## Chapter 23 PENSIONS

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### ARTICLE I. IN GENERAL

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Secs. 23-1—23-10. Reserved.

### ARTICLE II. POLICE RELIEF AND PENSION FUND [[1]](#BK_F4D78402D0F6E4507BC83ADF3219D420)

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[Sec. 23-28. Same—When due and payable.](#BK_EB43EE22106CE076CB5598AD03B37FC6)

[Sec. 23-29. Same—Appropriated to fund.](#BK_CE6E5A12CED62272F8AFC461A223A5C5)

Sec. 23-11. Purpose of article; other plans not affected.

The purpose of this ordinance [article] is to implement the provisions of Chapter 28230, Acts of Florida, 1953, as amended, and to provide means whereby County Police Officers of the Metro-Dade Police Department may receive benefits from the funds provided for that purpose by Chapter 28230, Acts of Florida, 1953, as amended. The fund hereby created being derived from monies received from the State and not from a tax levied by Dade County on Dade County taxpayers, shall be in addition to any other pension fund plan of Dade County and/or the State of Florida, and nothing herein shall be construed to in any way affect the operation of benefits of any other pension plan of Dade County and/or the State of Florida, that presently exists.

(Ord. No. 64-2, § 1, 1-14-64)

Sec. 23-12. Definitions.

The following words and phrases shall, for the purpose of this ordinance [article], have the meanings hereinafter respectively ascribed to them. Other words and phrases shall have meanings as commonly understood with respect to the context; the singular shall include the plural, and the masculine, the feminine.

(a) *Active duty.* "Active duty" shall mean actual services as a Police Officer with permanent status in the Metro-Dade Police Department, except for approved leaves of absence as set forth below under paragraph (i) of this section.

(b) *Board.* "Board" shall be understood to mean Board of Trustees of the Metropolitan Dade County Police Officers Retirement System, or such other board, or boards, as may be created by Dade County, to administer the pension system.

(c) *County.* "County" shall be understood to mean Dade County, Florida, and the lands under the jurisdiction thereof from time to time, as determined by law.

(d) *State.* "State" shall be understood to mean the State of Florida.

(e) *Police Officer.* The Metropolitan Dade County Sheriff and all Police Officers of Dade County, with permanent status in the Metro-Dade Police Department, as the Board shall determine to be engaged directly in enforcement of the ordinances of Dade County and statutes of the State of Florida.

(f) *Fund.* "Fund" shall mean the Metropolitan Dade County Police Relief and Pension Fund, as provided for herein.

(g) *Participant.* Every Police Officer of the County, as defined herein, who is eligible to have monies credited to his individual account and to receive benefits therefrom under this ordinance [article] shall automatically become a participant.

(h) *Permanent status.* The term "permanent status" shall have the meaning ascribed to it from time to time by the rules and regulations of the Personnel Advisory Board of Dade County, Florida.

(i) *Service.* Service shall mean all time served as a Police Officer permanently appointed, which shall include the probationary period, under the rules and regulations of the Personnel Advisory Board of the County, for which regular compensation is paid by the County; and at all times, not to exceed a period of five (5) years during which a participant is absent on a military leave of absence. It shall include all leaves of absence without pay for sickness, for such period of time as may be determined by the Board, in excess of accumulated sick time for which compensation is received.

(j) *Chapter 28230.* "Chapter 28230" shall mean and refer only to Chapter 28230, Laws of Florida, Acts of 1953, as amended.

(Ord. No. 64-2, § 2, 1-14-64)

Sec. 23-13. Created.

There is hereby created in the County, a special fund to be known as the Metropolitan Dade County Police Relief and Pension Fund, into which shall be paid all monies which are hereafter paid to the County under the provisions of Chapter 28230.

(Ord. No. 64-2, § 3, 1-14-64)

Sec. 23-14. Reserved.

**Editor's note—**

[Section 23-14](../level3/PTIIICOOR_CH23PE_ARTIIPOREPEFU.docx#PTIIICOOR_CH23PE_ARTIIPOREPEFU_S23-14RE), pertaining to an interim committee, has been deleted as obsolete. The section was derived from Ord. No. 64-2, § 4, adopted Jan. 14, 1964, and Ord. No. 64-24, § 1, adopted July 7, 1964.

Sec. 23-15. Board of trustees generally.

There is hereby created a Board of Trustees of the Metropolitan Dade County Police Relief and Pension Fund, which Board shall consist of three (3) Police Officers of the Metro-Dade Police Department to be elected by Police participants, the Metropolitan Sheriff, and a resident member appointed by the Board. At the first election of Trustees, there shall be elected one (1) Police Officer to serve as Trustee for a one-year term; one (1) Police Officer to serve as Trustee for a two-year term; one (1) Police Officer to serve as Trustee for a three-year term. Thereafter, each year, one (1) Police Officer shall be elected to serve as Trustee for a three-year term. The Police Officers thus elected as Trustees shall appoint the fifth resident Trustee to serve on the Board for a term of one (1) year. The Board shall annually elect from its membership a Chairman and a Secretary and a Treasurer. The Chairman, when present, shall preside at all meetings. The Secretary shall keep complete minutes of all proceedings of the Board. The Treasurer shall supervise the books and records which record the receipts and disbursements of the fund and the inventory of assets of the fund. He shall report, at each quarterly meeting, the assets and liabilities of the fund as of the date of such meeting. All elections of the Board shall be by a majority vote, a quorum being present. Three (3) or more members shall constitute a quorum. Trustees shall receive no compensation as such.

(Ord. No. 64-2, § 5, 1-14-64)

Sec. 23-16. Election of Police Officers to Board.

All elections of Police Officers to the Board shall be by secret written ballot. Only participants in the fund shall be eligible for nomination and election to the Board and only participants shall be eligible to vote in such elections.

Notice of each election shall be posted on the bulletin Board in the Public Safety Building of Dade County at least two (2) weeks prior to the date upon which such elections shall be held.

