

As of 3/1/2006
With Ordinance 4567, 7 Sep 2004
As of 4/3/2005
With Ordinance 4632, 21 Mar 2005
As of 2/20/2006
With Ordinance 4741, 20 Feb 2006
As of 5/15/2006
With Ordinance 4760, 15 May 2006

Division II

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ARTICLE II.

CITY OF LAKELAND EMPLOYEES' PENSION AND RETIREMENT SYSTEM*

* **Editors Note:** Ord. No. 3713, adopted April 15, 1996, amended Articles II and III of Division II of the Charter to read as herein set out in Art. II. See the Charter Comparative Table.

Sec. 20. Statement of policy

(a) An amended and restated pension plan is hereby adopted, and the establishing of a pension fund, together with said plan, is authorized, to be administered to provide benefits in accordance with the provisions of this article. The board of trustees, as herein defined and created, is authorized, directed and granted full authority to take any action necessary to accomplish the purposes of this article.

(b) The purposes of this article is to provide benefits to City of Lakeland Employees, as defined herein, and

their beneficiaries upon the occurrence of retirement, death or disability, or upon the termination of employment as provided herein. At no time prior to the satisfaction of all liabilities under the plan with respect to members and their spouses or beneficiaries shall any part of the corpus or income of the pension fund be used for or diverted to any purpose other than for their exclusive benefit.

(c) The plan hereby created by the City of Lakeland, shall be known as the "City of Lakeland Employee Pension Plan", hereinafter referred to as the "plan." All the affairs and business of such plan shall be transacted in such name.

(d) This plan shall be operated for the exclusive benefit of the members and their beneficiaries. This Plan is intended to be a government plan as defined in Code Section 414(d) and shall be administered accordingly. (Ord. No. 3713, § 2, 4-15-96; Ord. No. 3775, § 1, 1-6-97; Ord. No. 3879, § 1, 12-1-97; Ord. No. 4467, § 2, 9-2-03)

Sec. 21. Definitions.

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

Accrued retirement benefit is the monthly pension benefit to be provided a retiree accruing on the first day following his retirement date. This is payable during the retiree's lifetime, and thereafter to the beneficiary if the retiree has elected a joint survivor option in accordance with section 23.4.4 of this article.

Actuarial equivalent means a benefit or amount of equal value, based upon the mortality table and interest rate used in the most recent state accepted actuarial valuation as required by federal law.

Actuary means the person, firm or corporation, one of whose officers shall be an enrolled actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries., appointed by the board to render actuarial services for the plan.

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 or its representative. 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 plan herein provided and serve as trustees of the fund.

City means the City of Lakeland, Florida.

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

Compensation. In addition to other applicable limitations set forth in the plan, and notwithstanding any other provisions of the plan to the contrary, for plan years beginning on or between January 1, 1996 and December 31, 2001, the annual compensation of each employee taken into account under the plan shall not exceed the OBRA 1993 annual compensation limit. The OBRA 1993 annual compensation limit is one hundred fifty thousand dollars (\$150,000.00). For plan years beginning after December 31, 2001, the annual compensation of each employee taken into account shall not exceed the limits set under Code Section 401(a)(17). These limits shall be adjusted by the commissioner for increases in the cost-of-living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the OBRA 1993 annual compensation limit shall be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

(a) If compensation for any prior determination period is taken into account in determining an employee's benefit accruing in the current plan year, the compensation for that prior determination period is subject to the Section 401(a)(17) annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning after December 31, 2001, annual compensation limit is one hundred fifty thousand dollars (\$150,000.00), as increased for cost-of-living.

- (b) The limitation on earnings for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a member before the first plan year beginning after December 31, 1995.

Credited service means the total number of years and fractional parts of years of continuous employment for which contributions are made to the fund by the city and the employee. Subject to the provisions of Sec. 32, an employee who terminates service and receives a refund of contributions shall not receive prior service credit upon reemployment.

Effective date means October 1, 1997, except as otherwise specified, either through a direct date provided in a provision or by a separate notation indicating the date an ordinance was effective. The plan administrator is charged with determining a provision's effective date.

Employee means someone employed by the city on a full-time, regular basis; enrolled in and contributing to the pension fund; and for whom the city contributes to the fund.

Firefighter means any person employed solely by a constituted fire department of any municipality or special fire control district who is certified as a firefighter as a condition of employment in accordance with the provisions of s. 633.35 F.S. and whose duty it is to extinguish fires, to protect life, or to protect property.

Fund means either the City of Lakeland Employee Pension Fund established to manage the assets of the plan or the pension system itself.

Joint pensioner means a person designated by a plan member to be the recipient of benefits when the member elects an alternate benefit form.

Limitation year is the twelve (12) consecutive month period coinciding with the plan year.

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

Member means a participant of the City of Lakeland Employee Pension Plan. *Plan* means the pension system created herein.

Plan year is the one year period commencing on October 1st. For example, plan year 1996 begins on October 1, 1995 and ends on September 30, 1996.

Police officer means any person who is elected, appointed, or employed full time by any municipality, who is certified or required to be certified as a law enforcement officer in compliance with s. 943.1395 F.S., who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition 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 law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in s. 943.10(6) and (8), respectively.

Retiree means a member who has terminated employment and is receiving a monthly benefit from the plan.

Salary means all regular pay, including salary, wages, bonuses and overtime plus any special educational allowances and proficiency payments. For the purposes of determining the limits under Section 415 of the Code, for Plan Years beginning after December 31, 2000, this definition of "salary" shall include employee deferrals, such as those under Section 132(f) of the Code, as required under Section 415(c)(3)(D) of the Code.

Spouse means the lawful wife or husband of a member.

Terminated vested member means a member who terminates employment with no less than ten (10) years of credited service who has not yet attained the age of fifty (50) years or one who terminates employment with no less than ten years of credited service who has attained the age of fifty (50) years but elects to postpone receipt of pension benefits.

(Ord. No. 3713, § 2, 4-15-96; Ord. No. 3775, § 1, 1-6-97; Ord. No. 3855, § 1, 10-20-97; Ord. No. 3879, § 1, 12-1-97; Ord. No. 4078, § 1, 9-20-98; Ord. No. 4467, § 2, 9-2-03)

Sec. 22.1. Board of trustees, members, terms of office.

(a) The City of Lakeland Employee Pension system shall be administered by a pension board consisting of seven (7) trustees. The present members of the civil service board and their successors in office shall serve also on the pension board. Before entering upon his duties as a member of the board, each member shall take and subscribe to the oath of office required by the city charter, which oath shall be administered and filed by the city clerk.

(b) Immediately after the first of January each year, the board shall, by majority vote, elect from the trustees a chairman. The chairman shall serve for the calendar year. In the event the office shall become vacant, a new officer shall immediately be elected by the board from among the board members. The civil service director shall serve as secretary of the board shall keep a complete minute book of the actions, proceedings or hearings of the board. The civil service director shall also be the custodian of all records and files of said board.

(c) The trustees shall not receive any compensation as such but may receive reimbursement for reasonable expenses incurred in connection with their duties as a trustee, provided such reimbursement is approved by the board.

(d) Any action by the board shall require the vote of at least four (4) trustees present and eligible to vote. Four (4) trustees present and eligible to vote shall constitute a quorum. Any action by the board shall require the vote of at least four (4) trustees.

(e) Those board members serving on the effective date of this article are hereby continued in office for the remainder of their terms.

(f) The board shall meet as often as is necessary, upon the call of the chairman or any member thereof, or upon the request of the director of civil service.

(g) The board shall promulgate rules of procedure as may be required for the conduct of its business.
(Ord. No. 3713, § 2, 4-15-96)

Sec. 22.2. Powers of the pension board.

(a) The board shall have full power to administer the plan in all of its details and shall not be liable for any acts of omission or commission, individually or as members or employees, except for willful and intentional malfeasance or misfeasance.

(b) The board shall have the power and authority to invest any and all funds received under this act, or any other act heretofore created, in interest-bearing bonds and certificates of indebtedness of the United States and of any state, county, municipality, in business trusts which invest solely in securities which are direct obligations of the United States Government and repurchase agreements pertaining to such securities, or in any other securities in which public funds may be invested under authority of law.

