

REPLY TO: TALLAHASSEE

MEMORANDUM

TO: Robert P. Kochen, Chief
City of Tarpon Springs

FROM: Jim Linn and Glenn E. Thomas

DATE: August 27, 2018

SUBJECT: Police Officers' Pension Trust Fund – Proposed Ordinance

As requested, we have reviewed the proposed ordinance amending several sections of the City of Tarpon Springs Police Officers' Pension Plan (hereinafter the "Plan") prepared by Plan attorney, Lee Dehner. The proposed ordinance includes revisions intended to comply with recent changes to state and federal law, but also contains provisions that are not required or are benefit changes that are a mandatory subject of collective bargaining under state law. Most of the changes are technical in nature and will likely have no actuarial impact or cost to the City. Our comments on each section of the ordinance follow.

Section 1: Amends Section (a), Definitions.

The definition of "actuarial equivalent" is revised to include a reference to the RP-2000 combined "unisex" mortality table. In addition, the interest rate is changed from 7.9% to "the investment return assumption set forth in the last actuarial valuation report approved by the Board." Internal Revenue Code section 401(a)(25) requires that the assumptions used to determine benefits be specified in the plan. However, the interest rate used in the definition of actuarial equivalent does not have to match the interest rate assumption used for funding purposes. Accordingly, we recommend that the current interest rate of 7.9% be retained.

The definition of "credited service" is revised to prohibit the application of converted leave toward credited service under the plan. This change is required by federal law.

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The definition of “effective date” was changed to reflect the correct adoption date of the Plan.

The definition of “spouse” is also revised. The plan currently defines spouse as “lawful wife or husband of a member or retiree.” However, recent U.S. Supreme Court and federal court rulings require that qualified defined benefit pension plans in Florida treat a participant who is married to a spouse of the same sex, whether under the laws of Florida or the laws of another state, as married for purposes of the plan. Because the new language includes any spouse recognized under applicable law, the change is appropriate.

Section 2. Amends Section (c) Board of Trustees

The terms of office for members of the Board of Trustees would be increased from 2 years to 4 years. Under section 185.05(1)(a), Florida Statutes, the terms of office of appointed and elected members of the board of trustees may be amended to extend the terms from 2 years to 4 years, so long as the length of the terms of office are the same for all board members. This revision is permissible under Florida law, but not required.

Section 3. Amends Section (d), Finances and fund management

Subsection (d)(6)b, Finances and Fund Management, has been revised to expand investment options to include group trusts. While not required, the amendment is permissible under Chapter 185. And while this change gives additional investment discretion to the pension board, the Board is still bound by its fiduciary duties under Chapter 112, Florida Statutes. An amendment of the plan to provide for additional investment options, so long as the Board makes decisions based on the recommendation of its investment advisor, is appropriate. Other proposed technical changes under Section (d) of the Plan are appropriate and in accordance with the Internal Revenue Code.

Section 4. Amends Section (f), Benefit Amounts and Eligibility.

Subsection (f)(1) of the Plan is revised to provide a separate “normal retirement age” and “normal retirement date.” The current normal retirement date (age 50 with 10 years of service or 25 years of service, regardless of age) is not changed. According to the Plan attorney, this change is required by the Internal Revenue Code, but we are not aware of this Code requirement. We do not believe this change is required by law.

Section 5. Amends Section (j), Optional Forms of Benefit

Subsection (j)(1)b of the Plan is amended with respect to joint and survivor benefits. The Plan currently permits a member to elect a reduced monthly payment amount, payable for his or her lifetime, with a percentage (100, 75, 66²/₃ or 50%) of the monthly payment continuing for the life of his or her joint pensioner. The Plan provides that a joint and survivor benefit will be “of equivalent actuarial value” to the normal form of benefit.