(Ord. No. 64-2, § 6, 1-14-64)

Sec. 23-17. Board meetings.

The Board of Trustees will hold regular meetings quarterly or more often as determined by the Board. Special meetings may be called by the Chairman and Secretary or by any three (3) members of the Board. Ten (10) days written notice of a special meeting shall be given in writing to all Board members, which notice shall contain the purpose, date, time and place of the special meeting.

If any elected member of the Board of Trustees, or the resident member who has been appointed by the Board, shall fail to attend three (3) consecutive meetings, without due cause, the Chairman shall certify same to the County Commission. Upon such certification to the County Commission, such member shall be deemed to have been removed and the County Commission shall appoint a successor to fill the unexpired term of such member.

(Ord. No. 64-2, § 7, 1-14-64; Ord. No. 67-15, § 6, 3-7-67)

Sec. 23-18. Filling of vacancies on Board.

If at any time between elections a vacancy occurs on the Board for any reason whatsoever, the remaining Board members, by majority vote, shall fill said vacancy. The new members so chosen shall serve until the next election of the Board of Trustees. At the next election a new Trustee shall be elected to serve the remainder of the term of any Trustee whose membership was terminated.

(Ord. No. 64-2, § 8, 1-14-64)

Sec. 23-19. General powers of Board.

The Board shall have the power and authority as follows:

(a) To invest and reinvest monies of the fund. In making such investments, they shall be governed by the laws of the State of Florida relating to the investment of fiduciary funds. Such laws shall not restrict the Board from investing in shares of State or federal chartered Savings and Loan Association whose shares are insured by the Federal Savings and Loan Insurance Corporation.

(b) To approve disbursements, pay claims, and authorize payments from the fund by warrants signed by the Chairman and Secretary of the Board.

(c) To interpret the provisions of this ordinance [article] where the meaning is not clear or ambiguity exists; and to promulgate necessary rules respecting the operation of the fund, or elections of Trustees not in conflict with the wording or clear intent of this ordinance [article].

(d) To authorize expenditures in connection with preliminary research, technical services, legal services and accounting services; to contract for employees necessary to the general administration of the fund and to employ legal counsel and auditors necessary to the proper administration of the fund.

(Ord. No. 64-2, § 9, 1-14-64)

Sec. 23-20. Custody and deposit of cash and securities.

The custody of all securities and cash of the fund shall be with the Board. The Board shall deposit all funds not invested as above in a national or State chartered bank located within Dade County, whose deposits are insured by the Federal Deposit Insurance Corporation. All securities shall be kept in a safe deposit box or deposited with a corporate trustee, and current inventories of such securities shall be kept as a part of the permanent records of the Board, which will be audited annually by a certified public accountant.

(Ord. No. 64-2, § 10, 1-14-64)

Sec. 23-21. Bonding of persons handling fund.

All persons, including Board members and employees, who sign checks or handle money or securities of the fund shall be bonded by a qualified surety.

(Ord. No. 64-2, § 11, 1-14-64)

Sec. 23-22. Payment of costs, expenses and fees.

(a) At the first meeting of the duly elected Board, the Trustees shall examine all known bills of expense for setting up the fund, and shall approve and allow for payment all those that are found to have been necessary and proper charges against the fund, and these bills shall be paid promptly.

(b) All costs and expenses for setting up the fund shall be paid from the monies received from the State. Legal fees for services rendered in preparing proposed County ordinances, in carrying on negotiations with the County and State relative to the creation of the fund and in assisting in setting up the fund shall be chargeable against the monies received from the State.

(Ord. No. 64-2, § 12, 1-14-64)

Sec. 23-23. Credits to individual accounts.

(a) An individual account shall be established for each Police Officer of permanent status on the effective date of this ordinance [article], and for each Police Officer who attains permanent status subsequent to the passage of this ordinance [article].

(b) After payment of all costs, expenses and fees as monies are received from the State, the expenses of administering the fund for the preceding year shall be prorated by the Board and charged against monies received for Police Officer participants during said year; and the balance of such monies shall be credited to the several individual participants in amount directly proportionate to the total number of months of duty performed by the several Police Officers in the calendar year preceding the date the monies were received from the State. The length of time of service during the calendar year preceding the date upon which payment is received from the State is the only criterion upon which the amount due each participant out of the State monies received annually is to be calculated. No credit is to be given on account of seniority, rank or amount of compensation which the participants receive. Twenty (20) or more days' work in a calendar month shall be counted as a full month. Twenty (20) work days shall be considered a full month. If a participant works less than twenty (20) days in any calendar month, he shall be credited with a fractional month, the fraction to be the number of days worked over twenty (20). Example: Twelve (12) days worked would create a fraction of twelve-twentieths of a month.

(c) The amount of earnings from investments credited to the account of the participant shall bear the same ratio to the total amount of annual earnings as the invested funds belonging to the participant in the fund bear to the total monies invested on behalf of the fund.

(d) In addition to the monies received from the State and as earnings on investments, there shall be prorated and credited to the accounts of the individual participants, all forfeitures from Police Officers as provided for in [Section 23-24](../level3/PTIIICOOR_CH23PE_ARTIIPOREPEFU.docx#PTIIICOOR_CH23PE_ARTIIPOREPEFU_S23-24BE) hereof. Such sums shall be prorated to their individual accounts in the same manner as monies received from the State.

(e) After a Police Officer has retired and ceased to be a member on active duty, as defined in Section 23-2(a) hereof, no credits shall be made to his account. Monies credited to a participant's account shall be payable only upon the filing of an application with the Board. The application shall be on a form prescribed by the Board and shall be sworn to by the applicant or his surviving wife or child, or if the child is a minor, by the guardian of the child, or by any other person legally qualified to apply for such monies under the laws of the State of Florida.

(Ord. No. 64-2, § 13, 1-14-64)

Sec. 23-24. Benefits.

