

ORDINANCE NO.190-10-141

AN ORDINANCE OF THE CITY OF LAUDERHILL, FLORIDA, AMENDING THE CITY CODE BY AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE II, OFFICERS AND EMPLOYEES, DIVISION 3, RETIREMENT, PART 1, "FIREFIGHTERS PENSION FUND," AMENDING SECTION 2-41 "DEFINITIONS"; AMENDING SECTION 2-42 "MEMBERSHIP"; AMENDING 2-43 "RETIREMENT DATES AND BENEFITS"; AMENDING 2-49 "CONTRIBUTIONS"; AND AMENDING SECTION 2-54 "DEFERRED RETIREMENT OPTION PLAN (DROP)"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, CHARLES FARANDA).

IT IS HEREBY ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA, AS FOLLOWS: ¹

Section 1. Each of the above stated recitals is hereby adopted and confirmed.

Section 2. Section 2-41 "Definitions" of Chapter 2, Article II, Division 3, Part 1 "Firefighters Pension Fund" of the City Code is hereby amended to read as follows:

Sec. 2-41. - Definitions.

Average monthly earnings means one-twelfth (1/12) of the arithmetic average of annual earnings for consecutive years immediately preceding the actual retirement or termination date of a Tier One or Tier Two Member, subject to the following conditions:

- (a) Effective ~~effective~~ October 1, 2003 through [Day Before Second Reading Date], for Tier One members, average monthly earnings means one-twelfth (1/12) of the arithmetic average of annual

¹ Proposed additions to existing City Code text are indicated by underline; proposed deletions from existing City Code text are indicated by strikethrough. Changes between first and second reading are shown in double-strikethrough and double underline.

earnings for the highest consecutive three (3) years of the ten (10) full years immediately preceding the actual retirement or termination date of a Tier One member; provided, that if a Tier One member shall have been employed for fewer than five (5) years such average shall be taken only over the period of his actual employment.

(b) Effective October 1, 2003 through November 24, 2019, Average monthly earnings for Tier Two members who retire with less than twenty-five (25) years of credited service shall mean one-twelfth (1/12) of the arithmetic average of annual earnings for the highest consecutive four (4) years of the ten (10) full years immediately preceding the actual retirement or termination date of a member. Average monthly earnings for Tier Two members who retire with twenty-five (25) years or more of credited service shall mean one-twelfth (1/12) of the arithmetic average of annual earnings for the highest consecutive three (3) years of the ten (10) full years immediately preceding the actual retirement or termination date of a member. Notwithstanding the foregoing, if a Tier Two member has been employed for fewer than five (5) years such average shall be taken only over the period of his/her actual employment.

(c) Effective November 25, 2019, for members not eligible for normal retirement as of November 25, 2019, average monthly earnings for prospective credited service as of November 25, 2019, means one-twelfth (1/12) of the arithmetic average of annual earnings for the highest consecutive five (5) years of the ten (10) full years; provided, in no event will a member's average monthly earnings be less than the highest three (3) year average (for Tier One members) or four (4) year average (for Tier Two members) as of November 25, 2019. As such, the applicable average monthly earnings would be the greater of the three (3) year average (for Tier One members) or four (4) year average (for Tier Two members) as of the Second Reading Date, or the five (5) year average as of the retirement date.

Tier Two means the defined benefit pension program for firefighters hired on or after October 1, 2009. Tier Two benefits shall be administered in the same manner as Tier One benefits, except as follows:

- (1) The normal retirement benefit for Tier Two members shall be calculated using a three (3) percent multiplier for each year of service with a maximum seventy-five (75) percent benefit after twenty-five (25) years of service, however, such members may increase their pension multiplier to three and one-half (3.5) percent provided that all costs associated with such an increase are borne solely by the member;
- (2) Average monthly earnings for Tier Two members who retire with less than twenty-five (25) years of credited service shall mean one-twelfth ($1/12$) of the arithmetic average of annual earnings for the highest consecutive four (4) years of the ten (10) full years immediately preceding the actual retirement or termination date of a member and for Tier Two members who retire with twenty-five (25) years or more of credited service average monthly earnings shall mean one-twelfth ($1/12$) of the arithmetic average of annual earnings for the highest consecutive three (3) years of the ten (10) full years immediately preceding the actual retirement or termination date of a member;
- (3) For credited service earned on or before October 29, 2018, Tier Two members shall have their monthly retirement increased after being retired for three (3) years, by a sum equal to the net return of the plan per year, with a one and one-half (1.5) percent cap and zero (0) percent floor per year ("Tier Two COLA"). For credited service earned after October 29, 2018, Tier Two members shall have their monthly retirement benefit increased after five (5) years of separation of service from the City, by a sum equal to one (1) percent, with no more than eight (8) cost of living adjustments to this portion of their monthly retirement benefit during their lifetime .
- (4) ~~A Tier Two member must have been retired for three (3) years before he/she is entitled to a Tier Two Cola;~~

(4.5) A Tier Two member may enter into the DROP on the first day of the month following the member's completion of ~~twenty-five (25)~~ twenty (20) years of credited service for a maximum of ~~eighty-four~~ sixty (60) months, however, the DROP term shall be reduced by one (1) month for each month of eligibility following the completion of twenty-five (25) ~~twenty (20)~~ years of service during which the members do not participate in the DROP; and.

