

ORDINANCE NO. 5989

PROPOSED ORDINANCE NO. 23-023

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA RELATING TO THE CITY OF LAKELAND EMPLOYEE PENSION PLAN; AMENDING SECTION 23.4.5 OF ARTICLE II OF DIVISION II OF THE CHARTER OF THE CITY OF LAKELAND, FLORIDA TO EXPAND THE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION PERIOD AND AMEND TERMINOLOGY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA;

SECTION 1: Section 23.4.5 of Article II of Division II of the Charter of the City of Lakeland, Florida is hereby amended as follows:

23.4.5 Deferred Retirement Option Program (DROP). A Member who attains normal retirement age or attains thirty (30) years of credited service may elect to retire and enter the DROP. Notwithstanding the preceding sentence, effective December 31, 2011 for non-bargaining unit members who are employed and not participating in the DROP on such date, and commencing the end of the first pay period following ratification of a collective bargaining agreement for bargaining unit members who are employed and not participating in the DROP on such date, members may elect to retire and enter the DROP on or after the date on which the member is: (a) eligible to receive benefits pursuant to normal or early retirement as defined in the respective version of the plan (A, B or C) in which the member is enrolled as of the date of this election; or (b) the sum of the member's years of credited service and age equals at least seventy-five (75). For purposes of computing eligibility for this option, any accrued sick leave at date of retirement shall not be considered as additional time of credited service:

- (a) The decision to enter the DROP is irrevocable once the DROP period commences. Upon entry into the DROP, a member shall be considered a retired member of the Plan. The member's benefits shall be calculated as if the member had actually separated from service and no further credited service, salary increases, or Plan changes shall apply to a member in the DROP plan for purposes of determining the member's benefit under the Plan. In all other respects, however, the member shall remain an active employee of the City and otherwise eligible for all other contractual and job benefits.
- (b) The monthly pension benefit payable during the DROP period shall be credited in semi-monthly installments to a DROP account for the Member and shall remain an asset of the fund in accordance with procedures established by the Board of Trustees. Such retirement benefit, including any retiree benefit increases pursuant to an optional form of benefits elected pursuant to section 23.4.4(e) shall accrue semi-monthly. Interest on the DROP account balances of members who enter the DROP prior to December 31, 2011 and for bargaining unit members who enter the DROP prior to ratification of a collective bargaining

agreement shall accrue at a nominal annualized rate of 6.5 percent compounded semi-monthly, on the prior installment's accumulated ending balance, up to the 120th payment or the last payment made prior to final separation from service or death, whichever occurs first. The deposited funds will be unavailable for distribution to the Member until participation in the DROP and service with the City terminates. Thereafter, the benefit shall be paid to the Member in accordance with the provisions of this section and procedures payments adopted by the Board of Trustees, which may require up to thirty (30) days advance notice from the Member of the payment method and option elected by the Member. Effective upon adoption, each current and future Member of the DROP may elect on an annual basis to have their DROP account credited and compounded semi-monthly at a variable interest rate, not to exceed three percent (3%) per annum. The Board of Trustees shall review and set the variable interest rate once each year. Within 60 days of announcing the variable interest rate, each Member of the DROP may elect to transfer all, some, or none of their existing DROP account balance and future DROP account accruals to the City of Lakeland Defined Contribution Plan, subject to Board approval, via a plan to plan transfer; provided, that all such transfers made to the City of Lakeland Defined Contribution Plan are irrevocable and shall not be transferred back to the member's DROP account at any point thereafter. A failure to make such an initial election means that the Member's DROP balance will remain in the Fund and earn said variable interest rate. Each year thereafter, within 60 days of the Board of Trustees setting the variable interest rate, each Member in the DROP shall elect whether any amounts remaining in the Fund and whether future DROP account accruals will either: i) be credited at a variable interest rate, compounded semi-monthly on the prior installment's accumulated ending balance until such time as the earlier of either: the 192nd payment; or the last payment made prior to final separation from service; or death; or be irrevocably transferred to the City of Lakeland Defined Contribution Plan, as above. Any member of the DROP who fails to make such a written annual election within the prescribed time shall continue with the option, as described herein in which the Member was then currently participating.

- (c) Effective with the date of DROP participation, the member's initial normal monthly benefit, optional form of payment, average final compensation, and the effective date of retirement shall be fixed. The Member may designate a beneficiary to receive the balance in the Member's DROP account if the DROP member dies prior to the DROP payout to the Member. If such beneficiary is not designated or is not living at the time of the Member's death, then the beneficiary established under the Plan shall receive the balance in the Member's DROP account; or if no such beneficiary is designated or living at the time of death, then the joint pensioner, if any, shall receive the balance in the Member's DROP account. The Member may also name a beneficiary to receive the accumulated DROP benefits payable if the joint pensioner predeceases the Member. In the event that no beneficiary has been named by the Member, the DROP account balance shall be paid to the Member's estate.
- (d) The effective date of DROP participation and the effective date of retirement of a DROP member shall be the first day of any City payroll period selected by the Member to begin participation in the DROP, provided such date is properly established, with the written confirmation of the city, and the approval of the Retirement Services Department, on forms

required by the Retirement Services Department.

