

AS AMENDED

ORDINANCE NO. 5341

PROPOSED ORDINANCE NO. 11-072

AN ORDINANCE CREATING THE CITY OF LAKELAND FIREFIGHTERS' RETIREMENT SYSTEM; PROVIDING FOR THE ESTABLISHMENT OF THE SYSTEM AS A LOCAL LAW PLAN PURSUANT TO CHAPTER 175, FLORIDA STATUTES; PROVIDING DEFINITIONS; PROVIDING FOR MEMBERSHIP; PROVIDING FOR A BOARD OF TRUSTEES; PROVIDING FOR FINANCES AND FUND MANAGEMENT; PROVIDING FOR CONTRIBUTIONS; PROVIDING FOR BENEFIT AMOUNTS AND ELIGIBILITY; PROVIDING FOR VESTING; PROVIDING FOR OPTIONAL FORMS OF BENEFITS; PROVIDING FOR BENEFICIARIES; PROVIDING FOR CLAIMS PROCEDURES; PROVIDING MAXIMUM PENSION AND MINIMUM DISTRIBUTION OF BENEFITS PROVISIONS; PROVIDING FOR REPEAL OR TERMINATION OF THE SYSTEM; PROVIDING FOR DOMESTIC RELATIONS ORDERS, RETIREE DIRECTED PAYMENTS AND NONASSIGNABILITY; PROVIDING FOR FORFEITURE OF PENSIONS; PROVIDING FOR DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS; PROVIDING FOR A DEFERRED RETIREMENT OPTION PLAN, BACK-DROP AND PARTIAL LUMP SUM OPTION; REPEALING THE LAKELAND FIREFIGHTERS' SUPPLEMENTAL PENSION PLAN IN ITS ENTIRETY; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lakeland has entered into a collective bargaining agreement with the International Association of Firefighters Local 4173 providing for the creation of a separate retirement system for City firefighters; and

WHEREAS, to implement the collective bargaining agreement, it is necessary to adopt this Ordinance to establish a separate retirement system for

City firefighters to be known as the City of Lakeland Firefighters' Retirement System.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA:

SECTION 1. – The City of Lakeland Firefighters' Retirement System is hereby created to read as follows:

Sec. 1. Establishment of City of Lakeland Firefighters' Retirement System.

(a) The City of Lakeland Firefighters Retirement System is hereby established as a local law pension plan pursuant to Chapter 175, Florida Statutes. The purpose of the Retirement System is to provide retirement income and other benefits to firefighters of the City of Lakeland and their beneficiaries.

(b) Effective [effective date], all assets and liabilities of the City of Lakeland Employee Pension Plan attributable to active, terminated and retired firefighter members, and their beneficiaries, shall be transferred to and assumed by the City of Lakeland Firefighters' Retirement System, to be invested and utilized as provided herein, as provided in Resolution No. ____.

(c) Effective [effective date], all assets and liabilities of the City of Lakeland Firefighters' Supplemental Pension Plan shall be transferred to and assumed by the City of Lakeland Firefighters' Retirement System, to be invested and utilized as provided herein.

(d) All current and former firefighters of the City of Lakeland who accrued benefits under the City of Lakeland Employee Pension Plan or the City of Lakeland Firefighters' Supplemental Pension Plan prior to [effective date] shall retain the full value of such accrued benefits, except as such benefits are enhanced by the provisions of this System, which benefits shall be payable from this Retirement System in accordance with the provisions herein.

Sec. 2. - Definitions.

(a) As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated:

Accumulated contributions means a member's own contributions without interest. For those members who purchase credited service with interest or at no cost to the system, any payment representing the amount attributable to member contributions based on the applicable member contribution rate, and any payment representing interest and any required actuarially calculated payments for the purchase of such credited service, shall be included in accumulated contributions.

Accrued Benefit means the annual retirement benefit a member has accrued as of any specified date, payable beginning at the normal retirement date in the form of ten years certain and life.

Actuarial equivalent means that any benefit payable under the terms of the system other than the normal form of benefit shall have the same actuarial present value as the normal form of payment on any single measurement date. The determination of the actuarial present value of any form of benefit using assumptions used in last actuarial valuation.

Average final compensation means one-twelfth of the average annual compensation of the highest 5 years of the last 10 years of credited service prior to retirement, termination, or death. A year shall be 12 consecutive months. If the member has less than 5 years of credited service, the career average shall be used.

Beneficiary means the person or persons entitled to receive benefits hereunder at the death of a member who has or have been designated in writing by the member and filed with the board. If no such designation is in effect, or if no person so designated is living, at the time of death of the member, the beneficiary shall be the estate of the member.

Board means the board of trustees, which shall administer and manage the system herein provided and serve as trustees of the fund for all members and retirees of the System.

City means City of Lakeland, Florida.

Code means the Internal Revenue Code of 1986, as amended from time to time.

Compensation includes the following amounts of gross pay, calculated without a limitation: salary, wages, bonuses, step up pay, incentive pays (such as Technical Rescue Team/USAR, ARFF, Paramedic, EMT), educational incentive, and differential wages for intervening military service.

Compensation shall also include the following, subject to limitations as specified herein:

- (1) Overtime earned prior to [effective date], and effective for overtime pay received on or after [effective date], up to 300 hours of overtime in a calendar year. To the extent a members regularly scheduled biweekly work period includes hours in excess of the FLSA overtime threshold, those regularly scheduled hours are to be counted as one-half hours for purpose of determining the 300 hour limit;
- (2) Compensatory time paid when used to replace normally scheduled work time;

(3) Unused sick, vacation, and comp time paid upon retirement, subject to the following limitations:

A. For members employed as of [effective date], compensation for unused accrued sick time shall be limited to the lesser of

1. The dollar value of unused accrued sick time based on the number of hours accrued as of March 10, 2012 multiplied by the member's regular hourly rate at retirement or separation from employment;
2. The dollar value of unused accrued sick time based on the number of hours accrued as of the date of separation from employment multiplied by the member's regular hourly rate at separation from employment;
3. Eight thousand dollars (\$8,000.00).

B. For members employed as of [effective date], compensation for unused accrued vacation time shall be limited to the lesser of

1. The dollar value of unused accrued vacation time based on the number of hours accrued as of March 10, 2012 multiplied by the member's regular hourly rate at separation from service; or
2. The dollar value of unused accrued vacation time based on the number of hours accrued as of the date of separation from employment multiplied by the member's regular hourly rate at separation from employment.

C. For members hired after March 10, 2012, compensation shall exclude payment for accrued unused sick and vacation leave.

D. The pensionable portion of compensation for unused accrued comp time shall be limited to sixty (60) hours.

Compensation shall exclude payments made as reimbursements for out of pocket expenses incurred by employees that do not represent payments for hours worked, (such as mileage, travel expenses and tuition reimbursements):

For all purposes under this plan, the member's compensation (as herein defined) contributed as employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the Internal Revenue Code shall be deemed to be the compensation or gross compensation which the member would receive if he or she were not participating in such program and shall be treated as compensation for retirement purposes under this plan.

Compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code as of the first day of the plan year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions may not exceed \$200,000.00, as adjusted for cost-of-living increases in accordance with Internal Revenue Code section 401(a)(17)(B). For Code section 415 purposes, compensation means compensation during the fiscal year. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. If the compensation for any prior determination period is taken into account in determining a member's contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

Credited service means the total number of years and fractional parts of years of service as a firefighter with member contributions, when required, omitting intervening years or fractional parts of years when such member was not employed by the City as a firefighter. Credited service shall include all periods of service credited under the City of Lakeland Employee Pension Plan prior to [effective date].

