

1 *Accrued benefit* shall mean, as of the date of termination or entry into the DROP,
2 whichever is earlier, the member's monthly retirement benefit in an amount equal to 2.5
3 percent ~~1/2~~ or 2.625 percent of final average earnings times credited service. Except as
4 otherwise provided herein, credited service attributable to service prior to October 1,
5 2005 shall be multiplied by 2.5; credited service attributable to service from October 1,
6 2005 on, shall be multiplied by 2.625.

7 *Actuarial-Equivalent* or equivalent actuarial value shall mean a benefit of equivalent
8 value to the benefit which otherwise would have been provided to the member, based on
9 the 1994 Group Annuity Mortality Basic Table-Unisex 50/50 and an interest rate of 9.5
10 percent, unless otherwise specified in this ordinance. ~~This table and interest rate are used~~
11 ~~exclusively for calculation of actuarial equivalencies for optional forms of benefit~~

12 *Enrolled ~~a~~Actuary* shall mean an actuary who is enrolled under Subtitle C of Title III of
13 the Employee Retirement Income Security Act of 1974 and who is a member of the
14 Society of Actuaries or the American Academy of Actuaries. ~~individual who shall be a~~
15 ~~member of the Society of Actuaries or Academy of Actuaries, and who shall be an~~
16 ~~enrolled actuary, as defined by the provisions of the Employee Retirement Income~~
17 ~~Security Act of 1974 (ERISA).~~

18 *Beneficiary* shall mean a person, or persons designated to receive benefits payable in the
19 event of a member's death.

20 *Benefit determination date* shall mean the date(s) upon which calculations of benefits are
21 based when determining final average earnings and credited service.

22 *Deferred retirement option ~~program plan~~* means an optional program of the City of
23 Gainesville's retirement systems or plans for deferring retirement income while

1 remaining in the active employ of the City. This shall also be known as a regular DROP
2 or reverse DROP.

3 *Earnings* shall mean only base pay (which shall include all paid leaves), all overtime pay
4 (which shall include time paid at time-and-a-half, double-time, and double-time-and-a-
5 half), working out of classification pay, longevity pay, State of Florida city firefighters
6 supplemental education incentive payments, State of Florida police officer educational
7 salary incentive payments, police security ("billable" overtime), special assignment pay,
8 special duty assignment pay, paramedic certification pay, stand-by pay, call-back pay,
9 acting out of classification pay, and termination vacation pay or for members entering a
10 DROP any lump sum payment of some or all such member's vacation balance upon
11 entering the DROP, except as may be otherwise expressly provided for in Collective
12 Bargaining Agreements. For any person who first becomes a member in any plan year
13 beginning on or after January 1, 1996, compensation for any plan year shall not include
14 any amounts in excess of the Internal Revenue Code s. 401(a)(17) limitation (as amended
15 by the Omnibus Budget Reconciliation Act of 1993), which limitation of \$150,000 shall
16 be adjusted as required by federal law for qualified government plans and shall be further
17 adjusted for changes in the cost of living in the manner provided by Internal Revenue
18 Code s. 401(a)(17)(b). Effective Oct. 1, 1996, earnings in excess of \$150,000.00 annually
19 shall be disregarded for all purposes of this plan. As of January 1 of each calendar year,
20 the dollar limitation as determined by the Commissioner of Internal Revenue for that
21 calendar year will become effective for the plan year commencing thereafter in lieu of the
22 dollar limitation provided in the preceding sentence. For any person who first became a
23 member prior to the first plan year beginning on or after January 1, 1996, the limitation
24 on compensation shall be not less than the maximum compensation amount that was

1 allowed to be taken into account under the plan as in effect on July 1, 1993, which
2 limitation shall be adjusted for changes in the cost of living since 1989 in the manner
3 provided by Internal Revenue Code s. 401(a)(17)(1991). ~~For an employee who became a~~
4 ~~member of the plan prior to Oct. 1, 1996, this limitation shall not be applicable.~~
5 *Effective date* shall mean the date on which the operation of the plan is to commence.
6 *Eligible employee* shall mean any full-time regular ~~permanent~~ employee who is certified
7 as a firefighter as a condition of employment in accordance with the provisions of section
8 633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life, and to
9 protect property, or any full-time regular ~~permanent~~ employee who is certified or
10 required to be certified as a law enforcement officer in compliance with section 943.14,
11 Florida Statutes, who is vested with authority to bear arms and make arrests, and whose
12 primary responsibility is the prevention and detection of crime or the enforcement of the
13 penal, criminal, traffic, or highway laws of the state. This definition includes all certified
14 supervisory and command personnel whose duties include, in whole or in part, the
15 supervision, training, guidance, and management responsibilities of full-time law
16 enforcement officers, part-time law enforcement officers, or auxiliary law enforcement
17 officers, but does not include part-time law enforcement officers or auxiliary law
18 enforcement officers as the same are defined in section 943.10(~~65~~) and (~~87~~), Florida
19 Statutes (2006), respectively. Employees whose work is primarily secretarial or clerical
20 are not classified as eligible employees. An otherwise eligible employee may elect to
21 waive, in accordance with section 2-579, certain claims/rights arising under this plan, and
22 become an ineligible employee as described in section 2-598(c)(1)a. Based on October
23 17, 2005 advice from the Municipal Members and Firefighters Trust Funds Office, a non-
24 certified police officer or firefighter may be an eligible employee and earn credited

1 service in the Plan under the following circumstances: A non-certified employee that is
2 hired in a firefighter or police officer position should be enrolled in the Plan upon hire
3 and earn credited service while so employed. If the employee fails to meet the
4 certification requirements under Chapters 633 or 943 within one year, then the
5 employee's contributions should be refunded and the employee would be removed from
6 the Plan and would not receive credited service in the Plan for that period of time. Such
7 non-certified employee may not leave his/her contributions in the Plan, nor later repay
8 such refunded contributions for the purpose of obtaining credited service for that period,
9 nor purchase credited service for such period pursuant to section 2-600(n).