(c) The board shall invest no more than two (2) percent of its funds in bonds, notes or other instruments of indebtedness issued by the city.

(d) The board may invest not more than seventy (70) percent of its funds in equities or common or preferred stocks. Investments in foreign securities may not exceed ten (10) percent of total fund assets. All remaining investments in equities or stocks must be in corporations organized under the laws of the United States provided such corporations are listed on a major stock exchange or National Association of Securities Dealers Exchange (NASDAQ). This limitation shall be based on the market value of fund assets.

(e) The board shall have the power and authority to retain the services of an investment manager whose responsibility it will be to advise the board on matters relating to the investment of pension funds and to carry out the investment strategy of the board pursuant to the provisions of this part and written investment policies adopted by the board.

(f) The board may authorize the investment manager to invest pension funds made available by the board

for that purpose in investments authorized by this subsection and pursuant to the investment policy of the board.

(g) The treasurer of the city, or such other person or institution as may be designated by the board, shall be the custodian of such securities. Interest accretion therefrom shall become a part of the fund. All funds and securities of the fund shall be deposited with the custodian who shall keep a separate accounting of such funds and shall be liable for the safekeeping of the securities.

(h) Nothing herein shall empower a board to amend the provisions of the plan without the approval of the city commission.

(i) The board shall keep in convenient form such data as shall be necessary for an actuarial evaluation of the fund and for checking the actual experience of the fund.

(j) An actuarial valuation of the plan must be made at least once every year by the board's actuary. Such report must be submitted to the city and the state, in accordance with Chapter 112, Part VII, Florida Statutes.

(k) The benefits accrued to any person under the provisions of this Act and the accumulated contributions, securities or other investments in the fund hereby created are exempt from any state, county or municipal tax and shall not be subject to assignment, execution, attachment, garnishment or to any legal process whatsoever. (Ord. No. 3713, § 2, 4-15-96; Ord. No. 3855, § 1, 10-20-97; Ord. No. 3957, § 1, 9-21-98)

Sec. 23.1. Employee pension fund.

(a) All funds contributed by the city and the employees participating in this plan, shall be placed in one fund known as the City of Lakeland Employee Pension Fund. The fund shall be funded by deposition as follows:

(1) Every regular officer and employee, except temporary employees, shall contribute eight (8) percent of earnings subject to retirement to the fund by payroll deduction while so employed, except as may be expressly prohibited by law. Member contributions withheld by the city on behalf of the member shall be deposited with the fund at least monthly. As of April 3, 2005, all active police officer members shall contribute nine (9) percent of earnings subject to retirement to the fund by payroll deduction while so employed. Members shall have rights to said money so contributed into the fund only as provided in this Act. 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 plan, such contributions shall be considered to be member contributions.

(2) The city shall contribute monthly to the fund amounts not less than one hundred eighty (180) percent of the contributions made by the members, and such additional amounts as may be required from time to time, to maintain actuarial soundness based upon study by a qualified actuary and approved by the board and the city commission.

(3) Gifts, bequests, and devises donated for the fund.

(4) Accretions to the fund by way of interest earned, investment return, or other such sources.

(5) Any other source of income now or hereafter authorized by law.

(6) Any assets of the plan held pursuant to any prior plan documents.

(b) Payment of benefits and disbursements from the fund shall be made in the same manner as provided for the disbursement of other funds of the city.

(c) For assets of the fund deposited with the city treasurer, the treasurer shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the city, even though the treasurer is acting in a ministerial capacity only. However, any funds and securities so deposited shall be kept in a separate fund by the treasurer or clearly identified as such funds and securities of the fund. In lieu thereof, the board shall deposit the funds and securities of the plan in a qualified public depository as defined in Section 280.02, Florida Statutes, which depository, with regard to such funds and securities, shall conform to and be bound by all of the provisions of Chapter 280, Florida

Statutes. In order to fulfill its investment responsibilities as set forth herein, the board may retain the services of a custodian bank, investment advisors registered under Investment Advisors Act of 1940 or otherwise exempt from such required registration, insurance companies, credit unions 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.

(d) All funds and securities 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:

- (1) Current amounts of accumulated contributions,
- (2) Receipts and disbursements,
- (3) Benefit payments,
- (4) Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the city, and
- (5) All interest, dividends and gains (or losses) whatsoever, and
- (6) Such other entries as may be properly required so as to reflect a clear and complete financial report of the fund.

(e) An independent audit shall be performed annually by a certified public accountant for the most recent fiscal year of the city showing a detailed listing of assets 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.

(f) The board shall be vested with full legal title to said fund, and no amendment shall ever result in the use of any assets of this fund except for the payment of regular expenses and benefits under this plan.

(g) No trustee or the board shall be liable for any claim arising out of 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 gross negligence, willful misconduct or lack of good faith.

(h) 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.

(i) 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, recapitalization, 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.

(j) 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.

(k) 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 act, 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.

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

(m) 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.

(n) 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 time maintains continuous supervision over the acts of any such agent; provided further, that legal title to said fund shall always remain in the board.

(o) The city is hereby authorized to provide such funds, by tax levy or otherwise and to appropriate and pay such funds monthly to the board for deposit in the fund. 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.

(p) In the event the fund, together with contributions thereto at the current rate, shall be determined to be insufficient to make full payments as provided herein, immediate action shall be taken to provide for the deficit; provided, that such determination shall be in accordance with the standards, methods, factors and assumptions recommended by a qualified actuary and approved by the board and the city commission.

(q) Each plan member or other person who shall claim the right to any payment under the plan shall be entitled to look only to the fund for payment. No liability for the payment of annuities under the plan shall be imposed upon the board or the city.

(Ord. No. 3713, § 2, 4-15-96; Ord. No. 3775, § 1, 1-6-97; Ord. No. 3855, § 1, 10-20-97; Ord. No. 4467, § 2, 9-2-03)

Sec. 23.2. Keeping of records; available to members.

The board shall keep and maintain a full and complete permanent record of all accounts, receipts, disbursements, deposits, and all other official actions of the board. These records are a public record as defined in Chapter 119, Florida Statutes, and shall be available to all members in the plan and the public.

(Ord. No. 3713, § 2, 4-15-96)

Sec. 23.3. Membership.

(a) Participation in the plan shall be a condition of employment as a regular, full-time member of the classified service. However, nothing herein shall be construed to guarantee or provide a right to continued employment within the city.

(b) Membership shall cease upon the earliest of the following:

(1) Death,

(2) Termination of employment with the city prior to completion of ten (10) years of participation in the plan. Such employees shall not have any vested rights in the plan, and shall not be entitled to any benefits pursuant to this part.

(3) The date a member receives a refund of his pension contributions in lieu of all other benefits under the plan.

(c) Membership shall be considered inactive should employment terminate after completion of ten (10) years of plan participation but before benefits are paid. Such former employees shall be known as "terminated vested members."

(Ord. No. 3713, § 2, 4-15-96)

Sec. 23.4. Pension benefits and eligibility.

23.4.1. Retirement eligibility.

(a) Plan members as of September 30, 2003 who have ten (10) or more consecutive years credited service in the Plan, and who have attained age fifty (50) or have thirty (30) years of credited service in the Plan (twenty-five (25) years credited service in the Plan as sworn Police Officers or certified Firefighters agreed to by contract), shall be entitled to retire and to receive pension benefits hereunder, subject to the conditions of this section. Except as otherwise indicated, Normal Retirement Age under this plan shall be the attainment of age sixty (60) with contributions to the Plan for ten (10) or more consecutive years. For members who enter the Plan on or after October 1, 2003, who have ten (10) or more consecutive years of credited service in the Plan, and who have attained age fifty-two (52) or have thirty (30) years of credited service in the Plan (twenty-five (25) years credited service in the Plan as sworn Police Officers or certified Firefighters agreed to by contract), shall be entitled to retire and to receive pension benefits hereunder, subject to the conditions of this section. For members who enter the Plan on or after October 1, 2003, Normal Retirement Age shall be the attainment of age sixty-two (62) with contributions to the Plan for ten (10) or more consecutive years. For Police Officer members, normal retirement age shall be the attainment of age 55 with ten (10) or more years of service or age 52 with 25 or more years of service.