(a) A member may voluntarily leave his or her accumulated contributions in the fund for a period of five years after leaving the employ of the fire department pending the possibility of being reemployed as a firefighter, without losing credit for the time that he/she was a member of the system. If a vested member leaves the employ of the fire department, accumulated contributions will be returned only upon the member's written request. If a member who is not vested is not reemployed as a firefighter with the fire department within five years, his/her accumulated contributions, if \$1,000.00 or less, shall be returned. If a member who is not vested is not reemployed within five years, his/her accumulated contributions, if more than \$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 the member's rights and benefits under the system are forfeited and terminated. Upon any reemployment, a firefighter shall not receive credit for the years and fractional parts of years of service for which he/she has withdrawn his accumulated contributions from the fund, unless the firefighter repays into the fund the contributions withdrawn, with interest, as determined by the board, within 90 days after reemployment.

(b) The years or full months 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 firefighter with the City to perform training or service, shall be added to his years of credited service for all purposes, including vesting, provided that:

(1) The member is entitled to reemployment under the provisions of USERRA.

(2) The member returns to his employment as a firefighter within one year from the earlier of the date of his military discharge or his release from active service, unless otherwise required by USERRA.

(3) The maximum credit for military service pursuant to this paragraph shall be five years.

(4) 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 of USERRA shall apply.

(5) In the event a member dies 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.

(c) The years or fractional parts of years that a firefighter has served on active duty in the military service of the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily and honorably or under honorable conditions, prior to first and initial employment with the city fire department or the time that a member has served with another municipality, county, state or federal firefighting agency shall be added to his years of credited service provided that:

(1) The member contributes to the fund the sum that he would have contributed, based on his compensation and the member contribution rate in effect at the time that the credited service is requested, had he been a member of the system for the years or fractional parts of years for which he is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the fund plus payment of costs for all professional services rendered to the board in connection with the purchase of years of credited service.

(2) Multiple requests to purchase credited service pursuant to this section may be made at any time prior to retirement, but no purchase is permitted

for a period of less than one year unless the total eligible time is less than one year.

(3) Payment by the member of the required amount shall be made within six months of his request for credit, but not later than the retirement date, and shall be made in one lump sum payment upon receipt of which credited service shall be given.

(4) The maximum credit under this section when combined with credited service with an employer other than the City of Lakeland shall be six years.

(5) Credited service purchased pursuant to this paragraph (c) shall count for all purposes, except vesting.

(d) In the event that a member of this system has also accumulated credited service in another pension system maintained by the city, then such other credited service shall be used in determining vesting as provided for in section 10, and for determining eligibility for early or normal retirement. Such other credited service will not be considered in determining benefits under this system. Only his credited service under this system on or after his date of membership in this system will be considered for benefit calculation. Any benefit calculation for a member of this system who is or becomes eligible for a benefit from this system after he has become a member of another pension system maintained by the city, shall be based upon the member's credited service, average final compensation and the benefit accrual rate in effect as of the date the member ceases to be a member of this system.

Effective date means [effective date].

Firefighter means any person employed solely by the City of Lakeland fire department who is certified as a firefighter as a condition of employment in accordance with F.S. § 633.35 and whose duty it is to extinguish fires, to protect life, or to protect property. The term includes all certified, supervisory, and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time firefighters, part-time firefighters, or auxiliary firefighters, but does not include part-time firefighters or auxiliary firefighters.

Fund means the fund established herein as part of the system.

Member means an actively employed firefighter who fulfills the prescribed membership requirements. Benefit improvements which, in the past, have been provided for by amendments to the system adopted by City ordinance, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to members who terminate employment or who retire prior to the effective date of any ordinance adopting such benefit improvements, unless such ordinance specifically provides to the contrary.

Plan year means the 12-month period beginning October 1 and ending September 30 of the following year.

Retiree means a member who has entered retirement status and is receiving benefits from the system.

Retirement means a firefighter's separation from employment with the City as a firefighter with immediate eligibility for and receipt of benefits under the system.

Spouse means the lawful wife or husband of a member or retiree at the time benefits become payable.

System means the City of Lakeland Firefighters' Retirement System as contained herein and all amendments thereto.

(b) *Masculine gender*. The masculine gender, where used herein, unless the context specifically requires otherwise, shall include both the feminine and masculine genders.

Sec. 3. - Membership.

(a) *Conditions of eligibility*. All firefighters as of the effective date, and all firefighters hired on or after the effective date, shall be members of the system as a condition of employment and make member contributions and receive benefits as provided for herein.

(b) *Designation of beneficiary*. Each firefighter shall complete a form prescribed by the board designating a beneficiary or beneficiaries.

Sec. 4. - Board of trustees.

(a) The sole and exclusive administration of and responsibility for the proper operation of the system is hereby vested in a board of trustees. The board is hereby designated as the plan administrator. The membership of the board of trustees consists of five members, two of whom, unless otherwise prohibited by law, must be legal residents of the City and must be appointed by the City Commission, and two of whom must be full-time firefighters as defined in section 1, who are elected by a majority of the active firefighters who are members of the system. The fifth member shall be chosen by a majority of the previous four members as provided herein, and such person's name shall be submitted to the City Commission. Upon receipt of the fifth person's name, City Commission shall appoint such person to the board of trustees. The fifth member shall have the same rights as each of the other four members, shall serve as trustee for a period of 4 years, and may succeed himself or herself in office. Each resident member shall serve as trustee for a period of 4 years, unless sooner replaced by the City Commission at whose pleasure he or she serves, and may succeed himself or herself as a trustee. Each firefighter member shall serve as trustee for a period of 4 years, unless he or she sooner leaves the employment of the City

as a firefighter, whereupon a successor shall be chosen in the same manner as an original appointment. Each firefighter member may succeed himself or herself in office.

(b) The trustees shall, by a majority vote, elect a chairman and a secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

(c) Each trustee shall be entitled to one vote on the board. Three affirmative votes shall be necessary for any decision by the trustees at any meeting of the board. A trustee shall abstain from voting as the result of a conflict of interest and shall comply with the provisions of F.S. § 112.3143.

(d) The board shall engage such actuarial, accounting, legal and other services as shall be required to transact the business of the system. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the system shall be paid from the fund at such rates and in such amounts as the board shall agree. In the event the board chooses to use the City's legal counsel, actuary or other professional, technical or other advisors, it shall do so only under terms and conditions acceptable to the board.

(e) The duties and responsibilities of the board shall include, but not necessarily be limited to the following:

(1) To initially determine the amount of assets attributable to firefighters, and take whatever action necessary to ensure that such assets are transferred to the fund established pursuant to section 5.

(2) To construe the provisions of the system and determine all questions arising thereunder.

(3) To determine all questions relating to eligibility and membership.

(4) To determine and certify the amount of all retirement allowances or other benefits hereunder.

(5) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the system.

(6) To distribute to members, at regular intervals, information concerning the system.

(7) To receive and process all applications for benefits.

(8) To authorize all payments whatsoever from the fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the system and fund.

(9) To have performed actuarial studies and valuations, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the system.

(10) To perform such other duties as are required to prudently administer the system.

Sec. 5. - Finances and fund management.

Establishment and operation of fund.

(1) As part of the system, there is hereby established the fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the system.

(2) The actual custody and supervision of the fund (and assets thereof) shall be vested in the board. Payment of benefits and disbursements from the fund shall be made by the disbursing agent but only upon written authorization from the board.