10 *Final average earnings* shall mean:

11 (1) The average of a member's monthly earnings for the 36 consecutive
12 months which produces the highest average, as of the date of benefit determination. Final
13 average earnings shall be determined by dividing the total earnings earned and received
14 by the member during the applicable 36-month period by 36.

15 (2) If a member has been absent from work (performs no duties) due to an
16 injury claimed to be compensable under F.S. Ch. 440 during the period of time which
17 would be utilized to determine his/her final average earnings, then such period of absence
18 shall not be considered months of employment for the purposes of this section. The
19 months of employment immediately preceding the absence shall be deemed to be
20 consecutive with the months of employment, if any, earned after his/her return to work.

21 *Gross pay* shall mean those types of compensation which ~~presently~~ (as of July 1, 1999)
22 have member contributions deducted therefrom. Types of compensation created, or first
23 applied to members after July 1, 1999 may, at the discretion of the city, have member
24 contributions deducted therefrom provided that, unless otherwise agreed to, such types of

1 compensation shall also thereafter be included in earnings effective upon the date
2 contributions are deducted therefrom.

3 *Member* shall mean any eligible employee who participates in the plan pursuant to
4 section 2-598.

5 *Normal form of benefit* shall be a monthly annuity, payable for the lifetime of the
6 member, in accordance with the provisions of this division.

7 *Plan* shall mean the Consolidated Police Officers and firefighters retirement plan, as set
8 forth in this division, and as it may from time to time in the future be amended.

9 *Plan year* shall mean a twelve-month period beginning on October first and ending on
10 September thirtieth.

11 *Retiree* shall mean a former employee who has entered retirement status. A member who
12 enters the DROP shall be considered a retiree for all purposes of the Plan~~is receiving~~
13 ~~monthly retirement benefit, or a current employee who has deferred receipt (into a DROP~~
14 ~~account), a monthly retirement benefit.~~

15 Retirement or retire shall mean a member's separation from city employment as an
16 eligible employee with immediate eligibility for receipt of benefits under the plan. For
17 purposes of the Plan, "retire" also means the date a member commences the DROP.

18 *Service credit rules* shall mean the following:

- 19 (1) Day of service shall mean each day for which a member is:
- 20 a. Paid, or entitled to payment, by the city for performance of duties;
 - 21 b. Paid, or entitled to payment, by the city on account of a period of
 - 22 time during which no duties are performed (e.g., vacation, holiday,
 - 23 illness, incapacity, layoff, jury duty, military duty or approved
 - 24 leave of absence);

1 c. Each day for which back pay, irrespective of mitigation or
2 damages, has been either awarded to or agreed to by the city;
3 provided, however, that the same day shall not be credited as a day
4 of service more than once.

5 (2) Month of service shall mean a one-month period beginning on the day of
6 the month corresponding to a member's date of employment, during which the member
7 has earned at least ten days of service; provided however, that ten days of service will be
8 deemed to have been earned in each month of service in which occurs:

9 a. An approved leave of absence, not to exceed 90 days, authorized
10 by the city, in accordance with a uniform policy applied on a
11 nondiscriminatory basis to all members similarly situated; or

12 b. Voluntary or involuntary service in the armed forces of the United
13 States for a period not greater than five years of the time spent in
14 the military service of the Armed Forces of the United States shall
15 be added to the years of actual service, if:

16 1. The member is in the City's active employ as an eligible
17 employee prior to such service and leaves such position for the
18 purpose of voluntary or involuntary service in the Armed Forces of
19 the United States.

20 2. Such member is entitled to reemployment under the provisions
21 of the Uniformed Services Employment and Reemployment Rights
22 Act.

23 3. The member returns to his or her employment as an eligible
24 employee within 1 year from the date of his or her release from

1 ~~such active service. one enlistment, provided that the member is~~
2 ~~legally entitled to reemployment pursuant to the provisions of any~~
3 ~~federal law applicable to veterans' reemployment rights, and any~~
4 ~~amendments thereto, and is reemployed by the city within the~~
5 ~~manner provided by law and under the conditions prescribed by~~
6 ~~law.~~

7 (3) A member shall not earn any days or months of service for any purpose
8 under the plan after entering in a DROP, except as a re-employed retiree, if applicable.

9 (4) If the employment of a member is terminated, and such former member is
10 subsequently reemployed by the city, the member's date of employment, for purposes of
11 determining additional months of service, shall be reestablished as his/her date of
12 reemployment.

13 (5) Credited service shall mean the aggregate total number of months of
14 service with the city as an eligible employee, expressed in terms of full and fractional
15 year, subject to the following:

- 16 a. Additional months of service shall be credited for unused sick
17 leave credits, assigning one day of service for each day of unused
18 sick leave, unless otherwise provided in applicable personnel
19 policies, collective bargaining agreements, or DROP provisions.
20 Additional months of service and fractions thereof, as determined
21 by the city, shall be credited to members for periods of
22 employment while a CETA employee. Additional months of
23 service attributable to public safety and military service prior to
24 employment may be credited pursuant to Section 2-600(n).

1 Further provided, that, if the employment of a member is
2 terminated, and the member is subsequently reemployed by the
3 city, the credited service to which he/she was entitled as of his/her
4 termination date shall be included in any further computation of
5 credited service under the following circumstances:

6 b. No member will receive credit for years or fractional parts of years
7 of service if he or she has withdrawn his or her contributions to the
8 fund for those years or fractional parts of years of service, unless
9 the member repays into the fund the amount he or she has
10 withdrawn, plus interest as determined by the board. The
11 multiplier applied to such service, and interest payments associated
12 with the repayment, shall utilize the multiplier in effect at the time
13 repayment is made. The member shall have 90 days after his or
14 her reemployment to make repayment, except if re-employed after
15 March 1, 2004, but prior to June 12, 2007, in which case the
16 member shall have three years and six months after his or her re-
17 employment to make repayment.