No participant shall receive benefits from the fund in excess of the amount credited to his account. Subject to this provision, a participant shall receive benefits as follows:

(a) Subsequent to the passage of this ordinance [article], if a participant shall separate, excepting from death, from the service with the Metro-Dade Police Department for any reason whatsoever, except as hereinafter provided, prior to completing nine (9) years of service with the Department, he shall be entitled to a severance benefit as follows:

Prior to completing three (3) years of service, one-fourth of the amount credited to his account as of the date of severance;

Prior to completing six (6) years of service, but after completing three (3) years of service, one-half of the amount credited to his account as of the date of severance;

Prior to completing nine (9) years of service, but after completing six (6) years of service, three-fourths of the amount credited to his account as of the date of severance;

After completing nine (9) years of service, the participant shall be entitled to the entire amount credited to his account upon his separation from the County;

Police Officers who upon the effective date of this ordinance [article] shall have completed ten (10) years of service, but after completing two (2) years of service from the effective date of this ordinance [article], the participant shall be entitled to the entire amount credited to his account upon his separation from the County.

All monies remaining in a participant's account after separation as above shall be forfeited to the fund.

(b) If a participant shall die while a member of the Metro-Dade Police Department, the entire amount of his credit, as of the date of his death, shall be paid to his surviving wife, primarily for the purpose of defraying final illness and burial expenses. If there be no surviving wife and there is a child or children, the entire amount of participant's credit, as of the date of his death, shall be paid to a person designated in writing by the participant, to be used for payment of final illness and burial expenses, with any excess to be paid to the legal guardian of the child or children for their benefit. If there be no surviving wife or children, there shall be paid to the person designated in writing by the participant, to be used for payment of final illness and burial expenses, an amount not to exceed the entire amount of his credit and any excess after payment of final illness and burial expenses shall be paid as designated by the deceased. If the person designated to act for a participant shall pre-decease him or cannot be located by reasonable effort, or shall refuse to act, or if deceased participant has failed to designate anyone, the Board shall have the right to name a person to carry out the purposes of this subsection. In carrying out the purpose of this subsection, the Board shall endeavor to distribute any excess monies after payment of last illness and burial expenses in the same manner in which they would have been distributed in an intestate administration proceeding. The designation shall be in writing, sworn to, and shall be filed with the Secretary of the Board.

(c) A participant who shall hereafter be retired by reason of length of service or disability under any other pension plan of the County and/or State, or who shall retire after completing nine (9) years of service with the Metro-Dade Police Department, shall be paid the entire amount standing to his credit as of the date of such retirement or separation. He shall elect to take such amount in a lump sum, or to take it in annual payments over a period not to exceed five (5) years. A written notice of election to receive payments other than in a lump sum must be filed with the Board upon a form prescribed by the Board therefor, and must be sworn to by the person entitled to receive such monies.

A retired participant or a participant who has separated from the Department after nine (9) years active service who has elected to receive the monies due him in annual payments, rather than a lump sum as above, shall not be an active participant under Section 23-2(g).

(d) Settlement as provided in subsection (a), (b) and (c) of this section shall be in full settlement of all claims of a participant against the fund, and he shall thereupon cease to be a participant, and he shall have no further interest in said fund, and shall receive no further benefits.

(e) As an alternative to the above benefits, in event that a court of competent jurisdiction should find and order that a participant is entitled to benefits under Chapter 28230 different from the benefits which that participant is entitled to receive under the terms of this ordinance [article], and such participant does not waive the benefits decreed by the court and accept benefits as provided by this ordinance [article], the Trustees shall pay to such participants benefits as required by the decree or order of the court. Such benefits shall be paid from the fund, and in the event that it is necessary to pay such participant a greater amount than he would have received had he accepted benefits under this ordinance [article], such additional amount shall be deducted from the accounts of the other participants on a pro rata basis as determined by the Board of Trustees. The fund shall indemnify the County against all claims of participants as aforesaid and shall pay all expenses including court costs and attorneys' fees incurred in defending law suits brought by participants in asserting such claims.

(Ord. No. 64-2, § 14, 1-14-64)

Sec. 23-25. Participants' rights and benefits not subject to legal process.

The rights and benefits provided for herein are vested rights of the participants in the fund, and shall not be subject to garnishment, attachment, execution or any other legal process.

(Ord. No. 64-2, § 15, 1-14-64)

Sec. 23-26. Limitation on County's responsibility.

The County shall have no responsibility for the operation of the fund except those specified herein [and] shall bear no expenses in connection therewith.

(Ord. No. 64-2, § 16, 1-14-64)

Sec. 23-27. Tax on insurers for benefit of fund—Levied; amount.

There is hereby assessed, imposed and levied on every insurance company, corporation or other insurer now engaging in or carrying on, or which shall hereafter engage in or carry on, the business of insuring with respect to casualty risks, as shown by the records of the Insurance Commissioners of the State of Florida, an excise or license tax in addition to any license tax or excise tax now levied by Dade County, Florida, in the unincorporated areas, which said tax shall be in the amount of one (1) percent of the gross amount of receipts of premiums from policy holders on all premiums collected on casualty insurance policies, covering property within the unincorporated areas of Dade County, Florida.

(Ord. No. 64-1, § 1, 1-14-64; Ord. No. 73-83, § 1, 9-18-73)

**Cross reference—** Taxation generally, Ch. 29.

**State law reference—** Authority for above tax, F.S. § 185.08.

Sec. 23-28. Same—When due and payable.

The license or excise tax herein levied shall be due and payable annually on the first day of March of each year hereafter.

(Ord. No. 64-1, § 2, 1-14-64; Ord. No. 73-83, § 1, 9-18-73)

Sec. 23-29. Same—Appropriated to fund.