(3) All funds of the firefighters' retirement system may be deposited by the board with the treasurer of the City, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the City. However, any funds so deposited with the treasurer of the City shall be kept in a separate fund by the treasurer and clearly identified as such funds of the firefighters' retirement system. In lieu thereof, the board shall deposit the funds of the firefighters' retirement system in a qualified public depository as defined in F.S. § 280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of F.S. ch. 280. In order to fulfill its investment responsibilities as set forth herein, the board may retain the services of a custodian bank, an investment advisor registered under the Investment Advisors Act of 1940, or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment manager shall have discretion, subject to any guidelines as prescribed by the board, in the investment of all fund assets.

(4) All funds and securities of the system may be commingled in the fund, provided that accurate records are maintained at all times reflecting the financial composition of the fund, including accurate current accounts and entries as regards the following:

- a. Current amounts of accumulated contributions of members on both an individual and aggregate account basis; and
- b. Receipts and disbursements; and
- c. Benefit payments; and

- d. Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the City; and
- e. All interest, dividends and gains (or losses) whatsoever; and
- f. Such other entries as may be properly required so as to reflect a clear and complete financial report of the fund.

(5) An audit shall be performed annually by a certified public accountant for the most recent fiscal year of the system showing a detailed listing of assets, liabilities and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.

(6) The board shall have the following investment powers and authority:

a. The board shall be vested with full legal title to said fund, subject, however, and in any event to the authority and power of the Lakeland City Commission to amend or terminate this fund, provided that no amendment or fund termination shall ever result in the use of any assets of this fund except for the payment of regular expenses and benefits under this system, except as otherwise provided herein. All contributions from time to time paid into the fund, and the income thereof, without distinction between principal and income, shall be held and administered by the board or its agent in the fund and the board shall not be required to segregate or invest separately any portion of the fund.

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 the Florida Statutes 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 25 percent of the assets of the fund at market value be invested in foreign securities, unless the Florida Statutes, are amended to remove or change or this mandatory restriction.

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, and shall be followed by the board in making its investment decisions.

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, or successor rulings or guidance of similar import, and 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.

c. At least annually, and more often as determined by the board, the board shall retain a professionally qualified independent consultant, as defined in F.S. § 175.071, to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the board at its next regularly scheduled meeting.

d. The board may retain in cash and keep unproductive of income such amount of the fund as it may deem advisable, having regard for the cash requirements of the system.

e. Neither the board, nor any trustee shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the fund, except that due to his or its own negligence, willful misconduct or lack of good faith.

f. The board may cause any investment in securities held by it to be registered in or transferred into its name as trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the fund.

g. The board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an

owner with respect to stocks, bonds, or other investments comprising the fund which it may deem to be to the best interest of the fund to exercise.

h. The board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.

i. Where any action which the board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as trustee under this division, can reasonably be taken or performed only after receipt by it from a member, the City or any other entity, of specific information, certification, direction or instructions, the board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.

j. Any overpayments or underpayments from the fund to a member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board in such a manner that the actuarial equivalent of the benefit to which the member, retiree or beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayments shall be made up from the fund in a prudent manner.

k. The board shall sustain no liability whatsoever for the sufficiency of the fund to meet the payments and benefits provided for herein.

l. In any application to or proceeding or action in the courts, only the board shall be a necessary party, and no member or other person having an interest in the fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.

m. Any of the foregoing powers and functions reposed in the board may be performed or carried out by the board through duly authorized agents, provided that the board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said fund shall always remain in the board.

Sec. 6. - Contributions.

(a) *Member contributions.* Each member of the system shall contribute twelve (12) percent of compensation to the fund. Member contributions withheld by the City on behalf of the member shall be deposited with the fund immediately after each pay period. The contributions made by each member to the fund shall be designated as employer contributions pursuant to 414(h) of the Internal Revenue Code of 1986. Such designation is contingent upon the contributions being

excluded from the members' gross income for federal income tax purposes. For all other purposes of the System, such contributions shall be considered to be member contributions.

(b) *State contributions.* Any monies received or receivable by reason of laws of the State of Florida, for the express purpose of funding and paying for retirement benefits for firefighters of the City shall be deposited in the fund comprising part of this system immediately and under no circumstances more than five days after receipt by the City. All Chapter 175 premium tax revenues held by the state on the effective date shall, upon receipt, be deposited in the fund. Chapter 175 premium tax revenues received each year up to the adjusted base amount shall be used to meet the Chapter 175 minimum benefits, and then to reduce the cost of the Plan. Chapter 175 premium tax revenues received each year in excess of the adjusted based amount shall be held in reserve and used to provide extra benefits implemented by City ordinance, subject to collective bargaining.

(c) *City contributions.* The City will be required to make contributions to the Plan each year, as determined by two separate valuation reports prepared by the system's actuary. The primary contribution requirement will be calculated for the benefits provided for in the new Plan. Additionally, there will be a separate contribution requirement determined in order to amortize the additional liability associated with the optional benefit election outlined in Section 7(c). The City's baseline contribution requirement will be the amount determined by the system's actuary for fiscal 2013. The minimum City contribution requirement for fiscal 2013 will be 20.35% of the payroll of active members not participating in the DROP in addition to any requirement resulting from the additional liability associated with the optional benefit election outlined in Section 7(c). Thereafter, to the extent the City's primary annual required contribution (exclusive of the additional requirement associated with the optional benefit election outlined in Section 7(c)) needs to be modified in order to offset the impact of actuarial gains or losses, plan asset valuations, or other consideration as a percent of payroll, the incremental increase or decrease in the required contribution shall be calculated by the system's actuary for the employer and employee, based on the same cost sharing ratio adopted for the City of Lakeland Employee Pension Plan. However, in no case will that ratio of the incremental change in the employer's incremental contribution be less than 140% of the incremental change in the employee's contribution (i.e. 1.4 to 1). These changes in contribution rates will be made through Ordinance amendments to this System.

(d) *Other.* Private donations, gifts and contributions from other than a governmental source, (unless the source specifies otherwise) may be deposited to the fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources may be used only for additional benefits for members, as determined by the board, and may not be used to reduce what would have otherwise been required City contributions.

Sec. 7. - Benefit amounts and eligibility.

(a) *Benefits payable to members who retired or terminated prior to [effective date] and their beneficiaries.* Members who retired or terminated City employment with ten or more years of credited service prior to [effective date], and the beneficiaries of such members, shall receive benefits from this system in accordance with the provisions of the City of Lakeland Employee Pension Plan and the Lakeland Firefighters' Supplemental Pension Plan in effect on the earlier of the date of retirement or separation from employment.

(b) *Benefit amounts and eligibility.*

(1) *Normal retirement date.* A member's normal retirement date shall be any day coincident with, or next following the earlier of the attainment of age 55 with 10 or more years of credited service, or attains age 52 with 25 years of credited service. A member may retire on the normal retirement date or on any day thereafter, and each member shall become 100 percent vested in his/her accrued benefit on the normal retirement date.

(2) *Normal retirement benefit.* A member who began employment as a firefighter prior to October 1, 2003 and retires on or after the normal retirement date shall receive a monthly benefit of 3.30 percent of average final compensation for each year of credited service. A member who began employment as a firefighter on or after October 1, 2003 and retires on or after the normal retirement date shall receive a monthly benefit of 3.0 percent of average final compensation for each year of credited service. The monthly benefit shall commence on the first day of the month coincident with or next following a member's retirement and be continued thereafter during the member's lifetime, ceasing upon death, but with 120 monthly payments guaranteed in any event.

