~~applicant~~ member with a doctor appointed and paid by the board. The board shall obtain any and all information, including but not limited to medical reports which the board deems necessary in order to assist the board in arriving at its decision. The ~~applicant~~ member shall execute any and all documents necessary to assist the board in obtaining this information, including but not limited to medical release forms. Upon receipt of the report from the board-appointed ~~doctor~~ medical provider and all requested information including medical reports, the board shall do one of the following either:

1. Approve the application;
 2. Deny the application specifically stating the reasons for denials;
or
 3. Give the ~~applicant~~ member ~~seven~~ thirty (30) days' notice of the meeting discussing the application ~~such meeting~~ by sending a letter to the ~~applicant~~ member at the address listed on ~~his~~ the application.
- (3) The board shall consider the request for pension benefits at the meeting and shall receive all materials that are relevant to the application. At that meeting, the board shall do one of the following:
- a. Grant the requested benefits.
 - b. Deny the benefits and inform the city board ~~attorney's office~~ of the reasons for the denial. Within ~~five~~ thirty (30) days, the city board's ~~attorney or one of his assistants~~ shall then prepare a proposed order of denial specifically stating the reasons for the denial of such benefits.
- (4) The proposed order shall be sent to the pension ~~secretary~~ plan's administrator, who will send a copy of such proposed order by certified mail to the ~~applicant~~ member at the address listed on ~~his~~ the application ~~form~~.
- (e) *Review procedures.*

- (1) The ~~applicant for~~ member requesting benefits under this chapter may, within ~~20~~ sixty (60) days after being informed of the denial of ~~his~~ the request for pension benefits, appeal the denial by filing a reply to the proposed order with the pension's ~~secretary~~ plan's administrator. If no appeal is filed within the time period, then the proposed order shall be final.
- (2) ~~If an appeal is filed,~~ The board shall hold a hearing within 45 ~~45~~ sixty (60) days of the receipt of the appeal. Written notice of the hearing shall be sent by certified mail to the ~~applicant~~ member at the address listed on ~~his~~ the application at least ~~ten~~ fifteen (15) days prior to the hearing.
- (3) The procedures at the hearing shall be as follows:
 - a. All parties shall have an opportunity to respond, to present physical and testimonial evidence and argument on all issues involved, to conduct cross-examination, to submit rebuttal evidence and to be represented by counsel. Medical reports and depositions may be accepted in lieu of live testimony at the board's discretion.
 - b. All witnesses will be sworn by the pension ~~secretary~~ plan's administrator.
 - c. The ~~applicant~~ member or the member's representative and the board shall have an opportunity to question all witnesses.
 - d. Formal rules of evidence and formal rules of civil procedures shall not apply. The proceedings shall comply with the essential requirements of due process and law.
 - e. The record in a case governed by this subsection shall consist only of:
 - 1 i. A tape recording of the hearing, to be ~~taped~~ recorded and maintained as part of the official files of the board by the pension ~~secretary~~ plan's administrator.
 - 2 ii. Evidence received and considered or proffered.
 - 3 iii. All notices, pleadings, motions and intermediate rulings.
 - 4 iv. Any decisions, opinions, proposed or recommended orders, or reports by the ~~administrative~~ board.

- (4) The board shall have the right to continue the hearing for good cause.
- (5) At the conclusion of the hearing, the board shall take one of the following actions:
 - a. Grant the pension benefits by overturning the proposed order by majority vote of the board members present.
 - b. Deny the benefits and approve the proposed order as a final order after making any necessary modifications the board feels ~~are~~ necessary, ~~if any~~.
- (6) Findings of fact by the board shall be based on competent, substantial evidence based on the record as a whole.
- (7) Within ~~20~~ thirty (30) calendar days after rendering its order, the ~~administrative board~~ plan administrator shall send by certified mail, a copy of such order to the ~~applicant~~ member.
- (8) The ~~applicant~~ member may seek review of the order of the administrative board by filing a petition for writ of certiorari ~~with in the~~ in the circuit court ~~within 30~~ days.

Sec. 14-23. Retirement dates.

(a) *Normal retirement date.*

- (1) A member wishing to retire may elect the earlier of age sixty-five (65) or when ~~his~~ the age, computed in terms of full months, and whose continuous service to the city, also computed in terms of full months, together equals or exceeds nine hundred (900) months, ~~or~~;
- ~~(2) A member must retire on a date not later than his 70th birthday.~~
- ~~(3)~~ Any member who completes ten (10) or more years creditable service and attains age fifty-five (55) years, or completes fifteen (15) or more years of creditable service and attains age fifty-two and one half (52½), or completes twenty (20) years of creditable service and attains age fifty (50) years, and for such period has been a member of the pension fund is eligible for normal retirement benefits.

(43) *Vesting of benefits upon Normal Retirement Date.* Any provision of this plan to the contrary notwithstanding, a member's accrued benefit shall become one hundred percent (100%) vested upon the attainment of the normal retirement date.

(b) *Early retirement date.* A member may retire on the first day of any month following the attainment of both age fifty (50) and the completion of ten (10) years of continuous service, provided that such early retirement is approved by the board.

Sec. 14-24. Retirement benefits.

(a) *Normal retirement benefit.*

(1) ~~*Amount.* The monthly retirement benefit shall be an amount equal to three percent (3%) of the average monthly earnings as defined in section 14-21 for each year of service; provided, however, that no member shall be entitled to accrue a retirement benefit greater than seventy (70) percent (70%) of average monthly earnings in any event. No benefit shall be payable for any period of time during which an eligible employee has failed to elect and apply for coverage under the plan.~~

(2) ~~*Duration, survivor benefits.* A member retiring hereunder on his the normal retirement date shall receive a monthly benefit which shall commence the first day following on his the normal retirement date and be continued thereafter during his the member's lifetime.~~

(3) ~~*Minimum normal retirement benefit.* As regards any participant under the city general employees' pension plan as of the date of adoption of this system, the normal retirement benefit shall not in any event be less than the normal retirement benefit would have been had the prior plan continued in existence.~~

(b) *Early retirement benefit.* A member retiring hereunder on his the early retirement date may receive either a deferred or an immediate monthly retirement benefit as follows:

(1) A deferred monthly retirement benefit which shall commence ~~on his~~ the first day of the month following the normal retirement date and shall be continued on the first day of each month thereafter during his ~~the member's~~ lifetime. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement at his ~~the~~ normal retirement date except that continuous service and average monthly earnings shall be determined as of his the early retirement date; or

- (2) An immediate monthly retirement benefit which shall commence on ~~his~~ the early retirement date and shall be continued on the first day of each month thereafter during ~~his~~ the member's lifetime. The maximum benefits payable, as determined in subsection (1) of this subsection, shall be reduced by one-fifteenth (1/15) for each of the first five (5) years, and one-thirtieth (1/30) for each of the next five (5) years by which the starting date of the benefit precedes actual service plus later age and reduced actuarially for each additional year thereafter.

(c) *Disability.*

- (1) *Service-incurred.* Any member who receives a service-incurred injury, disease or disability as determined by the board, pursuant to subsection 14-22(d) or subsection 14-22(e) shall receive in equal monthly installments an amount equal to sixty-six and two thirds (66 2/3) percent (66 2/3%) of earnings in effect at the date of disability, less any amount equal to any social security disability benefit payable and less any workers' compensation payable and less any disability benefit payable under any other program funded by the city which provides disability or salary continuation by reason of accident or disability. In the event of recovery prior to the normal retirement date, credit for service during the period of disability shall be granted for purposes of subsequent retirement benefits.
- (2) *Nonservice-incurred.* Any member who receives a nonservice-incurred injury, illness, disease or disability, as determined by the board in subsection 14-22(d) or subsection 14-22(e) shall receive in equal monthly installments an amount equal to a maximum of forty-five (45) percent (45%) of ~~his or her~~ the member's earnings at such time, less an amount equal to any social security disability benefit payable and less any amount payable under any other program of salary continuation or disability benefits maintained by the city. Such benefit shall be payable until normal retirement age at which time such member shall be paid the greater of the disability benefit or an amount based upon the formula specified in subsection (a)(1) of this section and based upon his or her the member's accrued service and salary to date of disability. The benefit shall commence after sixty (60) workdays subsequent to the date of disability and shall be payable for life only and cease upon the death of such disabled member.
- (3) *Board review.* The status of each service-incurred and nonservice-incurred disability shall be reviewed initially and periodically by the board and subject in all respects to uniform rules of administration and interpretation by the board.