All monies derived from the taxes imposed by this ordinance [Sections [23-27](../level3/PTIIICOOR_CH23PE_ARTIIPOREPEFU.docx#PTIIICOOR_CH23PE_ARTIIPOREPEFU_S23-27TAINBEFUEVAM) to [23-29](../level3/PTIIICOOR_CH23PE_ARTIIPOREPEFU.docx#PTIIICOOR_CH23PE_ARTIIPOREPEFU_S23-29SAPPFU)] are hereby appropriated to the Metropolitan Dade County Police Relief and Pension Fund for the benefit of the participants therein.

(Ord. No. 64-1, § 3, 1-14-64; Ord. No. 73-83, § 1, 9-18-73)

FOOTNOTE(S):

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**Editor's note—** This article is derived from Ord. Nos. 64-1 and 64-2, neither of which were enacted as a part of this Code, but which are included herein at the discretion of the editor. Separability, repealer and effective date provisions have been omitted. Also § 4 of Ord. No. 64-1, which provided for the filing of a copy of that ordinance (§§ 23-27—23-29), with the State Comptroller and State Treasurer, in accord with Florida Statutes, § 185.09, has been omitted as having served its purpose. For the information of the user of this Code, the "whereas" clauses of Ord. No. 64-1 read as follows: [(Back)](#BK_47AA819307002595EDA6AAFB243EE9AE)

"WHEREAS, every insurance company, corporation or other insurers paying such tax shall receive credit for the amount thereof, when paid, on the amount payable by such insurer to the State for similar State excise tax now imposed by the State of Florida; and [(Back)](#BK_47AA819307002595EDA6AAFB243EE9AE)

"WHEREAS, the Attorney General of the State of Florida has advised by Opinion No. 063-70, dated June 28, 1963, that under the provisions of Article VIII, Section 11, of the Florida Constitution and the Home Rule Charter, the Board of County Commissioners may provide for the establishment of a municipal Police Officers Retirement Fund in accordance with the requirements of Chapter 185, Florida Statutes, which benefits would be applicable to all Police Officers (Deputy Sheriffs) serving the unincorporated areas of Dade County." [(Back)](#BK_47AA819307002595EDA6AAFB243EE9AE)

**Cross reference—** Personnel, § 2-26 et seq.; Metro-Dade Police Department, § 2-91 et seq.; Metropolitan Dade County Fire Department, § 2-181 et seq. [(Back)](#BK_47AA819307002595EDA6AAFB243EE9AE)

### ARTICLE III. FIREFIGHTER'S RELIEF AND PENSION FUND [[2]](#BK_3962C60153CD7EABFAD9D3A9338609F7)

[Sec. 23-30. Purpose of article; other plans not affected.](#BK_853B317D5ABF8C2949D5487B0089237E)

[Sec. 23-31. Definitions.](#BK_EF92E64DE6F55533EAC759A093C36AE4)

[Sec. 23-32. Created.](#BK_E8508ABB3F71E52223A7C13398907EE5)

[Sec. 23-33. Reserved.](#BK_BE392F595E309063500AFFB5C2821F4D)

[Sec. 23-34. Board of Trustees generally.](#BK_75D009D9CB05176C60ADA14046F1B1BD)

[Sec. 23-35. Election of Firefighters to Board.](#BK_27C4D24151EE06D730DAAEA33771D606)

[Sec. 23-36. Board meetings.](#BK_6D1D787813D3A83B65E86BFA1493EBE9)

[Sec. 23-37. Filling vacancies on Board.](#BK_95CF973C282C81FC925528748E23D8CA)

[Sec. 23-38. General powers of Board.](#BK_FA0749982D1C7FDD2EDD6DED7B6402AF)

[Sec. 23-39. Custody and deposit of cash and securities.](#BK_8709E52741AF92A62B82B57E38E00126)

[Sec. 23-40. Bonding of persons handling fund.](#BK_DB5AD2D06B0E3FBE688BB3E87DC0BE7C)

[Sec. 23-41. Payment of costs, expenses and fees.](#BK_64B7BCDEBA94FF40FF29E8729C53D9D2)

[Sec. 23-42. Credits to individual accounts.](#BK_80EE2A26CC3036B943C4D6824B331162)

[Sec. 23-43. Benefits.](#BK_4AE09539CD524799875CCC682FFCFA3A)

[Sec. 23-44. Participants' rights and benefits not subject to legal process.](#BK_A0EA4FAE3A3B29793698CE223B64CCCD)

[Sec. 23-45. Limitation on County's responsibility.](#BK_172B2EF3C3725E8BABBC965148F773CA)

[Sec. 23-46. Tax on insurers for benefit of fund—Levied; amount.](#BK_040048F01B5044633439FD0576507C93)

[Sec. 23-47. Same—When due and payable.](#BK_63CACFE7C7F60A9B3276033735EC03B6)

[Sec. 23-48. Same—Appropriated to fund.](#BK_6C751514CE40B247EC6D797AC3183FC4)

[Secs. 23-49—23-60. Reserved.](#BK_82855C630F5F82B21909D5F1A1A3DB56)

Sec. 23-30. Purpose of article; other plans not affected.

The purpose of this ordinance [article] is to implement the provisions of Chapter 63-249, Laws of Florida, 1963, and to provide means whereby County Firefighters of the Fire Department of Metropolitan Dade County, Florida, may receive benefits from the funds provided for that purpose by Chapter 63-249, Laws of Florida, 1963. The fund hereby created, being derived from monies received from the State and not from a tax levied by Dade County on Dade County taxpayers, shall be in addition to any other pension fund plan of Dade County and/or the State of Florida, and nothing herein shall be construed to in any way affect the operation of benefits of any other pension plan of Dade County and/or the State of Florida, that presently exists.

(Ord. No. 64-6, § 1, 2-4-64)

Sec. 23-31. Definitions.

The following words and phrases shall, for the purpose of this ordinance [article], have the meanings hereinafter respectively ascribed to them. Other words and phrases shall have meanings as commonly understood with respect to the context; the singular shall include the plural, and the masculine, the feminine.