(b) For Plan members as of September 30, 2003, each member shall be credited for each year, or fraction thereof, of contribution to the plan at the annual rate of three (3) percent per year for the first twenty-five (25) years of credited service and one (1) percent per year for each additional year or fraction thereof contributed to the plan over twenty-five (25) years. For members who enter the Plan on or after October 1, 2003, each member shall be credited for each year, or fraction thereof, of contribution to the Plan at the annual rate of two (2) percent per year for the first ten (10) years of credited service, three (3) percent per year for the next (20) years of credited service and one (1) percent per year for each additional year or fraction thereof of credited service in the Plan over thirty (30) years. For purposes of computing pension benefits, all accrued sick leave at date of retirement shall be credited as additional time of continuous employment at an equivalency ratio of one month service for every twenty-one (21) days of accrued sick leave.

(c) For Plan members as of September 30, 2003, the amount of monthly pension benefit shall be equal to the product of (1), (2) and (3), where:

- (1) Is three (3) percent multiplied by one-twelfth (1/12) of the number of completed months of continuous employment for which contributions are made up to a total of three hundred (300) months, plus one (1) percent multiplied by one-twelfth (1/12) of the number of completed months of continuous employment for which contributions are made in excess of three hundred (300) months;
- (2) Is the average monthly salary determined by dividing by thirty-six (36) the total salary received in any consecutive thirty-six (36) month period prior to retirement so selected by the employee. The consecutive period so selected by the employee must be a period during which the employee has continuously contributed to the plan. Any employee with interrupted service, who has repaid into the fund the amount previously refunded to him in accordance with section 26-2 of this article, shall be treated as having continuously contributed to the plan; and
- (3) Is the benefit factor determined from Benefit Factor Table I in section 23.4.2, based on the age of the employee in years and months on the day retirement benefits commence. If the employee's age is sixty (60) or greater, the benefit factor shall be one (1).
- (4) For any police officer who reaches normal retirement age, the combined total monthly annuity benefit from all defined benefit plans sponsored by the City shall not be less than the officer's years of credited service multiplied by two (2) percent multiplied by one-twelfth (1/12) of the average annual compensation of the 5 best years of the last ten (10) years of creditable service prior to retirement.
- (5) For a police officer who completes ten (10) years of creditable service as a police officer and attains age 50 but less than age 55, the combined total monthly annuity benefit from all defined benefit plans sponsored by the City shall not be less than the officer's years of credited service multiplied by two (2) percent multiplied by one-twelfth (1/12) of the average annual compensation of the 5 best years of the last ten (10) years of creditable service prior to retirement reduced by three (3) percent for each year the officer is less than age 55.

(d) For members who enter the Plan on or after October 1, 2003, the amount of monthly pension benefit shall be equal to the product of (1), (2) and (3), where:

- (1) Is two (2) percent multiplied by one-twelfth (1/12) of the number of completed months of credited service

up to a total of one hundred twenty (120) months, plus three (3) percent multiplied by one-twelfth (1/12) of the number of completed months of credited service in excess of one hundred twenty (120) months up to a total of three hundred sixty (360) months, plus one (1) percent multiplied by one-twelfth (1/12) of the number of completed months of credited service in excess of three hundred sixty (360) months;

- (2) Is the average monthly salary determined by dividing by sixty (60) the total salary received in any consecutive sixty (60) month period prior to retirement so selected by the employee. The consecutive period so selected by the employee must be a period during which the employee has continuously contributed to the plan. Any employee with interrupted service, who has repaid into the fund the amount previously refunded to him in accordance with section 26-2 of this article, shall be treated as having continuously contributed to the plan; and
 - (3) Is the benefit factor determined from Benefit Factor Table II in section 23.4.2, based on the age of the employee in years and months on the day retirement benefits commence. If the employee's age is sixty-two (62) or greater, the benefit factor shall be one (1).
 - (4) For a police officer who completes ten (10) or more years of creditable service as a police officer and attains age 55, or completes 25 years of creditable service as a police officer and attains age 52, the combined total monthly annuity benefit from all defined benefit plans sponsored by the City shall not be less than the officer's years of credited service multiplied by two (2) percent multiplied by one-twelfth (1/12) of the average annual compensation of the 5 best years of the last ten (10) years of creditable service prior to retirement.
 - (5) For a police officer who completes ten (10) years of creditable service as a police officer and attains age 50 but less than age 55, the combined total monthly annuity benefit from all defined benefit plans sponsored by the City shall not be less than the officer's years of credited service multiplied by two (2) percent multiplied by one-twelfth (1/12) of the average annual compensation of the 5 best years of the last ten (10) years of creditable service prior to retirement reduced by three (3) percent for each year the officer is less than age 55.
- (e) The normal form of retirement benefits shall be an income to the member commencing at retirement and continuing during the life of the member. In the event of death of the retired member, any excess of the sum of the member's contributions over the total of such income received by the member shall be paid to the member's designated beneficiary as a refund of contributions. Notwithstanding anything in this Plan to the contrary, unless an optional form of benefits is elected, the normal form of benefit for Police Officers will be monthly payments over the life of the member but not less than ten (10) years.
- (f) Benefits under this plan shall not exceed the limits set under Section 415(b) of the Code.

23.4.2. Benefit Factor Table

BENEFIT FACTOR TABLE I
Retirement Age (Years & Months)
For Plan Members as of September 30, 2003
 MONTHS

AGE	0	1	2	3	4	5	6	7	8	9	10	11
40	0.4480	0.4505	0.4530	0.4555	0.4580	0.4605	0.4630	0.4655	0.4680	0.4705	0.4730	0.4755
41	0.4780	0.4805	0.4830	0.4855	0.4880	0.4905	0.4930	0.4955	0.4980	0.5005	0.5030	0.5055
42	0.5080	0.5105	0.5130	0.5155	0.5180	0.5205	0.5230	0.5255	0.5280	0.5305	0.5330	0.5355
43	0.5380	0.5405	0.5430	0.5455	0.5480	0.5505	0.5530	0.5555	0.5580	0.5605	0.5630	0.5655
44	0.5680	0.5705	0.5730	0.5755	0.5780	0.5805	0.5830	0.5855	0.5880	0.5905	0.5930	0.5955
45	0.5980	0.6005	0.6030	0.6055	0.6080	0.6105	0.6130	0.6155	0.6180	0.6205	0.6230	0.6255
46	0.6280	0.6305	0.6330	0.6355	0.6380	0.6405	0.6430	0.6455	0.6480	0.6505	0.6530	0.6555
47	0.6580	0.6605	0.6630	0.6655	0.6680	0.6705	0.6730	0.6755	0.6780	0.6805	0.6830	0.6855
48	0.6880	0.6905	0.6930	0.6955	0.6980	0.7005	0.7030	0.7055	0.7080	0.7105	0.7130	0.7155

49	0.7180	0.7205	0.7230	0.7255	0.7280	0.7305	0.7330	0.7355	0.7380	0.7405	0.7430	0.7455
50	0.7480	0.7505	0.7530	0.7555	0.7580	0.7605	0.7630	0.7655	0.7680	0.7705	0.7730	0.7755
51	0.7780	0.7805	0.7830	0.7855	0.7880	0.7905	0.7930	0.7955	0.7980	0.8005	0.8030	0.8055
52	0.8080	0.8105	0.8130	0.8155	0.8180	0.8205	0.8230	0.8255	0.8280	0.8305	0.8330	0.8355
53	0.8380	0.8405	0.8430	0.8455	0.8480	0.8505	0.8530	0.8555	0.8580	0.8605	0.8630	0.8655
54	0.8680	0.8705	0.8730	0.8755	0.8780	0.8805	0.8830	0.8855	0.8880	0.8905	0.8930	0.8955
55	0.8980	0.8997	0.9014	0.9031	0.9048	0.9065	0.9082	0.9099	0.9116	0.9133	0.9150	0.9167
56	0.9184	0.9201	0.9218	0.9235	0.9252	0.9269	0.9286	0.9303	0.9320	0.9337	0.9354	0.9371
57	0.9388	0.9405	0.9422	0.9439	0.9456	0.9473	0.9490	0.9507	0.9524	0.9541	0.9558	0.9575
58	0.9592	0.9609	0.9626	0.9643	0.9660	0.9677	0.9694	0.9711	0.9728	0.9745	0.9762	0.9779
59	0.9796	0.9813	0.9830	0.9847	0.9864	0.9881	0.9898	0.9915	0.9932	0.9949	0.9966	0.9983
60	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000