(d) *Preretirement death.*

(1) *Service-incurred.* A death benefit shall be payable ~~in~~ on behalf of any member who dies as a direct result of an occurrence arising in the performance of service, the determination of which shall be by the board. The benefit shall be payable as follows:

- a. To the legally wedded spouse, ~~until the earlier of death or remarriage,~~ a benefit equal to sixty (60) percent (60%) of the member's earnings.
- b. Upon the ~~remarriage or~~ death of the spouse, an allowance of up to ten (10) percent of such member's earnings at time of death for each child of the deceased shall be paid in trust or as otherwise determined by the board to the eligible children, not to exceed a combined total of forty (40) percent (40%) of the member's final earnings; provided further, a child's benefit shall cease upon the earlier of such child marrying, dying or attaining eighteen (18) years of age.
- c. The manner of handling and administering the pension to any child or children shall be determined by the board. No survivor pension shall be paid to any stepchild of a deceased member.

(2) *Nonservice-incurred.* If any member shall die prior to retirement from causes not attributable to active duty or services, as of the time of death, had met the eligibility requirements for early retirement in such event, the member's accrued retirement benefit, determined in the same manner as though such member had lived and elected early retirement, shall be payable for a period of ten years certain to the member's designated beneficiary. In the case of a member who dies on or after January 1, 2007, while performing "Qualified Military Service" under Title 38, United States Code, Chapter 43, Uniformed Services Employment and Reemployment Rights Act ("USERRA") within the meaning of Section 414(u) of the Internal Revenue Code, any "additional benefits" (as defined by Section 401(a)(37) of the Internal Revenue Code) provided under the Plan that are contingent upon a member's termination of employment due to death shall be determined as though the member had resumed employment immediately prior to his death. With respect to any such "additional benefits," for vesting purposes only, credit shall be given for the period of the member's absence from covered employment during "Qualified Military Service".

(e) *Vesting.* If a member terminates his employment, either voluntarily or by lawful discharge, and is not at such time eligible for either a normal, early or disability

retirement benefit under this system, ~~he~~ the member shall be entitled to a percentage of ~~his~~ the accrued benefit, payable at ~~his~~ the first of the month following the member's regular normal or early retirement age ~~sixty-five (65)~~, according to the following schedule:

Vesting Schedule

(Accelerated Partial Vesting Beginning at 8 Years of Service)

Completed Years of Continuous Service	Annual Vested Increment in Accrued Retirement Benefit	Cumulative Vested Interest
0—7	0	0
8	50	50
9	25	75
10	25	100

~~Provided further, such retirement benefit shall be payable on a monthly, life annuity basis commencing at his~~ the member's actual service plus later age.

A ~~participant member~~ must live to normal or early retirement age in order to receive this vested benefit, and no vested benefits shall be payable to a ~~participant member's~~ beneficiaries following ~~his~~ the member's death; provided further, a ~~participant member~~ must leave ~~his~~ accumulated contributions in the fund in order to receive the vested benefit, unless in lieu of all benefits whatsoever under the plan, the ~~participant member~~ elects to receive a refund of ~~his~~ accumulated contributions, provided ~~his~~ the member's employment is terminated either voluntarily or by lawful discharge.

Sec. 14-25. Contributions.

- (a) *Member contributions.* Members of the retirement system shall make regular bi-weekly contributions to the trust fund immediately upon employment at a rate equal to six ~~(6)~~ percent (6%) of their respective ~~annual~~ bi-weekly earnings. Eligible employees, as a condition of membership, shall agree in writing upon becoming a member to make the contributions specified herein. The contributions shall be deducted from the earnings before the same are paid to the employee.
- (b) *City contributions.* So long as this system is in effect the city shall make an annual contribution to the trust fund in an amount equal to the difference each year as

between the total of aggregate member contributions for the year and the amount necessary for the year to maintain the system on a sound actuarial basis as shown by the most recent actuarial valuation and report for the system. The total cost for any one (1) year shall be defined as the total of normal cost for the year plus an additional amount sufficient for the year to permit systematic amortization of the accrued past service liability; ~~over a period not to exceed 40 years, such period to commence on November 1, 1972.~~

- (c) *Guaranteed refund of member contributions.* All retirement, death and disability benefits payable under this system are in lieu of a refund of member contributions. In any event, however, each member shall be guaranteed the payment of benefits at least equal in total amount to his the member's accumulated contributions plus such interest as may be determined by the board, but not less in any event than three ~~(3)~~ percent (3%) . In lieu of any other benefits hereunder, a member shall have the option on termination of his employment, either voluntarily or by lawful discharge, of withdrawing all of his the member's accumulated contributions plus interest thereon.
- (d) *Miscellaneous.* All monies representing member and city contributions and all other sources whatsoever, and held by or in custody of the city, the board or any other entity, including insurance carriers or trustees, for purposes of funding pension benefits for members herein, shall be included in this fund, including any interest gathered by these monies, and shall be transferred into this fund.
- (e) *Forfeitures.* To the extent that it is not required for the funding of any vested or retirement benefit, monies remaining in the fund which had previously been contributed in order to fund such benefits shall serve only to reduce current and future contributions under this plan. There shall be no reversion of any assets whatsoever to either the company or a signatory member company.
- (f) *Effective date; compliance with Internal Revenue Code.* The effective date of the program is January 1 following receipt of a favorable determination letter from the Internal Revenue Service. At that time, the city shall pick up the member contributions required by subsection (a) of this section. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. The city shall pick up the member contributions from funds established and available in the salaries account, which funds would have otherwise been designated as contributions and paid to the pension fund. Member contributions picked up by the city pursuant to this subsection shall be treated for purposes of making a refund of member's contributions, and for all other purposes of this and other laws, in the same manner and to the same extent as member contributions made prior to the effective date of

this subsection. The intent of this subsection is to comply with section 414(h)(2) of the Internal Revenue Code.

(g) ~~[Reserved.]~~

Sec. 14-26. Optional forms of retirement benefits.

Each member at time of actual retirement shall have the right at any time prior to his actual retirement to elect to have such benefit payable under any one of the options set forth in this section in lieu of the retirement benefits otherwise provided herein, and to revoke any such elections and make a new election at any time prior to actual retirement. The value of optional benefits shall be actuarially equivalent to the value of benefits otherwise payable. The member shall make such an election by written request to the board and such an election shall be subject to the approval of the board.

Normal Benefit. Straight life annuity. A retiring member may elect to receive payments as long as the member lives. If the member should die before receiving an amount equal to the member's own contributions to the plan, payments will continue to the beneficiary until the member's contributions with interest have been used up.

~~Option 1. Joint and last survivor option.~~ A retiring member may elect to receive a deceased retirement benefit during his lifetime and have such deceased retirement benefit (or a designated fraction thereof) continued after his death to and during the lifetime of his spouse or a person other than his spouse, provided that if the joint annuitant is someone other than the spouse, the monthly payments to the member must be at least equivalent to the amount he would have received had he elected a period certain and life thereafter option of the earlier of 20 years or age 85. The election of Option 1 shall be null and void if the designated contingent annuitant dies before the member's retirement.

Option 2. Ten years certain and life thereafter annuity. A retiring member may elect to receive a decreased retirement benefit with one hundred twenty (120) monthly payments guaranteed. If, after retiring, the member should die before such one hundred twenty (120) monthly payments are made, payments are then continued to his the designated beneficiary until one hundred twenty (120) payments in all have been made, at which time benefits cease. After expiration of the certain period, should the retired member be then alive, payments shall be continued during his the member's remaining lifetime.

Option 3. Joint and last survivor annuity. A retiring member may elect to receive a decreased retirement benefit during the member's lifetime and have such

decreased retirement benefit (or a designated fraction thereof) continued after death to and during the lifetime of the joint annuitant, provided that if the joint annuitant is someone other than the spouse, the monthly payments to the member must be at least equivalent to the amount the member would have received had the member elected a period certain and life thereafter option of the earlier of twenty (20) years or age eighty-five (85). The election of Option 3 shall be null and void if the joint annuitant dies before the member's retirement. Below are the various joint and last survivor annuities:

One hundred percent (100%) Joint and last survivor annuity: this option provides monthly payment to the member as long as the member lives. The joint annuitant, if living at the time of the member's death, will then receive the same monthly amount as long as the joint annuitant lives.