There are two revisions to the joint and survivor benefit. The first requires that the present value of payments to the retiree be no less than 50% of the total present value of payments to the retiree and his joint pensioner. Treasury regulations provide guidance for compliance with the required distributions provisions in section 401(a)(9), of the Internal Revenue Code. The regulations (C.F.R. §1.401(a)(9)-6) govern the amount (present value) of a payment to a joint pensioner that is permissible, as a percentage of the total payments to the retiree and joint pensioner, based on age differential and other factors. The rules expressed in the proposed language are observed by the actuary in determining actuarial equivalence and are not required to be included in the Plan. However, to the extent that the requirements *are* included, they should address the fact that there are separate rules for spousal beneficiaries. We would recommend broader language similar to the provision currently in the Firefighter plan, which provides:

Except where the Retiree's joint pension is his Spouse, payments to the joint pensioner as a percentage of the payments to the Retiree shall not exceed the applicable percentage provided for in the applicable table in the Treasury regulations.

The second proposed addition to subsection (j)(1)b would eliminate the actuarial reduction for a 100% joint and survivor benefit option when the joint pensioner is the spouse. While the Treasury regulations state that the proposed language would not violate the minimum distribution incidental benefit requirements of section 401(a)(9), in our opinion, the regulations do not expressly prohibit an actuarial reduction. However, this appears to be a change in benefits and as such is a mandatory subject of collective bargaining under Florida law. Accordingly, we recommend that the proposed new language in subsection (j)(1)b be removed from the ordinance unless and until it is agreed to by the city and union.

Section 6: Amends Section (o), Maximum pension.

This section is intended to comply with section 415 of the Internal Revenue Code and various associated Treasury Regulations. The proposed amendment adds a new section (13) to address the effect of a direct rollover into the Plan. The addition is technical in nature, reflecting the manner in which the plan is required to be administered, and is appropriate.

Section 7: Amends Section (bb) -- Deferred retirement option plan (DROP).

There are several proposed changes to the deferred retirement option plan (DROP). Subsection (1) is amended to include language defining “total return of the assets” for purposes of calculating earnings on DROP accounts under new language proposed for subsection (8). The new language in subsection (8) would change the way interest is calculated and added to member DROP accounts. Under the current plan, DROP accounts earn interest based on the net return on the actuarial value of plan assets, credited annually. The proposed new language would base DROP interest on the market value of plan assets, credited annually. In our judgment this could result in a change in DROP benefits. Under state law, changes in retirement benefits are a mandatory subject of collective bargaining between the city and the union representing city police officers. Accordingly, we

recommend that the proposed new language in subsection (8) be removed from the ordinance unless and until it is agreed to by the city and union.

Proposed language also states that upon electing to participate in DROP, a member “shall elect to receive either interest or earnings on his account to be determined above.” We are aware of no provision of the Plan under which a member may choose to have their DROP account credited with either interest or earnings. This language should be removed from the ordinance.

There are several new subsections proposed, commencing with subsection (15), which clarifies that the DROP is not a separate retirement plan; and (16), which clarifies that the assets of individual DROP accounts are comingled with plan assets. This language makes it clear that “DROP accounts” are established solely for accounting purposes and are not maintained separately as self-directed investment accounts. These provisions are appropriate.

Subsection (17) makes clear that benefits are determined according to a formula and the employer has no discretion in determining benefits under the DROP. Subsection (18) indicates that the maximum benefit limits under Code section 415 apply to DROP distributions. Both of these provisions are required under the Code and are appropriate.

The new subsection (19) prohibits the amendment of the DROP in a manner that decreases a member’s accrued DROP balance or diverts funds from DROP accounts for other purposes. This section is acceptable since both actions are already prohibited under the Code. Subsection (20) provides that payments due a member who is unable to care for his affairs may only be made to a “duly appointed legal representative.” As with subsection (19), it would be unlawful to pay benefits in any other manner under similar circumstances. Therefore, while inclusion of these provisions in the Plan is not required, there is nothing inappropriate about the language.

Subsection (21) requires members to provide information necessary to make a distribution to the member. Subsection (22) prevents escheat of unclaimed property in the fund, by removing the liability for payment of benefits of a missing member or beneficiary from the records of the system while the member or beneficiary cannot be located. The member or beneficiary would be entitled to payment in the future upon later notification to the Board. These sections are not required, but appropriate.