18 c. A member may voluntarily leave his or her contributions in the
19 fund for a period of five years after ceasing to be an eligible
20 employee, pending the possibility of his or her being rehired as an
21 eligible employee, without losing credit for the time he or she has
22 participated actively as a member. If he or she is not reemployed
23 as an eligible employee within five years, his or her contributions
24 shall be returned to him or her without interest.

1 a. ~~If such a member was not entitled to a termination benefit in~~
2 ~~accordance with section 2-600(e) and his/her number of calendar~~
3 ~~months that he/she was not employed is less than his/her aggregate~~
4 ~~months of service credited under the plan as of this termination~~
5 ~~date and he/she has repaid withdrawn contributions as provided in~~
6 ~~section 2-600(e)(5); or~~

7 b. ~~If the member was not entitled to a termination benefit, and he/she~~
8 ~~remains in the continuous employ of the city for at least ten years~~
9 ~~subsequent to his/her reemployment, and he/she has repaid~~
10 ~~withdrawn contributions as provided in section 2-600(e)(5).~~

11 ~~Continuous employ shall not be deemed interrupted because of~~
12 ~~absence, when the absence shall have been granted in accordance~~
13 ~~with appropriate contract provisions or applicable personnel~~
14 ~~policies as approved by the city commission. Approved absences~~
15 ~~shall count as credited service under the plan, in accordance with~~
16 ~~the terms of the plan.~~

17 e. ~~If a member was not entitled to a termination benefit, he or she~~
18 ~~may voluntarily leave his or her contributions in the fund for a~~
19 ~~period of five years after leaving the employ of the fire or police~~
20 ~~department, pending the possibility of being rehired by the same~~
21 ~~department, without losing credit for the time he or she has~~
22 ~~participated actively as a firefighter or police officer. If the~~
23 ~~firefighter or police officer is not reemployed as a firefighter or~~

1 ~~police officer, with the same department within five years, his or~~
2 ~~her contributions shall be returned without interest.~~

3 *Trust fund* shall mean the cash and other assets accumulated, held and maintained by the
4 board of trustees of the consolidated plan in accordance with this division, including
5 individual accounts authorized under the DROP.

6 **Section 2.** Section 2-598(e) and (f), Eligibility and participation, City of
7 Gainesville Code of Ordinances, is amended to read as follows:

8 **Sec. 2-598. Eligibility and participation.**

9 (e) *DROP participants.* Except as provided in (f) below, for all plan purposes, the
10 credited service of an employee entering a DROP shall remain as it existed on the
11 effective date of commencement (beginning of DROP period) of participation in the
12 DROP. The participant shall not earn or be credited with any additional credited service
13 under the plan, and service after the effective date of commencement in entering the
14 DROP shall not be recognized by the plan or used for the calculation or determination of
15 any benefits payable by the plan. After the effective date of commencement of
16 participation in ~~Upon entry into~~ the DROP, a member shall be considered a retiree for all
17 plan purposes, and for the period of his/her participation in the DROP to have deferred
18 receipt of retirement benefits into his/her DROP account, while remaining an employee
19 of the City of Gainesville.

20 (f) *Re-employed retirees and recipients of termination benefits.* A former employee
21 of the City of Gainesville receiving retirement or termination benefits from the City of
22 Gainesville Employees Disability Plan, the City of Gainesville Employees Pension Plan,
23 or retirement benefits or monthly termination benefits from this Plan may, upon
24 becoming re-employed by the City of Gainesville become a member of this Plan, earn

1 credited service, and become entitled to receive an additional retirement benefit subject to
2 the following conditions.

3 (1) Such member shall re-satisfy the eligibility requirements for participation
4 in this Plan.

5 (2) Such member shall not be entitled to disability benefits under this Plan or
6 the City of Gainesville Employees Disability Plan, or entitled to any other disability
7 pension benefit payable from a retirement system or plan of the City of Gainesville.

8 (3) No service for which credit was received, or which remained unclaimed,
9 at retirement or termination may be claimed or applied toward service credit earned
10 following renewed membership.

11 (4) Such re-employed member shall not be entitled to purchase additional
12 credit for service performed prior to re-employment for which retirement or termination
13 benefits are being received.

14 **Section 3.** Section 2-599(a) and (b), Contributions, City of Gainesville Code of
15 Ordinances, is amended to read as follows:

16 **Sec. 2-599. Contributions.**

17 (a) Member contributions.

18 (1) Effective the first full pay period following October 1, 1999, members,
19 except members who have entered a DROP, will have a fixed employee contribution rate
20 of 7 1/2 percent of gross pay. There shall be no member contributions deducted from a
21 member's compensation after entering a DROP, except as a re-employed retiree, if
22 applicable. Employee contributions made after the effective date of commencement of
23 participation in a reverse DROP shall be returned without interest.

24 (2) Effective Jan. 1, 1998, the contributions made by each member to the plan

1 shall be designated as employer contributions pursuant to I.R.C. section 414(h) of 1986.
2 Such designation is contingent upon the contributions being excluded from the member's
3 gross income for federal income tax purposes. For all other purposes of the plan, such
4 contributions shall be considered to be member contributions.

5 (3) The city manager shall cause contributions provided for in subsection
6 (a)(1) to be deducted from the compensation of each member on each and every payroll,
7 for each and every payroll, so long as each member is performing eligible service, and
8 has not entered a regular DROP. A member's contribution provided for herein shall be
9 made notwithstanding that the minimum compensation provided by law for any members
10 shall be changed thereby. Each member shall be deemed to consent and agree to the
11 deduction made and provided for in this section and payment of his/her compensation
12 less such deduction shall be full and complete discharge of all claims and demands
13 whatsoever for the service rendered by the member during the period covered by such
14 payment, except as to the benefits provided by this plan. The city manager shall cause the
15 amount to be deducted from the compensation of each member for each and every payroll
16 as authorized by this division and when deducted shall be paid into the fund of the plan
17 and shall be credited to the individual member from whose compensation such deduction
18 was made.