(3) *Early retirement date.* A member's early retirement date shall be any day coincident with or next following the attainment of age 50 and the completion of 10 years of credited service. Early retirement under the system is retirement from employment with the City on or after the early retirement date and prior to the normal retirement date.

(4) *Early retirement benefit.* A member retiring hereunder on his early retirement date may receive either a deferred or an immediate monthly retirement benefit payable in the same form as for normal retirement as follows:

(i) A deferred monthly retirement benefit which shall commence on what would have been the normal retirement date determined based upon actual years of credited service and shall be continued on the first day of each month thereafter. A vested member who terminates service with less than 25 years of credited service shall be eligible to begin receiving benefits at age 50, with payments reduced by three

percent for each year by which the commencement of benefits precedes age 55. A vested member who terminates service with more than 25 years of credited service shall be eligible to begin receiving benefits at age 50, with payments reduced by three percent for each year by which the commencement of benefits precedes age 52. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement on the normal retirement date determined based upon actual years of credited service except that credited service and average final compensation shall be determined as of the early retirement date; or

(ii) An immediate monthly retirement benefit which shall commence on or after the early retirement date and before the normal retirement date, and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in subsection (2) above, reduced by three percent for each year by which the commencement of benefits precedes the date which would have been the member's normal retirement date determined based on actual years of credited service.

(c) *Optional benefit election.* Members who are employed, ~~and~~ age 50 or older and not participating in the DROP on [effective date] may elect to receive, in lieu of the benefits provided in subsection (b) above, a benefit calculated in accordance with the provisions of the City of Lakeland Employee Pension Plan and the City of Lakeland Firefighters' Supplemental Pension Plan in effect on [day before effective date], payable at the early or normal retirement date. The election to receive benefits under this subsection (c) must be made in writing on a form provided by the City within 90 days following [effective date]. Prior to making such election, the member shall be provided with a calculation of the actuarial present value of his accrued benefit under subsection (b) and subsection (c). Each year, as determined by a separate valuation report prepared by the system's actuary, the City will make an additional contribution to the Fund. This additional contribution requirement will be calculated by taking the additional liability associated with Members electing the benefits outlined in this subparagraph (c), and amortizing it over the average future working lifetime of the Members who make this election. A member who is participating in the DROP on [effective date] shall receive a benefit calculated in accordance with the provisions of the City of Lakeland Employee Pension Plan in effect on the date they entered the DROP and the City of Lakeland Firefighters' Supplemental Pension Plan in effect on [day before effective date].

(d) *Required distribution date.* The member's benefit under this section must begin to be distributed to the member no later than April 1 of the calendar year

following the later of the calendar year in which the member attains age 70½, or the calendar year in which the member terminates employment with the City.

Sec. 8. - Pre-retirement death.

(a) If a member dies before being eligible to retire, the heirs, legatees, beneficiaries, or personal representatives of such deceased member shall be entitled to a refund of 100 percent of the member's contributions, without interest.

(b) If a member having at least 10 years of credited service dies prior to retirement, his or her beneficiary is entitled to the benefits otherwise payable to the member at early or normal retirement age.

Sec. 9. - Disability.

(a) A member having 10 or more years of credited service or a member who becomes totally and permanently disabled in the line of duty regardless of length of service, may retire from the service of the City if the member becomes totally and permanently disabled as defined in subsection (b) by reason of any cause other than a cause set out in subsection (c) on or after the effective date of the plan. Such retirement shall herein be referred to as "disability retirement." The applicable disability presumptions in Florida Statutes Chapters 112 and 175, in effect at the time of disability, shall apply.

(b) A member will be considered totally disabled if, in the opinion of the board of trustees, he or she is wholly prevented from rendering useful and efficient service as a firefighter; and a member will be considered permanently disabled if, in the opinion of the board of trustees, he or she is likely to remain so disabled continuously and permanently from a cause other than is specified in subsection (c).

(c) A member shall not be entitled to receive any disability retirement income if the disability is a result of:

- (1) Excessive and habitual use of drugs, intoxicants, or narcotics;
- (2) Injury or disease sustained while willfully and illegally participating in fights, riots, or civil insurrections or while committing a crime;
- (3) Injury or disease sustained while serving in any armed forces; or
- (4) Injury or disease sustained after his or her employment has terminated.

(d) No member shall be permitted to retire under the provisions of this section until he or she is examined by a duly qualified physician or surgeon, to be selected by the board of trustees for that purpose, and is found to be disabled in the degree and in the manner specified in this section. Any member retiring under this section may be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons, to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.

(e) The benefit payable to a member who retires due to total and permanent disability as a direct result of a disability is the monthly income payable for 10 years certain and life for which, if the member's disability occurred in the line of duty, his or her monthly benefit shall be the accrued retirement benefit, but shall not be less than 65 percent of his or her average final compensation at the time of disability. If after 10 years of service the disability is other than in the line of duty, the monthly benefit shall be the accrued benefit, but shall not be less than 40 percent of his or her average final compensation at the time of disability.

(f) The monthly retirement income to which a member is entitled in the event of his or her disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be, if the member recovers from the disability, the payment due next preceding the date of such recovery or, if the member dies without recovering from the disability, the payment due next preceding his or her death or the 120th monthly payment, whichever is later. In lieu of the benefit payment as provided in this paragraph, a firefighter may select an optional form as provided in section 11. Any monthly retirement income payments due after the death of a disabled member shall be paid to the member's designated beneficiary (or beneficiaries) as provided in section 12.

(g) If the board of trustees finds that a member who is receiving a disability retirement income is no longer disabled, as provided herein, the board of trustees shall direct that the disability retirement income be discontinued. "Recovery from disability" as used herein means the ability of the member to render useful and efficient service as a firefighter.

(h) If the member recovers from disability and reenters the service as a firefighter, service will be deemed to have been continuous, but the period beginning with the first month for which he or she received a disability retirement income payment and ending with the date he or she reentered the service may not be considered as credited service for the purpose of this plan.

(i) *Workers' compensation.* When a retiree is receiving a disability pension and workers' compensation benefits pursuant to F.S. ch. 440, for the same disability, and the total monthly benefits received from both exceed 100 percent of the member's average monthly wage, as defined in F.S. ch. 440, the disability pension benefit shall be reduced so that the total monthly amount received by the retiree does not exceed 100 percent of such average monthly wage. The amount of any lump sum workers' compensation payment shall be converted to an equivalent monthly benefit payable for ten years certain by dividing the lump sum amount by 83.9692. Notwithstanding the foregoing, in no event shall in-line-of-duty disability pension benefits be reduced below the greater of 42 percent of average final compensation or two percent of average final compensation times years of credited service.

Sec. 10. - Vesting.

A member shall become entitled to receive a benefit under the plan, payable at the normal or early retirement date, upon completing ten years of credited service. If a member terminates employment as a firefighter, either voluntarily or by discharge, and is not eligible for any other benefits under this system, the member shall be entitled to the following:

(1) If the member has less than ten years credited service upon termination, the member shall be entitled to a refund of his accumulated contributions without interest, or the member may leave his accumulated contributions in the fund.

(2) If the member has ten or more years of credited service upon termination, the member shall be entitled to a monthly retirement benefit, determined in the same manner as for normal or early retirement and based upon the member's credited service, average final compensation and the applicable benefit accrual rate as of the date of termination, payable at the normal or early retirement date, determined based upon the member's actual years of credited service, provided he does not elect to withdraw his accumulated contributions and provided the member survives to his otherwise normal or early retirement date. If the member does not withdraw his accumulated contributions and does not survive to his otherwise normal or early retirement date, his designated beneficiary shall be entitled to a benefit as provided herein for a deceased member, vested or eligible for retirement under pre-retirement death.

