

**ORDINANCE NO. 1377-17**

**AN ORDINANCE OF THE CITY OF LAKE ALFRED, FLORIDA AMENDING APPENDIX A, GENERAL EMPLOYEES' RETIREMENT SYSTEM OF THE CODE OF ORDINANCES OF THE CITY OF LAKE ALFRED; AMENDING SECTION 1, DEFINITIONS; AMENDING SECTION 2, MEMBERSHIP; AMENDING SECTION 4, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 5, CONTRIBUTIONS; AMENDING SECTION 6, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 7, PRE-RETIREMENT DEATH; AMENDING SECTION 8, DISABILITY; AMENDING SECTION 10, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 14, MAXIMUM PENSION; AMENDING SECTION 15, DISTRIBUTION OF BENEFITS; AMENDING SECTION 25, MILITARY SERVICE PRIOR TO EMPLOYMENT; AMENDING SECTION 26, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 27, PRIOR GOVERNMENT SERVICE; AMENDING SECTION 28, REEMPLOYMENT AFTER RETIREMENT; ADDING SECTION 29, PURCHASE OF NON-QUALIFIED SERVICE CREDIT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Lake Alfred General Employees are presently provided pension and certain other benefits under Ordinances of the City of Lake Alfred; and

**WHEREAS**, Appendix A, Employees' Retirement System of the Code of Ordinances was last amended on July 22, 2013 as set by Ordinance 1323-13; and revisions are necessary to comply with current IRS regulation and make other appropriate changes related thereto; and

**WHEREAS**, upon review, the City Commission desires to update Appendix A, Employees' Retirement System of the Code of Ordinances to comply with IRS regulations, modify purchase of credited service provisions, and add the option to purchase non-qualified service credit; and

**WHEREAS**, the City's General Employees' Retirement Board held meetings to discuss and review amendments to Appendix A, Employees' Retirement System of the Code of Ordinances as presented, and found the amendments and changes necessary and appropriate to meet the needs of the City.

**NOW, THEREFORE BE IT ORDAINED** by the City Commission of the City of Lake Alfred, Florida that this Ordinance is hereby passed as follows;

**SECTION 1:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 1, Definitions, to amend the definitions of "Accumulated contributions", "Actuarial Equivalent", "Credited Service" and "Spouse", to read as follows:

\* \* \* \* \*

Accumulated contributions: means a Member's own contributions with interest at the rate of three percent (3%) per annum compounded annually. For those Members who purchase Credited Service with interest or at no cost to the System, any payment representing the amount attributable to Member contributions based on the applicable Member contribution rate, and any payment representing interest and any required actuarially calculated payments for the purchase of such Credited Service, shall be included in Accumulated Contributions, without the crediting of interest of three percent (3%) per annum. Accumulated Contributions shall not include amounts paid by the City to purchase Credited Service for any Member.

\* \* \* \* \*

Actuarial Equivalent means a benefit or amount of equal value, based on the RP-2000 Combined Healthy Unisex Mortality Table and an interest rate of ~~seven and three-quarters percent (7.75%)~~ equal to the investment return assumption set forth in the last actuarial valuation approved by the Board. This definition may only be amended by the City pursuant to the recommendation of the Board using the assumptions adopted by the Board with the advice of the plan's actuary, such that actuarial assumptions are not subject to City discretion.

\* \* \* \* \*

Credited Service means the total number of years and fractional parts of years of service as a General Employee with Member contributions, when required, omitting intervening years or fractional parts of years when such Member was not employed by the City as a General Employee. A Member may voluntarily leave his Accumulated Contributions in the Fund for a period of five (5) years after leaving the employ of the City pending the possibility of being reemployed as a General Employee, without losing credit for the time that he was a Member of the System. If a non-vested Member leaves the employ of the City, his Accumulated Contributions, if less than one-thousand dollars (\$1,000.00), shall be returned. If a non-vested Member is not reemployed within five (5) years, his Accumulated Contributions, if one-thousand dollars (\$1,000.00) or more, will be returned only upon the written request of the Member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the Board. If a vested Member leaves the employ of the City, his Accumulated Contributions will be returned only upon his written request. Upon return of a Member's Accumulated Contributions, all of his rights and benefits under the System are forfeited and terminated.