Subsection (23) provides for written notice of DROP elections to the Board and it permits the Board to draft uniform rules governing the time and manner of making such elections. It also requires members to maintain their current address with the Board. Subsection (24) provides that Florida law applies to interpretation of DROP provisions, and subsection (25) states that DROP participation does not guarantee continued employment. These sections are appropriate.

Section 8: Creates Section (cc), Supplemental benefit component for special benefits; Chapter 185 share account.

The proposed ordinance adds a new Section (cc), which creates a supplemental “share plan” benefit for police officers funded solely by Chapter 185 premium tax revenues when so allocated. The inclusion of a share plan is required by the 2015 legislation amending section 185.35, Florida Statutes. *See*, Ch. 2015-39, Laws of Florida. The proposed language states that Chapter 185 premium tax revenues will be allocated to the share plan as provided in section 185.35. The statute contains default rules for the allocation of premium tax monies to a share plan, and also provides that the default rules may be modified by mutual agreement of the city and the police union. The current collective bargaining agreement between the city and PBA contains an agreement on the use of premium tax revenues. The city and PBA have mutually agreed that all premium tax revenues received under Chapter 185 and all excess state monies will be used to provide minimum benefits and benefits in excess of minimum benefits, by offsetting the city’s pension contributions. Accordingly, we recommend that Section (cc) be revised to read as follows:

(cc) Supplemental benefit component for special benefits; Chapter 185 share accounts. There is hereby established an additional plan component to provide special benefits in the form of a supplemental retirement benefit (“share plan”), to be funded solely and entirely by F.S. Chapter 185, premium tax monies which are allocated to the share plan. However, the city and the union representing city police officers have agreed that the share plan shall not be funded at this time, and that all premium tax revenues will be used to provide minimum benefits and benefits in excess of the minimum benefits in the pension plan by offsetting city contributions to the plan. At such time as the parties mutually agree to allocate premium tax revenues to the share plan, the parties will negotiate the details of the share plan.

Please let us know if you have any questions or wish to discuss any aspect of the proposed ordinance.

ORDINANCE NO. 2018-30

AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA, AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE III, PENSIONS AND RETIREMENT, DIVISION 1, GENERALLY, PARAGRAPH 2-35, ADDITIONAL BENEFITS FOR POLICE OFFICERS, OF THE CODE OF ORDINANCES OF THE CITY OF TARPON SPRINGS; AMENDING SECTION (a), DEFINITIONS BY AMENDING THE DEFINITIONS OF ACTUARIAL EQUIVALENT, CREDITED SERVICE EFFECTIVE DATE, AND SPOUSE; AMENDING SECTION (c), BOARD OF TRUSTEES; AMENDING SECTION (d), FINANCES AND FUND MANAGEMENT; AMENDING SECTION (e), MAXIMUM PENSION; AMENDING SECTION (bb), DEFERRED RETIREMENT OPTION PLAN; ADDING SECTION (cc), SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 185 SHARE PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF TARPON SPRINGS, FLORIDA, THAT:

SECTION 1: That Chapter 2, Administration, Article III, Pensions and Retirement, Division 1, Generally, Paragraph 2-35, Additional Benefits for Police Officers, of the Code of Ordinances of the City of Tarpon Springs, Florida is amended by amending Section (a), Definitions, by amending the definitions of “*Actuarial Equivalent*”, “*Credited Service*”, “*Effective date*” and “*Spouse*”, to read as follows:

...

(2) ***ACTUARIAL EQUIVALENT*** means a benefit or amount of equal value, based upon the RP 2000 Combined Healthy Unisex Mortality Table and an interest rate of seven and nine-tenths percent (7.9%) per annum. This definition may only be amended by the board of Commissioners of the city pursuant to the recommendation of the board with the advice of the plan’s actuary and the city’s actuary, such that actuarial assumptions are not subject to city discretion.

...