(a) *Active duty:* Active duty shall mean actual services as a Firefighter with permanent status in the Fire Department of Dade County, Florida, except for approved leaves of absence as set forth below under paragraph (i) of this section.

(b) *Board:* Board shall be understood to mean Board of Trustees of the Metropolitan Dade County Firefighters' Retirement System, or such other Board, or Boards, as may be created by Dade County to administer the pension system.

(c) *County:* County shall be understood to mean Dade County, Florida, and the lands under the jurisdiction thereof from time to time, as determined by law.

(d) *State:* State shall be understood to mean the State of Florida.

(e) *Firefighter:* The Fire Chief, Officers, Inspectors, Enginemen and Firefighters with permanent status in the Fire Department of the County, including Firefighters on detached duty, as the Board shall determine to be engaged directly in fire fighting or fire prevention work, shall be deemed Firefighters for the purpose of this ordinance.

(f) *Fund:* Fund shall mean the Metropolitan Dade County Firefighters' Relief and Pension Fund, as provided for herein.

(g) *Participant:* Every Firefighter of the County, as defined herein, who is eligible to have monies credited to his individual account and to receive benefits therefrom under this ordinance [article] shall automatically become a participant.

(h) *Permanent status:* The term permanent status shall have the meaning ascribed to it from time to time by the rules and regulations of the Personnel Advisory Board of Dade County, Florida.

(i) *Service:* Service shall mean all time served as a Firefighter permanently appointed, which shall include the probationary period, under the rules and regulations of the Personnel Advisory Board of the County; and at all times, not to exceed a period of five (5) years during which a participant is absent on a military leave absence. It shall include all leaves of absence without pay for sickness, for such period of time as may be determined by the Board, in excess of accumulated sick time for which compensation is received.

(j) *Chapter 19112:* Chapter 19112 shall mean and refer only to Chapter 19112, Laws of Florida, Acts of 1939, as amended.

(Ord. No. 64-6, § 2, 2-4-64)

Sec. 23-32. Created.

There is hereby created in the County, a special fund to be known as the Metropolitan Dade County Firefighters' Relief and Pension Fund, into which shall be paid all monies which are hereafter paid to the County under the provisions of Chapter 19112.

(Ord. No. 64-6, § 3, 2-4-64)

Sec. 23-33. Reserved.

**Editor's note—**

[Section 23-33](../level3/PTIIICOOR_CH23PE_ARTIIIFIREPEFU.docx#PTIIICOOR_CH23PE_ARTIIIFIREPEFU_S23-33RE), pertaining to an interim committee, has been deleted as obsolete. The section was derived from Ord. No. 64-6, § 4, adopted Feb. 4, 1964.

Sec. 23-34. Board of Trustees generally.

There is hereby created a Board of Trustees of the Metropolitan Dade County Firefighters' Relief and Pension Fund, which Board shall consist of the Mayor of Metropolitan Dade County, Florida, the Chief of the Fire Department of Dade County, Florida, two (2) Firefighters of the Fire Department of Dade County, Florida, to be elected by a majority of the Firefighters whose names appear on the rolls as members of the Fire Department of Dade County, Florida, and one (1) legal resident of Dade County, to be appointed by the County Commission. At the first election of Trustees, there shall be elected one (1) Firefighter to serve as Trustee for a one-year term; one (1) Firefighter to serve as Trustee for a two-year term; the Mayor or designee and Fire Chief shall serve as long as they continue to hold office as Mayor or designee or Fire Chief, respectively; the fifth member appointed by the County Commission shall serve for a one-year term. Thereafter, each year, one (1) Firefighter shall be elected to serve as Trustee for a two-year term. The Board shall annually elect from its membership a Chairman and a Secretary and a Treasurer. The Chairman, when present, shall preside at all meetings. The Secretary shall keep complete minutes of all proceedings of the Board. The Treasurer shall supervise the books and records which record the receipts and disbursements of the fund and the inventory of assets of the fund. He shall report at each quarterly meeting the assets and liabilities of the fund as of the date of such meeting. All elections of the Board shall be by a majority vote, a quorum being present. Three (3) or more members shall constitute a quorum. Trustees shall receive no compensation as such.

(Ord. No. 64-6, § 5, 2-4-64; Ord. No. 65-51, § 1, 7-27-65; Ord. No. 65-54, 7-27-65)

Sec. 23-35. Election of Firefighters to Board.

All elections of Firefighters to the Board shall be by secret written ballot. Only participants in the fund shall be eligible for nomination and election to the Board and only participants shall be eligible to vote in such elections.

Notice of each election shall be posted on the bulletin Board in all fire stations in the fire/rescue district at least two (2) weeks prior to the date upon which such elections shall be held.

(Ord. No. 64-6, § 6, 2-4-64)

Sec. 23-36. Board meetings.

The Board of Trustees will hold regular meetings quarterly or more often as determined by the Board. Special meetings may be called by the Chairman and Secretary or by any three (3) members of the Board. Ten (10) days written notice of a special meeting shall be given in writing to all Board members, which notice shall contain the purpose, date, time and place of the special meeting.

If any elected member of the Board of Trustees, or the resident member who has been appointed by the Board, shall fail to attend three (3) consecutive meetings, without due cause, the Chairman shall certify same to the County Commission. Upon such certification to the County Commission, such member shall be deemed to have been removed and the County Commission shall appoint a successor to fill the unexpired term of such member.

(Ord. No. 64-6, § 7, 2-4-64; Ord. No. 67-15, § 7, 3-7-67)

Sec. 23-37. Filling vacancies on Board.

If at any time between elections a vacancy occurs on the Board for any reason whatsoever, the remaining Board members, by majority vote, shall fill said vacancy. The new members so chosen shall serve until the next election of the Board of Trustees. At the next election a new Trustee shall be elected to serve the remainder of the term of any Trustee whose membership was terminated.

(Ord. No. 64-6, § 8, 2-4-64)

Sec. 23-38. General powers of Board.