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

- A. The Member is entitled to reemployment under the provisions of USERRA.
- B. The Member returns to his employment as a General Employee within one (1) year following the earlier of the date of his military discharge or his release from service, unless otherwise required by USERRA.
- C. The Member deposits into the Fund the same sum that the Member would have contributed, if any, if he had remained a General Employee during his absence. The maximum credit for military service pursuant to this subdivision shall be five (5)

years. The Member must deposit all missed contributions within a period equal to three times the period of military service, but not more than five (5) years, following re-employment or he will forfeit the right to receive credited service for his military service pursuant to this paragraph.

- D. This paragraph is intended to satisfy the minimum requirements of USERRA. To the extent that this paragraph does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.

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

Beginning January 1, 2009, to the extent required by Section 414(u)(12) of the Code, an individual receiving differential wage payments (as defined under Section 3401(h)(2) of the Code) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Section 415(c) of the Code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Leave conversions of unused accrued paid time off shall not be permitted to be applied toward the accrual of Credited Service either during each Plan Year of a Member's employment with the City or in the Plan Year in which the Member terminates employment.

\* \* \* \* \*

Spouse means the ~~lawful wife or husband of a Member or Retiree~~ Member's or Retiree's spouse under applicable law at the time benefits become payable.

\* \* \* \* \*

**SECTION 2:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 2, Membership, subsection 1., Conditions of Eligibility, to read as follows:

\* \* \* \* \*

1. Conditions of Eligibility.

All General Employees as of October 1, 2007 shall be Members of the System, and all other General Employees, including all future new General Employees, shall become Members of this System as a condition of employment.

Notwithstanding the above paragraph, a new employee who is hired as the current City Manager and any future City Manager may, in the event he has elected to participate in another pension program, ~~within the first twelve (12) months of his~~ upon employment as City Manager, notify the Board and the City, in writing, of his election to not be a Member of the System. In the event of any such election, he the City Manager shall be barred from future membership in the System. Thereafter, contributions to the plan in accordance with Section 5 shall not be required, The City Manager shall not be eligible to be elected as a Member Trustee on the Board or vote for a Member Trustee, and he shall not be eligible for any other benefits from the plan. Current employees of the City who are selected to become City Manager are not eligible for the opt-out

provided for herein. Other newly employed General Employees who enter into employment contracts with the City, whose contracts permit them to opt--out of this System may also be permitted to opt--out of the System but only at the time of employment as a General Employee.-

\* \* \* \* \*

**SECTION 3:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 4, Finances and Fund Management, subsection 6.B.(3), to read as follows:

\* \* \* \* \*

- (3) In addition, the Board may, upon recommendation by the Board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100, and Revenue Ruling 2011-1, IRS Notice 2012-6 and Revenue Ruling 2014-24 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Section 401(a) of the Code, individual retirement accounts that are exempt under Section 408(e) of the Code, eligible governmental plans that meet the requirements of Section 457(b) of the Code, and governmental plans under 401(a)(24) of the Code. For this purpose, a trust includes a custodial account or a separate tax favored account maintained by an insurance company that is treated as a trust under Section 401(f) or under Section 457(g)(3) of the Code. While any portion of the assets of the Fund are invested in such a group trust, such group trust is itself adopted as a part of the System or plan.
- (a) Any collective or common group trust to which assets of the Fund are transferred pursuant to subsection (3) shall be adopted by the Board as part of the plan by executing appropriate participation, adoption agreements, and/or trust agreements with the group trust's trustee.
- (b) The separate account maintained by the group trust for the plan pursuant to subsection (3) shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the Members and beneficiaries of the plan.
- (c) For purposes of valuation, the value of the separate account maintained by the group trust for the plan shall be the fair market value of the portion of the group trust held for the plan, determined in accordance with generally recognized valuation procedures.

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**SECTION 4:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 5, Contributions, to read as follows:

**SECTION 5. CONTRIBUTIONS.**

1. Member Contributions.

- A. Amount. Each Member of the System shall be required to make regular contributions to the Fund in the amount of five percent (5%) of his Salary. Member contributions withheld by the City on behalf of the Member shall be deposited with the Board at least monthly. The contributions made by each Member to the Fund shall be designated as employer contributions pursuant to §414(h) of the Code. Such designation is contingent upon the contributions being excluded from the Members' gross income for Federal Income Tax purposes. For all other purposes of the System, such contributions shall be considered to be Member contributions.
- B. Method. Such contributions shall be made by payroll deduction.
- C. In addition, in the event there is a specific employment agreement between the Member and the City in which the City agrees to pay all or a part of the Member contributions on behalf of the Member, and the Member does not have the option to receive the contributed amounts directly instead of having them paid by the City to the Fund, the City may pick-up and pay such contributions on behalf of the Member, and such payments shall be excluded from the Member's gross income.