Sec. 11. - Optional forms of benefits.

(a) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified herein, a member, upon written request to the board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

(1) A retirement income of a monthly amount payable to the retiree for his lifetime only.

(2) A retirement income of a modified monthly amount determined by the system actuary, payable to the retiree during the lifetime of the retiree and following the death of the retiree, 100 percent, 75 percent, 66 and 2/3 percent or 50 percent of such monthly amount payable to a joint pensioner for his lifetime. In the event the joint pensioner predeceases the member, the election shall be canceled and the normal form and amount of benefit described in section 7(b)(2) shall thereafter be paid.

Except where the retiree's joint pensioner is his spouse, the 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. (See Q&A-2 of 1.401(a)(9)-6.)

(b) The member, upon electing any option of this section, will designate the joint pensioner (subsection (a)(2) above) or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the system in the event of member's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. If a member has elected an option with a joint pensioner and member's retirement income benefits have commenced, member may thereafter change his designated beneficiary at any time, but may only change his joint pensioner twice. Subject to the restriction in the previous sentence, a member may substitute a new joint pensioner for a deceased joint pensioner. In the absence of proof of good health of the joint pensioner being replaced, the actuary will assume that the joint pensioner has deceased for purposes of calculating the new payment.

(c) The consent of a member's or retiree's joint pensioner or beneficiary to any such change shall not be required. The rights of all previously-designated beneficiaries to receive benefits under the system shall thereupon cease.

(d) Upon change of a retiree's joint pensioner in accordance with this section, the amount of the retirement income payable to the retiree shall be actuarially redetermined to take into account the age of the former joint pensioner, the new joint pensioner and the retiree and to ensure that the benefit paid is the actuarial equivalent of the present value of the retiree's then-current benefit at the time of the change. Any such retiree shall pay the actuarial recalculation expenses. Each request for a change will be made in writing on a form prepared by the board and on completion will be filed with the board. In the event that no designated beneficiary survives the retiree, such benefits as are payable in the event of the death of the retiree subsequent to his retirement shall be paid as provided in section 12.

(e) Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(1) If a member dies prior to his normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined in accordance with section 8.

(2) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the member's retirement under the system, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the member upon his retirement as if the election had not been made, unless a new election is made in accordance with the

provisions of this section or a new beneficiary is designated by the member prior to his retirement.

(3) If both the retiree and the beneficiary (or beneficiaries) designated by member or retiree die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subsection (a), the board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with section 12.

(4) If a member continues beyond his normal retirement date pursuant to the provisions of section 7, and dies prior to his actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the member in the amount or amounts computed as if the member had retired under the option on the date on which his death occurred.

(5) The member's benefit under this section must begin to be distributed to the member no later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70½ or the calendar year in which the member terminates employment with the City.

(f) A retiree may not change his retirement option as specified in section 11(a)(2) after the date of cashing or depositing his first retirement check.

(g) Notwithstanding anything herein to the contrary, the board in its discretion, may elect to make a lump sum payment to a member or a member's beneficiary in the event that the total commuted value of the monthly income payments to be paid do not exceed \$1,000.00. Any such payment made to any person pursuant to the power and discretion conferred upon the board by the preceding sentence shall operate as a complete discharge of all obligations under the system with regard to such member and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons.

Sec. 12. - Beneficiaries.

(a) Each member or retiree may, on a form provided for that purpose, signed and filed with the board, designate a beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of his death. Each designation may be revoked or changed by such member or retiree by signing and filing with the board a new designation of beneficiary form. Upon such change, the rights of all previously designated beneficiaries to receive any benefits under the system shall cease.

(b) If a deceased member or retiree failed to name a beneficiary in the manner prescribed in subsection (a), or if the beneficiary (or beneficiaries) named by a deceased member or retiree predeceases the member or retiree, the death benefit, if any, which may be payable under the system with respect to such

deceased member or retiree, shall be paid to the estate of the member or retiree and the board, in its discretion, may direct that the commuted value of the remaining monthly income benefits be paid in a lump sum.

(c) Any payment made to any person pursuant to this section shall operate as a complete discharge of all obligations under the system with regard to the deceased member and any other persons with rights under the system and shall not be subject to review by anyone but shall be final, binding and conclusive on all persons ever interested hereunder.

Sec. 13. - Claims procedures.

The board shall establish administrative claims procedures to be utilized in processing written requests ("claims"), on matters which affect the substantial rights of any person ("claimant"), including members, retirees, beneficiaries, or any person affected by a decision of the board.

Sec. 14. - Reports to Division of Retirement.

Each year and no later than March 15th or as otherwise required by law, the board shall file an annual report with the division of retirement containing the documents and information required by F.S. § 175.261.

Sec. 15. - Roster of retirees.

The secretary of the board shall keep a record of all persons enjoying a pension under the provisions of this System in which it shall be noted the time when the pension is allowed and when the same shall cease to be paid. Additionally, the secretary shall keep a record of all members in such a manner as to show the name, address, date of employment and date of termination of employment.

Sec. 16. - Maximum pension.

(a) *Basic limitation.* Notwithstanding any other provisions of this system to the contrary, the member contributions paid to, and retirement benefits paid from, the system shall be limited to such extent as may be necessary to conform to the requirements of Internal Revenue Code § 415, for a qualified retirement plan. Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in Internal Revenue Code § 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in Internal Revenue Code § 415(b)(1)(A) (195,000.00 for calendar year 2011), subject to the applicable adjustments in Internal Revenue Code § 415(b), and subject to any additional limits that may be specified in this system. For purposes of this section, "limitation year" shall be the calendar year.

(b) *Adjustments to basic limitation for form of benefit.* If the form of benefit without regard to any benefit increase feature is not a straight life annuity, then the Internal Revenue Code § 415(b) limit applicable at the annuity starting date is

reduced to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)) that takes into account the death benefits under the form of benefit.

(c) *Benefits not taken into account.* For purposes of this section, the following benefits shall not be taken into account in applying these limits:

(1) Any ancillary benefit which is not directly related to retirement income benefits;

(2) Any other benefit not required under Internal Revenue Code § 415(b)(2) and regulations thereunder, to be taken into account for purposes of the limitation of Internal Revenue Code § 415(b)(1).

(d) *COLA effect.* For purposes of applying the limits under Internal Revenue Code § 415(b) (the "limit"), the following will apply:

(1) A member's applicable limit will be applied to the member's annual benefit in the member's first calendar year of benefit payments without regard to any automatic cost of living adjustments;

(2) Thereafter, in any subsequent calendar year, a member's annual benefit, including any automatic cost-of-living increases, shall be tested under the then applicable benefit limit including any adjustment to the Internal Revenue Code § 415(b)(1)(A) dollar limit under Internal Revenue Code § 415(d), and the regulations thereunder; but

(3) In no event shall a member's benefit payable under the system in any calendar year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Internal Revenue Code § 415(d) and the regulations thereunder.

Unless otherwise specified in the system, for purposes of applying the limits under Internal Revenue Code § 415(b), a member's applicable limit will be applied taking into consideration cost-of-living increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury Regulations.

(e) *Other adjustments in limitations.*

(1) In the event the member's retirement benefits become payable before age 62, the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Internal Revenue Code § 415(b), so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a \$195,000.00 annual benefit beginning at age 62.

(2) In the event the member's benefit is based on at least 15 years of credited service as a full-time employee of the police or fire department of the City, the adjustments provided for in subsection (e)(1) above, shall not apply.