The Board shall have the power and authority as follows:

(a) To invest and re-invest monies of the fund. In making such investments, they shall be governed by the laws of the State of Florida relating to the investment of fiduciary funds. Such laws shall not restrict the Board from investing in shares of State or federal chartered savings and loan associations whose shares are insured by the Federal Savings and Loan Insurance Corporation.

(b) To approve disbursements, pay claims, and authorize payments from the fund by warrants signed by the Chairman and Secretary of the Board.

(c) To interpret the provisions of this ordinance [article] where the meaning is not clear or ambiguity exists; and to promulgate necessary rules respecting the operation of the fund, or elections of Trustees not in conflict with the wording or clear intent of this ordinance [article].

(d) To authorize expenditures in connection with preliminary research, technical services, legal services and accounting services; to contract for employees necessary to the general administration of the fund and to employ legal counsel and auditors necessary to the proper administration of the fund.

(Ord. No. 64-6, § 9, 2-4-64)

Sec. 23-39. Custody and deposit of cash and securities.

The custody of all securities and cash of the fund shall be with the Board. The Board shall deposit all funds not invested as above, in a national or State chartered bank located within Dade County, whose deposits are insured by the Federal Deposit Insurance Corporation. All securities shall be kept in a safe deposit box or deposited with a corporate Trustee, and current inventories of such securities shall be kept as a part of the permanent records of the Board, which will be audited annually by a certified public accountant.

(Ord. No. 64-6, § 10, 2-4-64)

Sec. 23-40. Bonding of persons handling fund.

All persons, including Board members and employees, who sign checks or handle money or securities of the fund shall be bonded by a qualified surety.

(Ord. No. 64-6, § 11, 2-4-64)

Sec. 23-41. Payment of costs, expenses and fees.

(a) At the first meeting of the duly elected Board, the Trustees shall examine all known bills of expense for setting up the fund, and shall approve and allow for payment all those that are found to have been necessary and proper charges against the fund, and these bills shall be paid promptly.

(b) All costs and expenses for setting up the fund shall be paid from the monies received from the State. Legal fees for services rendered in preparing proposed County ordinances; in carrying on negotiations with the County and State relative to the creation of the fund and in assisting in setting up the fund shall be chargeable against the monies received from the State.

(Ord. No. 64-6, § 12, 2-4-64)

Sec. 23-42. Credits to individual accounts.

(a) An individual account shall be established for each Firefighter of permanent status on the effective date of this ordinance [article], and for each Firefighter who attains permanent status subsequent to the passage of this ordinance [article].

(b) After payment of all costs, expenses and fees as monies are received from the State, the expenses of administering the fund for the preceding year, shall be prorated by the Board and charged against monies received for Firefighter participants during said year; and the balance of such monies shall be credited to the several individual participants in amount directly proportionate to the total number of months of duty performed by the several Firefighters in the calendar year preceding the date the monies were received from the State. The length of time of service during the calendar year preceding the date upon which payment is received from the State is the only criterion upon which the amount due each participant out of the State monies received annually is to be calculated. No credit is to be given on account of seniority, rank or amount of compensation which the participants receive. Twenty (20) or more days' work in a calendar month shall be counted as a full month. Twenty (20) work days shall be considered a full month. If a participant works less than twenty (20) days in any calendar month, he shall be credited with a fractional month, the fraction to be the number of days worked over twenty (20). Example: Twelve (12) days worked would create a fraction of twelve-twentieths of a month.

(c) The amount of earnings from investments credited to the account of the participant shall bear the same ratio to the total amount of annual earnings as the invested funds belonging to the participant in the fund bear to the total monies invested on behalf of the fund.

(d) In addition to the monies received from the State and as earnings on investments, there shall be prorated and credited to the accounts of the individual participants, all forfeitures from Firefighters as provided for in [Section 23-41](../level3/PTIIICOOR_CH23PE_ARTIIIFIREPEFU.docx#PTIIICOOR_CH23PE_ARTIIIFIREPEFU_S23-41PACOEXFE) hereof. Such sums shall be prorated in their individual accounts in the same manner as monies received from the State.

(e) Subsequent to the effective date of this ordinance [article] after a Firefighter has retired and ceased to be a member on active duty, as defined in [Section 23-31](../level3/PTIIICOOR_CH23PE_ARTIIIFIREPEFU.docx#PTIIICOOR_CH23PE_ARTIIIFIREPEFU_S23-31DE)(a) hereof, no credit shall be made to his account. Monies credited to a participant's account shall be payable only upon the filing of an application with the Board. The application shall be on a form prescribed by the Board and shall be sworn to by the applicant or his surviving wife or child, or if the child is a minor, by the guardian of the child, or by any other person legally qualified to apply for such monies under the laws of the State of Florida.

(Ord. No. 64-6, § 13, 2-4-64)

Sec. 23-43. Benefits.

No participant shall receive benefits from the fund in excess of the amount credited to his account. Subject to this provision, a participant shall receive benefits as follows:

(a) Subsequent to the passage of this ordinance [article], if a participant shall separate, excepting from death, from the service with the Fire Department for any reason whatsoever, except as hereinafter provided, prior to completing nine (9) years of service with the Department, he shall be entitled to a severance benefit as follows:

Prior to completing three (3) years of service, one-fourth of the amount credited to his account as of the date of severance;

Prior to completing six (6) years of service, but after completing three (3) years of service, one-half of the amount credited to his account as of the date of severance;

Prior to completing nine (9) years of service, but after completing six (6) years of service, three-fourths of the amount credited to his account as of the date of severance;

After completing nine (9) years of service, the participant shall be entitled to the entire amount credited to his account upon his separation from the County.

Firefighters who upon the effective date of this ordinance [article] shall have completed ten (10) years of service, but after completing two (2) years of service from the effective date of this ordinance [article], the participant shall be entitled to the entire amount credited to his account upon his separation from the County.