2. City Contributions.

So long as this System is in effect, the City shall make quarterly contributions to the Fund in an amount equal to the required City contribution, as shown by the applicable actuarial valuation of the System. The City may make additional contributions to offset accrued or unfunded liabilities of the System. Additionally, the City reserves the right to pick-up Member contributions and the amount necessary to purchase Credited Service under Section 27 on behalf of certain Members as may be elected by the City. Such action shall be construed as employer pick-up contributions under Section 414(h)(2) of the Code, and shall be excluded from the Member's gross income.

3. Other.

Private donations, gifts and contributions may be deposited to the Fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources may be used only for additional benefits for Members, as determined by the Board, and may not be used to reduce what would have otherwise been required City contributions.

**SECTION 5:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 6, Benefit Amounts and Eligibility, subsection 1, Normal Retirement Date, to read as follows:

\* \* \* \* \*

1. Normal Retirement Age and Date.

~~A Member's normal retirement date shall be the first day of the month coincident with or next following the attainment of age fifty-seven (57) and the completion of ten (10) years of Credited Service. Any Member who, on October 1, 2011 has attained age sixty (60) and who has five (5) or more years of Credited Service may retire with a normal retirement benefit. A Member may retire on his normal retirement date or on the first day of any month thereafter, and each Member shall become one hundred percent (100%) vested in his accrued benefit on the Member's normal retirement date. Normal retirement under the System is Retirement from employment with the City on or after the normal retirement date. A Member's normal retirement age is the earlier of the attainment of age fifty-seven (57) and the completion of ten (10) years of Credited Service. Each Member shall become one hundred percent (100%) vested in his accrued benefit at normal retirement age. A Member's normal retirement date shall be the first day of the month coincident with or next following the date the Member retires from the City after attaining normal retirement age.~~

\* \* \* \* \*

**SECTION 6:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 7, Pre-Retirement Death, subsection 2.B., to read as follows:

\* \* \* \* \*

2. B. If the deceased Member was eligible for normal or early retirement, the Spouse Beneficiary shall receive a benefit payable for five (5) years, beginning on the first day of the month following the Member's death or at the deceased Member's otherwise normal or ~~early~~ retirement date, at the option of the Spouse Beneficiary. The benefit shall be calculated as for normal retirement based on the deceased Member's Credited Service and Average Final Compensation as of the date of his death and reduced as for early retirement, if applicable.

\* \* \* \* \*

**SECTION 7:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 8, Disability, subsection 1, Disability Benefits, to read as follows:

\* \* \* \* \*

1. Disability Benefits.

Any Member who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a General Employee shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to two and seventy two one-hundredths percent (2.72%) of his Average Final Compensation multiplied by the total years of Credited Service, to a maximum of forty (40) years, actuarially reduced from age sixty (60). Terminated persons, either vested or non-vested, are not eligible for disability benefits, ~~except that those terminated by the City for medical reasons may apply for a disability within thirty (30) days after termination~~ Notwithstanding the previous sentence, if a Member is terminated by the City for medical reasons,

the terminated person may apply for a disability benefit if the application is filed with the Board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the Board otherwise determines that he is totally and permanently disabled as provided for above.

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**SECTION 8:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 10, Optional Forms of Benefits, subsection 2., to read as follows:

\* \* \* \* \*

2. The Member, upon electing any option of this Section, will designate the joint pensioner (subsection 1.B. above) or Beneficiary (or Beneficiaries) to receive the benefit, if any, payable under the System in the event of Member's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one (1) or more primary Beneficiaries where applicable. If a Member has elected an option with a joint pensioner or Beneficiary and Member's retirement income benefits have commenced, the Member may thereafter change his designated Beneficiary at any time, but may only change his joint pensioner if the designated joint pensioner and the Member were married at the time of Member's Retirement and are divorced subsequent thereto and the joint pensioner is alive at the time of the change. In the absence of proof of good health of the joint pensioner being replaced, the actuary will assume that the joint pensioner has deceased for purposes of calculating the new payment.

\* \* \* \* \*

**SECTION 9:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 14, Maximum Pension, subsections 6., 8., 10.A., 12.B., and by adding subsection 13, to read as follows:

\* \* \* \* \*

6. Less than Ten (10) Years of Participation ~~or Service.~~

The maximum retirement benefits payable under this Section to any Member who has completed less than ten (10) years of ~~Credited Service with the City~~ participation shall be the amount determined under subsection 1 of this Section multiplied by a fraction, the numerator of which is the number of the Member's years of ~~Credited Service~~ participation and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to Section 8, or pre-retirement death benefits paid pursuant to Section 7.