BENEFIT FACTOR TABLE II

Retirement Age (Years & Months)

Members Entering Plan on or after October 1, 2003

MONTHS

AGE	0	1	2	3	4	5	6	7	8	9	10	11
42	0.0000	0.0042	0.0083	0.0125	0.0167	0.0208	0.0250	0.0292	0.0333	0.0375	0.0417	0.0458
43	0.0500	0.0542	0.0583	0.0625	0.0667	0.0708	0.0750	0.0792	0.0833	0.0875	0.0917	0.0958
44	0.1000	0.1042	0.1083	0.1125	0.1167	0.1208	0.1250	0.1292	0.1333	0.1375	0.1417	0.1458
45	0.1500	0.1542	0.1583	0.1625	0.1667	0.1708	0.1750	0.1792	0.1833	0.1875	0.1917	0.1958
46	0.2000	0.2042	0.2083	0.2125	0.2167	0.2208	0.2250	0.2292	0.2333	0.2375	0.2417	0.2458
47	0.2500	0.2542	0.2583	0.2625	0.2667	0.2708	0.2750	0.2792	0.2833	0.2875	0.2917	0.2958
48	0.3000	0.3042	0.3083	0.3125	0.3167	0.3208	0.3250	0.3292	0.3333	0.3375	0.3417	0.3458
49	0.3500	0.3542	0.3583	0.3625	0.3667	0.3708	0.3750	0.3792	0.3833	0.3875	0.3917	0.3958
50	0.4000	0.4042	0.4083	0.4125	0.4167	0.4208	0.4250	0.4292	0.4333	0.4375	0.4417	0.4458
51	0.4500	0.4542	0.4583	0.4625	0.4667	0.4708	0.4750	0.4792	0.4833	0.4875	0.4917	0.4958
52	0.5000	0.5042	0.5083	0.5125	0.5167	0.5208	0.5250	0.5292	0.5333	0.5375	0.5417	0.5458
53	0.5500	0.5542	0.5583	0.5625	0.5667	0.5708	0.5750	0.5792	0.5833	0.5875	0.5917	0.5958
54	0.6000	0.6042	0.6083	0.6125	0.6167	0.6208	0.6250	0.6292	0.6333	0.6375	0.6417	0.6458
55	0.6500	0.6542	0.6583	0.6625	0.6667	0.6708	0.6750	0.6792	0.6833	0.6875	0.6917	0.6958
56	0.7000	0.7042	0.7083	0.7125	0.7167	0.7208	0.7250	0.7292	0.7333	0.7375	0.7417	0.7458
57	0.7500	0.7542	0.7583	0.7625	0.7667	0.7708	0.7750	0.7792	0.7833	0.7875	0.7917	0.7958
58	0.8000	0.8042	0.8083	0.8125	0.8167	0.8208	0.8250	0.8292	0.8333	0.8375	0.8417	0.8458
59	0.8500	0.8542	0.8583	0.8625	0.8667	0.8708	0.8750	0.8792	0.8833	0.8875	0.8917	0.8958
60	0.9000	0.9042	0.9083	0.9125	0.9167	0.9208	0.9250	0.9292	0.9333	0.9375	0.9417	0.9458
61	0.9500	0.9542	0.9583	0.9625	0.9667	0.9708	0.9750	0.9792	0.9833	0.9875	0.9917	0.9958
62	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000

23.4.3. *Terminated vested.* An inactive member who reaches his early retirement eligibility date may elect to begin benefits.

- (a) Terminated vested members benefits shall be calculated as in section 23.4.1. above, provided that the benefit calculation be based upon benefits which existed at the time of termination of employment. When a member has elected to leave his contributions in the fund upon separation from service and is entitled to a vested deferred pension pursuant to section 26.1(b), his monthly pension income shall be adjusted to reflect any increase in benefits pursuant to section 25 of this section which becomes effective after his date of separation from service.
- (b) A terminated vested member may request an optional payment form as provided, in section 23.4.4, in lieu of the normal form.

- (c) Except as indicated in (d), should a terminated vested member die prior to the date benefits begin, all benefit obligations of the plan to the member shall cease.
- (d) If a police officer 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 police officer at age of retirement eligibility.

23.4.4. *Optional benefit payment forms.* The following actuarial equivalent forms of benefits payment, when requested in writing, may be granted by the board:

- (a) *Option 1. Alternate benefit form.* In lieu of retirement benefits payable in a normal form, a member may elect benefits in an alternative form having the actuarial equivalent value. Such alternate pension benefits shall be in lieu of all of the benefits under the plan and shall be either:
 - (1) A reduced income payable during the lifetime of the member, together with a continuation of the same reduced income (100%) or an income in a lesser amount (fifty (50) percent, sixty-six and two-thirds (66 2/3) percent or seventy-five (75) percent of such reduced income) to the member's spouse or joint pensioner.
 - (2) A reduced income payable during the lifetime of the member, together with the continuation upon the death of the member of the same reduced income (100%) or an income in a lesser amount (fifty (50) percent, sixty-six and two-thirds (66 2/3) percent or seventy-five (75) percent of such reduced income) to the member's spouse or joint pensioner, provided that the reduced income under this paragraph shall be lower than that provided under paragraph (1) with the reduction calculated on an actuarial equivalent basis which provides for the cessation of reduction in benefits to the member at the date of death of the member's spouse or joint pensioner, if the spouse or joint pensioner predeceases such member or, if applicable, at the date of emancipation, removal of, disability or death of his eligible dependent(s) when such emancipation, removal of, disability or death occurs prior to member's death. In the event the spouse or joint pensioner predeceases the member, or the emancipation, removal of, disability or death of the eligible dependent(s) precedes the member's death, the election shall be canceled and the normal form and amount of benefits described in subsection (a) shall thereafter be paid.
 - (3) The member electing any option of this section will designate the joint pensioner or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the plan in the event of death, and will have the power to change such designation from time to time but any such change shall be deemed a new election and will be subject to approval by the board of trustees. 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 or beneficiary and his or her retirement income benefits have commenced, he or she may thereafter change the designated joint pensioner or beneficiary but only if the board of trustees consents to such change and if the joint pensioner last previously designated by the member is alive when he or she files with the board of trustees a request for such change. The consent of a member's joint pensioner or beneficiary to any such change shall not be required. The board of trustees may request such evidence of the good health of the joint pensioner that is being removed as it may require and the amount of the retirement income payable to the member upon the designation of a new joint pensioner shall be actuarially redetermined taking into account the ages and sex of the former joint pensioner, the new joint pensioner, and the member. Each such designation will be made in writing and on completion will be filed with the board of trustees. A retired member may change the designation of joint pensioner or beneficiary only twice. In the event that no designated beneficiary survives the member, such benefits as are payable in the event of the death of the member subsequent to his or her retirement shall be paid as provided in paragraph (4).
 - (4) Beneficiary (Beneficiaries). Each member may, on a form filed with the board of trustees, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of the member's death, and each designation may be revoked by such member by signing and filing with the board of trustees a new designation or beneficiary form. If no beneficiary is named or if no beneficiary designated by the member survives him or her, the death benefit, if any, which

may be payable under the plan with respect to such deceased member shall be paid by the board of trustees to the estate of such deceased member, provided that in any of such cases the board of trustees, in its discretion, may direct that the commuted value of the remaining monthly income payments be paid in a lump sum. Any payment made to any person pursuant to this subsection shall operate as a complete discharge of all obligations under the plan with regard to such deceased member and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons ever interested hereunder.