19 (b) *Tax levies.* There is hereby assessed, imposed and levied, on every insurance
20 company, corporation or other insurer, now or hereafter engaged in or carrying on the
21 business of property insurance or casualty insurance, an excise or license tax, as
22 authorized by F.S. §§ 175.101, 185.08, as amended, as follows:

23 (1) One and eighty-five hundredths percent of the gross amount of receipts or
24 premiums from policyholders on all premiums collected on property insurance policies

1 covering property within the corporate limits of the city. In the case of multiple-peril
2 policies with a combined premium for both the property and casualty coverage, 70
3 percent of the premium shall be used as the basis for the tax specified above.

4 (2) Eighty-five hundredths percent of the gross amount of receipts or
5 premiums from policyholders on all premiums collected on casualty insurance policies
6 covering property within the corporate limits of the city. In the case of multiple-peril
7 policies with a single premium for both property and casualty coverage, 30 percent of
8 such premium shall be used as the basis for the tax specified above.

9 Such tax shall be payable annually on the first day of March each year.

10 (3) The base amount for determining extra benefits is \$1,139,280.
11 Subsequent annual premium tax receipts in excess of this base amount must be reserved
12 for "extra benefits."

13 **Section 4.** Section 2-600, Retirement dates and benefits, City of Gainesville
14 Code of Ordinances, is amended to read as follows:

15 **Sec. 2-600. Retirement dates and benefits.**

16 (a) *Normal retirement.* Normal retirement under the plan is retirement from the
17 employ of the city on the normal retirement date. In the event of normal retirement, a
18 member shall have a nonforfeitable right to his/her benefit, and payment of the retirement
19 benefit shall be governed by the following provisions:

20 (1) Normal retirement date. The normal retirement date of a member shall be
21 the first day of the month coincident with or next following the completion of 20 years of
22 credited service at any age, ~~or~~ the date the member has both completed at least ten years
23 of credited service and attained age of 55, or has attained a combination of years of
24 credited service and age that equals seventy (70).

1 (2) Benefit amounts. The monthly normal retirement benefit payable to a
2 member shall be equal to his/her accrued benefit, except as provided in section 2-601, as
3 defined in section 2-596, determined as of his/her normal retirement date.

4 (3) Benefit payments. The monthly retirement income payable in the event of
5 normal retirement will be payable on the first day of each month. The first payment will
6 be made on the member's normal retirement date, or on the first day of the month
7 coincident with or next following the member's actual retirement, if later, and the last
8 payment will be the payment due next preceding the member's death; except that, in the
9 event the member dies after retirement but before receiving retirement benefits for a
10 period of 10 years, the same monthly benefit will be paid to the beneficiary (or
11 beneficiaries) as designated by the member for the balance of such 10-year period, or, if
12 no beneficiary is designated, to the estate of the member, as provided in section 2-606. If
13 a member continues in the service of the city beyond his or her normal retirement date
14 and dies prior to the date of actual retirement, without an option made pursuant to section
15 2-601 being in effect, monthly retirement income payments will be made for a period of
16 10 years to a beneficiary (or beneficiaries) designated by the member as if the member
17 had retired on the date on which death occurred, or, if no beneficiary is designated, to the
18 estate of the member, as provided in section 2-606. Retirement benefits shall be payable
19 on the first day of each month. The first payment shall be made on the member's normal
20 retirement date, and payments shall continue according to the terms of accrued benefit for
21 the member's lifetime. A member may modify the amount and conditions of payments by
22 electing an option in accordance with section 2-601, in which event the retirement benefit
23 shall be paid in accordance with the terms of such option.

24 (b) Early ~~Delayed~~ retirement.

1 Early retirement under the plan is retirement from the employ of the city, as of the first
2 day of any calendar month which is prior to the member's normal retirement date but
3 subsequent to the date as of which the member has both attained the age of 50 years and
4 completed 10 years of credited service. In the event of early retirement, payment of
5 retirement income will be governed as follows:

6 (1) The early retirement date shall be the first day of the calendar month
7 coincident with or immediately following the date a member retires from the service of
8 the city under the provisions of this section prior to his or her normal retirement date.

9 (2) The monthly amount of retirement income payable to a member who
10 retires prior to his or her normal retirement date under the provisions of this section shall
11 be his or her accrued benefit, taking into account his or her credited service to the date of
12 actual retirement and his or her final average earnings as of such date, such amount of
13 retirement income to be actuarially reduced to take into account the member's younger
14 age and the earlier commencement of retirement income payments. In no event shall the
15 early retirement reduction exceed 3 percent for each year by which the member's age at
16 retirement preceded age 55.

17 (3) The retirement income payable in the event of early retirement will be
18 payable on the first day of each month. The first payment will be made on the member's
19 early retirement date and the last payment will be the payment due next preceding the
20 retired member's death; except that, in the event the member dies before receiving
21 retirement benefits for a period of 10 years, the same monthly benefit will be paid to the
22 beneficiary(ies) designated by the member for the balance of such 10-year period, or, if
23 no designated beneficiary is surviving, the same monthly benefit for the balance of such
24 10-year period shall be payable as provided in s. 2-606.