\* \* \* \* \*

8. Ten Thousand Dollar (\$10,000) Limit; Less Than Ten Years of Service.

Notwithstanding anything in this Section 14, the retirement benefit payable with respect to a Member shall be deemed not to exceed the limit set forth in this subsection 8. of Section 14 if the benefits payable, with respect to such Member under this System and under all other qualified defined benefit pension plans to which the City contributes, do not exceed ten

thousand dollars (\$10,000) for the applicable limitation year ~~and~~ or for any prior limitation year, and the City has not at any time maintained a qualified defined contribution plan in which the Member participated; provided, however, that if the Member has completed less than ten (10) years of Credited Service with the City, the limit under this subsection 8. of Section 14 shall be a reduced limit equal to ten thousand dollars (\$10,000) multiplied by a fraction, the numerator of which is the number of the Member's years of Credited Service and the denominator of which is ten (10).

\* \* \* \* \*

10. Service Credit Purchase Limits.

A. Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a Member makes one or more contributions to purchase permissive service credit under the System, as allowed in Sections 25, 27 and 29 ~~and 27~~, then the requirements of this Section will be treated as met only if:

- (1) the requirements of Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Code Section 415(b), or
- (2) the requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).

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

\* \* \* \* \*

12. B. No Member of the System shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter ~~67~~ 1223, Title 10, U.S. Code.

13. Effect of Direct Rollover on 415(b) Limit.

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

**SECTION 10:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 15, Distribution of Benefits, subsection 2.B.(4), to read as follows:



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- (4) If the Member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this subsection 2.B., other than subsection 2.B.(1), will apply as if the surviving spouse were the Member.

For purposes of this subsection 2.B. ~~and subsection 5~~, distributions are considered to begin on the Member's required beginning date or, if subsection 2.B.(4) applies, the date of distributions are required to begin to the surviving spouse under subsection 2.B.(1). If annuity payments irrevocably commence to the Member before the Member's required beginning date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection 2.B.(1)), the date distributions are considered to begin is the date distributions actually commence.

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**SECTION 11:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 25, Military Service Prior to Employment, subsection 5, to read as follows:

\* \* \* \* \*

5. Credited Service purchased pursuant to this Section shall ~~not~~ count for all purposes, including toward vesting.

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**SECTION 12:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 26, Deferred Retirement Option Plan, to read as follows:

**SECTION 26. DEFERRED RETIREMENT OPTION PLAN.**

1. Definitions.

As used in this Section 26, the following definitions apply:"

- A. "DROP" -- The City of Lake Alfred General Employees' Deferred Retirement Option Plan.
- B. "DROP Account" -- The account established for each DROP participant under subsection 3.
- C. "Total return of the assets" -- For purposes of calculating earnings on a Member's DROP Account pursuant to subsection 3.B.(2)(b), for each fiscal year quarter, the percentage increase (or decrease) in the interest and dividends earned on investments, including realized and unrealized gains (or losses), of the total plan assets.

2. Participation.

A. Eligibility to Participate.

In lieu of terminating his employment as a General Employee, any Member who is eligible for normal retirement under the System may elect to defer receipt of such service retirement pension and to participate in the DROP.

B. Election to Participate.

A Member's election to participate in the DROP must be made in writing in a time and manner determined by the Board and shall be effective on the first day of the first calendar month which is at least fifteen (15) business days after it is received by the Board.

C. Period of Participation.

A Member who elects to participate in the DROP under subsection 2.B., shall participate in the DROP for a period not to exceed sixty (60) months beginning at the time his election to participate in the DROP first becomes effective. In no event, however, may a Member participate in the DROP beyond the date which is five (5) years from the date on which the Member first becomes eligible for normal retirement. Notwithstanding the previous sentence, any Member who was eligible for normal retirement on August 21, 2000, may participate in the DROP for a full sixty (60) months on the condition that he entered the DROP on or before September 20, 2000. An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the City not later than the date provided for in this subsection. A Member may participate only once.