(3) The reductions provided for in subsection (e)(1) above shall not be applicable to disability benefits pursuant to section 9 or pre-retirement death benefits paid pursuant to section 8.

(4) In the event the member's retirement benefit becomes payable after age 65, for purposes of determining whether this benefit meets the limit set forth in subsection (a) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age 65. This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

(f) *Less than ten years of service.* The maximum retirement benefits payable under this section to any member who has completed less than ten years of credited service with the City shall be the amount determined under subsection (a) of this section, multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten. The reduction provided by this subsection cannot reduce the maximum benefit below ten percent. The reduction provided for in this subsection shall not be applicable to disability benefits paid pursuant to section 9, or pre-retirement death benefits paid pursuant to section 8.

(g) *Participation in other defined benefit plans.* The limit of this section with respect to any member who at any time has been a member in any other defined benefit plan as defined in Internal Revenue Code § 414(j), maintained by the City shall apply as if the total benefits payable under all City defined benefit plans in which the member has been a member were payable from one plan.

(h) *Ten thousand dollar limit.* Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this section if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the City contributes, do not exceed \$10,000.00 for the applicable plan year and for any prior plan year and the City has not at any time maintained a qualified defined contribution plan in which the member participated.

(i) *Reduction of benefits.* Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which

member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans; provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.

(j) *Service credit purchase limits.*

(1) If a member makes one or more contributions to purchase permissive service credit under the system, if allowed, then the requirements of this section will be treated as met only if:

a. The requirements of Internal Revenue Code § 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Internal Revenue Code § 415(b); or

b. The requirements of Internal Revenue Code § 415(c) are met, determined by treating all such contributions as annual additions for purposes of Internal Revenue Code § 415(c).

c. For purposes of applying subsection (j)(1)a., the system will not fail to meet the reduced limit under Internal Revenue Code § 415(b)(2)(C), solely by reason of this subsection c., and for purposes of applying subsection (j)(1)b. the system will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code, solely by reason of this subsection c.

(2) For purposes of this subsection the term "permissive service credit" means service credit:

a. Recognized by the system for purposes of calculating a member's benefit under the plan;

b. Which such member has not received under the plan; and

c. Which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Such term may, if otherwise provided by the system, include service credit for periods for which there is no performance of service, and, notwithstanding clause [subsection] (j)(2)b., may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.

(3) For purposes of applying the limits in this subsection (j), only and for no other purpose, the definition of compensation where applicable will be

compensation actually paid or made available during a calendar year, except as noted below and as permitted by Treasury Regulations Section 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by Treasury Regulations Section 1.415(c)-2, or successor regulation, is specified by the system, compensation will be defined as wages within the meaning of Internal Revenue Code § 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Internal Revenue Code §§ 6041(d), 6051(a)(3) and 6052, and will be determined without regard to any rules under Internal Revenue Code § 3401(a), that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Internal Revenue Code § 3401(a)(2).

a. However, for calendar years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Internal Revenue Code § 125(a), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b). For calendar years beginning after December 31, 2000, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of Internal Revenue Code § 132(f)(4).

b. For limitation years beginning on and after January 1, 2007, compensation for the calendar year will also include compensation paid by the later of two and one-half months after an employee's severance from employment or the end of the calendar year that includes the date of the employee's severance from employment if:

1. The payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or

2. The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.

c. Back pay, within the meaning of Treasury Regulations Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(4) Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to the system if

the amount of the contribution would exceed the limits provided in Internal Revenue Code § 415 by using the following methods:

- a. If the law requires a lump sum payment for the purchase of service credit, the board may establish a periodic payment deduction plan for the member to avoid a contribution in excess of the limits under Internal Revenue Code §§ 415(c) or 415(n).
- b. If payment pursuant to subsection (j)(4)a., will not avoid a contribution in excess of the limits imposed by Internal Revenue Code § 415(c), the board may either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution.

(k) *Additional limitation on pension benefits.* Notwithstanding anything herein to the contrary:

(1) The normal retirement benefit or pension payable to a retiree shall not exceed 100 percent of average final compensation for members hired on or after January 1, 1980. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.

(2) No member of the system shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to Social Security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

Sec. 17. - Minimum distribution of benefits.

(a) *General rules.*

(1) The plan will pay all benefits in accordance with a good faith interpretation of the requirements of Internal Revenue Code § 401(a)(9) and the regulations in effect under that section, as applicable to a governmental plan within the meaning of Internal Revenue Code § 414(d). The plan is also subject to the specific provisions contained in this section.

(2) *Precedence.* The requirements of this section will take precedence over any inconsistent provisions of the plan.

(3) *TEFRA Section 242(b)(2), "Elections".* Notwithstanding the other provisions of this section other than this subsection (a)(3), distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that related to Section 242(b)(2) of TEFRA.

(b) *Time and manner of distribution.*

(1) *Required beginning date.* The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date which shall not be later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70½ or the calendar year in which the member terminates employment with the City.

(2) *Death of member before distributions begin.* If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed no later than as follows:

a. If the member's surviving spouse is the member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by a date on or before December 31 of the calendar year in which the member would have attained age 70½, if later, as the surviving spouse elects.

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

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

d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this subsection (b)(2), other than subsection (b)(2)a., will apply as if the surviving spouse were the member.

For purposes of this subsection (b)(2), and subsection (e), distributions are considered to begin on the member's required beginning date or, if subsection (b)(2)d. applies, the date of distributions are required to begin to the surviving spouse under subsection (b)(2)a. If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (b)(2)a.) the date distributions are considered to begin is the date distributions actually commence.

(3) *Death after distributions begin.* If the member dies after the required distribution of benefits has begun, the remaining portion of the member's

interest must be distributed at least as rapidly as under the method of distribution before the member's death.

(4) *Form of distribution.* Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with this section. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and Treasury Regulations. Any part of the member's interest which is in the form of an individual account described in Section 414(k) of the Internal Revenue Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Internal Revenue Code and Treasury Regulations that apply to individual accounts.

(c) *Determination of amount to be distributed each year.*

(1) *General requirements.* If the member's interest is paid in the form of annuity distributions under the plan, payments under the annuity will satisfy the following requirements:

a. The annuity distributions will be paid in periodic payments made at intervals not longer than one year.

b. The member's entire interest must be distributed pursuant to sections 7, 8, 9 or 11 (as applicable) and in any event over a period equal to or less than the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary. The life expectancy of the member, the member's spouse, or the member's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.

(2) *Amount required to be distributed by required beginning date.* The amount that must be distributed on or before the member's required beginning date (or, if the member dies before distributions begin, the date distributions are required to begin under section 8) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., monthly. All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(3) *Additional accruals after first distribution calendar year.* Any additional benefits accruing to the member in a calendar year after the first distribution

calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(d) *General distribution rules.*

(1) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Internal Revenue Code § 401(a)(9)(G), the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q&A-2.

(2) The death and disability benefits provided by the plan are limited by the incidental benefit rule set forth in Internal Revenue Code § 401(a)(9)(G) and Treasury Regulation Section 1.401-1(b)(1)(I) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed 25 percent of the cost for all of the members' benefits received from the retirement system.

(e) *Definitions.*

(1) *Designated beneficiary.* The individual who is designated as the beneficiary under the plan and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury Regulations.

(2) *Distribution calendar year.* A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to section 8.

Sec. 18. - Miscellaneous provisions.

(a) *Interest of members in system.* All assets of the fund are held for the benefit of the members and beneficiaries of the system, and at no time prior to the satisfaction of all liabilities under the system with respect to retirees and members and their spouses or beneficiaries, shall any part of the corpus or income of the fund be used for or diverted to any purpose other than for their exclusive benefit.