Seventy-five (75%) Joint and last survivor annuity: this option provides monthly payments to the member as long as the member lives. The joint annuitant, if living at the time of the member's death, will receive seventy-five percent (75%) of the member's monthly payment as long as the joint annuitant lives.

Fifty percent (50%) joint and last survivor annuity: this option provides monthly payments to the member as long as the member lives. The joint annuitant, if living at the time of the member's death will receive fifty percent (50%) of the member's monthly payment as long as the joint annuitant lives.

Option 3 4. Other. In lieu of the other optional forms enumerated in this section, retirement benefits may be paid in any form approved by the board so long as actuarial equivalence with the benefits otherwise payable is maintained.

Option 4 5. Deferred retirement option program (DROP). In general, and subject to the provisions of this section, the ~~administrative board of the general employees' retirement system~~ is authorized to establish and maintain a deferred retirement option program, hereinafter referred to as DROP. The DROP is a program under which an eligible member of the retirement system may elect to participate by deferring receipt of retirement benefits while continuing employment with the city. Upon entry into DROP a member's accrued vacation and sick leave balances not used in calculation of normal retirement benefits shall be carried forward and the DROP ~~participant member~~ shall accrue additional vacation and sick leave during participation in the DROP. However any accrued vacation or sick leave balance at termination of the DROP period shall be forfeited. Upon termination of employment, the ~~participant member~~ shall begin to receive the previously determined normal

retirement benefits. Participation in the DROP does not guarantee employment for the specified period of the DROP.

- (1) *Eligibility of member to participate in the DROP.* All retirement system members are eligible to elect participation in the DROP on or after attaining their normal retirement date or age provided that election to participate is made within five (5) years after the member reaches ~~his or her~~ the earliest eligibility for normal retirement based on years of service, or age and years of service, except as provided for in subparagraphs (2)a. ~~or (2)b.~~ below. The member shall advise the city and the retirement system in writing at least thirty (30) days in advance of the date on which the DROP shall begin.

- (2) *Participation in the DROP.*
 - a. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of sixty (60) consecutive months nor beyond a total of thirty-five (35) years of credited service with the city, whichever occurs first. Any member who has exceeded the sixty (60) month or thirty-five (35) year limitations shall not be eligible to continue participation in the DROP.

 - ~~b. Notwithstanding the 30 year limitation above, any member who has more than 25 years of credited service on the effective date of the DROP shall be allowed to participate in the DROP for the maximum 60 consecutive months, provided that such member elects to participate in the DROP no later than 90 days after the effective date of this section.~~

 - e.b. Upon deciding to participate in the DROP, the member shall submit on forms required by the retirement system:
 1. A written election to participate in the DROP.
 2. Selection of the DROP participation and termination dates, which satisfy the limitations stated in subsection (1) and subsection (2)a. ~~or (2)b.~~ Such termination date shall be in an irrevocable and binding letter of resignation with the city, establishing a deferred termination date. The member may terminate before the termination date within the limitations of subsection (2)a., ~~but only~~ with not less than thirty (30) days advance written notice to the city from the new termination date.

3. A properly completed DROP application for service retirement as provided ~~in this section~~ but by the board.
 4. A written election of form of pension payment, pursuant to section 14-26 of this article.
 5. Any other information required by the retirement system's ~~administrative~~ board.
- d c. The DROP ~~participant~~ member shall be retired under the retirement system for all purposes except that payment of benefits shall be deferred until separation from city employment.
- e d. A re-employed DROP member ~~participant~~ with renewed membership shall not be eligible for DROP participation.
- (3) *Benefits payable under the DROP.* The DROP account shall, ~~unless a member elects a self-directed DROP,~~ earn interest at a rate set quarterly by the board of trustees. Such interest shall be equal to the system's net rate of investment return for the year, but in no event shall be less than zero (0) percent (0%), and shall be credited to each individual account balance on a quarterly basis. ~~Members selecting a self-directed DROP shall select from one or more providers selected by the administrative board and shall be subject to all fees provided in such self-directed DROP. Self-directed investments shall be invested as permitted in the self-directed DROP agreement.~~
- a. Effective with the date of DROP participation, the member's initial normal monthly benefit, including the value of accrued unused leave credited service, and final average compensation, shall be fixed. The value of accrued unused leave, whether or not payment for such is actually received by the member participant, shall be included in the calculations to determine said normal monthly benefit, with appropriate contributions being made on entry into the DROP. However, actual payment for such accrued unused leave shall be made in no more than five (5) equal installments, paid no less frequently than annually on the anniversary of the member's entry into the DROP, provided however, that the first installment shall be at least sufficient to cover the cost of the ~~employee's~~ member's contribution to the ~~employee's~~ member's pension, after all other deductions have been made. The city will, however, make a onetime payment at the entry into DROP to ~~employees~~ members who have no more than

twelve (12) days leave remaining. Interest on any unpaid portion of such accrued leave payment shall be calculated annually at simple interest at the rate earned by the city's largest investment fund (excluding pension investment funds). Termination from the DROP prior to the maximum DROP period shall result in a lump sum payment of any remaining balance of said accrued leave installments with interest calculated for each completed calendar quarter.

Such retirement benefit shall accrue monthly to the ~~participant's~~ member's individual DROP account. The ~~administrative~~ board shall administer these individual DROP accounts. DROP accounts shall accrue interest at a rate set quarterly by the ~~administrative~~ board. These DROP accounts shall be subject to administrative fees or charges as established by the ~~administrative~~ board.

- b. The effective date of retirement of a DROP ~~participant~~ member shall be the first day of the month selected by the member to begin participation in the DROP. ~~No person may enter DROP prior to attending a city sponsored employee education program. Such program shall be in addition to any education program sponsored by the retirement system. All members are encouraged to attend a city-sponsored employee education program prior to entering the DROP.~~
- c. Normal retirement benefits shall continue to accrue in the DROP until the established termination date of the DROP or until the ~~participant~~ member terminates employment or dies prior to such date. A separate accounting of each ~~participant's~~ member's accrued benefits under the DROP shall be calculated and be available to ~~participants~~ members annually.
- d. At the conclusion of the ~~participant's~~ member's participation in the DROP, the ~~retirement system~~ board shall direct that the ~~participant's~~ member's total accumulated DROP benefits be distributed, subject to the following provisions:
 1. The ~~retirement system~~ board shall receive verification from the city that the ~~participant~~ member has terminated employment.
 2. The terminated DROP ~~participant~~ member or if deceased, such ~~participant's~~ member's named beneficiary, shall elect on forms provided by the ~~retirement system~~ board to receive payment of the DROP benefits in accordance with one (1) of the options

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

- i. Lump sum: All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP ~~participant member~~ or surviving beneficiary.
 - ii. Direct rollover: All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant member, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code.
 - iii. Partial lump sum: A portion of the accrued DROP benefits shall be paid to the DROP ~~participant member~~ or surviving ~~spouse beneficiary~~, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse beneficiary of a deceased participant member, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP ~~participant member~~ or surviving beneficiary.
3. The form of payment selected by the DROP participant member or surviving beneficiary shall comply with the minimum distribution requirements of the Internal Revenue Code and payments shall begin no later than the date on which the participant member reaches age seventy (70) years and six (6) months. Regardless of the form of payout, a ~~participant's~~

member's DROP account continues until the account balance is exhausted.