D. Termination of Participation.

- (1) A Member's participation in the DROP shall cease at the earlier of:
  - (a) the end of his permissible period of participation in the DROP as determined under subsection 2.C.; or
  - (b) termination of his employment as a General Employee.
- (2) Upon the Member's termination of participation in the DROP, pursuant to subsection (1)(a) above, all amounts provided for in subsection 3.B., including monthly benefits and investment earnings and losses or interest, shall cease to be transferred from the System to his DROP Account. Any amounts remaining in his DROP Account shall be paid to him in accordance with the provisions of subsection 4. when he terminates his employment as a General Employee.
- (3) A Member who terminates his participation in the DROP under this subsection 2.D. shall not be permitted to again become a participant in the DROP.

E. Effect of DROP Participation on the System.

- (1) A Member's Credited Service and his accrued benefit under the System shall be determined on the date his election to participate in the DROP first becomes effective. The Member shall not accrue any additional Credited Service or any additional benefits under the System (except for any additional benefits provided under any cost-of-living adjustment for Retirees in the System) while he is a participant in the DROP. After a Member commences participation, he shall not be permitted to again contribute to the System nor shall he be eligible for disability or pre-retirement death benefits, except as provided for in Section 28, Reemployment After Retirement.
- (2) No amounts shall be paid to a Member from the System while the Member is a participant in the DROP. Unless otherwise specified in the System, if a Member's participation in the DROP is terminated other than by terminating his employment as a General Employee, no amounts shall be paid to him from the System until he terminates his employment as a General Employee. Unless otherwise specified in the System, amounts transferred from the System to the Member's DROP Account shall be paid directly to the Member only on the termination of his employment as a General Employee.

3. Funding.

A. Establishment of DROP Account.

A DROP Account shall be established for each Member participating in the DROP. A Member's DROP Account shall consist of amounts transferred to the DROP under subsection 3.B., and earnings or interest on those amounts.

B. Transfers From Retirement System.

- (1) As of the first day of each month of a Member's period of participation in the DROP, the monthly retirement benefit he would have received under the System had he terminated his employment as a General Employee and elected to receive monthly benefit payments thereunder shall be transferred to his DROP Account, except as otherwise provided for in subsection 2.D.(2). A Member's period of participation in the DROP shall be determined in accordance with the provisions of subsections 2.C. and 2.D., but in no event shall it continue past the date he terminates his employment as a General Employee.
- (2) Except as otherwise provided in subsection 2.D.(2), a Member's DROP Account under this subsection 3.B. shall be debited or credited ~~after each fiscal year quarter~~ with either:
  - (a) Interest at an effective rate of six and one-half percent (6-1/2%) per annum compounded ~~quarterly~~ monthly,

determined on the last business day of the prior quarter's month's ending balance and credited to the Member's DROP Account as of such date (to be applicable to all current and future DROP participants); or

- (b) Earnings, to be credited or debited to the Member's DROP Account, determined as of the last business day of each fiscal year quarter and debited or credited as of such date, determined as follows:

The average daily balance in a Member's DROP Account shall be credited or debited at a rate equal to the net investment return realized by the System for that quarter. "Net investment return" for the purpose of this paragraph is the total return of the assets in which the Member's DROP Account is invested by the Board net of brokerage commissions, transaction costs and management fees.

For purposes of calculating earnings on a Member's DROP Account pursuant to this subsection 3.B.(2)(b), brokerage commissions, transaction costs, and management fees shall be determined for each quarter by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these quarterly contractual fees to the Board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total plan assets.

Upon electing participation in the DROP, the Member shall elect to receive either interest or earnings on his account to be determined as provided above. The Member may, in writing, elect to change his election only once during his DROP participation. An election to change must be made prior to the end of a quarter and shall be effective beginning the following quarter.

- (3) A Member's DROP Account shall only be credited or debited with earnings or interest and monthly benefits while the Member is a participant in the DROP. A Member's final DROP account value for distribution to the Member upon termination of participation in the DROP shall be the value of the account at the end of the quarter immediately preceding termination of participation for participants electing the net plan return and at the end of the month immediately preceding termination of participation for participants electing the flat interest rate return, plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter or month, as applicable, and prior to distribution. If a Member fails to terminate employment after participating in the DROP for the permissible period of DROP participation, then beginning with the Member's first month of employment following the last month of the permissible period of DROP participation, 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 the permissible period of DROP participation, will be eligible for pre-retirement death and disability benefits, and will accrue additional Credited Service only as provided for in Section 28.

4. Distribution of DROP Accounts on Termination of Employment.

A. Eligibility for Benefits.

A Member shall receive the balance in his DROP Account in accordance with the provisions of this subsection 4. upon his termination of employment as a General Employee. Except as provided in subsection 4.E., no amounts shall be paid to a Member from the DROP prior to his termination of employment as a General Employee.