- (e) Upon entry into the DROP, a member shall no longer be eligible for pre-retirement death benefits.
- (f) In the event that a member in the DROP shall die, the member shall be treated the same as any other retired member who dies and any survivorship option which the member may have elected shall be paid to the Member's joint pensioner in accordance with the provisions of the Plan.
- (g) By entering into the DROP plan, a member agrees to terminate active service with the City not later than ninety-six (96) months following the date of entry into the DROP. Nothing shall prohibit a member who has entered the DROP or the City from terminating service prior to the expiration of the ninety-six (96) months.
- (h) A member's DROP Account shall only be credited or debited with earnings or interest and monthly benefits while the Member is employed by the City as a Member of the Plan. If a member remains employed by the City after participating in the DROP for eight (8) years, then beginning with Member's 97th month of DROP participation the member's DROP Account will no longer be credited or debited with earnings or interest, nor will semi-monthly benefits be credited to the DROP Account. All such earnings, interest and benefits shall be forfeited and continue to be forfeited while the member is employed by the City. A member employed by the City after eight (8) years of DROP participation will still not be eligible for pre-retirement death or disability benefits nor will the Member accrue additional Credited Service.
- (i) The accrued benefits of any DROP member, and any contributions, earnings or interest accumulated under such program, shall not be subject to assignment, execution, attachment, or to any legal process whatsoever. Upon the death of a DROP member, the accrued benefits shall be paid in accordance with subsection (c), above.
- (j) Eligibility to participate in the DROP terminates upon death of the member. If the member dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, Plan benefits shall be paid in accordance with provisions contained in the Plan as though the Member retired on the effective date of the DROP enrollment and died thereafter.
- (k) Upon satisfying the definition of termination of employment, DROP members shall be subject to the same reemployment limitations as other retirees. Nothing in this section shall be construed to remove DROP members from the scope of s. 8(d), Art. II of the State Constitution, s. 112.3173, and paragraph (5)(f).
- (l) DROP members who commit a specified felony offense while employed will be subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of the law.

- (m) Upon separation from service a member shall be eligible for distribution of the DROP account. The DROP account may be distributed in a lump sum, may be rolled over to another qualified retirement system, a combination of both, or any other form approved by the Board. In no instance shall the method of distribution result in the payment of any amount which exceeds the balance in the DROP account.
- (n) At the conclusion of the member's DROP, the Retirement Services Department shall distribute the member's total accumulated DROP benefits, subject to the following provisions:
 - (1) Retirement Services Department shall receive verification by the member's department head that such member has terminated employment.
 - (2) The discharged DROP member or, if deceased, such member's named beneficiary or joint pensioner, shall elect on forms provided by the Retirement Services Department to receive payment of the DROP benefits in accordance with one of the options listed below. For a member or beneficiary who fails to elect a method of payment within 60 days of termination of employment, the Retirement Services Department will authorize a lump sum payment as provided below:
 - (I) *Lump sum* — All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP member or surviving beneficiary.
 - (II) *Direct rollover* — All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the beneficiary(ies) of a deceased member, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code.
 - (III) *Partial lump sum* — A portion of the accrued DROP benefits shall be paid to the DROP member or beneficiary(ies), less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the beneficiary(ies) of a deceased member, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP member or surviving beneficiary(ies).
 - (3) The form of payment selected by the DROP member or surviving beneficiary(ies) complies with the minimum distribution requirements of the Internal Revenue Code.
- (o) The Board of Trustees shall make such rules as are necessary for the effective and efficient administration of this subsection. Neither the Retirement Services Department nor

the Board of Trustees shall advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.

SECTION 2: This Ordinance shall be codified and incorporated into the existing Code of the City of Lakeland, Florida.

SECTION 3: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4: To the extent of a conflict between the provisions of this Ordinance and the provisions of a collective bargaining agreement addressing the same subject matter, the provisions of the collective bargaining agreement shall govern.

SECTION 5: If any section, subsection, sentence, clause or 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 6: This Ordinance shall become effective upon adoption.

PASSED AND CERTIFIED AS TO PASSAGE this 5th day of June, A.D. 2023.

SARA ROBERTS MCCARLEY
MAYOR PRO TEM

ATTEST: _____
KELLY S. KOOS, CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS: _____
PALMER C. DAVIS
CITY ATTORNEY