All monies remaining in a participant's account after separation as above shall be forfeited to the fund.

(b) If a participant shall die while a member of the Fire Department, the entire amount of his credit, as of the date of his death, shall be paid to his surviving wife, primarily for the purpose of defraying final illness and burial expenses. If there be no surviving wife and there is a child or children, the entire amount of participant's credit as of the date of his death shall be paid to a person designated in writing by the participant, to be used for payment of final illness and burial expenses, with any excess to be paid to the legal guardian of the child or children for their benefit. If there be no surviving wife or children, there shall be paid to the person designated in writing by the participant, to be used for payment of final illness and burial expenses, an amount not to exceed the entire amount of his credit and any excess after payment of final illness and burial expenses shall be paid as designated by the deceased. If the person designated to act for a participant shall pre-decease him or cannot be located by reasonable effort, or shall refuse to act, or if the deceased participant has failed to designate anyone, the Board shall have the right to name a person to carry out the purposes of this subsection. In carrying out the purpose of this subsection, the Board shall endeavor to distribute any excess monies after payment of last illness and burial expenses in the same manner in which they would have been distributed in an intestate administration proceeding. The designation shall be in writing, sworn to, and shall be filed with the Secretary of the Board.

(c) A participant who shall hereafter be retired by reason of length of service or disability under the workers' compensation laws of the State of Florida or under any other pension plan of the County and/or State, or who shall retire after completing nine (9) years of service with the Fire Department, shall be paid the entire amount standing to his credit as of the date of such retirement or separation. He may elect to take such amount in a lump sum, or to take it in annual payments over a period not to exceed five (5) years. A written notice of election to receive payments other than in a lump sum must be filed with the Board upon a form prescribed by the Board therefor, and must be sworn to by the person entitled to receive such monies.

A retired participant or a participant who has separated from the Department after nine (9) years active service who has elected to receive the monies due him in annual payments, rather than a lump sum as above, shall not be an active participant under [Section 23-31](../level3/PTIIICOOR_CH23PE_ARTIIIFIREPEFU.docx#PTIIICOOR_CH23PE_ARTIIIFIREPEFU_S23-31DE)(g).

(d) Settlement as provided in subsections (a), (b) and (c) of this section shall be in full settlement of all claims of a participant against the fund, and he shall thereupon cease to be a participant, and he shall have no further interest in said fund, and shall receive no further benefits.

(e) As an alternative to the above benefits, in event that a court of competent jurisdiction should find and order that a participant is entitled to benefits under Chapter 19112 different from the benefits which that participant is entitled to receive under the terms of this ordinance [article], and such participant does not waive the benefits decreed by the court and accept benefits as provided by this ordinance [article], the Trustees shall pay to such participants benefits as required by the decree or order of the court. Such benefits shall be paid from the fund, and in the event that it is necessary to pay such participant a greater amount than he would have received had he accepted benefits under this ordinance [article], such additional amount shall be deducted from the accounts of the other participants on a pro rata basis as determined by the Board of Trustees. The fund shall indemnify the County against all claims of participants as aforesaid and shall pay all expenses including court costs and attorneys' fees incurred in defending law suits brought by participants in asserting such claims.

(Ord. No. 64-6, § 14, 2-4-64)

Sec. 23-44. Participants' rights and benefits not subject to legal process.

The rights and benefits provided for herein are vested rights of the participants in the fund, and shall not be subject to garnishment, attachment, execution or any other legal process.

(Ord. No. 64-6, § 15, 2-4-64)

Sec. 23-45. Limitation on County's responsibility.

The County shall have no responsibility for the operation of the fund except those specified herein shall bear no expenses in connection therewith.

(Ord. No. 64-6, § 16, 2-4-64)

Sec. 23-46. Tax on insurers for benefit of fund—Levied; amount.

There is hereby assessed, imposed and levied on every insurance company, corporation or other insurer now engaging in or carrying on, or which shall hereafter engage in or carry on the business of insuring with respect to property risks, as shown by the records of the Insurance Commissioner of the State of Florida, an excise or license tax in addition to any license tax or excise tax now levied by Dade County, Florida, in the unincorporated areas, which said tax shall be in the amount of two (2) percent of the gross amount of receipts of premiums from policy holders on all premiums collected on property insurance policies, covering property within the unincorporated areas of Dade County, Florida.

(Ord. No. 64-5, § 1, 2-4-64; Ord. No. 73-84, § 1, 9-18-73)

**Cross reference—** Taxation generally, Ch. 29.

**State law reference—** Authority for above tax, F.S. § 175.101.

Sec. 23-47. Same—When due and payable.

The license or excise tax herein levied shall be due and payable annually on the first day of March of each year hereafter.

(Ord. No. 64-5, § 2, 2-4-64)

Sec. 23-48. Same—Appropriated to fund.

All money derived from the taxes imposed by this ordinance [Sections [23-46](../level3/PTIIICOOR_CH23PE_ARTIIIFIREPEFU.docx#PTIIICOOR_CH23PE_ARTIIIFIREPEFU_S23-46TAINBEFUEVAM) to [23-48](../level3/PTIIICOOR_CH23PE_ARTIIIFIREPEFU.docx#PTIIICOOR_CH23PE_ARTIIIFIREPEFU_S23-48SAPPFU)] is hereby appropriated to the Metropolitan Dade County Firefighter's Relief and Pension Fund for the benefit of the participants therein.

(Ord. No. 64-5, § 3, 2-4-64)

Secs. 23-49—23-60. Reserved.