B. Form of Distribution.

(1) Unless the Member elects otherwise, distribution of his DROP Account shall be made in a lump sum, subject to the direct rollover provisions set forth in subsection 4.F. ~~A Member may, however, elect, in such time and manner as the Board shall prescribe, that his DROP distribution be used to purchase a nonforfeitable fixed annuity payable in such form as the Member may elect.~~ Elections under this paragraph shall be in writing and shall be made in such time or manner as the Board shall determine.

(2) If a Member dies before his benefit is paid, his DROP Account shall be paid to his Beneficiary in such optional form as his Beneficiary may select. If no Beneficiary designation is made, the DROP Account shall be distributed to the Member's estate.

C. Date of Payment of Distribution.

Except as otherwise provided in this subsection 4., distribution of a Member's DROP Account shall be made as soon as administratively practicable following the Member's termination of employment. Distribution of the amount in a Member's DROP account will not be made unless the Member completes a written request for distribution and a written election on forms designated by the Board to either receive a cash lump sum or a rollover of the lump sum amount.

D. Proof of Death and Right of Beneficiary or Other Person.

The Board may require and rely upon such proof of death and such evidence of the right of any Beneficiary or other person to receive the value of a deceased Member's DROP Account as the Board may deem proper and its determination of the right of that Beneficiary or other person to receive payment shall be conclusive.

E. Distribution Limitation.

Notwithstanding any other provision of this subsection 4., all distributions from the DROP shall conform to the "Minimum Distributions of Benefits" provisions as provided for herein.

F. Direct Rollover of Certain Distributions.

This subsection applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the DROP to the contrary, a distributee may elect to have any portion of an eligible rollover distribution paid directly in a direct rollover as otherwise provided under the System in Section 22.

5. Administration of DROP.

A. Board Administers the DROP.

The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility of overseeing the investment of the DROP's assets shall be placed in the Board. The members of the Board may appoint from their number such subcommittees with such powers as they shall determine; may adopt such administrative procedures and regulations as they deem desirable for the conduct of their affairs; may authorize one or more of their number or any agent to execute or deliver any instrument or make any payment on their behalf; may retain counsel, employ agents and provide for such clerical, accounting, actuarial and consulting services as they may require in carrying out the provisions of the DROP; and may allocate among themselves or delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as Trustee under any trust agreement adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A Trustee shall not vote on any question relating exclusively to himself.

B. Individual Accounts, Records and Reports.

The Board shall maintain, records showing the operation and condition of the DROP, including records showing the individual balances in each Member's DROP Account, and the Board shall keep in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The Board shall prepare and distributed to Members participating in the DROP and other individuals or filed with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Code and any other applicable laws.

C. Establishment of Rules.

Subject to the limitations of the DROP, the Board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The Board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an

individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a participant in the DROP). The determination of the Board as to the interpretation of the DROP or its determination of any disputed questions shall be conclusive and final to the extent permitted by applicable law.

D. Limitation of Liability.

- (1) The Trustees shall not incur any liability individually or on behalf of any other individuals for any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.
- (2) Neither the Board nor any Trustee of the Board shall be responsible for any reports furnished by any expert retained or employed by the Board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The Board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.

6. General Provisions.

A. The DROP is not a separate retirement plan.

Instead, it is a program under which a Member who is eligible for normal retirement under the System may elect to accrue future retirement benefits in the manner provided in this section 26 for the remainder of his employment, rather than in the normal manner provided under the plan. Upon termination of employment, a Member is entitled to a lump sum distribution of his or her DROP Account balance or may elect a rollover. The DROP Account distribution is in addition to the Member's monthly benefit.

B. Notional account.

The DROP Account established for such a Member is a notional account, used only for the purpose of calculation of the DROP distribution amount. It is not a separate account in the System. There is no change in the System's assets, and there is no distribution available to the Member until the Member's termination from the DROP. The Member has no control over the investment of the DROP account.

C. No employer discretion.

The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.

D. IRC limit.

The DROP Account distribution, along with other benefits payable from the System, is subject to limitation under Internal Revenue Code Section 415(b).

A-E. Amendment of DROP.

The DROP may be amended by an ordinance of the City at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, except as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP Account of any Member.

B F. Facility of Payment.

If a Member or other person entitled to a benefit under the DROP is unable to care for his affairs because of illness or accident or is a minor, the Board shall direct that any benefit due him, shall be made only to a duly appointed legal representative. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.