- (b) *Option 2. Refund of contributions.* In lieu of option 1, a member may elect to receive a refund of all sums said member contributed to the fund in full satisfaction of all claims he may have against this plan.
- (c) *Option 3: Lump Sum Payment*
 - (1) A member who attains normal retirement status or attains thirty (30) years of credited service may elect to terminate membership in the Plan and apply for a lump sum payment. Sworn Police Officer and certified Firefighter members who attain twenty-five (25) years of credited police officer or firefighter service in this Plan or who attain age fifty-two (52) with ten (10) years of credited police officer or firefighter service in this Plan may elect to terminate employment as a police officer or firefighter and membership in the Plan and apply for a lump sum payment.
 - (2) In lieu of any other benefits under the Plan, the Board may grant a request for an actuarial equivalent, one time, lump sum payment based upon the present value of the retirement benefit. The present value discount rate used to determine the lump sum amount available to the member shall be the actuarial assumed rate of return plus one (1) percent.
 - (3) Notwithstanding any provision of the Plan 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.
- (d) *Option 4: Termination from Plan with vested benefit.*(Police Officers and Firefighters are excluded from this option). A member who attains normal retirement status or attains thirty (30) years of credited service may elect to terminate membership in the Plan, defer receipt of benefits until a later date and commence participation in the City of Lakeland Defined Contribution Plan or roll-over the benefit provided (c) above to the Defined Contribution Plan and continue participation in the Defined Contribution Plan and relinquish any further rights in the Plan. Upon termination of employment from the City, the member may elect to begin receiving benefits under the Plan.
 - (1) Retirement benefits under this Plan with respect to a member who elects this option shall be calculated as in section 23.4.1. above, provided that the benefit calculation be based upon benefits which existed at the time of the member's termination of active participation in the Plan. The benefit shall be adjusted to reflect any increase in benefits pursuant to section 25 of this section which becomes effective after his date of termination from the Plan.
 - (2) A member under this option may request an alternate payment form as provided in section 23.4.4.(a) in lieu of the normal form.
 - (3) Should a member exercising this option die prior to the date benefits payments from this Plan begin, all benefit obligations of the Plan to the member shall cease unless the member requested an alternate payment form as provided in section 23.4.4.(a) at the time of exercising this option or one year prior to final termination of employment from the City.
- (e) *Option 5: For Police Officers.* An actuarially enhanced income benefit to the member commencing at retirement and continuing during the life of the member.
- (f) *Actuarial Assumptions.* The Actuarial Assumptions used in determining members' benefits are stated in the annual actuarial report and shall be maintained by the secretary of the Board.

23.4.5 *Deferred Retirement Option Program (DROP)*. A Member (Police Officer and Firefighter members are excepted) not subject to collective bargaining or subject to collective bargaining and agreed to by contract who attains normal retirement age or attains thirty (30) years of credited service may elect to retire and enter the DROP. Sworn Police Officer and certified Firefighter Members who attain twenty-five (25) years of credited police officer or firefighter service in this Plan or who attain age fifty-two (52) with ten (10) years of credited police officer or firefighter service in this Plan shall be eligible to enter the DROP.

- (a) The decision to enter the DROP is irrevocable once the DROP period commences. Upon entry into the *DROP*, a member shall be considered a retired member of the Plan. The member's benefits shall be calculated as if the member had actually separated from service and no further credited service, salary increases, or Plan changes shall apply to a member in the DROP plan for purposes of determining the member's benefit under the Plan. In all other respects, however, the member shall remain an active employee of the City and otherwise eligible for all other contractual and job benefits.
- (b) The monthly pension benefit payable during the DROP period shall be deposited to a DROP account for the Member and shall remain an asset of the fund in accordance with procedures established by the plan sponsor. Such retirement benefit, any retiree benefit increases, and interest shall accrue monthly in the Plan Trust Fund. Such interest shall accrue at an effective annual rate of 6.5 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of final separation from service or death. The deposited funds will be unavailable for distribution to the Member until participation in the DROP terminates. Thereafter, the benefit shall be paid to the Member in accordance with the provisions of this section.
- (c) Effective with the date of DROP participation, the member's initial normal monthly benefit, optional form of payment, and average final compensation, and the effective date of retirement shall be fixed. The beneficiary established under the Plan shall be the beneficiary eligible to receive any DROP benefits payable if the DROP member dies prior to the completion of the period of DROP participation. In the event a joint annuitant predeceases the member, the member may name a beneficiary to receive accumulated DROP benefits payable.
- (d) The effective date of DROP participation and the effective date of retirement of a DROP member shall be the first day of the month selected by the member to begin participation in the DROP, provided such date is properly established, with the written confirmation of the city, and the approval of the Civil Service Department, on forms required by the Civil Service Department.
- (e) Upon entry into the DROP, a member shall no longer be eligible for pre-retirement death benefits. In the event that a member suffers a disabling injury, the member shall commence a normal retirement benefit.
- (f) In the event that a member in the DROP shall die, the member shall be treated the same as any other retired member who dies and any survivorship option which the member may have elected shall be paid in accordance with the provisions of the Plan. In the event of the death of a member, the DROP benefit shall be distributed to the named beneficiary or beneficiaries. In the event that no beneficiary has been named by the member, the DROP account balance shall be paid to the member's estate.
- (g) By entering into the DROP plan, a member agrees to terminate active service with the City not later than sixty (60) months following the date of entry into the DROP. Nothing shall prohibit a member who has entered the DROP plan or the City from terminating service prior to the expiration of sixty (60) months.
- (h) A member's DROP Account shall only be credited or debited with earnings or interest and monthly benefits while the member is a member in the DROP and after the member dies, retires or terminates his employment. If a member is employed by the City after electing to cease participation in the DROP account or after participating in the DROP for five (5) years, then beginning with the next payment following cessation of participation or beginning with the member's 61st month of DROP participation, whichever occurs first, the member's DROP Account will no longer be credited or debited with earnings or interest, nor will monthly benefits be transferred to the DROP Account. All such non-transferred amounts

shall be forfeited and continue to be forfeited while the member is employed by the City. A member employed by the City after five (5) years of DROP participation will still not be eligible for pre-retirement death, nor will he accrue additional Credited Service.

- (i) The accrued benefits of any DROP member, and any contributions accumulated under such program, shall not be subject to assignment, execution, attachment, or to any legal process whatsoever. Upon the death of a DROP member, the named beneficiary shall be entitled to apply for and receive the accrued benefits.
- (j) Eligibility to participate in the DROP terminates upon death of the member. If the member dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, Plan benefits shall be paid in accordance with provisions contained in the Plan.
- (k) Upon satisfying the definition of termination of employment, DROP members shall be subject to the same reemployment limitations as other retirees. Nothing in this section shall be construed to remove DROP members from the scope of s. 8(d), Art. II of the State Constitution, s. 112.3173, and paragraph (5)(f).
- (l) DROP members who commit a specified felony offense while employed will be subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.
- (m) Upon separation from service and the commencement of the receipt of retirement benefits, a member shall be eligible for distribution of the DROP account. The DROP account may be distributed in a lump sum, may be rolled over to another qualified retirement system or any other form approved by the Board. In no instance shall the method of distribution result in the payment of any amount which exceeds the balance in the DROP account.
- (n) At the conclusion of the member's DROP, the Civil Service Department shall distribute the member's total accumulated DROP benefits, subject to the following provisions:
 - (1) The Civil Service Department shall receive verification by the member's department head that such member has terminated employment.
 - (2) The terminated DROP member or, if deceased, such member's named beneficiary, shall elect on forms provided by the Civil Service Department to receive payment of the DROP benefits in accordance with one of the options listed below. For a member or beneficiary who fails to elect a method of payment within 60 days of termination of the DROP, the Civil Service Department will authorize a lump sum payment as provided below.
 - (I) Lump sum — All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP member or surviving beneficiary.
 - (II) Direct rollover — All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased member, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code.
 - (III) Partial lump sum — A portion of the accrued DROP benefits shall be paid to the DROP member or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased member, an eligible retirement plan is an individual retirement account or an individual retirement annuity as

described in s. 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP member or surviving beneficiary.

- (3) The form of payment selected by the DROP member or surviving beneficiary complies with the minimum distribution requirements of the Internal Revenue Code.
- (o) The Civil Service Department shall make such rules as are necessary for the effective and efficient administration of this subsection. The Civil Service Department shall not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.

23.4.5. Survivor's benefits. In addition to the benefits herein provided, the city commission shall, by ordinance, provide to retired employees of the city a survivor's benefit. The cost of providing the survivor's benefit shall be borne by the city.