(b) *Amendments; no reduction of accrued benefits.* Any amendment to the system that changes the benefits or member contributions provided herein, other than any change in member contributions required by section 6(c), shall be subject to collective bargaining. No amendment or ordinance shall be adopted by the City Commission of the City of Lakeland which shall have the effect of reducing the then accrued benefits of a member or a member's beneficiaries.

(c) *Qualification of system.* It is intended that the system will constitute a qualified public pension plan under the applicable provisions of the Code for a qualified plan under Internal Revenue Code § 401(a) and a governmental plan under Internal Revenue Code § 414(d), as now in effect or hereafter amended. Any modification or amendment of the system may be made retroactively, if necessary or appropriate, to qualify or maintain the system as a plan meeting the requirements of the applicable provisions of the Code as now in effect or hereafter amended, or any other applicable provisions of the U.S. Federal Tax Laws, as now in effect or hereafter amended or adopted, and the regulations issued thereunder.

(d) *Use of forfeitures.* Forfeitures arising from terminations of service of members shall serve only to reduce future City contributions.

(e) *Prohibited transactions.* The board may not engage in a transaction prohibited by Internal Revenue Code § 503(b).

(f) *USERRA.* Notwithstanding any other provision of this system, contributions, benefits and service credit with respect to qualified military service are governed by Internal Revenue Code § 414(u); and the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended. To the extent that the definition of "credited service" sets forth contribution requirements that are more favorable to the member than the minimum compliance requirements, the more favorable provisions shall apply.

(g) *Vesting.*

(1) A member will be 100 percent vested in all benefits upon attainment of the plan's age and service requirements for the plan's normal retirement benefit; and

(2) A member will be 100 percent vested in all accrued benefits, to the extent funded, if the plan is terminated or experiences a complete discontinuance of employer contributions.

(h) *Electronic forms.* In those circumstances where a written election or consent is not required by the plan or the Internal Revenue Code, an oral, electronic or telephonic form in lieu of or in addition to a written form may be prescribed by the board. However, where applicable, the board shall comply with Treasury Regulation § 1.401(a)-21.

Sec. 19. - Repeal or termination of system.

(a) This system and fund, and subsequent ordinances pertaining to said system and fund, may be modified, terminated or amended, in whole or in part; provided that if this or any subsequent ordinance shall be amended or repealed in its application to any person benefitting hereunder, the amount of benefits which at the time of any such alteration, amendment or repeal shall have accrued to the member or beneficiary shall not be affected thereby.

(b) Upon termination of the system, the fund shall be distributed in accordance with the requirements of Chapter 175, Florida Statutes, subject to collective bargaining.

Sec. 20. - Domestic relations orders; retiree directed payments; exemption from execution, nonassignability.

(a) *Income deduction orders.*

(1) Prior to the entry of any income deduction order which affects or purports to affect the system's responsibility in connection with the payment of benefits of a retiree, the member or retiree shall submit the proposed order to the board for review to determine whether the system may legally honor the order.

(2) If an income deduction order is not submitted to the board for review prior to entry of the order, and the system is ordered to take action that it may not legally take, and the system expends administrative or legal fees in resolving the matter, the member or retiree who submits such an order will be required to reimburse the system for its expenses in connection with the order.

(b) *Retiree directed payments.* The board may, upon written request by a retiree or by a dependent, when authorized by a retiree or the retiree's beneficiary, authorize the system to withhold from the monthly retirement payment those funds that are necessary to pay for the benefits being received through the City, to pay the certified bargaining agent of the City, to make payment to insurance companies for insurance premiums as permitted by F.S. ch. 175 and to make any payments for child support or alimony.

(c) *Exemption from execution, nonassignability.* Except as otherwise provided by law, the pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of this division and the accumulated contributions and the cash securities in the fund created under this division are hereby exempted from any state, county or municipal tax and shall not be subject to execution, attachment, garnishment or any legal process whatsoever and shall be unassignable.

Sec. 21. - Pension validity.

The board shall have the power to examine into the facts upon which any pension shall heretofore have been granted under any prior or existing law, or shall hereafter be granted or obtained erroneously, fraudulently or illegally for any reason. The board is empowered to purge the pension rolls or correct the pension amount of any person heretofore granted a pension under prior or existing law or any person hereafter granted a pension under this division if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any person who has heretofore under any prior or existing law been or who shall hereafter under this division be erroneously, improperly or illegally

classified. Any overpayments or underpayments shall be corrected and paid or repaid in a reasonable manner as determined by the board. changes or corrections required may include ordinance changes – don't know what this means

Sec. 22. - Forfeiture of pension.

(a) Any member who is convicted of a specified offense as defined in F.S. § 112.3173, as that statute may be amended in the future, or whose employment is terminated by reason of his admitted commission, aid or abetment of a specified offense as provided in that statute, shall forfeit all rights and benefits under this system, except for the return of his accumulated contributions as of the date of termination.

(b) Prior to forfeiture, the board shall hold a hearing on which notice shall be given to the member whose benefits are being considered for forfeiture. Said member shall be afforded the right to have an attorney present. No formal rules of evidence shall apply, but the member shall be afforded a full opportunity to present his case against forfeiture.

(d) Any member who has received benefits from the system in excess of his accumulated contributions after such member's rights were forfeited shall be required to pay back to the fund the amount of the benefits received in excess of his accumulated contributions. The board may implement all legal action necessary to recover such funds.

Sec. 23. - Conviction and forfeiture; false, misleading or fraudulent statements.

(a) It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit from the system.

(b) A person who violates subsection (a) commits a misdemeanor of the first degree, punishable as provided in F.S. §§ 775.082 or 775.083.

(c) In addition to any applicable criminal penalty, upon conviction for a violation described in subsection (a), a member or beneficiary of the system may, in the discretion of the board, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under the system. For purposes of this subsection, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

Sec. 24. - Direct transfers of eligible rollover distributions.

(a) *Rollover distributions.*

(1) *General.* Notwithstanding any provision of the system to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(2) *Definitions.*

a. *Eligible rollover distribution:* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code and the portion of any distribution that is not includible in gross income. Any portion of any distribution which would be includible in gross income as after-tax employee contributions will be an eligible rollover distribution if the distribution is made to an individual retirement account described in Internal Revenue Code § 408(a); to an individual retirement annuity described in Internal Revenue Code § 408(b); to a qualified defined contribution plan described in Internal Revenue Code §§ 401(a) or 403(a), that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible; or to a qualified defined benefit plan described in Internal Revenue Code § 401(a) or to an annuity contract described in Internal Revenue Code § 403(b), that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible.

b. *Eligible retirement plan:* An eligible retirement plan is an individual retirement account described in Section 408(a) of the Internal Revenue Code; an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; an annuity plan described in Section 403(a) of the Internal Revenue Code; an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code which is maintained by an eligible employer described in Section 457(e)(1)(A) of the Internal Revenue Code and which agrees to separately account for amounts transferred into such plan from this plan; an annuity contract described in Section 403(b) of the Internal Revenue Code; a qualified trust described in Section 401(a) of the Internal Revenue Code; or a

Roth IRA described in Section 408A of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. This definition shall also apply in the case of an eligible rollover distribution to the surviving spouse.

c. *Distributee*: A distributee includes an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse. It further includes a nonspouse beneficiary who is a designated beneficiary as defined by Internal Revenue Code § 401(a)(9)(E). However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

d. *Direct rollover*: A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(b) *Rollovers or transfers into the fund*. The system will accept, solely for the purpose of purchasing credited service as provided herein, permissible member requested transfers of funds from other retirement or pension plans, member rollover cash contributions and/or direct cash rollovers of distributions as follows:

(1) *Transfers and direct rollovers or member rollover contributions from other plans*. The system will accept either a direct rollover of an eligible rollover distribution or a member contribution of an eligible rollover distribution from a qualified plan described in Sections 401(a) or 403(a) of the Internal Revenue Code, from an annuity contract described in Section 403(b) of the Internal Revenue Code or from an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. The system will also accept legally permissible member requested transfers of funds from other retirement or pension plans.