1 ~~(1) A member of the plan may continue in employment to a date after eligibility~~
2 ~~for normal retirement. In such event the member's delayed retirement date shall be the~~
3 ~~first day of the month coincident with or next following the date of termination of~~
4 ~~employment.~~

5 ~~(2) Benefit amounts. The monthly delayed retirement benefit payable to a~~
6 ~~member shall be equal to his/her accrued benefits shall be, except as provided in section~~
7 ~~2-601, as defined in section 2-596, determined as of his/her delayed retirement date.~~

8 ~~(3) Benefit payments. Delayed retirement benefits shall be payable on the first day of~~
9 ~~each month. The first payment shall be made on the member's delayed retirement date,~~
10 ~~and payment shall continue according to the terms of the accrued benefit for the~~
11 ~~member's lifetime. A member may modify the amount and conditions of payment by~~
12 ~~electing an option in accordance with section 2-601, in which event the delayed~~
13 ~~retirement benefit shall be paid in accordance with the terms of such option.~~

14 (c) ~~Disability retirement.~~ Except for employees who have entered into a DROP, or
15 are re-employed pursuant to section 2-598(f), a member who has met the eligibility
16 requirements for disability retirement may retire under the plan if he/she becomes totally
17 and permanently disabled, as defined herein. In the event of disability retirement,
18 payment of disability benefits shall be governed by subsections (1) through (8) of this
19 section, except as provided below. Employees making the election/request described in
20 section 2-598(c)(1)a.2. shall not be eligible for disability retirement under this section,
21 but shall instead be eligible for disability retirement under Article VII, Division 6 of this
22 chapter.

23 (1) Eligibility for disability benefits.

24 a. Line of duty.

1 (i) ~~_____~~ A member who becomes totally and permanently disabled,
2 as defined in (2)(a) below~~herein~~, while in the line of duty, as defined by
3 the board and in (ii) below, shall be eligible for a disability benefit ~~on the~~
4 ~~later of the date 30 days after the commencement of disability or the date~~
5 ~~the board approves payment of the disability benefit~~. For the purposes of
6 this subsection ~~(a) paragraph~~, a member shall be eligible for a disability
7 benefit ~~an eligible employee shall be considered a member~~ on his/her first
8 day of service.

9 (ii) _____ Any condition or impairment of health of any and all police
10 officer members caused by tuberculosis, hypertension, heart disease, or
11 hardening of the arteries, resulting in total or partial disability or death,
12 shall be presumed to be accidental and suffered in line of duty unless the
13 contrary be shown by competent evidence. Any condition or impairment
14 of health caused directly or proximately by exposure, which exposure
15 occurred in the active performance of duty at some definite time or place
16 without willful negligence on the part of the police officer member,
17 resulting in total or partial disability, shall be presumed to be accidental
18 and suffered in the line of duty, provided that such member shall have
19 successfully passed a physical examination upon entering such service,
20 which physical examination including electrocardiogram failed to reveal
21 any evidence of such condition. Any condition or impairment of health of
22 a firefighter member caused by tuberculosis, hypertension, or heart disease
23 resulting in total or partial disability or death shall be presumed to have
24 been accidental and suffered in the line of duty unless the contrary is

1 shown by competent evidence, provided that such firefighter member shall
2 have successfully passed a physical examination before entering into such
3 service, which examination failed to reveal any evidence of such
4 condition.

5 b. Not in line of duty.

6 (i) _____ A member who becomes totally and permanently disabled,
7 as defined in (2)(a) below~~herein~~, while not in the line of duty,
8 having 10 or more years of credited service on the commencement
9 of disability, shall be eligible for a disability benefit, provided
10 ~~he/she has completed at least five years credited service as of the~~
11 ~~commencement of disability.~~

12 (ii) _____ A member who becomes totally and permanently disabled
13 as described in (2)(b) below, while not in the line of duty, having
14 at least five years, but less than 10 years, of credited service on
15 commencement of disability shall be eligible for a disability
16 benefit.

17 (iii) _____ A member who becomes totally and permanently disabled
18 as described in (2) below, while not in the line of duty, having less
19 than five years of credited service as of the commencement of the
20 disability, shall not be eligible for a disability benefit.

21 (2) Total and permanent disability.

22 a. A member shall be considered totally and permanently disabled by
23 a disability incurred in the line of duty if, in the opinion of the
24 board, he/she is wholly prevented from rendering useful and

1 efficient service as a police officer or firefighter, by reason of a
2 medically determinable physical or mental impairment and the
3 member is likely to remain so disabled continuously and
4 permanently. which can be expected to result in death or to be of a
5 long continued and indefinite duration.

6 b. A member shall be considered totally and permanently disabled by
7 a disability suffered while not in the line of duty if, in the opinion
8 of the board, he/she is wholly prevented from rendering useful and
9 efficient service as a police officer or firefighter or wholly
10 prevented from rendering useful and efficient service in a vacant
11 position for which he/she is qualified and in which he/she may be
12 placed anywhere in the city as approved by the city manager, by
13 reason of a medically determinable physical or mental impairment
14 and the member is likely to remain so disabled continuously and
15 permanently. which can be expected to result in death or to be of a
16 long continued and indefinite duration.

17 c. The decision of the board of these questions shall be final and
18 binding subject to the claims procedure set forth in the
19 "administration of the plan" section.

20 (3) Nonadmissible causes of disability. A member shall not be entitled to
21 receive disability benefits if the disability is the result of any of the following:

22 a. Excessive and habitual use by the member of drugs, intoxicants, or
23 narcotics;

24 b.e Injury or disease sustained by the member while willfully

1 participating in acts of violence, riots, civil insurrections, or while
2 committing a felony.

3 cb. Injury or disease sustained by the member while serving in any
4 armed forces or as a result of warfare.

5 de. Injury or disease sustained by a member after his/her employment
6 has terminated.

7 ed. Intentional, self-inflicted injury.

8 f. Injury or disease sustained by the member while working for
9 anyone other than the city, including self-employment, and arising
10 out of such employment.