(8) ***CREDITED SERVICE*** means the total number of years and fractional parts of years of service as a police officer, as defined in Chapter 185, *Florida Statutes* and its successor, with member contributions, when required, omitting intervening years or fractional parts of years when such member was not employed by the city as a police officer. A member may voluntarily leave his or her accumulated contributions in the fund for a period of five (5) years after leaving the employ of the Police Department pending the possibility of being re-employed as a police officer, without losing credit for the time that he or she was a member of the plan. If a vested member leaves the employ of the Police Department, his or her accumulated contributions will be returned only upon his or her written request. If a member who is not vested is not re-employed as a police officer with the Police Department within five (5) years, his or her accumulated contributions, if one-thousand dollars (\$1,000.00) or less, shall be returned to him or her without interest. If a member who is not vested is not

reemployed within five (5) years, his accumulated contributions, if more than one-thousand dollars (\$1,000.00), will be returned only upon the written request of the member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the board. Upon return of a member's accumulated contributions, all of his or her rights and benefits under the plan are forfeited and terminated. Upon any re-employment, a police officer shall not receive credit for the years and fractional parts of years of service for which he or she has withdrawn his or her accumulated contributions from the fund, unless the police officer repays into the fund the contributions he or she has withdrawn, with interest, as determined by the board, within ninety (90) days after his or her re-employment.

The years or fractional parts of a year that a member performs "Qualified Military Service" consisting of voluntary or involuntary "service in the uniformed services" as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L.103-353), after separation from employment as a police officer with the city, shall be added to his years of Credited Service for all purposes, including vesting, provided that:

- a. The member is entitled to reemployment under the provisions of USERRA.
- b. The member returns to his employment as a police officer within one (1) year from the earlier of the date of his military discharge or his release from active service, unless otherwise required by USERRA.
- c. The maximum credit for military service pursuant to this paragraph shall be five (5) years.
- d. This paragraph is intended to satisfy the minimum requirements of USERRA. To the extent that this paragraph does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.

In the event a member dies on or after January 1, 2007, while performing USERRA Qualified Military Service, the beneficiaries of the member are entitled to any benefits (other than benefit accruals relating to the period of qualified military service) as if the member had resumed employment and then died while employed.

Beginning January 1, 2009, to the extent required by section 414(u)(12) of the code, an individual receiving differential wage payments (as defined under section 3401(h)(2) of the code) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. Leave conversions of unused accrued paid time off shall not be permitted to be applied toward the accrual of credited service either during each plan year of a member's employment with the city or in the plan year in which the member terminates employment.

...

(10) ***EFFECTIVE DATE*** means the date of adoption of this ordinance July 5, 1994.

...

(22) **SPOUSE** means the lawful wife or husband of a member's or retiree's spouse under applicable law at the time benefits become payable.

...

SECTION 2: That Chapter 2, Administration, Article III, Pensions and Retirement, Division 1, Generally, Paragraph 2-35, Additional Benefits for Police Officers, of the Code of Ordinances of the City of Tarpon Springs, Florida is amended by amending Section (d), *Finances and fund management*, subsection (6)b., to read as follows:

...

- (6) b. All monies paid into or held in the fund shall be invested and reinvested by the board and the investment of all or any part of such funds shall be subject to the following:
1. Notwithstanding any limitation provided for in F.S. ch. 185, to the contrary (unless such limitation may not be amended by local ordinance) or any limitation in prior city ordinances to the contrary, all monies paid into or held in the fund may be invested and reinvested in such securities, investment vehicles or property wherever situated and of whatever kind, as shall be approved by the board, including but not limited to common or preferred stocks, bonds, and other evidences of indebtedness or ownership. In no event, however, shall more than twenty-five percent of the assets of the fund at market value be invested in foreign securities.
 2. The board shall develop and adopt a written investment policy statement setting forth permissible types of investments, goals and objectives of investments and setting quality and quantity limitations on investments in accordance with the recommendations of its investment consultants. The investment policy statement shall be reviewed by the board at least annually.
 3. In addition, the board may, upon recommendation by the board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100, and Revenue Ruling 2011-1, IRS Notice 2012-6 and Revenue Ruling 2014-24 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under section 401(a) of the code, individual retirement accounts that are exempt under section 408(e) of the code, eligible governmental plans that meet the requirements of section 457(b) of the code, and governmental plans under 401(a)(24) of the code. For this purpose, a trust includes a custodial account or separate tax favored account maintained by an insurance company that is treated as a trust under section 401(f) or under section 457(g)(3) of the code. While any portion of the assets of the fund are invested in such a group trust, such group trust is itself adopted as a part of the system or plan.