FOOTNOTE(S):

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**Editor's note—** This article is derived from Ord. Nos. 64-5, effective February 14, 1964, and 64-6, effective March 5, 1964, neither of which were enacted as a part of this Code, but which are included herein at the discretion of the editor. Separability, repealer and effective date provisions have been omitted. Also, § 4 of Ord. No. 64-5, which provided for the filing of a copy of that ordinance (§§ 23-46—23-48) with the State Comptroller and State Treasurer, in accord with § 185.09, Florida Statutes, has been omitted as having served its purpose. For the information of the user of this Code, the "whereas" clauses of Ord. No. 64-5 read as follows: [(Back)](#BK_8D6741CEF4EAEE0CCE3557635C853A16)

"WHEREAS, the Legislature of the State of Florida, by Chapter 63-249, Laws of Florida, 1963, thereby authorized municipalities falling within the purview of said act to levy an additional tax upon such insurance carriers designated in said act, the said proceeds from said tax to be used for a retirement system providing pension benefits to Firefighters; and [(Back)](#BK_8D6741CEF4EAEE0CCE3557635C853A16)

"WHEREAS, every insurance company, corporation or other insurers paying such tax shall receive credit for the amount thereof, when paid, on the amount payable by such insurer to the State for similar State excise tax now imposed by the State of Florida; and [(Back)](#BK_8D6741CEF4EAEE0CCE3557635C853A16)

"WHEREAS, Section 1.01(D) of the Home Rule Charter provides that "The Board shall be entitled to levy in the unincorporated areas all taxes authorized to be levied by municipalities"; and [(Back)](#BK_8D6741CEF4EAEE0CCE3557635C853A16)

"WHEREAS, it is the desire of the Board of County Commissioners of Dade County, Florida, to put into full force and effect the provisions of said Chapter 63-249 in the unincorporated areas of Dade County, Florida." [(Back)](#BK_8D6741CEF4EAEE0CCE3557635C853A16)

**State Law reference—** Firefighters pension funds, F.S. Ch. 175. [(Back)](#BK_8D6741CEF4EAEE0CCE3557635C853A16)

### ARTICLE IV. DEATH BENEFITS [[3]](#BK_C410FB59BA183A1659D8B8942F4D7F11)

[Sec. 23-61. Definitions.](#BK_E53ED6CEF59BC050BC1B23C32107C934)

[Sec. 23-62. When payments made; amount paid; to whom paid.](#BK_91C2095C39B25E1ED609BD76D59D6373)

[Sec. 23-63. Amounts paid under workers' compensation.](#BK_3695052742A742B2237C3BAF6FE41468)

[Sec. 23-64. Source of payment.](#BK_D63FEEBBB627E9CF9D4ABD2AC4A6E660)

[Sec. 23-65. Special panal to decide discretionary matters.](#BK_A6EBD6C4278C430EADBB2EC371E4A544)

[Sec. 23-66. Modification of article.](#BK_72BE09841863DECFDDC43BB502AB5A00)

Sec. 23-61. Definitions.

(a) *County employee* shall mean an officer or other employee occupying a position and who is paid a salary or wage for services rendered, and shall include members of the Board of County Commissioners of Dade County, Florida.

(b) *Average weekly wage* is the total gross salary or wage paid divided by the number of weeks employed limited to no more than two hundred sixty (260) weeks immediately preceding the death of said County employee.

(c) *Dependent* is any person more than one-half of whose total support, as defined by the United States Internal Revenue Service, was furnished by the decedent.

(Ord. No. 65-46, § 3, 6-17-65)

Sec. 23-62. When payments made; amount paid; to whom paid.

Upon proper proof of the death of any County employee indicating that such death was the natural and proximate result of an accident or overt act occurring at some definite time and place while said employee was in the actual performance of duty and not caused by wilful negligence on the part of the employee, there shall be paid one-half of the average weekly wage of said employee to the dependent widow or dependent surviving spouse until said dependent widow or dependent surviving spouse remarries or twenty thousand dollars ($20,000.00) is expended, whichever first occurs. If said employee leaves no dependent widow or dependent surviving spouse, or if said dependent widow or dependent surviving spouse dies or remarries before the youngest child of the deceased employee shall have attained the age of eighteen (18) years, then such payment shall be paid to said employee's child or children under such age until the youngest child attains the age of eighteen (18) years or the sum of twenty thousand dollars ($20,000.00) is expended, whichever first occurs; or if said employee is unmarried, then to any relative or relatives dependent upon said deceased employee until said relative attains the age of eighteen (18) years or marries or dies or ceases to be dependent, or twenty thousand dollars ($20,000.00) is expended, whichever first occurs.

(Ord. No. 65-46, § 1, 6-17-65)

Sec. 23-63. Amounts paid under workers' compensation.

Any amounts paid or payable under these provisions shall be reduced by any amounts paid or payable under the provisions of the State worker's compensation law, except that the foregoing limitations shall not reduce the statutory obligations imposed on account of the State worker's compensation law during the period of such statutory obligation. Any amounts paid or payable as an obligation of the State worker's compensation law shall not reduce the amount of twenty thousand dollars ($20,000.00) provided for herein.

(Ord. No. 65-46, § 2, 6-17-65)

Sec. 23-64. Source of payment.

The payments authorized herein other than those paid from the workers' compensation benefits fund shall be paid from the Dade County general fund for contingencies and administered by the Insurance and Safety Division in conjunction with worker's compensation benefits.

(Ord. No. 65-46, § 4, 6-17-65)

Sec. 23-65. Special panal to decide discretionary matters.

All discretionary matters arising under the provisions of this article shall be approved by a panel of five (5) members, consisting of the worker's compensation claims supervisor and a safety officer who are obliged to investigate all job-connected deaths, and one (1) representative of the County Manager's Office, the Personnel Department, and the Department of the descendent.

(Ord. No. 65-46, § 5, 6-17-65)

Sec. 23-66. Modification of article.

The benefits, or any of them, provided for in this article may be modified or terminated at any time by ordinance.

(Ord. No. 65-46, § 6, 6-17-65)

FOOTNOTE(S):

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**Editor's note—** Ord. No. 65-46 added the provisions included in this article to the Code. The editors, in their discretion, have inserted these provisions at this place. [(Back)](#BK_CF3E530A66DB6EBF3D7AB6A6CFF43EA6)