11 (4) Determination of eligibility. No member shall be permitted to retire under
12 the provisions of this section until examined by a duly qualified physician or surgeon, to
13 be selected by the board of trustees for that purpose, and is found to be disabled in the
14 degree and in the manner specified in this section. Any member retiring under this
15 section may be examined periodically by a duly qualified physician or surgeon or board
16 of physicians and surgeons to be selected by the board of trustees for that purpose, to
17 determine if such disability has ceased to exist. ~~The board of trustees shall consider and~~
18 ~~secure such information as the board desires and determines appropriate. Following~~
19 ~~thorough consideration, the board of trustees will determine the eligibility of the~~
20 ~~employee for benefits as provided in this plan. The board of trustees may attach such~~
21 ~~conditions and safeguards to its findings and determinations as may be deemed~~
22 ~~appropriate in order to carry out the intent and purpose of this division. The~~
23 ~~determination of the board of trustees on any matters related to this article, its~~
24 ~~interpretation or the entitlement of one to its benefits shall rest solely with the board of~~

1 ~~trustees, and its final determination shall be binding.~~

2 (5) Amount of disability benefit. The benefit payable to a member who
3 retires from the service of the city with a total and permanent disability as a result of a
4 disability is the monthly income payable for 10 years certain and life for which, if the
5 member's disability occurred in the line of duty, his or her monthly benefit shall be the
6 accrued benefit, but shall not be less than 42 percent of his or her final average earnings
7 as of the member's disability retirement date. If the disability is other than in the line of
8 duty, the member's monthly benefit, if any, shall be the accrued benefit, but shall not be
9 less than 25 percent of his or her average monthly compensation as of the member's
10 disability retirement date. A member shall receive a monthly disability benefit,
11 ~~commencing on his/her disability eligibility date, equal to his/her accrued benefit,~~
12 ~~determined as of his/her disability eligibility date, based on the member's credited service~~
13 ~~and final average earnings as of such date. Provided further, however, the member's~~
14 ~~benefit as determined (before adjustment, if any, as provided in section 2-600(f)) shall~~
15 ~~not be less than 42 percent of his/her final average earnings for in-line-of-duty disability,~~
16 ~~and not less than 25 percent of his/her final average earnings for not in-line-of-duty~~
17 ~~disability.~~

18 (6) Benefit payments. The monthly retirement income for a member in the
19 event of his or her disability retirement shall be payable on the first day of the first month
20 after the board of trustees determines such entitlement. However, the monthly retirement
21 income shall be payable as of the date the board determines such entitlement, and any
22 portion due for a partial month shall be paid together with the first payment. The last
23 payment will be, if the member recovers from the disability, the payment due next
24 preceding the date of such recovery or, if the member dies without recovering from his or

1 her disability, the payment due next preceding death or the 120th monthly payment,
2 whichever is later. In lieu of the benefit payment as provided in this subsection, a
3 member may select an optional form as provided in s. 2-601. Any monthly retirement
4 income payments due after the death of a disabled member shall be paid to the member's
5 designated beneficiary (or beneficiaries) as provided in ss. 2-606 and 2-600(d). The
6 disability benefit payable in the event of disability shall be payable on the first day of
7 each month. The first payment shall be made on the disability eligibility date, and
8 subsequent payments shall be made according to the terms of the accrued benefit for the
9 member's lifetime, or until recovery from disability, if sooner, as provided below.

10 ~~Provided further that should a member die while receiving disability benefits, amounts~~
11 ~~contributed in excess of benefits paid to the member shall be paid without interest to the~~
12 ~~member's beneficiary.~~

13 (7) Termination of disability benefit. If the board of trustees finds that a
14 member who is receiving a disability retirement income is no longer disabled, as
15 provided herein, the board of trustees shall direct that the disability retirement income be
16 discontinued. Recovery from disability as used herein shall mean the ability of the
17 member to render useful and efficient service as an eligible employee, or in the case of
18 disability benefit awarded pursuant to (c)(2)b, other city employment.

19 ~~If the member's disability ceases prior to his/her normal retirement date, and he/she is~~
20 ~~requested to reenter the employ of the city and he/she does not do so within 30 days after~~
21 ~~such request, all rights of the member in and to a disability benefit shall cease, and he/she~~
22 ~~shall be entitled solely to the benefits, if any, available under the termination of~~
23 ~~employment section, based on his/her credited service and final average earnings as of~~
24 ~~his/her disability eligibility date, provided that if such request is made prior to six months~~

1 following cessation of disability, the member shall have 30 days after the expiration of
2 that period in which to reenter the employ of the city.

3 If the member's disability ceases prior to his/her normal retirement date, and he/she is
4 reemployed by the city within 30 days following the date such disability ceases, his/her
5 employment will be deemed to have been continuous, and that period from his/her
6 disability eligibility date to the date of reemployment shall be considered as credited
7 service for purposes of the plan, and his/her final average earnings during such period
8 will be based on the assumption that his/her rate of compensation in effect on the
9 disability eligibility date was continued to his/her date of reemployment.

10 If the member's disability ceases subsequent to his/her normal retirement date, such
11 member shall continue to receive benefits as provided by the plan, according to the terms
12 of the accrued benefit for the member's lifetime.

13 (8) If the member recovers from disability and reenters the service of the city
14 as an eligible employee, his or her service will be deemed to have been continuous, but
15 the period beginning with the first month for which the member received a disability
16 retirement income payment and ending with the date he or she reentered the service of
17 the city may not be considered as credited service for the purposes of the plan.

18 (d) Death prior to retirement; refunds of contributions or payment of death benefits.

19 (1) If an eligible employee dies before being eligible to retire, the heirs,
20 legatees, beneficiaries, or personal representatives of such deceased member shall be
21 entitled to a refund of 100 percent, without interest, of the contributions made to the Plan
22 by such deceased member. ~~Death while an active member. If a member actively~~
23 ~~employed by the city dies prior to his/her normal retirement date, no death benefits shall~~
24 ~~be payable from the plan, provided, however, that amounts contributed by members shall~~

1 be paid without interest to the member's beneficiary.
2 If a member actively employed by the city dies subsequent to his/her normal retirement
3 date, and had selected an optional form of benefit, as provided in section 2-601, benefit
4 payments will be made to the beneficiary in accordance with said option as though the
5 member had retired on the day before he/she died and if he/she has elected the normal
6 form amounts contributed by the member shall be paid without interest to the member's
7 beneficiary.