- i. Any collective or common group trust to which assets of the fund are transferred pursuant to subsection c. shall be adopted by the board as part of the plan by executing appropriate participation, adoption agreements, and/or trust agreements with the group trust's trustee.
- ii. The separate account maintained by the group trust for the plan pursuant to subsection c. shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the members and beneficiaries of the plan.
- iii. For purposes of valuation, the value of the separate account maintained by the group trust for the plan shall be the fair market value of the portion of the group trust held for the plan, determined in accordance with generally recognized valuation procedures.

...

SECTION 3: That Chapter 2, Administration, Article III, Pensions and Retirement, Division 1, Generally, Paragraph 2-35, Additional Benefits for Police Officers, of the Code of Ordinances of the City of Tarpon Springs, Florida is amended by amending Section (o) *Maximum pension*, adding subsection (13) *Effect of direct rollover on 415(b) limit*, to read as follows:

...

(13) *Effect of direct rollover on 415(b) limit.* If the plan accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under Code Section 401(a) which is maintained by the employer, any annuity resulting from the rollover amount that is determined using a more favorable actuarial basis than required under Code Section 417(e) shall be included in the annual benefit for purposes of the limit under Code Section 415(b).

SECTION 4: That Chapter 2, Administration, Article III, Pensions and Retirement, Division 1, Generally, Paragraph 2-35, Additional Benefits for Police Officers, of the Code of Ordinances of the City of Tarpon Springs, Florida is amended by amending Section (bb) *Deferred retirement option plan*, to read as follows:

(bb) *Deferred retirement option plan.*

- (1) DROP is hereby defined as a retirement option in which a member may elect to participate and is not a guarantee of employment. A DROP Account is the account established for each DROP participant. Total return of the assets is for purposes of calculating earnings on a member's DROP Account pursuant to subsection (bb)(8), for each fiscal year, the percentage increase (or decrease) in the interest and dividends earned on investments, including realized and unrealized gains (or losses), of the total Plan assets. A member may retire for all purposes of the plan and defer receipt of retirement benefits into a DROP Account while continuing employment with the city. Nothing within the DROP should be construed to alter an employee's classification status.
- (2) Employee for purposes of this code section shall be defined as all officers and police officers regularly employed in the Tarpon Springs Police Department whose employment shall be continuous and not temporary in nature; however,

civilian employees of the police department shall not be covered by the provisions of this code section. In all cases of doubt, the board shall decide who is an employee within the meaning of this definition.

- (3) The sole and exclusive administration of and responsibility for the proper operation of the DROP plan is vested in the board.
- (4) A member will be eligible to elect to enroll in the DROP at the time he or she is eligible for normal retirement. A member who is eligible for normal retirement and wishes to enter the DROP plan may do so only on the first day of the month following their eligibility for normal retirement or on the first day of any month thereafter. Application for participation in the DROP will be made to the Board.
- (5) Upon entry into the DROP, a member will be considered a "retired" member of the plan and cannot accrue any additional pension benefits under the plan, and will no longer be eligible for disability or pre-retirement death benefits. Eligible accrued benefits (i.e. vacation and/or sick leave, if applicable) are paid out upon entry into DROP and are included in the calculation of average final compensation. In the event that a participating member suffers a disabling injury the member shall commence a regular service retirement. Creditable service ceases and is no longer accrued once a member enters DROP. Contributions to the plan by the member and the city will cease when participation in the DROP commences. Pension benefits are calculated at the time of entry into the DROP using the earnings base and creditable service as in normal retirement benefit calculations. Any earnings received after entry into the DROP do not have any effect on pension benefits. No plan changes (except for any supplemental benefit payable to DROP participants or any additional benefits provided under any cost of living adjustment for retirees in the system) shall apply to a member in the DROP for purposes of determining the member's benefit under the plan unless otherwise specifically provided. In all other respects, however, the member shall remain an active member of the Tarpon Springs Police Department. Participation in the DROP is not a guarantee of employment. Except as otherwise provided herein, DROP participants are subject to the same employment standards and policies that are applicable to employees who are not DROP participants.
- (6) In the event that a member participating in the DROP shall die, that member shall be treated the same as any other retired member who dies. Any survivorship option which the member may have elected shall be paid in accordance with the provisions of the plan. In the event of the death of the participating member, the monies in the member's DROP Account shall be distributed to the named beneficiary or beneficiaries. In the event that no beneficiary has been named by the member, the DROP Account balance shall be paid to the member's estate.
- (7) When a member commences participation in the DROP, he or she shall not have the right to participate again as a contributing member of the plan. Election in the DROP is irrevocable once DROP payments begin. Total years of participation in the DROP shall not exceed 60 months. Once the member has completed participation in the DROP, he or she will be separated from city employment as a police officer. This separation shall be processed as a voluntary retirement. The participating member agrees that by entering the DROP he or she knowingly and voluntarily gives up the right to further employment as a city police officer after he or she has completed participation in the DROP. Nothing shall prohibit a member who has