(2) *Member rollover contributions from IRAs*. The system will accept a member rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Sections 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over.

(c) *Elimination of mandatory distributions*. Notwithstanding any other provision herein to the contrary, in the event this plan provides for a mandatory (involuntary) cash distribution from the plan not otherwise required by law, for an amount in excess of \$1,000.00, such distribution shall be made from the plan only upon written request of the member and completion by the member of a written election on forms designated by the board, to either receive a cash lump sum or to rollover the lump sum amount.

Sec. 26. – Deferred retirement option plan; BACK DROP; partial lump sum option.

An eligible member may elect one of the following options:

(a) *DROP*. A deferred retirement option program ("DROP") shall be established for members effective [effective date], in accordance with this subsection (a).

(1) Eligibility and participation:

- a. A firefighter who attains age fifty (50) with 25 or more years of credited service or age fifty-three (53) with 15 or more years of credited service shall be eligible to participate in the DROP.
- b. An employee's election to participate in the DROP shall be irrevocable.
- c. An eligible member may participate in the DROP for a maximum of sixty (60) months. An eligible member who wishes to participate in the DROP must provide at least thirty (30) days' advance written notice to the City of his or her election to participate in the DROP. A member who elects to participate in the DROP may elect to terminate DROP participation and City employment sooner than the maximum DROP period, with thirty (30) days' advance written notice to the City.

(2) DROP plan features:

- a. An eligible member who elects to participate in the DROP will be considered to have retired for purposes of the system. The member's monthly retirement benefit, determined in accordance with the system based on years of creditable service and average final compensation at the time the member enters the DROP, will be paid into the member's DROP account every month during the DROP period. No member contributions shall be required after a member enters the DROP, and the member will not accrue any additional credited service or any additional benefits under the system after entering the DROP.
- b. A member who enters the DROP prior to their normal retirement date shall have his/her monthly retirement benefit reduced for early retirement in accordance with section 7(b)(4), calculated as if the member terminated service on the date of DROP entry.
- c. A member who elects to participate in the DROP shall not be eligible for disability or preretirement death benefits under the system.

d. As a condition of participating in the DROP, the member must agree to terminate City employment at the conclusion of the maximum DROP period, and to submit an irrevocable letter of resignation stating this prior to entering the DROP. Employees who elect to participate in the DROP must also submit an irrevocable written DROP election on forms provided by the City prior to entering the DROP.

e. Participation in the DROP is not a guarantee of employment, and DROP participants will be subject to the same employment standards and policies that are applicable to employees who are not DROP participants. A DROP participant shall retain his/her seniority with the city.

f. During a member's participation in the DROP, the member's monthly retirement benefit will be paid into the DROP account. The member's DROP account will earn interest in accordance with this paragraph f. Prior to commencing participation in DROP, a member shall make a one-time irrevocable selection of one of the following two options:

1. The member DROP account will accrue interest at a fixed annual rate of 3% to be calculated quarterly.
2. The member DROP account will accrue interest at a variable rate of 1% less than the actual rate of return on system investments for the same period, with a maximum of 8% and a minimum of 0%, to be calculated quarterly. Members who choose the variable rate will have their interest credited annually. At termination from employment, the member is eligible for the balance as of the prior September 30; interest, if any, will be credited as of the following September 30 and the member will receive a check for that payment.

(3) Within thirty (30) days following a DROP participant's termination of City employment or death, the member, or in the event of the member's death the member's designated beneficiary, may submit a written election on a form approved by the board, to receive the member's entire DROP account balance, which shall be distributed to the member (or in the event of the member's death to the member's designated beneficiary or estate in accordance with paragraph (4) below) in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. In the event a member or designated beneficiary does not submit a written election to receive a distribution of the member's DROP

account balance within thirty (30) days following the member's termination of City employment or death, the DROP account shall be maintained but shall not earn interest. Members who choose the variable rate will have their interest credited annually. At termination from employment, the member is eligible for the balance as of the prior September 30; interest, if any, will be credited as of the following September 30 and the member will receive a check for that payment.

(4) If a DROP participant dies before his or her DROP account is distributed, the participant's designated beneficiary shall have the same rights as the participant with respect to the distribution of the DROP account. If the member has not designated a beneficiary, the DROP account balance shall be paid to the member's estate.

(5) The pension board shall adopt any necessary rules for administering the DROP.

(b) *BACK-DROP.* A member, upon attaining age fifty-five (55) with 10 or more years of credited service, may elect a "BACK-DROP" option. A member who elects the BACK-DROP must immediately retire and terminate city employment, and is not eligible to participate in the DROP or PLOP. Under the BACK-DROP option, a member receives a lump sum amount equal to up to sixty (60) months of retirement benefits plus interest at the rate of 3% per annum, upon entry into the DROP, deposited into the DROP account. The member's monthly pension benefit is then actuarially reduced to reflect the actuarial cost to the system of the lump sum amount. The monthly pension benefit of a member electing the BACK-DROP option shall be calculated based on the benefit levels in place on the date the member first became eligible for DROP. An eligible member who wishes to participate in the BACK-DROP must provide at least thirty (30) days advance written notice to the City of his or her election to participate.

(c) *Partial lump sum option.* A member with twenty-five (25) or more years of credited service who is eligible for normal or early retirement may, at the time of retirement or entry into DROP, elect to receive or have deposited into the member's DROP account, up to a maximum of twenty percent (20%) in five percent increments, of the total actuarial equivalent value of the member's accrued benefit paid as a lump sum, with the remaining percentage paid in a monthly amount in accordance with the option selected by the member. The benefit amount of a member who has attained age 50 but is not eligible for normal retirement upon electing a partial lump sum option shall be reduced in accordance with Sec. 7(b)(4). The benefit amount of a member who elects a partial lump sum option prior to age 50 shall be actuarially reduced to reflect the actuarial cost to the system of the partial lump sum option.

SECTION 2. The Lakeland Firefighters' Supplemental Pension Plan created by Ordinance No. 3310, as subsequently amended, is hereby abolished and repealed in its entirety.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. If any word, sentence, clause, phrase, or provision of this ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this ordinance shall not be affected thereby.

SECTION 5. Unless otherwise provided by the terms of this Ordinance, this Ordinance shall become effective when the following have occurred:

(a) The City Commission has received a report establishing the actuarial soundness of these amendments;

(b) When a collective bargaining agreement ratifying the foregoing changes to pension benefits has been ratified by the City Commission and the International Association of Firefighters Local 4173 or their successor organization; provided however that ratification shall occur no later than December 19, 2012. and

(c) A copy of this Ordinance is transmitted to and approved by the State of Florida Division of Retirement.

PASSED AND CERTIFIED AS TO PASSAGE this 19th day of November, A.D. 2012.

GOW B. FIELDS, MAYOR

ATTEST: _____
KELLY S. KOOS, CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS: _____
TIMOTHY J. McCAUSLAND
CITY ATTORNEY