4. For a DROP ~~participant~~ member who fails to terminate city employment at the expiration of the sixty (60)-month maximum DROP participation period or the thirty-five (35) year credited service maximum whichever occurs first unless authorized to do so pursuant to subparagraphs (2)a. ~~and (2)b.~~ the member shall be deemed not to be retired, the DROP election shall be null and void, and the member shall have no accumulated DROP benefits. Retirement system membership shall be reestablished retroactively to the date of the commencement of the DROP, and the member shall be required to pay to the retirement system the member contributions as if the ~~participant~~ member had continued service to the city, and the city contributions during the period the member participated in the DROP, plus an interest rate equal to the annual assumed investment return during each year the member participated in the DROP.
 - e. The accrued benefits of any DROP ~~participant-member~~, and any contributions accumulated under such program, shall not be subject to assignment, execution, attachment, or to any legal process whatsoever, except for income deduction orders as provided in F.S. § 61.1301, and federal income tax levies.
 - f. DROP ~~participants-member~~ shall not be eligible for disability retirement benefits as provided in subsection 14-24(c), and the ~~participant's-member~~ spouse and children shall not be eligible for the survivor benefits as provided in subsection 14-24(d).
- (4) *Death benefits under the DROP.*
- a. Upon the death of a DROP ~~participant-member~~, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in this section.
 - b. The normal retirement benefit accrued to the DROP during the month of a ~~participant's~~ member's death shall be the final monthly benefit credited for such DROP ~~participant-member~~.

- c. Eligibility to participate in the DROP terminates upon death of the ~~participant-member~~. If the ~~participant-member~~ dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, retirement system benefits shall be paid as though the DROP election had not been made.
- (5) *Contributions.* Neither city nor member pension contributions, shall ~~not~~ be made, due, or payable during a ~~participant's-member's~~ DROP participation, notwithstanding any other section of this article.
- (6) *Forfeiture of retirement benefits.* Nothing in this section shall be construed to remove DROP ~~participants~~ members from the scope of Section 8(d). Art. II of the State Constitution, and F.S. § 112.3173. DROP ~~participants-members~~ who commit a specified felony offense while employed will be subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.
- (7) *Administration of program.* The ~~administrative~~ board shall make such rules as are necessary for the effective and efficient administration of this subsection and individual DROP accounts. The ~~retirement system~~ board shall not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.
- (8) 415 Limitations. All benefit payments and accruals under the DROP shall be in accordance with Subsection 415(b) of the Internal Revenue Code and all regulations thereunder, which subsections and regulations are incorporated herein by reference.

Sec. 14-27. Administration.

The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this article are hereby vested in an administration board consisting of seven (7) persons, as follows: four (4) members other than general employees to be appointed as provided in this section, and three (3) general employee members to be elected as provided in this section.

- (1) The term of office of each board member shall be for three (3) years, ~~except that the initial term following the effective date of this section of the members of each category shall be as set forth herein.~~

- a. Each board member shall attain certification as a pension trustee within two (2) years of appointment or election.
 - b. In the event an appointed member does not attain certification within said two (2) year period, the city council may remove said member.
 - c. In the event an elected member does not attain certification within said two (2) years, the board shall vote to remove said elected member and if approved, shall request a new election and the member removed may not seek nomination at such subsequent election.
- (2) Following the effective date of this ordinance, ~~at the expiration of the term of office for two currently appointed members, the next~~The appointed members shall be appointed by a majority of the city council. Likewise, at the expiration of the term of office for the two currently remaining appointed members, the mayor shall make the appointments with the approval of a majority of the city council. All future appointments will thereafter follow this schedule. They~~The appointed members shall be residents of the city and may not be employees if of the city. Notwithstanding the above, appointed members who are City of Riviera Beach retirees may be appointed and shall not be required to be residents of the city. Following the effective date of this section, each appointed position shall be appointed for a three (3) year term of office upon the respective expirations of the terms of office then in effect.~~
- (3) ~~The elective~~ elected members shall be ~~participants~~ members in the plan and elected at-large from the following departments: in the following manner: One member shall be elected from the participants and by the participants in the plan from the city manager's office, city attorney's office, finance, city clerk, human resources, parks and recreation, marina, community development and environmental control, public works, and utility department, and library departments, as well as from and by non-sworn participants members of the police and fire departments. Following the effective date of this ordinance, at the expiration of the term of office of each elected member, a new member shall be selected in this manner. Notwithstanding the above, the three (3) elected members cannot be from the same department and any given time.
- ~~;~~ ~~one member shall be elected from the participants~~ members ~~and by the participants~~ members in the ~~public works department and one member shall be elected from the participants and by the participants in the water and sewer department. The initial term following the effective date of this section for the board member representing the participants of the water and sewer department shall be a two year term beginning on November 1, 1997. The~~

~~initial term following the effective date of this section for the board member representing the participants of the public works department shall be a three-year term beginning November 1, 1997. The initial term following the effective date of this section for the board member representing participants from the city manager, finance, city clerk, human resources, recreation, marina, community development and environmental control, and library departments, as well as the nonsworn participants from the police and fire departments, shall be a two-year term beginning November 1, 1997~~

At least thirty (30) days prior to the expiration of an elected member's term, the human resources department shall solicit written nominations from the members of the Plan. Any member who is nominated will appear as a candidate on the election ballot. Elections shall be held no later than twenty (20) days after nominations are complete in such time and place as designated by the city manager human resources department, at which meeting all participants of the plan shall be entitled to vote for nominees of their respective department. All participants members shall be notified of the meeting election at least ten five (5) days in advance of the meeting election, either in writing or by the posting of notices on departmental bulletin boards. The candidate or candidates receiving the highest number of votes shall be declared elected and shall take office as soon thereafter as qualified. If more than one candidate is elected from the same department, then the candidate with the highest number of votes shall be declared elected, and if there is more than one vacancy, then the candidate with the next highest number of votes who is not in the same department shall be declared elected. The election shall be held each year not more than thirty (30) days prior to November 1.

- (4) If a vacancy occurs, except as to subsection 14-27(10), as respects a member, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.
- (5) Members shall serve without compensation, but they may be reimbursed from the expense fund for all necessary expenses which they may actually expend through services on the board, as provided for in a written policy approved by the board and a travel policy also approved by the board.
- (6) Each board member shall, within ten (10) days after his appointment or election, take an oath of office before the city clerk of the city, that so far as it devolves upon him the board member, the board member will diligently and honestly administer the affairs of the board, and that he board member will not knowingly violate or willingly permit to be violated any of the provisions of

the law applicable to the retirement system. Such oath shall be subscribed to by the members making it and certified by the clerk and filed in that office.

- (7) Each board member shall be entitled to one (1) vote on the board. A majority vote of those present, where a quorum is in attendance, shall be necessary for a decision at any meeting of the board. A quorum shall consist of four (4) board members.
- (8) Subject to the limitations of this article, the board shall from time to time establish uniform rules and regulations for the administration of funds created by this article and for transactions of its business, including provisions for compulsory attendance of its members, which shall have the force of law.
- (9) The board shall by majority vote of its members appoint a secretary, who may, but need not be, one of its members. It shall engage such actuarial and other services as shall be required to transact the business of the retirement system. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board shall agree. All funds shall be disbursed ~~by the city finance department~~ only on authorization of the board.
- (10) Any board member who neglects the duties of ~~his~~ the office as determined by the board, may be removed by a two-thirds (2/3) vote of the board. Any member of the board who fails to attend two (2) out of three (3) successive meetings without cause and without prior approval of the chairperson, or in the chairperson's absence the acting chairperson, shall automatically forfeit ~~his~~ the appointment to serve on the board and the city council shall promptly fill such vacancy.
- (11) The duties and responsibilities of the board shall include, but not necessarily be limited to the following:
 - a. Construing the provisions of the system and determine all questions arising thereunder.
 - b. Determining all questions relating to eligibility and participation.
 - c. Determining and certifying amount of all retirement allowances or other benefits hereunder.
 - d. Having annual actuarial valuations of the system performed.

- e. Establishing uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the plan.
- f. Distributing at regular intervals to employees information concerning the plan.
- g. Receiving, processing and approving all applications for participation and benefits; notifying the city ~~finance department~~ of approved benefit payments.
- h. Attending pension schools, conventions, workshops and other pension sessions to obtain and maintain pension certification. Board members must first look to certification opportunities in the State of Florida, and if those opportunities are not found, the board may approve on a case by case basis, attendance at pension schools, conventions, workshops, and other pension sessions out of state.
- h. i. Performing such duties as are specified in section 14-28.

Sec. 14-28. Finances and fund management; establishment and operation of fund.