entered the DROP, or the city, from terminating the member's service prior to the expiration of the 60 months maximum participation.

- (8) Once a member has entered the DROP pension payments due the member will be "transferred" to the member's DROP Account on a monthly basis. This transfer will occur at the same time pension payments are made to retirees or beneficiaries. The transfer of pension funds into the member's DROP Account will be an accounting function only. The funds will not be physically transferred. The DROP Account will be an account in a "bookkeeping" sense only until separation from employment as a police officer and payout of the account. All DROP Accounts will remain in the plan for investment purposes, be administered by the board, and earn or loose interest at the rate of return on the actuarial value of assets calculated annually as reported to the Division of Retirement pursuant to Part IV of Chapter 112, Florida Statutes.

To compensate the plan for the expense of administering and operating the DROP, each participating member's account shall be charged an annual administrative fee of one-quarter of one percent of the account earnings which will be deducted from the participating member's account quarterly. The board may make reasonable increases in the administrative fee by resolution. Funds are not transferable from the plan into any other investment vehicles until payout of the account at the end of the member's participation in the DROP.

- (9) At no time during participation in the DROP will the participating member have access to, or be able to borrow against, any of the funds in the DROP Account. Payments to the DROP Account are deferred payments which have already been earned by the member and are not subject to distribution or control by the member until separation from employment as a police officer. No DROP monies shall be subject to attachment by a QDRO or similar order until the DROP Account is distributed to the member unless required by applicable law.
- (10) Quarterly reports to the member regarding the DROP Account balance, earnings and losses will be made available to the member.
- (11) Payments to a DROP Account shall not be considered an asset of the plan which may be pledged against benefit claims owed to others. Except as otherwise provided by law, no amendment to the City Code shall make it possible for any part of the DROP's funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP.
- (12) All benefits payable under the DROP shall be paid only ~~from~~ from assets of the DROP and neither the city, the Plan, nor the ~~Pension~~ board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law. Any losses, changes, or expenses incurred by the member in the member's DROP amount by virtue of participation in any investment option selected by any party or otherwise, shall be borne exclusively and solely by the member. DROP participants, their heirs, beneficiaries and assigns shall have no recourse against either the city, the plan or the board, for any losses due to investment options whether caused by negligence or otherwise.
- (13) Nothing in this section shall be construed so as to remove DROP participants

from the operation of any forfeiture provisions applicable to the Plan. DROP participants shall be subject to forfeiture of any and all retirement benefits, including DROP benefits and any and all funds in their DROP Accounts.