23.4.6. Direct transfers of eligible rollover distributions.

- (a) *General.* This section applies to distributions made on or after January 1, 1997. 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.

- (b) *Definitions.*

- (1) *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 (10) years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includable in gross income.
- (2) *Eligible retirement plan:* An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) or 457 of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (3) *Distributee:* A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.
- (4) *Direct rollover:* A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(Ord. No. 3713, § 2, 4-15-96; Ord. No. 3775, § 1, 1-6-97; Ord. No. 3855, § 1, 10-20-97; Ord. No. 4078, § 1, 9-20-98; Ord. No. 4467, § 2, 9-2-03)

23.4.7 Disability retirement

(1) A police officer having 10 or more years of credited service, or a police officer who becomes totally and permanently disabled in the line of duty, regardless of length of service, may retire from the service of the city under the plan and receive a disability benefit if he or she becomes totally and permanently disabled as defined in subsection (2) by reason of any cause other than a cause set out in subsection (3) on or after April 1, 2005. Such retirement shall herein be referred to as disability retirement.

(2) A police officer 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 police officer; and a police officer will be considered permanently disabled if, in the opinion of the board of trustees, such police officer is likely to remain so disabled continuously and permanently from a cause other than as specified in subsection (3).

(3) A police officer will not be entitled to receive any disability retirement income if the disability is a result of:

- (a) Excessive and habitual use by the police officer of drugs, intoxicants, or narcotics;
- (b) Injury or disease sustained by the police officer while willfully and illegally participating in fights, riots, civil insurrections or while committing a crime;
- (c) Injury or disease sustained by the police officer while serving in any armed forces;
- (d) Injury or disease sustained by the police officer after employment has terminated;
- (e) Injury or disease sustained by the police officer while working for anyone other than the city and arising out of such employment.

(4) No police officer shall be permitted to retire under the provisions of this section until 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 police officer 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.

(5) The benefit payable to a police officer who retires from the service of the city with a total and permanent disability as a result of a disability is the monthly income payable for 10 years certain and life for which, if the police officer's disability occurred in the line of duty, his or her monthly benefit shall be his or her accrued retirement benefit as calculated in 23.4.1, but shall not be less than 42 percent of his or her average monthly compensation as of the police officer's disability retirement date. If after 10 years of service the disability is other than in the line of duty, the police officer's monthly benefit shall be his or her accrued retirement benefit as calculated in 23.4.1, but shall not be less than 25 percent of his or her average monthly compensation as of the police officer's disability retirement date.

(6) The monthly retirement income to which a police officer 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 police officer recovers from the disability, the payment due next preceding the date of such recovery or, if the police officer dies without recovering from his or her disability, the payment due next preceding death or the 120th monthly payment, whichever is later. In lieu of the benefit payment as provided in this subsection, a police officer may select an optional benefit form. Any monthly retirement income payments due after the death of a disabled police officer shall be paid to the police officer's designated beneficiary (or beneficiaries).

(7) If the board of trustees finds that a police officer 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 shall mean the ability of the police officer to render useful and efficient service as a police officer.

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

(9) A member receiving a benefit under this section is ineligible to receive a benefit under any other section of this plan.

23.4.8 Minimum benefits for Police Officers

Notwithstanding any contrary plan provisions, the Employees' Pension and Retirement System and the Police Officers' Supplemental Pension and Retirement System shall comply with all minimum benefit provisions set forth in Chapter 185,

F.S. In the event of a conflict between a statutory minimum benefit under Chapter 185 and a Plan provision, the participant shall receive the statutory minimum benefit, unless the Plan provision provides greater benefit.

Sec. 24. Maximum pension.

(a) Subject to the adjustments hereinafter set forth, the maximum amount of annual retirement income payable with respect to a member under this plan shall not exceed one hundred twenty thousand dollars (\$120,000.00) (indexed) or, for years beginning before January 1, 1995, one hundred (100) percent of the member's average compensation for his high three (3) years. For years beginning after January 1, 1995, benefits payable under this Plan shall not exceed the limits imposed by Code Section 415(b).

(b) For purposes of applying the above limitation, benefits payable in any form other than a straight life annuity with no ancillary benefits shall be adjusted, as provided by treasury regulations, so that such benefits are the actuarial equivalent of a straight life annuity. For purposes of this section, the following benefits shall not be taken into account:

- (1) Any ancillary benefit which is not directly related to retirement income benefits;
- (2) Any other benefit not required under 415(b)(2) of the Internal Revenue Code and regulations thereunder to be taken into account for purposes of the limitation of 415(b)(1) of the Internal Revenue Code.

(c) The limitation 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 414(j) of the Internal Revenue Code) maintained by the city, shall apply as if the total benefits payable under all defined benefit plans in which the member has been a member were payable from one plan. In the event a member is in receipt of a benefit (e.g. a disability benefit or retirement benefit) from this plan do to service as a police officer or firefighter and becomes re-employed as a city employee as a non-firefighter or non-police officer, he or she would be eligible to receive an additional service or longevity retirement benefit from the plan. The date at which the member commences accrual for service or longevity retirement benefit credit shall be the date which the member begins non-police officer or non-firefighter service to the city. In no case shall the member be eligible to receive both a non service or non longevity benefit and a service or longevity benefit simultaneously from plans sponsored by the city for the same period of credited service nor may the member use the original service for vesting purposes for the second period of employment.

(d) In the event the member's retirement benefits become payable before age sixty-two (62), the limitation prescribed by this section shall be reduced in accordance with regulations issued by the secretary of the treasury pursuant to the provisions of 415(b) of the Internal Revenue Code, but not less than seventy-thousand dollars (\$75,000.00).

(e) If the member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limitation set forth herein, such benefit shall adjusted so that it is the actuarial equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be made using an assumed interest rate of five (5) percent and shall be made in accordance with regulations promulgated by the secretary of the treasury or his delegate.

(f) Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the limitations set forth in this section if the benefits payable, with respect to such member under this plan and under all other qualified defined benefit pension plans to which the city contributes, do not exceed ten thousand dollars (\$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.

(g) 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 trustees 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 trustees and the plan administrator for such other provided, however, that necessary reductions may be made in a

different manner and priority pursuant to the agreement of the trustees and the plan administrator of all other plans covering such member.

(h) The limitations as stated above shall be adjusted to the time payment of a benefit begins in accordance with any cost-of-living adjustments prescribed by the secretary of the treasury pursuant to 415(d) of the Code.

(i) Amounts forfeited by an employee under this or any other provision of this plan shall be used to reduce the employer's contributions.

(Ord. No. 3713, § 2, 4-15-96; Ord. No. 3775, § 1, 1-6-97; Ord. No. 3855, § 1, 10-20-97; Ord. No. 3879, § 1, 12-1-97; Ord. No. 4467, § 2, 9-2-03)

Sec. 25. Increased benefits to retired members.

At the end of each plan year, , the board shall determine if the cumulative net actuarial experience accumulated from all sources of gains and losses since October 1, 1996 is sufficient to fund an increase in the benefit award to retired members of the plan. If it is determined such funds are sufficient to fund an increase in retiree benefits the board shall instruct the plan actuary to conduct an actuarial impact study to ascertain the dollar value of the increase that can be funded. The board shall use this determination to recommend a benefit increase to the City Commission. The City Commission shall have the option of approving or disapproving the board recommendation. If approved the board shall take action to implement the increase in retirement benefits. An approved benefit increase award shall not exceed four (4) percent in any year. The effective date of any benefit increase shall be on the first day of January following the plan year in which it is determined that a benefit increase is to be awarded.

The award of any benefit will comply with Chapter 112, Florida Statutes. Accordingly, the present value of the benefit award shall not exceed the net actuarial experience accumulated from all sources of gains and losses to the plan.

Sec. 26.1. Separation from service.

(a) *Refund to member.* In the event a member with less than ten (10) years of contribution resigns, is discharged, or becomes disabled, or separates from the service of the city, without leave of absence from the civil service board of said city, he shall, pursuant to written request, receive a refund of all sums said member has contributed to this fund, subject to section 23.4.6. Such payment thereof to said member shall be in full satisfaction of all claims he may have against this plan.