- (a) All of the contributions and assets whatsoever attributable to the system shall be deposited into the trust fund established as part of the system.
- (b) The actual supervision of the fund and assets thereof shall be vested in the board. Payment of benefits and disbursements from the fund shall be made ~~by the city finance department~~ only on authorization from the board.
- (c) The ~~trustee and~~ custodian of the trust fund shall be designated by the board upon an affirmative vote of five (5) members of the board ~~and with the approval of a majority of the city commission.~~ An trust agreement shall be executed between the city board and the trustee-custodian under the terms of which the trustee-custodian shall be authorized to receive and hold in such fund all contributions and assets whatsoever payable and attributable to the retirement system. It shall be impossible under the terms of this system or any ~~trust~~ agreement hereunder for any part of the principal or income of the fund, except for such sums as may be expended in administration of the system, to be used for or diverted to purposes other than the exclusive benefit of employees, their beneficiaries and benefits provided hereunder. No disbursements shall be made by the trustee-custodian except upon written authorization from the board ~~to the city finance department and subsequent written~~

~~notification to the trustee. No amendment shall be made to the trust agreement without approval of a majority of the city council.~~

- (d) A separate investment advisor shall have full authority to supervise, pass upon and approve the nature, amount and timing of investments of the fund of the retirement system, and the purchase, sale and disposition of such investments; the board shall accordingly hire and appoint such persons, firms or entities as it determines to be required or advisable so as to accomplish and have performed investment advisory duties hereunder. The board shall thus enter into appropriate agreements for the purpose of securing separate investment advisory services for the system and fund.
- (e) All funds and securities of the system may be commingled in the fund, provided that accurate records are maintained at all times reflecting the financial composition of the fund, including accurate current accounts and entries as regards the following:
 - (1) Current amounts of accumulated contributions of employees on both an individual and aggregate account basis;
 - (2) Receipts and disbursement;
 - (3) Payments to retirees;
 - (4) Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the city;
 - (5) All interest, dividends and gains or losses whatsoever; and
 - (6) Such other entries as may be properly required so as to reflect a clear and complete financial report of the fund.
- (f) The city finance department is authorized to and charged with the responsibility of collecting member contributions, maintaining records pertaining thereto, and promptly transmitting all funds so collected, as well as all other funds whatsoever designated for the plan, to the trustee. The city's finance department shall also:
 - ~~(1) Make payments to retirees; and~~
 - ~~(2) review~~ copies of all annual reports on trust fund transactions.

Sec. 14-29. Miscellaneous.

- (a) ~~Board physician.~~ The board shall retain a physician to assist the board in the performance of its administrative duties. The physician shall conduct or otherwise provide for any medical examination required under the provisions of this article and may refer any examinee to a specialist or specialists following any medical examination required by this article. After taking into consideration the reports of specialists, if any, and other relevant information, the physician shall submit written conclusion and recommendations regarding the examinee to the board.
- (b) ~~Discharged members.~~ Members entitled to a pension shall not forfeit benefits to which they are entitled under this system upon dismissal as a general employee, except as otherwise required by law.
- (c)(b) ~~Recovery from disability.~~ If a member who has been retired on a pension on account of permanent incapacity regains his full health and is shown to be physically able to perform his the duties as a general employee in the case of service connected disability, and/or any other employment in the case of nonservice connected disability, the board shall ~~require~~ request the city to allow the member to resume his the position in the respective department and discontinue the pension in the event that the member is returned to employment; provided, however, that if such member shall have been retired for nonservice connected disability, and shall after resuming his the position, pay into the fund an amount equal to the aggregate contributions plus interest at a rate to be determined by the board (computed upon his the employee's annual earnings at the time of his the disability retirement) the member would have been required to make hereunder, as determined by the board, during the period of his the disability retirement had the employee not been retired, such member shall receive creditable service for the period of such disability retirement, as well as for the period of continuous service prior to the date of disability.
- (d)(c) ~~Nonassignability.~~ No pension provided for in this article shall be assignable or subject to garnishment for debt or for other legal process; except the recipient of any monthly benefit may authorize the administrative board to withhold from the monthly benefit those funds necessary to pay the premium for dental, health or life insurance benefits being received through the city.
- (e)(d) ~~Duration of pension.~~ Pensions granted to retired members shall be paid to them for life and shall not be revoked nor in any way diminished except as provided in this division, and the contributions of the member to this fund shall cease upon his retirement and acceptance of a pension.
- (f)(e) ~~Incompetents.~~ If any participant member or beneficiary is a minor or is, in the judgment of the pension board, otherwise adjudged incapable of personally

receiving and giving a valid receipt for any payment due ~~him~~ under the plan, the board may, unless and until claims shall have been made by a duly appointed guardian or committee of such person, make such payment or any part thereof to such person's ~~spouse, children~~ designated beneficiary or other person deemed by the board to have incurred expenses or assumed responsibility for the expenses of such person. Any payment so made shall be a complete discharge of any liability under the plan for such payment.

~~(g)~~(f) *Miscellaneous.*

- (1) The board and the city will furnish the actuary with all data required for necessary actuarial computations under the plan.
- (2) No payment or any benefit, contribution, or other sum which would constitute a violation of any applicable wage control law shall be made hereunder.

~~(h) *Effect of increases.* Upon approval of the board and the city council as regards any future amendment to this system, any increases in retirement benefits granted to active employees after the effective date of this system shall also be made applicable to those retired since the effective date of this system and their beneficiaries.~~

~~(i) *Right to amend, etc., system.* The city reserves the right at any time to amend or modify this system in any respect or to terminate the system; provided that no amendment shall cause any part of the trust assets to be used for or diverted to purposes other than the exclusive benefit of members and their beneficiaries.~~

Sec. 14-30. Amendment of plan.

The city council shall have the right at any time to modify, alter or amend the plan and trust established as part of the plan, in whole or in part; provided, however, that the duties, powers and liabilities of the trustee shall not be changed without its written consent; and provided, further, that the city shall not have the power to amend the plan in such manner as to cause or permit any portion of the fund held for members under the plan to be diverted to purposes other than for the exclusive benefit of such members and their beneficiaries, or to reduce any benefits or amounts already vested according to the provisions of this plan; and provided, further, that no such amendment shall have the effect of reinvesting in the city any portion of the fund, except such amount as may, due to an erroneous actuarial computation, remain in the fund after the satisfaction of all liabilities under the plan.

Sec. 14-31. Termination of plan.

- (a) The city council reserves the right to terminate the plan and trust and its contributions thereunder at any time, the termination to be effective on a date to be designated by the city. If the city terminates the plan, or if it is otherwise terminated or contributions to it are completely discontinued, the ~~trustee~~ board shall continue to administer the fund as instructed by the board in accordance with the provisions hereof. In the event of termination of the plan as provided in this section, or complete discontinuance of contributions to the plan, the fund held on the effective date of such termination or discontinuance shall be administered for the sole benefit of the ~~then~~ previous members, active and retired and beneficiaries then receiving benefits and any future beneficiaries entitled to receive benefits who are designated by any of such members. Subject to the provisions of this section, the fund shall be promptly allocated by the board in an equitable manner to provide benefits for the persons stated in this section in accordance with the provisions of the plan, and in the following order of priority:
- (1) Members already retired under the normal retirement provisions of this plan and those eligible for normal retirement but not actually retired, and their beneficiaries, in proportion to and to the extent of the then actuarially determined present value of the benefits payable. If any funds remain, then
 - (2) Members already retired or eligible for retirement under the early retirement provisions of this plan and their beneficiaries in the same manner as in subsection (1) of this section. If any funds remain, then
 - (3) All other members and their beneficiaries in the same manner as in subsection (1) of this section but based upon continuous service and average monthly earnings as of the date of termination of the plan, and with any benefits vested given precedence.
- (b) The allocation of the fund provided for in this section may, as decided by the board, be carried out through the purchase of insurance company contracts to provide the benefits determined in accordance with this section. The fund may be distributed in one (1) sum to the persons entitled to such benefits in the proportion of the then-present value of such benefits, or the allocation may be carried out in such other equitable manner as the board may direct.
- ~~(c) If, at any time during the first ten years after the effective date of the original pension plan and trust as respects the city, the plan shall be terminated or the full current costs of the plan (consisting of the normal costs and interest on any accrued liability) shall not have been met, and until such time thereafter as the full current costs have been met, anything in the plan to the contrary notwithstanding, city contributions which may be used for the benefit of any one of the 25 highest paid~~