8 (2) If an eligible employee having at least 10 years of credited service dies
9 prior to retirement, his or her beneficiary is entitled to the benefits otherwise payable to
10 the member at early or normal retirement age, based upon his or her accrued benefit at
11 time of death. ~~Death subsequent to termination of employment but prior to retirement~~
12 ~~eligibility. If a member dies subsequent to termination of employment but prior to~~
13 ~~eligibility for retirement, no death benefits shall be payable, provided however, that~~
14 ~~amounts contributed by members shall be paid without interest to the member's~~
15 ~~beneficiary.~~

16 (3) ~~Death subsequent to retirement but prior to benefit commencement. If a~~
17 ~~member dies subsequent to retirement but prior to benefit commencement and had~~
18 ~~elected an optional form of benefit, as provided in section 2-601, benefit payments will~~
19 ~~be made to the beneficiary in accordance with the terms of said option as though the~~
20 ~~employee had commenced benefits on the day before he/she died, provided, however,~~
21 ~~that amounts contributed by members who elected the normal form shall be paid without~~
22 ~~interest to the member's beneficiary.~~

23 (4) ~~Death after benefit commencement. If a member dies subsequent to~~
24 ~~his/her benefit commencement date, no death benefit shall be payable unless the member~~

1 had elected an optional form of benefit, as provided in section 2-601, in which case the
2 terms of the optional form selected shall apply, provided, however, that amounts
3 contributed by members in excess of retirement benefits paid to the member under the
4 normal form shall be paid without interest to the member's beneficiary.

5 (e) *Termination of employment.* A member whose employment with the city
6 terminates prior to the completion of at least ten years of credited service, for any reason
7 other than his/her disability shall not be entitled to any benefits under the plan, provided,
8 however, that, except as provided in subsection (6) below, amounts contributed by
9 members shall be paid without interest to the member or, as applicable, the member's
10 beneficiary. A member whose employment with the city terminates after the completion
11 of at least ten years of credited service shall be entitled to a termination benefit, or if s/he
12 elects ~~applicable~~, return of contributions without interest. ~~with Section 2-600(d)(1) and~~
13 ~~(2).~~ Payment of the termination benefit shall be governed by the following provisions of
14 this section:

15 (1) A member who has at least 10 years of credited service and elects to leave
16 his or her contributions in the trust fund may, upon attaining age 50 years or more, may
17 then receive at the actuarial equivalent of the amount of such retirement income
18 otherwise payable to him or her, as provided in section 2-600(b), or, upon attaining age
19 55 years, may then receive the retirement income as provided in section 2-600(a).

20 ~~Benefit amount. A member who is entitled to a termination benefit shall receive a~~
21 ~~monthly retirement equal to his/her accrued benefit, except as provided in section 2-601,~~
22 ~~determined as of his/her date of termination.~~

23 ~~(2)(5)~~ Reemployed members. In the event employment of a member, entitled to
24 a termination benefit pursuant to ~~this~~ subsection (1) above, is terminated, and he/she is

1 subsequently reemployed as an eligible employee by the city prior to receiving a
2 termination benefit, ~~his/her benefit commencement date~~ he/she shall continue to be
3 entitled to the credited service he/she had previously earned, and shall again participate in
4 the plan and accrue benefits after such date of reemployment, in accordance with the
5 terms of the plan. A member ~~whose employment with the city terminated prior to his/her~~
6 ~~entitlement to any termination benefits and~~ who has had the amount, if any, he/she
7 contributed to this plan repaid without interest, shall no longer be a member of the plan
8 and shall not be entitled to receive any benefits under the plan. If such member is
9 subsequently reemployed as an eligible employee by the city, he/she may recoup his/her
10 previous credited service to which he/she was previously entitled, as described in Section
11 2-596 "Credited Service." ~~under the following circumstances:~~

12 ~~Benefit commencement date. The benefit commencement date of a member with at least~~
13 ~~ten years credited service but less than 20 years credited service shall be the first day of~~
14 ~~the month after he/she has attained age 60.~~

15 ~~(3) Benefit payments. The termination benefits shall be payable on the first day of each~~
16 ~~month. The first payment shall be made on the benefit commencement date, and benefits~~
17 ~~shall be payable thereafter according to the terms of the accrued benefit for the member's~~
18 ~~lifetime. A member may modify the amount and conditions of payment described in this~~
19 ~~section by electing an option in accordance with the optional forms of benefit section, in~~
20 ~~which event the termination benefit shall be paid in accordance with the terms of such~~
21 ~~option.~~

22 ~~(4) Benefit forfeitures. That portion of a terminated member's benefit that is not vested~~
23 ~~shall be forfeited and used only to reduce future costs of the plan, provided, however, that~~
24 ~~amounts contributed by such a terminated member shall be paid without interest to the~~

1 member or, as applicable, the member's beneficiary.