C G. Information.

Each Member, Beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the DROP, shall file with the Board the information that it shall require to establish his rights and benefits under the DROP.

D H. Prevention of Escheat.

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

E J. Written Elections, Notification.

(1) Any elections, notifications or designations made by a Member pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules uniformly applicable to all employees similarly situated. The Board reserves the right to change from time to time the manner for making notifications, elections or designations by Members under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the



event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.

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

**F J. Benefits Not Guaranteed.**

All benefits payable to a Member from the DROP shall be paid only from the assets of the Member's DROP Account and neither the City nor the Board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.

**G K. Construction.**

- (1) The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls.
- (2) The titles and headings of the subsections in this Section 26 are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

**H L. Forfeiture of Retirement Benefits.**

Nothing in this Section shall be construed to remove DROP participants from the application of any forfeiture provisions applicable to the System. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.

- † M. Effect of DROP Participation on Employment.** Participation in the DROP is not a guarantee of employment and DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

**SECTION 13:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 27, Prior Government Service, to read as follows:

**SECTION 27. PRIOR GOVERNMENT SERVICE.**

Unless otherwise prohibited by law, the years or fractional parts of years that a General Employee who was previously a Member, but who terminated employment and received a refund of his contributions or who terminated employment and is not otherwise entitled to Credited Service for such previous period of employment as a General Employee, or the years or fractional parts of years that a Member previously served as an employee for any governmental agency in the United

States, including but not limited to federal, state or local government service, and for which he does not otherwise qualify for and receive credit under this System, shall be added to his years of Credited Service provided that:

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

2. Multiple requests to purchase Credited Service pursuant to this Section may be made at any time prior to Retirement.

3. Payment by the Member of the required amount shall be made within six (6) months of his request for credit, but in any event, prior to Retirement, and shall be made in one lump sum payment upon receipt of which Credited Service shall be given.

4. The maximum credit under this Section for service other than with the City of Lake Alfred shall be five (5) years of Credited Service and shall count for all purposes, ~~except~~ including vesting. There shall be no maximum purchase of credit for prior service with the City of Lake Alfred and such credit shall count for all purposes, including vesting.

5. In no event, however, may Credited Service be purchased pursuant to this Section for prior service with any other governmental agency, if such prior service forms or will form the basis of a retirement benefit or pension from another retirement system or plan as set forth in Section 14, subsection ~~8-B~~ 12.B.

6. Notwithstanding the previous subsections, the City may elect to pick-up all or a portion of the amount of the contribution required for the purchase of prior government service for a Member. It is the intent of this provision that any pick-up contribution shall be pursuant to Section 414(h)(2) of the Code and not result in reported wages, withholding, or taxable income to the Member. The contributions, although designated as employee contributions, are being paid by the City in lieu of contributions made by the Member; and the Member does not have the option to receive the contributed amounts directly instead of having them paid by the City to the plan.

**SECTION 14:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by amending Section 28, Reemployment After Retirement, to read as follows:

**SECTION 28. REEMPLOYMENT AFTER RETIREMENT.**

1. Any Retiree who is retired under this System, except for disability retirement as previously provided for, may be reemployed by any public or private employer, except the City, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this System. Reemployment by the City shall be subject to the limitations set forth in this Section.

2. After Normal Retirement. Any Retiree who is retired under normal retirement pursuant to this System and who is reemployed by the City in any capacity, shall upon being reemployed, continue receipt of retirement benefits during any such employment period if he is at

least age (62), otherwise the System shall discontinue receipt of benefits until he reaches age sixty-two (62). A Retiree who returns to work under the provisions of this Section and, by virtue of that reemployment, is eligible to participate in this System, shall not accumulate additional Credited Service for subsequent periods of employment described in this Section, shall not be required to make contributions to the System, nor shall he be eligible for any other benefit other than the Retiree's normal retirement benefit. Regardless of any other provision of this System, any retired and reemployed Retiree continuing to receive retirement benefits shall not be an active Member of the System.

3. Any Retiree who is retired under normal retirement pursuant to this System and who is reemployed by the City after that Retirement and, by virtue of that reemployment is ineligible to participate in this System, shall, during the period of such reemployment, continue to receive retirement benefits previously earned if he is at least age (62), otherwise the System shall discontinue receipt of benefits until he reaches age sixty-two (62). Former DROP participants shall begin receipt of benefits under these circumstances.