~~employees of the city on the effective date, whose anticipated annual retirement allowance provided by the city contributions at his normal retirement date would exceed \$1,500.00, shall not exceed the greater of \$20,000.00 or 20 percent of the \$50,000.00 of the annual compensation of such employee multiplied by the number of years between the date of the establishment of the plan and:~~

~~(1) The date of the termination of the plan;~~

~~(2) In the case of an employee described above, the date the benefit of the employee becomes payable, if before the date of the termination of the plan;
or~~

~~(3) In the case of an employee described above, the date of the failure to meet the full current costs of the plan.~~

~~(d) However, if the full current costs of the plan have not been met on the date described in subsection (c)(1) or (c)(2) of this section, whichever is applicable, then the date of the failure to meet such full current costs shall be substituted for the date referred to in subsection (c)(1) or (c)(2) of this section. For purposes of determining the contributions which may be used for the benefit of an employee when subsection (c)(1) of this section applies, the number of years taken into account may be recomputed for each year if the full current costs of the plan are met for such year. If it shall hereafter be determined by statute, court decision, ruling by the commissioner of internal revenue or otherwise, that the provisions of this subsection are not then necessary to qualify the plan under the internal revenue code, this subsection shall be ineffective without the necessity of further amendment of the plan.~~

~~(e)(c) *Vesting of benefits upon Termination of the Plan.* Any provision of this plan to the contrary notwithstanding, a member's accrued benefit shall become one hundred percent (100%) vested upon termination of the Plan.~~

~~Sec. 14-32. Payment of member contributions; past continuous service. Reserved.~~

~~Not to exceed 50 days from the date of final adoption of the ordinance from which this section was derived, application may be made to participate in the city's employees' pension plan by any employee not a member of the system, who has completed one or more years of continuous past service to become a member of the system. Such employee may also elect to purchase retirement credit for a part or all of the employee's continuous past service by paying into the fund a member contribution in an amount equal to the actuarial cost of providing the additional benefits resulting from such continuous past service and become entitled to the same benefits provided to members of the system for~~

~~continuous service of any employee. Past continuous service of any employee shall be the employee's continuous service with the city prior to the date of the employee's participation in the system.~~

Sec. 14-33. Excess benefit plan.

- (a) *Establishment of plan.* There is hereby created a separate, unfunded, nonqualified excess benefit plan containing the terms and provisions set forth in this subpart and intended to be a qualified governmental excess benefit arrangement as defined in Section 415(m)(3) of the Internal Revenue Code.
- (b) *Definitions.*
 - (1) All definitions prescribed in this chapter are applicable to the plan created pursuant to this subpart unless a different definition is set forth in this subpart, or the context in which a term is used in this subpart indicates a different meaning than that prescribed elsewhere in the Code of Ordinances or the Internal Revenue Code.
 - (2) *Board* shall mean the Board of Trustees of the City of Riviera Beach General Employees' Pension Plan.
 - (3) *Code* shall mean the Internal Revenue Code as it may be amended by Congress from time to time.
 - (4) *Excess benefit participant* ~~participant~~ member shall mean any member whose retirement benefit is determined on the basis of all qualified plans maintained by the city without regard to the limitations set forth in the pension plan and comparable provisions of other qualified plans of the city, that exceed the maximum benefit under section 415 of the code.
 - (5) *Excess benefit plan* shall mean the unfunded, nonqualified plan created by the city to provide benefits to members who would be provided under the pension plan, but for the limitations imposed by section 415 of the code.
 - (6) *Maximum benefit* shall mean the retirement benefit a member is entitled to receive from the benefit plan set forth in the Code of Ordinances in any month after giving effect to any provision of a qualified plan designed to conform to section 415 of the code.
 - (7) *Pension plan or Plan* shall mean the City of Riviera Beach General Employees' Pension Plan.

(8) *Unrestricted benefit* shall mean the monthly retirement benefit a member, or the ~~spouse, child, or other~~ beneficiary of a member, would have received under the terms of all qualified plans of the city, except for the restrictions contained in the pension plan and any similar provisions of any other qualified plans designed to conform to section 415 of the code.

(c) *Benefit provided.*

(1) An excess benefit ~~participant~~member who is receiving benefits from the pension plan is entitled to a monthly benefit, including cost of living adjustments, under this excess benefit plan in an amount equal to the lesser of:

(2 ~~j~~) The member's unrestricted benefit under the qualified defined benefit plan, less the maximum benefit permitted for qualified defined benefit plans for government employees under section 415 of the code; or

(~~3~~ ii) The amount which the member's monthly benefit from the pension plan has been reduced due to limitations imposed by the code.

(4 ~~2~~) A retirement benefit payable under this excess benefit plan shall be paid in the form and at the time it would have been paid as a monthly pension under the pension plan, except for the limitations set forth in the pension plan and section 415 of the code. Each optional benefit form permitted under this excess benefit plan shall be the actuarial equivalent of each other permitted benefit form.

(~~5~~ 3) This excess benefit plan shall be administered by the board. Except as provided to the contrary in this subsection, the rights, duties and responsibilities of the board shall be the same for this excess benefit plan as for any other qualified plan under its direction and administration.

(~~6~~ 4) The actuary employed by the board is responsible for determining the amount of benefits that may not be provided under the pension plan solely by reason of the limitations set forth in this section and section 415 of the code and shall also determine the amount of contributions that will be made to the excess benefit plan rather than to the pension plan.

(~~7~~ 5) The actuaries and legal advisors for the board shall also provide advice to the board for this excess benefit plan.

- (d) *Contributions.* Contributions may not be accumulated under this excess benefit plan to pay future retirement benefits. Each payment of contributions by the employer that would otherwise have been made to the pension plan shall be reduced by the amount determined by the board as necessary to meet the requirements for retirement benefits under this excess benefit plan until the next payment of contributions is expected to be made to the pension plan by the city. The city shall then pay to this excess benefit plan, out of the contributions that would otherwise have been made to the pension plan, on an annual basis, concurrent with the contributions to the general employees' retirement plan, an amount necessary to satisfy the obligation to pay monthly retirement benefits under this excess benefit plan. The board shall satisfy the obligation of this excess benefit plan to pay retirement benefits out of city contributions so transferred. The city contributions otherwise required to the pension plan established under the pension plan and under other qualified plans shall be divided into those contributions required to pay retirement benefits pursuant to this section and those contributions paid into and accumulated to pay the maximum benefits required under the qualified plans. City contributions made to provide retirement benefits pursuant to this part shall not be commingled with monies of the pension plan or any other qualified plan, nor shall this excess benefit plan ever receive any transfer of assets from the pension plan.
- (e) Any actuarial gains realized as a result of the limitation of benefits shall be a direct credit to the city.

Sec. 14-34. Internal Revenue Code Compliance.

- (a) *Maximum amount of retirement income.*
- (1) The limitations of this Subsection (a) shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein, and are intended to comply with the requirements of the Pension Protection Act of 2006 and shall be construed in accordance with said Act and guidance issued thereunder. The provisions of this Subsection (a) shall supersede any provision of the Plan to the extent such provision is inconsistent with this Subsection.
- The Annual Pension as defined in Paragraph (2) below otherwise payable to a member at any time shall not exceed the Dollar Limitation for the member multiplied by a fraction whose value cannot exceed one, the numerator of which is the Member's number of years (or part thereof, but not less than one year) of service with the City and the denominator of which is ten (10). For this purpose, no more than one year of service may be credited for any Plan Year. If the benefit the member would otherwise accrue in a limitation year would produce an

Annual Pension in excess of the Dollar Limitation, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the Dollar Limitation.

- (2) "Annual Pension" means the sum of all annual benefits, payable in the form of a straight life annuity. Benefits payable in any other form shall be adjusted to the larger of:
- a. For limitation years beginning on or after July 1, 2007:
 1. The straight life annuity (if any) payable to the member under the Plan commencing at the same Annuity Starting Date as the member's form of benefit; or
 2. The actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).
 - b. For limitation years beginning before July 1, 2007:
 1. The actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using the interest rate and mortality basis specified by the Board of Trustees for determining Actuarial Equivalence under the Plan for the particular form of payment; or
 2. The actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).