2 a. ~~If his/her period of absence is less than his/her period of credited service, as provided~~
3 ~~in section 2-596, and if he/she, within 30 days from the date of his/her successful~~
4 ~~completion of his/her probationary period after reemployment, repays the amount of~~
5 ~~contributions paid out, plus interest at the plan's assumed rate as stated in the most recent~~
6 ~~actuarial valuation report filed with the State of Florida, pursuant to F.S. § 112.63(2), for~~
7 ~~each year and portion thereof of his/her absence and the period of time after~~
8 ~~reemployment until the date of refund; or~~

9 b. ~~If the member was not entitled to a termination benefit, and he/she remains in the~~
10 ~~continuous employ of the city for at least ten years subsequent to his/her reemployment,~~
11 ~~and he/she has refunded withdrawn contributions as provided above. Continuous employ~~
12 ~~shall not be deemed interrupted because of absence, when the absence shall have been~~
13 ~~granted in accordance with appropriate contract provisions or applicable personnel~~
14 ~~policies as approved by the city commission. Approved absences shall count as credited~~
15 ~~service under the plan, in accordance with the terms of the plan.~~

16 (36) Reemployment within five years. If a member was not entitled to a termination
17 benefit, he or she may voluntarily leave his or her contributions in the fund for a period of
18 five years after ceasing to be an eligible employee, ~~leaving the employ of the fire or~~
19 ~~police department~~, pending the possibility of being rehired as such, ~~by the same~~
20 ~~department~~, without losing credit for the time he or she has participated actively as an
21 eligible employee firefighter or police officer. ~~If the firefighter or police officer is not~~
22 ~~so reemployed as a firefighter or police officer, with the same department within five~~
23 years, his or her contributions shall be returned without interest.

24 (f) Limitation of benefits. Members receiving benefits from sources funded in whole or

1 in part by city contributions, such as workers' compensation indemnity benefits, social
2 security benefits, and retirement benefits from the consolidated pension plan, which when
3 totaled exceed 100 percent of the member's average weekly wage used for the purpose of
4 computing workers' compensation benefits, shall have their workers' compensation
5 indemnity benefits and, if necessary, plan benefits reduced, so as to provide for a
6 combined total of benefits not exceeding 100 percent of the member's average weekly
7 wage. Any lump sum workers' compensation payment shall be converted to the monthly
8 equivalent of the weekly rate upon which the lump sum was based and paid until such
9 time as the lump sum would be exhausted at the monthly equivalent rate. Such
10 limitations, are based upon the initial amount of retirement benefits and social security
11 benefits, and are not affected by subsequent increases in workers' compensation
12 supplemental benefits, social security or plan benefits. In applying offsets necessary to
13 limit combined benefits to 100 percent, workers' compensation benefits shall be reduced
14 first, pursuant to F.S. § 440.15(9-10), ~~and this section~~, then if necessary, retirement plan
15 benefits shall be reduced. The above-described limitations on plan benefits shall not,
16 however, operate to lower the retiree's monthly benefit below two percent of each year of
17 credited service multiplied by final average earnings.

18 (g) Restriction. No member of the plan shall be allowed to receive a retirement
19 benefit or pension which is in part or in whole based upon any service with respect to
20 which the member is already receiving, or will receive in the future, a retirement benefit
21 or pension from a different employer's retirement system or plan. This restriction does
22 not apply to social security benefits or federal benefits under 10 U.S.C. Chapter 1223
23 2006.

24 ~~Payments from other plans. If any member receives a retirement benefit from another~~

1 ~~retirement plan funded in whole or in part by public funds (other than social security~~
2 ~~benefits) which is based on a period of credited service to which the member has received~~
3 ~~credit under this plan, the benefit otherwise payable from this plan shall be offset by~~
4 ~~benefits payable from such other plans that are attributable to such duplicate service~~
5 ~~periods.~~

6 (h) Maximum benefit limitation.

7 (1) The maximum annual benefit payable under the plan shall be limited to
8 \$90,000.00, subject to adjustment for increases in the cost of living in accordance with
9 the following sentence. As of the first day of January of each calendar year, the
10 maximum dollar limitation shall be adjusted automatically to an amount determined by
11 the Commissioner of the Internal Revenue Service effective for that calendar year and
12 shall apply only to that calendar year.

13 Retirees in payment status whose benefits were limited in any year by the application of
14 this limitation shall have their benefits adjusted automatically in subsequent years to take
15 into account the then current dollar limit.

16 (2) In the event a member has earned a benefit which during a previous
17 limitation year has met all the requirements of I.R.C. section 415, and if the member's
18 accrued benefit exceeds the limitation of I.R.C. section 415 for the current limitation
19 year, the member's maximum annual benefit, as described in subsection (1) of this
20 section, shall not be less than the accrued benefit allowable under such previous
21 limitation year.

22 (3) If the retirement benefit is payable in a form other than a straight-life
23 annuity or a joint-and-survivor annuity with the spouse as joint annuitant, the annual
24 benefit limitation in any year shall be the actuarial equivalent (as defined in subsection

1 ~~(56)~~ of this section) of the maximum annual benefit for that year (payable in the form of a
2 straight-life annuity), as described above.

3 (4) In the event payment of a retirement benefit under the plan to a member
4 commences prior to the date the member attains age 62, the maximum annual benefit
5 limitation shall be adjusted to be not more than the actuarial equivalent (as defined in
6 subsection (6) of this section) of the then current dollar limit assumed to commence at
7 age 62 for the purpose of applying the benefit limit described in subsection (1) of this
8 section.

9 For years subsequent to the payment commencement year, benefits payable shall
10 be limited to the actuarial equivalent (as defined in subsection (6) of this section),
11 determined as of the benefit commencement date, for the subsequent year's dollar limit
12 assumed to commence at age 62 (or the then current age if greater).

13 Adjustments described in this subsection (4) shall not reduce the maximum annual
14 benefit below \$75,000.00, if the retirement benefit commences on or after attainment of
15 age 55, or if the benefit commences before age 55, the actuarial equivalent of the
16 \$75,000.00 limitation for age 55.

17 For a "qualified participant," as defined in I.R.C. section 415(b)(2)H(), this
18 subsection (4) shall not apply.

19 ~~————(5)————~~In the event payment of a retirement benefit under the plan to a member
20 commences after the date the member attains age 65, the maximum benefit limitation
21 shall be adjusted to be not more than the actuarial equivalent (as defined in subsection
22 ~~(56)~~, below) of the then current dollar limit commencing at age 65 for the purpose of
23 applying the benefit limit described in subsection (1).

24 For years subsequent to the payment commencement year, benefits payable shall