- (14) Upon separation of employment as a police officer for the city of Tarpon Springs, retirement benefits shall be paid to the retiree directly and shall no longer be paid into the DROP Account. Within 60 days after the end of the calendar quarter following separation from employment as a police officer with the city, the DROP Account shall be payable at the retiree's option: by a direct rollover of the total amount in the account into an eligible retirement plan, by a partial lump sum payment with the remainder being directly rolled over into an eligible retirement plan, or by payment of the entire amount in a lump sum to the retiree. Failure to designate a payment option will result in a lump sum payout. After receipt of a written request for distribution and a written election on forms designated by the board, payouts shall be approved by the board and comply with any and all Code requirements. Payouts, including lump sum payouts, will be made at the same time that regular pension payments are made to retirees, except in cases of extreme hardship as determined by the board. In no instance shall the method of distribution result in the payment of any amount which exceeds the balance in the member's DROP Account.
- (15) *The DROP is not a separate retirement plan. Instead, it is a program under which a member who is eligible for normal retirement under the system may elect to accrue future retirement benefits in the manner provided in this section (bb) for the remainder of his employment, rather than in the normal manner provided under the plan. Upon termination of employment, a member is entitled to a lump sum distribution of his or her DROP Account balance or may elect a rollover. The DROP Account distribution is in addition to the member's monthly benefit.*
- (16) *Notional account.* The DROP Account established for such a member is a notional account, used only for the purpose of calculation of the DROP distribution amount. It is not a separate account in the system. There is no change in the system's assets, and there is no distribution available to the member until the member's termination from the DROP. The member has no control over the investment of the DROP Account.
- (17) *No employer discretion.* The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.
- (18) *IRC limit.* The DROP Account distribution, along with other benefits payable from the system, is subject to limitation under Internal Revenue Code Section 415(b).
- (19) *Amendment of DROP.* The DROP may be amended by an ordinance of the city at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP Account of any member.
- (20) *Facility of payment.* If a member or other person entitled to a benefit under the DROP is unable to care for his affairs because of illness or accident or is a minor, the board shall direct that any benefit due him shall be made only to a duly appointed legal representative. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.

(21) *Information.* Each member, beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the DROP, shall file with the board the information that it shall require to establish his rights and benefits under the DROP.

(22) *Prevention of escheat.* If the board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the board may, no earlier than three (3) years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the board or the city. If such person has not made written claim therefor within three (3) months of the date of the mailing, the board may, if it so elects and upon receiving advice from counsel to the system, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the system. Upon such cancellation, the system shall have no further liability therefor except that, in the event such person or his beneficiary later notifies the board of his whereabouts and requests the payment or payments due to him under the DROP, the amount so applied shall be paid to him in accordance with the provisions of the DROP.

(23) *Written elections, notification.*

a. Any elections, notifications or designations made by a member pursuant to the provisions of the DROP shall be made in writing and filed with the board in a time and manner determined by the board under rules uniformly applicable to all employees similarly situated. The board reserves the right to change from time to time the manner for making notifications, elections or designations by members under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.

b. Each member or retiree who has a DROP Account shall be responsible for furnishing the board with his current address and any subsequent changes in his address. Any notice required to be given to a member or retiree hereunder shall be deemed given if directed to him at the last such address given to the board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the member or retiree notifies the board of his address.

(24) *Construction.*

a. The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls.

b. The titles and headings of the subsections in this section (bb) are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

(25) *Effect of DROP participation on employment.* DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

SECTION 5: That Chapter 2, Administration, Article III, Pensions and Retirement, Division 1, Generally, Paragraph 2-35, Additional Benefits for Police Officers, of the Code of Ordinances of the City of Tarpon Springs, Florida is amended by adding Section (cc) *Supplemental benefit component*

for special benefits; Chapter 185 share plan, to read as follows:

(cc). Supplemental benefit component for special benefits; Chapter 185 share plan. There is hereby established an additional plan component to provide special benefits in the form of a supplemental retirement benefit ("share plan"), to be funded solely and entirely by F.S. Chapter 185, premium tax monies which are allocated to the share plan. However, the city and the union representing city police officers have agreed that the share plan shall not be funded at this time, and that all premium tax revenues will be used to provide minimum benefits and benefits in excess of the minimum benefits in the pension plan by offsetting city contributions to the plan. At such time as the parties mutually agree to allocate premium tax revenues to the share p-lan, the parties will negotiate the details of the share plan.

SECTION 9: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Tarpon Springs.

SECTION 10: All ordinances or portions of the City Code in conflict herewith are hereby repealed.

SECTION 11: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 12: This ordinance shall become effective upon adoption.