No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to §417(e)(3) of the Internal Revenue Code and would otherwise satisfy the limitations of this Subsection (a), and the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Subsection (a) applicable at the annuity starting date, as increased in subsequent years pursuant to § 415(d) of the Code. For this purpose, an automatic benefit increase feature

is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

- (3) “Dollar Limitation” means, effective for the first limitation year beginning after January 1, 2001, \$160,000, automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a member’s benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The Dollar Limitation shall be further adjusted based on the age of the member when the benefit begins as follows:

- a. For Annuity Starting Dates in limitation years beginning on or after July 1, 2007:

1. If the Annuity Starting Date for the member’s benefit is after age 65:

- i. If the Plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement:

The Dollar Limitation at the member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member’s Annuity Starting Date that is the actuarial equivalent of the Dollar Limitation with actuarial equivalence computed using a 5.00% interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that Annuity Starting Date (and expressing the Member’s age based on completed calendar months as of the Annuity Starting Date).

- ii. If the Plan does have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement:

The Dollar Limitation at the Member’s Annuity Starting Date is the lesser of (aa) the Dollar Limitation multiplied by the ratio of the annual

amount of the adjusted immediately commencing straight life annuity under the Plan at the Member's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 65, both determined without applying the limitations of this subsection (a), and (bb) the limitation determined under subparagraph (3)a.1.i. of this subsection (a). For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Member's Annuity Starting Date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical member who is age 65 and has the same Accrued Benefit as the member.

2. Except with respect to a member who is a "Qualified Member" as defined in Section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code), if the Annuity Starting Date for the Member's benefit is before age 62:
 - i. If the Plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement:

The Dollar Limitation at the Member's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's Annuity Starting Date that is the actuarial equivalent of the Dollar Limitation with actuarial equivalence computed using a 5.00% interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that Annuity Starting Date (and expressing the member's age based on

completed calendar months as of the Annuity Starting Date).

- ii. If the Plan does have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement:

The Dollar Limitation at the Member's Annuity Starting Date is the lesser of (aa) the Dollar Limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Member's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 62, both determined without applying the limitations of this subsection (a), and (bb) the limitation determined under Subparagraph (3)a.2.i of this subsection (a).

- b. For Annuity Starting Dates in limitation years beginning before July 1, 2007:

Age as of Annuity Starting Date:	Adjustment of Dollar Limitation:
Over 65	<p>The smaller of: (a) the actuarial equivalent of the limitation for age 65, computed using the interest rate and mortality basis specified by the Board of Trustees for determining actuarial equivalence under the Plan, or</p> <p>(b) the actuarial equivalent of the limitation for age 65, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</p> <p>Any increase in the Dollar Limitation determined in accordance with this paragraph shall not reflect a mortality decrement between age 65 and the age at which benefits commence if benefits are not forfeited upon the death of the Member. If any benefits are forfeited upon death, the full mortality decrement is</p>

	taken into account.
62 to 65	No adjustment.
Less than 62	<p>The smaller of: (a) the actuarial equivalent of the limitation for age 62, computed using the interest rate and mortality basis specified by the Board of Trustees for determining actuarial equivalence under the Plan, or</p> <p>(b) the actuarial equivalent of the limitation for age 62, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</p> <p>This adjustment shall not apply to any “Qualified Member” as defined in Section 415(b)(2)(H), nor to survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code.</p>

- (4) With respect to subclause (3)a.1.i., subclause (3)a.2.i. and subparagraph (3)b. above, no adjustment shall be made to the Dollar Limitation to reflect the probability of a member’s death between the Annuity Starting Date and age 62, or between age 65 and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the member prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member’s death if the Plan does not charge members for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the member’s death.
- (5) The term “limitation year” is the twelve (12) month period which is used for application of the limitations under Code Section 415 and shall be the calendar year.
- (6) The limitations set forth in this subsection (a) shall not apply if the Annual Pension does not exceed \$10,000 provided the Member has never participated in a Defined Contribution Plan maintained by the City.

- (7) Cost-of-living adjustments in the Dollar Limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury under Section Subsection 415(d) of the Code.
- (8) In the case of a member who has fewer than ten (10) years of participation in the Plan, the Dollar Limitation set forth in Paragraph (3) of this Subsection (a) shall be multiplied by a fraction - (i) the numerator of which is the number of years (or part thereof) of participation in the Plan, and (ii) the denominator of which is ten (10).
- (9) Any portion of a member's benefit that is attributable to mandatory member contributions (unless picked-up by the City) or rollover contributions, shall be taken into account in the manner prescribed in the regulations under Section 415 of the Code.
- (10) Should any member participate in more than one defined benefit plan maintained by the City, in any case in which the member's benefits under all such defined benefit plans (determined as of the same age) would exceed the Dollar Limitation applicable at that age, the accrual of the member's benefit under this Plan shall be reduced so that the member's combined benefits will equal the Dollar Limitation.
- (11) For a member who has or will have distributions commencing at more than one annuity starting date, the Annual Benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to § 1.401(a)-20, Q&A 10(d), and with regard to § 1.415(b)1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.
- (12) The determination of the Annual Pension under Paragraph (A)(1) of this Subsection (a) shall take into account (in the manner prescribed by the regulations under Section 415 of the Code) social security supplements described in § 411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit plan, other than transfers of

distributable benefits pursuant § 1.411(d)-4, Q&A-3(c) of the Income Tax Regulations.

- (13) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this Subsection (a) and the provisions of Section 415 of the Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code. The value of any benefits forfeited as a result of the application of this Subsection (a) shall be used to decrease future employer contributions.
 - (14) For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, Compensation shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in this Subsection (a), compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Internal Revenue Code. For limitation years on or after July 1, 2007, compensation shall include payments that otherwise qualify as compensation and that are made by the later of: (a) 2 and ½ (two and one-half) months after severance from employment with the employer, and (b) the end of the limitation year that includes the date of severance.
- (b) *Required beginning date.* Notwithstanding any other provision of the plan, payment of a ~~participant's~~ member's retirement benefits under the plan shall commence not later than the ~~participant's~~ member's required beginning date, which is defined as the later of:

— April 1 of the calendar year that next follows the calendar year in which the ~~participant~~ member attains or will attain the age of seventy and one half (70½) years; or

— April 1 of the calendar year that next follows the calendar year in which the ~~participant~~ member retires.

(c) *Required minimum distributions.*

(1) Required beginning date. The ~~participant's~~ member's entire interest will be distributed, or begin to be distributed, to the ~~participant~~ member no later than the ~~participant's~~ member's required beginning date as defined in subsection (b) of this section.

(2) Death of ~~participant~~ member before distributions begin.

a. If the ~~participant~~ member dies before distributions begin, the ~~participant's~~ member's entire interest will be distributed, or begin to be distributed, no later than as follows:

1. If the ~~participant's~~ member's surviving spouse is the ~~participant's~~ member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the ~~participant~~ member died, or by December 31 of the calendar year in which the ~~participant~~ member would have attained age seventy and one half (70½), if later.

2. If the ~~participant's~~ member's surviving spouse is not the ~~participant's~~ member's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

3. If there is no designated beneficiary as of September 30 of the year following the year of the ~~participant's~~ member's death, the ~~participant's~~ member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the ~~participant's~~ member's death.

b. The ~~participant's~~ member's entire interest shall be distributed as follows:

1. *Participant Member survived by designated beneficiary.* If the ~~participant member~~ dies before the date distribution of his or her the interest begins and there is a designated beneficiary, the ~~participant's member's~~ entire interest will be distributed, beginning no later than the time described in subparagraph (2)a. above, over the life of the designated beneficiary or over a period certain not exceeding:
 - i. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the ~~participant's member's~~ death; or
 - ii. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.
2. *No designated beneficiary.* If the ~~participant member~~ dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the ~~participant's member's~~ death, distribution of the ~~participant's member's~~ entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the ~~participant's member's~~ death.
 - c. Death of surviving spouse before distributions to surviving spouse begin. In any case in which (i) the ~~participant member~~ dies before the date distribution of his or her interest begins, (ii) the ~~participant's member's~~ surviving spouse is the ~~participant's member's~~ sole designated beneficiary, and (iii) the surviving spouse dies before distributions to the surviving spouse begin, subparagraphs (2)a. and 2b., above shall apply as though the surviving spouse were the ~~participant member~~.
- (3) Requirements for annuity distributions that commence during ~~participant's~~ member's lifetime.