(b) *Election available to member.* In the event a member with ten (10) or more years of contribution resigns, is discharged or becomes disabled or separates from the service of the city, without leave of absence from the civil service board of said city, he may either elect to receive a refund of all sums said member has contributed to this fund in full satisfaction of all claims he may have against this pension plan or he may leave his contributions in the fund, in which event he shall be entitled to a vested deferred pension calculated in the manner indicated in section 23.4 based on his years of contribution to the date of separation from service. Except as indicated in (c)(3) of this section, should a former city employee, who has elected to leave his contributions in the fund entitling him to a vested deferred pension, die prior to the time that payment of pension benefits commence, all sums contributed by such member shall be refunded in the following order: to his designated beneficiary, if any; if none, to his surviving spouse, if any; if none, to his eligible dependent(s); if none, to the decedent's estate.

(c) *Death of member.*

(1) In the event of the death of an active employee of the city who at the time of death has ten (10) years of continuous contributions to the plan, the surviving spouse or, where there is no spouse, the eligible dependent(s) of such employee shall receive a monthly retirement benefit which would be the actuarial equivalent to one-half (1/2) of the retirement benefit the employee would have received upon retirement on the date of death. The benefit factor shall be one (1) for purpose of computing the retirement benefit. However, in the event of the death of an active employee who has attained age fifty (50), and has ten (10) or more continuous years of contribution to this plan, the surviving spouse or, where there is no spouse, the eligible dependent(s) of such employee shall receive a monthly retirement benefit which would be the actuarial equivalent to seventy-five (75) percent of the retirement benefit the employee would have received upon retirement on the date of death unless the member had filed a certificate with the civil service department prior to death electing an alternative reduced benefit at retirement of fifty (50) percent or sixty-six and two-thirds (66 2/3) percent in which case the lesser percentage rate would be utilized in computing the benefit. The benefit factor shall be one (1) for purpose of computing the retirement benefit.

In the event there is no spouse or eligible dependent(s) of the member, all sums contributed by such member to the plan shall be refunded to his designated beneficiary, if any, or, if none, to the deceased's estate. A surviving spouse or eligible dependent(s) may elect to waive the benefit provided in the preceding paragraphs and in lieu thereof, receive a refund of all sums contributed by such employee.

- (2) Should any member, who has less than ten (10) continuous years of contributions to the plan, die while employed by the city, all sums contributed by such member shall be refunded to his designated beneficiary, if any; or if none, to his surviving spouse, if any; or if none, to the deceased's estate.
- (3) If a Police Officer dies before being eligible for a retirement benefit, his beneficiary shall be entitled to a refund of 100%, without interest, of the member's total contributions made to the Plan. If a Police Officer having at least 10 Years of credited service, dies prior to retirement, his beneficiary shall be entitled to the greater of the retirement benefit otherwise payable to an employee member under this plan at time of death, to the Police Officer at time of death, to the Police Officer at age 50 or to the Police Officer at normal retirement distributed under the normal form of benefits for Police Officers. If the beneficiary is the spouse of the deceased Police Officer, the Board may award an actuarially equivalent benefit that satisfies the provisions of this paragraph to commence immediately under the normal form of benefits.

(d) *Contributions by member while on leave.* Any member hereunder, who is entitled to a leave and is granted a leave under the rules and policies of the civil service board of the city, may leave his contributions in the fund, and upon return from leave he shall be entitled to benefits as if he had remained actively employed, provided such member and the city contributed to the fund for the period on leave at the same rate as during the last full month of contribution prior to the commencement of such leave.

(Ord. No. 3713, § 2, 4-15-96; Ord. No. 3855, § 1, 10-20-97; Ord. No. 4078, § 1, 9-20-98)

Sec. 26.2. Interrupted service of employees

Any person who was, is presently or hereafter employed by the city who during his term of employment, has contributed or shall contribute the required amounts into the fund, and has or shall hereafter terminate his employment with the city and has or will be refunded the amount of the contribution made by the employee to such fund, thus losing all credited service toward a pension benefit, may, upon reemployment by the city, have all past credited service for pension purposes reinstated to the same extent as existed prior to termination, if such employee shall be absent for a period of not more than five (5) years, and shall, within two (2) years following such reemployment, repay in lump sum into the fund the entire amount refunded at the time of termination (the principal), together with interest on such amount. The interest shall be calculated from the date of return of contribution to the final date of repayment, and shall be compounded. The interest rate used in the computation shall be computed in such a manner so as to incur no cost to the fund. Should an employee, who has recaptured all or part of any such past credited service, again terminate employment prior to retirement, the return of contribution shall be limited to the return of principal.

(Ord. No. 3713, § 2, 4-15-96; Ord. No. 3855, § 1, 10-20-97)

Sec. 26.3. Reserved

Sec. 27. Commencement, distribution and termination of benefits.

(a) Except as otherwise provided in this Act, all officers and employees of the city, shall be entitled to a pension from the city, and to retirement compensation according to the schedules herein set forth under the provisions of this Act. A request for pension benefits must be made by the active or inactive member, on a form approved by the board. Computed benefit amounts shall be approved by the board.

(b) Benefits payments shall be effective on the first of the month following application for retirement, subject to approval of the board of the request for benefits.

(c) Benefits will be mailed to the address indicated by the member. It shall be the member's responsibility to provide the board with a correct address.

(d) Benefits payments shall be payable in equal semimonthly installments. The monthly benefit payment shall be paid on or about the first day and the fifteenth day of each month.

(e) For the purpose of this Act, neither elective officers nor temporary/part time employees shall be classed

as officers and employees of said city.

(f) In the event the said retirement fund herein established shall be insufficient to make full payment of the amounts provided in this Act, the said fund shall be prorated on a monthly basis among those entitled to receive such funds, in full satisfaction of their respective claims.

(Ord. No. 3713, § 2, 4-15-96)

Sec. 28. Reports to the State of Florida.

Each year and no later than March 15th, the chairman of the board shall file a report with the State of Florida containing the following:

- (a) Status of compliance with the provisions of Florida Statutes.
- (b) A certified statement of accounting for the most recent fiscal year of the city or an independent audit by a certified public accountant if required by the state showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning and end of the year.
- (c) A statistical exhibit showing the number of employees included in the plan receiving pension payment and the amounts of annual retirement income or pension payments being received by them.
- (d) A statement of the amount the city has contributed to the fund for the preceding plan year, and the amount the city will contribute to the fund for the current plan year.
- (e) [*Reserved.*]
- (f) An actuarial valuation of the plan prepared by the board's actuary.
- (g) Such other reports as may be required by the State of Florida.

(Ord. No. 3713, § 2, 4-15-96)

Sec. 29. Roster of members.

The secretary of the board shall keep a record of all persons receiving a benefit under the provisions of this Act 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 plan members employed by the city in such a manner as to show the name, address, date of employment and date such employment is terminated.

(Ord. No. 3713, § 2, 4-15-96)

Sec. 30. Board attorney and professionals.

The city attorney, or his designee, shall give advice to the board in all matters pertaining to their duties in the administration of the plan whenever requested, represent and defend the board as its attorney in all suits and actions at law or in equity that may be brought against it, and bring all suits and actions on behalf of the board that may be required or authorized by the board; provided, however, the board may employ independent legal counsel at the fund's expense for the purposes contained herein, together with such other professional, technical, or other advisors as the board deems necessary.

(Ord. No. 3713, § 2, 4-15-96)

Sec. 31. Miscellaneous provision.

At no time prior to the satisfaction of all liabilities under the plan with respect to 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.

Notwithstanding any other provision of this plan to the contrary, a form of retirement income payable from this plan after the effective date of this chapter, shall satisfy the following conditions:

- (1) If the retirement income is payable before the member's death:
 - a. It shall be distributed or commence to the member not later than April 1 of the calendar year following the later of the calendar in which the member attains age seventy and one-half (70 1/2) years, or the calendar year in which the member retires; or,
 - b. The distribution shall commence not later than the calendar year defined above; and a) shall be paid over the life of the member or over the lifetimes of the member and spouse, issue or dependent, or b) shall be paid over the period extending not beyond the life expectancy of the member and spouse, issue or dependent.