4. After Early Retirement. Any Retiree who is retired under early retirement pursuant to this System and who subsequently becomes an employee of the City in any capacity, shall discontinue receipt of benefits from the System until the earlier of termination of employment or such time as the reemployed Retiree reaches ~~the date that he would have been eligible for normal retirement under this System had he continued employment and not elected early retirement~~ age sixty-two (62). ~~"Normal retirement" as used in this subsection shall be the current normal retirement date provided for under this System.~~ A Retiree who returns to work under the provisions of this Section shall not be eligible for membership in the System, and, therefore, shall not accumulate additional Credited Service for subsequent periods of employment described in this Section, shall not be required to make contributions to the System, nor shall he be eligible for any other benefit other than the Retiree's early retirement benefit when he again becomes eligible as provided herein. Retirement pursuant to an early retirement incentive program shall be deemed early retirement for purposes of this Section if the Member was permitted to retire prior to the customary retirement date provided for in the System at the time of retirement.

5. Reemployment of Terminated Vested Persons. Reemployed terminated vested persons shall not be subject to the provisions of this Section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early Retirees for purposes of applying the provisions of this Section and their status as an early or normal Retiree shall be determined by the date they elect to begin to receive their benefit.

6. DROP Participants. ~~Members or~~ Retirees who are or were in the Deferred Retirement Option Plan shall, following termination of employment after DROP participation, have the options provided for in this section for reemployment.

**SECTION 15:** That Appendix A, General Employees' Retirement System, of the Code of Ordinances of the City of Lake Alfred, is hereby amended by adding Section 29, Purchase of Credited Service, to read as follows:

**SECTION 29. PURCHASE OF NON-QUALIFIED SERVICE CREDIT.**

Unless otherwise prohibited by law, any Member who has accrued at least five (5) years of participation (which does not include purchased service) under this system shall be permitted to purchase up to five (5) years of additional Credited Service under this System for periods when there was no performance of service ("air time") provided that:

- (1) The Member contributes to the fund the sum that he would have contributed had he been a Member of the System for the years or fractional parts of years for which he is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the Fund plus payment of costs for all professional services rendered to the Board in connection with the purchase of years of Credited Service.
- (2) Multiple requests to purchase Credited Service pursuant to this Section may be made at any time prior to Retirement.
- (3) Payment by the Member of the required amount shall be made within six (6) months of his or her request for credit, but, in any event, prior to Retirement, and shall be made in one lump sum payment upon receipt of which Credited Service shall be given.
- (4) Service purchased pursuant to this Section shall count for all purposes including vesting and eligibility for disability benefits. The maximum combined purchase under this Section and Sections 25 and 27 shall be eight (8) years. However, there shall be no maximum purchase of credit for prior service with the City of Lake Alfred and such purchased service shall not be considered in determining the eight year maximum.

**SECTION 16: CODIFICATION.** It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lake Alfred; and that sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code of Ordinances of the City of Lake Alfred is accomplished, sections of this Ordinance may be renumbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or his or her designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

**SECTION 17: CONFLICT.** All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed to the extent necessary to give this Ordinance full force and effect, provided however, that nothing herein shall be interpreted so as to repeal any existing ordinance or resolution relating to means of securing compliance with the City's Code of Ordinances, unless such repeal is explicitly set forth herein.

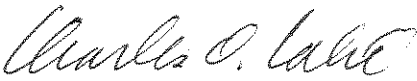
**SECTION 18: SEVERABILITY.** If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The City of Lake Alfred, Florida, hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**SECTION 19: EFFECTIVE DATE.** That this Ordinance shall become effective upon adoption.

**INTRODUCED AND PASSED** on First Reading at a regular meeting of the Lake Alfred City Commission held this 9<sup>th</sup> day of January, 2017.

**PASSED AND FINALLY ADOPTED** on Second Reading at the meeting of the Lake Alfred City Commission duly assembled on, this 23<sup>rd</sup> day of January, 2017.

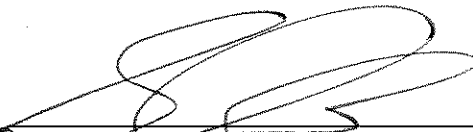
CITY OF LAKE ALFRED, FLORIDA  
CITY COMMISSION

  
Charles O. Lake, Mayor

ATTEST:

  
Amee Bailey-Speck, City Clerk

APPROVED AS TO FORM:

  
Frederick J. Murphy, Jr., City Attorney

dm/LA/GEN/11-07-16.ORD.rev 12-16-16