- a. Joint life annuities where the beneficiary is not the ~~participant's member's~~ spouse. If the ~~participant's member's~~ interest is being distributed in the form of a joint and survivor annuity for the joint lives of the ~~participant member~~ and a non-spousal beneficiary, annuity payments to be made on or after the ~~participant's member's~~ required beginning date to the designated beneficiary after the ~~participant's member's~~ death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the ~~participant member~~ using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the ~~participant member~~ and a non-spousal beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

- b. Period certain annuities. Unless the ~~participant's member's~~ spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the ~~participant's member's~~ lifetime may not exceed the applicable distribution period for the ~~participant member~~ under the uniform lifetime table set forth in section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the ~~participant member~~ reaches age seventy (70), the applicable distribution period for the ~~participant member~~ is the distribution period for age seventy (70) under the uniform lifetime table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of seventy (70) over the age of the ~~participant member~~ as of the ~~participant's member's~~ birthday in the year that contains the annuity starting date. If the ~~participant's member's~~ spouse is the ~~participant's member's~~ sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the ~~participant's member's~~ applicable distribution period, as determined under this subparagraph (3)b., or the joint life and last survivor expectancy of the ~~participant member~~ and the ~~participant's member's~~ spouse as determined under the joint and last survivor table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the ~~participant's member's~~ and spouse's attained ages as of the ~~participant's member's~~ and spouse's birthdays in the calendar year that contains the annuity starting date.

- (4) Form of distribution. Unless the ~~participant's~~ member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subparagraphs (4)a., (4)b., and (4)c., below. If the ~~participant's~~ member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations. Any part of the ~~participant's~~ member's interest which is in the form of an individual account described in section 414(k) of the Code will be distributed in a manner satisfying the requirements of section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.
- a. *General annuity requirements.* If the ~~participant's~~ member's interest is paid in the form of annuity distributions under the plan, payments under the annuity will satisfy the following requirements:
1. The annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 2. The distribution period will be over a life (or lives) or over a period certain, not longer than the distribution period described in paragraphs (2) or (3) above, whichever is applicable, of this subsection (c);
 3. Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
 4. Payments will either be non-increasing or increase only as follows:
 - i. By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - ii. To the extent of the reduction in the amount of the ~~participant's~~ member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period dies or is no longer the ~~participant's~~ member's

beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p) of the Code;

- iii. To provide cash refunds of employee contributions upon the ~~participant's~~ member's death; or
 - iv. To pay increased benefits that result from a plan amendment.
- b. *Amount required to be distributed by required beginning date.* The amount that must be distributed on or before the ~~participant's~~ member's required beginning date (or, if the ~~participant-member~~ dies before distributions begin, the date distributions are required to begin under subparagraph (2)a.1. or (2)a.2, whichever is applicable) is the payment that is required for one (1) payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the ~~participant's~~ member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the ~~participant's-member's~~ required beginning date.
- c. *Additional accruals after first distribution calendar year.* Any additional benefits accruing to the ~~participant~~ member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (5) For purposes of this subsection (c), distributions are considered to begin on the ~~participant's-member's~~ required beginning date. If annuity payments irrevocably commence to the ~~participant-member~~ (or to the ~~participant's~~ surviving spouse) before the ~~participant's-member's~~ required beginning date (or, if to the ~~participant's~~ member's surviving spouse, before the date distributions are required to begin in accordance with subparagraph (2)a. above), the date distributions are considered to begin is the date distributions actually commence.
- (6) Definitions.

- a. *Designated beneficiary.* The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-4, ~~Q&A-4~~, of the Treasury regulations.
 - b. *Distribution calendar year.* A calendar year for which a minimum distribution is required. For distributions beginning before the ~~participant's~~ member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the ~~participant's~~ member's required beginning date. For distributions beginning after the ~~participant's~~ member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (2) of this subsection (c).
 - c. *Life expectancy.* Life expectancy as computed by use of the single life table in section 1.401(a)(9)-9 of the Treasury regulations.
- (d) *Eligible rollover distributions.*
- (1) Notwithstanding any provision of the 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 administrator, to have an portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
 - (2) *Definitions.* The following definitions apply to this section:
 - a. *Eligible rollover distribution.* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
 - 1. Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;
 - 2. Any distribution to the extent such distribution is required under Section 401(a)(9) of the Code;
 - 3. The portion of any distribution which is made upon hardship of the member; and

4. The portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), provided that a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax Employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
- (3)b. *Eligible retirement plan.* An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, a qualified trust described in Section 401 (a) of the Code, an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, or, with respect to distributions on or after January 1, 2008, a Roth IRA (subject to the limitations of Code Section 408A(c)(3)) that accepts the distributee's eligible rollover distribution.
- (4)c. *Distributee.* A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. Furthermore, effective January 1, 2007, a surviving designated beneficiary as defined in Section 401(a)(9)(E) of the Code who is not the surviving spouse and who elects a direct rollover to an individual retirement account described in Section 408(a) of the Code or an individual retirement annuity described in Section 408(b) of the Code shall be considered a distributee.

- (5)d. *Direct rollover.* A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.
- (e) *[Maximum amount of mandatory distribution.]* Notwithstanding any other provision of this plan, the maximum amount of any mandatory distribution, as defined in section 401(a)(31) of the Code, payable under the plan shall be \$1,000.00.
- (f) *Compensation limitations under section 401(a)(17).* In addition to other applicable limitations set forth in the plan, and notwithstanding any other provision of the plan to the contrary, the annual compensation of each ~~participant~~ member taken into account under the plan shall not exceed the EGTRRA annual compensation limit for limitation years beginning after December 31, 2001. The EGTRRA annual compensation limit is \$200,000.00, as adjusted by the commissioner for increases in the cost of living in accordance with section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the EGTRRA annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

Any reference in the plan to the limitation under section 401(a)(17) of the Code shall mean the EGTRRA annual compensation limit set forth in this provision.

(g) Notwithstanding any provision in this part to the contrary, members eligible for an unreduced normal retirement may receive an in-service distribution provided the terms of any such distribution are consistent with the provisions of the Internal Revenue Code and corresponding regulations of the Department of the Treasury.

Secs. 14-35—14-45. Reserved.

Section 2: Should any section or provision of this Ordinance or portion hereof, any paragraph, any sentence, or word, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this ordinance.

Section 3: All sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, shall be and the same are hereby repealed to the extent of such conflict.

Section 4: Authority is hereby granted to codify this Ordinance.

ORDINANCE NO.: _____
PAGE 51 of 54

Section 5: That this Ordinance shall be in full force and effect immediately upon its final passage and adoption.

PASSED AND APPROVED on first reading this ____ day of _____, 2016

PASSED AND ADOPTED on second and final reading this ____ day of _____, 2016.

ORDINANCE NO.: _____
PAGE 52 of 54

APPROVED:

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK

TERENCE D. DAVIS
CHAIR PRO TEM

BRUCE A. GUYTON
COUNCILPERSON

KASHAMBA L. MILLER-ANDERSON
COUNCILPERSON

CEDRICK A. THOMAS
COUNCILPERSON

ORDINANCE NO.: _____
PAGE 53 of 54

1ST READING

MOTIONED BY: _____

SECONDED BY: _____

B. GUYTON _____

K. MILLER-ANDERSON _____

C. THOMAS _____

D. PARDO _____

T. DAVIS _____

2ND & FINAL READING

MOTIONED BY: _____

SECONDED BY: _____

B. GUYTON _____

K. MILLER-ANDERSON _____

C. THOMAS _____

D. PARDO _____

T. DAVIS _____

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA H. RYAN, B.C.S.
CITY ATTORNEY

DATE: _____

ORDINANCE NO.: _____
PAGE 54 of 54

CERTIFICATION OF PUBLICATION

I hereby certify that notice of the proposed enactment of this ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

DATE

**Claudene L. Anthony, Certified Municipal Clerk
City Clerk**