Where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the member dies before his entire interest in the plan has been distributed, the remaining portion of such interest in the plan shall be distributed no less rapidly than under the form of distribution in effect at the time of the member's death.

If the member's death occurs before the distribution of his interest in the plan has commenced, member's entire interest in the plan shall be distributed within five (5) years of the member's death, unless it is to be distributed in accordance with the following rules:

- a. The member's remaining interest in the plan is payable to his spouse, issue or dependent;
- b. The remaining interest to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life expectancy of the spouse, issue or dependent; and
- c. Such distribution begins within one year of the member's death unless the member's spouse, issue or dependent shall receive the remaining interest in which case the distribution need not begin before the date on which the member would have attained age seventy and one-half (70 1/2) years and, if the spouse, issue or dependent dies before the distribution to the spouse, issue or dependent begins, this section shall be applied as if the spouse, issue or dependent were the plan member.

(Ord. No. 3713, § 2, 4-15-96; Ord. No. 3879, § 1, 12-1-97)

Sec. 32. Effect of military service; reinstatement after separating from service.

(a) For the purpose of this Act, any officer or employee of the city who shall have left the employ of the city for the purpose of entering the armed forces of the United States and shall have served in military service, and shall subsequently return to and become again employed by the city within twelve (12) months after being discharged from such military service, then such time as such employee was in military service shall be considered the same as if he or she should have continued constantly in the employment of the city, except that such employee in military service shall not be required to contribute to the fund herein provided for.

(b) For the purpose of this Act, any officer or employee who shall leave the employ of the city and shall, before separating from such service, procure permission of or leave of absence from the civil service board of the city, may be reinstated upon again entering the service of the city and all time previously served by such employee shall be allowed as continuous service for the determination of the pension to which such employee may be entitled, provided that such employee shall not be required to contribute to the fund during the period of his absence from service.

The mandates in Title 38, United States Code, Chapter 43--Uniformed Services Reemployment Act, with regard to past service credit under a defined benefit plan, are hereby incorporated as provisions of the employees' pension fund.
(Ord. No. 3713, § 2, 4-15-96)

Sec. 33. 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 to existing law, or shall hereafter be granted or obtained erroneously, fraudulently or illegally for any reason. Said board is empowered to purge the pension rolls of any person heretofore granted a pension under prior or existing law or heretofore granted under this chapter 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 act be erroneously, improperly or illegally classified.
(Ord. No. 3713, § 2, 4-15-96)

Sec. 34. Indemnification

(a) To the extent not covered by insurance contracts in force from time to time, the city shall indemnify and hold harmless members of the board from all personal liability for damages and costs, including court costs and attorneys' fees, arising out of claims, suits, litigation, or threat of same, herein referred to as "claims," against these individuals because of acts or circumstances connected with or arising out of their official duty as members of the board. The city reserves the right, in its sole discretion, to settle or not settle the claim at any time, and to appeal or to not appeal from any adverse judgment or ruling, and in either event will indemnify and hold harmless any members of the board from the judgment, execution, or levy thereon.

(b) This section shall not be construed so as to relieve any insurance company or other entity liable to defend the claim or liable for payment of the judgment or claim, from any liability, nor does this section waive any provision of law affording the city immunity from any suit in whole or part, or waive any other substantive or procedural rights the city may have.

(c) This section shall not apply nor shall the city be responsible in any manner to defend or pay for claims arising out of acts or omissions of members of the board which constitute felonies or gross malfeasance or gross misfeasance in office.
(Ord. No. 3713, § 2, 4-15-96)

Sec. 35. Optional exclusion of city manager, city attorney, assistant city attorneys, manager of the Lakeland Electric Utilities Department or chief of police, and other employees as may be so designated.

(a) Selection of alternate plan authorized. The city manager, city attorney, assistant city attorneys, manager of the Lakeland electric utilities department of the City of Lakeland, chief of police, or Administrative Service Administrator for the Lakeland Police Department may elect to be excluded from this plan and the provisions hereof, in which event the amount of contribution made by the city manager, city attorney, assistant city attorneys, manager of the Lakeland electric utilities department, chief of police or Administrative Service Administrator for the Lakeland Police Department as required hereunder, shall be paid or applied toward such retirement, pension or annuity program as may be selected or designated by the city manager, city attorney, assistant city attorneys, manager of the Lakeland electric utilities department, chief of police, or Administrative Service Administrator for the Lakeland Police Department

(b) Procedure when city manager, city attorney or assistant city attorneys, or manager of the Lakeland electric utilities department or chief of police elects to be excluded. In the event the city manager, city attorney, assistant city attorneys, or manager of the Lakeland electric utilities department or chief of police shall elect to be excluded from this plan, then any funds accumulated toward their retirement from their contribution, shall be paid over and applied toward such other retirement, pension or annuity program as such city manager, city attorney, assistant city attorneys, manager of the Lakeland electric utilities department, chief of police or Administrative Service Administrator for the Lakeland Police Department may select or designate. Effective October 1, 2004, if any otherwise eligible employee elects to be excluded from this Plan the employee shall participate in the City of Lakeland Defined Contribution Plan. Except for Police Chief and the Fire Chief, Police Officers and Firefighters are prohibited under Chapters 175 and 185, F.S., from participating in the defined contribution plan.

(c) A member who has satisfied the requirements to receive benefits under Section 23.4 of this Plan may elect to terminate membership in this Plan and elect to enter the alternate plan. Except as provided for in 23.4.4(b) and 23.4.4(d), a member who enters the alternate plan shall not begin receiving a benefit from this Plan until full time employment with the City has terminated.

Sec. 36. Amendment.

The provisions of this article may be amended by the city commission by the adoption of a nonemergency ordinance except that nothing contained herein shall be construed to permit a charter amendment solely by the enactment of an ordinance of the city for the following:

(a) Any change in the composition or selection of the board or its power to administer the plan and invest pension funds; or

- (b) Any change in the authorized investment of pension funds, except upon recommendation of the board; or
- (c) Any change which would have the effect of terminating the plan and causing a reversion of pension funds.

(Ord. No. 3713, § 2, 4-15-96)

Sec. 37. Adoption of rules.

The board shall have the authority to adopt such rules and regulations not inconsistent with the provisions of this Act or other acts for the governing and administering of this plan.

(Ord. No. 3713, § 2, 4-15-96)

Sec. 38. Preserving vested interest.

(a) *Conflicting laws repealed.* All laws and parts of laws in conflict with provisions of this Act are hereby repealed, excepting therefrom such provisions of Special Acts of Florida, 1955, Chapter 30917, and amendments thereto, as shall remain in full force and effect, as herein preserved for members contributing under such act as provided herein, and preserving any vested benefits or rights which might have accrued to any member by virtue of any prior pension acts.

(b) *Limitation on members' rights.* Nothing in this Act shall give any member the right to be retained as an employee of the city, and all employees shall remain subject to discharge, suspension, layoff or discipline according to the civil service rules and policies in effect.

(Ord. No. 3713, § 2, 4-15-96)

Sec. 39. Repeal or termination of system.

(a) This article establishing the system and fund, and subsequent ordinances pertaining to the system and fund, may be modified, terminated, or amended, in whole or in part; provided that if this article or any subsequent ordinance shall be amended or repealed in its application to any person benefiting under this article, 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, except to the extent that the assets of the fund may be determined to be inadequate.

(b) If this article shall be repealed, or if contributions to the system are discontinued, the board shall continue to administer the system in accordance with the provisions of this article, for the sole benefit of the then members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the options provided for in this article who are designated by any of such members. Upon such repeal, or if contributions to the system are discontinued, there shall be full vesting (one hundred (100) percent) of benefits accrued to the date of repeal and the assets of the system shall be allocated in an equitable manner to provide benefits on a proportionate basis to the persons so entitled in accordance with the provisions thereof.

(Ord. No. 3879, § 1, 12-1-97)

(c) Upon termination of the plan because of a transfer, merger, or consolidation of governmental units, services, or functions as provided in chapter 121, F.S. or upon written notice to the board of trustees by the municipality that contributions under the plan are being permanently discontinued, the rights of all employees to benefits accrued to the date of such termination or discontinuance and the amounts credited to the employees' accounts are nonforfeitable.