(5.6) Tier Two member DROP accounts ~~shall~~ will be credited at a rate of interest that is variable and based on the actual annual net rate of return earnings (i.e., the gross return of the Fund less the Fund's administrative costs) of the Fund, with a floor of zero percent (0%) and a cap of five percent (5%) per year. Any actual annual net rate of return earnings for the Fund in excess of five percent (5%) will go back into the Fund. equal to the actual rate of return achieved by the trust fund net of administrative expenses.

Tier Two member means a firefighter hired on or after October 1, 2009.

Section 3. Section 2-42 "Membership" of Chapter 2, Article II, Division 3, Part 1 "Firefighters Pension Fund" of the City Code is hereby amended to read as follows:

Sec. 2-42. - Membership.

* * * * *

(b) *Application for membership.* Each employee eligible for membership shall complete an application form covering the following points, as well as such other points or items as may be prescribed by the board:

- (1) Acceptance of the terms and conditions of the system, including any declaration of ineligibility for disability benefits;
- (2) Designation of a beneficiary or beneficiaries; and
- (3) Authorization of ~~thirteen and seventy two one hundredths~~ percent of earnings ~~(13.72) percent as described in Sec. 2-49(a)(1)~~ to be picked up on behalf of a firefighter and payable to the system, effective October 1, 1995. For purposes of member contributions and for all benefits hereunder, the application for membership

shall be considered to have been in effect from the date of employment, even though officially accepted and approved by the board at a later date.

Section 4. Section 2-43 "Retirement dates and benefits" of Chapter 2, Article II, Division 3, Part 1 "Firefighters Pension Fund" of the City Code is hereby amended to read as follows:

Sec. 2-43. Retirement dates and benefits.

(c) *Normal retirement benefit:*

(1) *Amount.* For Tier One members the monthly retirement benefit shall be an amount equal to three (3) percent of average monthly earnings times the years and completed months of credited service for all credited service prior to October 1, 2003. For all years of credited service after October 1, 2003 through November 24, 2019, the monthly retirement benefit for Tier One members shall be an amount equal to four (4) percent of average monthly earning times years and completed months of credited service. For all years of credited service earned on or after November 25, 2019, the monthly retirement benefit for Tier One members not eligible for normal retirement as of November 25, 2019, shall be an amount equal to three (3) percent of average monthly earning times years and completed months of credited service.

(h) *Cost of living benefit.* A member retiring hereunder may receive a cost of living benefit as follows:

(1) Effective October 1, 2006 each retiree who was a Tier One Mmember, (or and any Tier One member thereafter who is eligible for normal retirement as of November 25, 2019 , October 29, 2018,) including all retirees who retired prior to October 1, 2006, shall have their monthly retirement benefits increased by a sum equal to one and one-half (1.5) percent per year (the "COLA"). Provided however, that before any Tier One member who was a retiree as of October 1, 2006, including all retirees who retired prior to October 1, 2006, and or any Tier One member who was eligible for normal retirement as of November 25, 2019, is entitled to receive a COLA,

the retiree must have been retired for three (3) years. Tier One members who were not eligible for normal retirement as of November 25, 2019, shall have their monthly retirement benefit increased by a sum equal to one and one-half (1.5) percent per year for credited service earned on or before October 29, 2018, upon having been retired for three (3) years. Tier Two members who retire shall have their monthly retirement benefit increased for credited service earned on or before October 29, 2018, by a sum equal to the net return of the Fund plan per year (i.e., the gross return of the Fund plan less the Fund's plan's administrative costs) ("Tier Two COLA"), with a one and one-half (1.5) percent cap and a zero (0) percent floor per year, after having been retired for three (3) years. Provided however, that before any retiree is entitled to a COLA, the retiree must have been retired for three (3) years. Following the retiree's death who was a Tier One member, the COLA will be paid to each designated beneficiary. Following the death of a retiree who was a Tier Two member, the Tier Two COLA will be paid to each designated beneficiary only if a Tier Two COLA for retirees is to be given as a result of a net return being earned for the plan that year.

(2) Each member who was a Tier One member not eligible for normal retirement as of November 25, 2019, or a Tier Two member as of October 29, 2018, shall have their monthly retirement benefit increased by a sum equal to one (1) percent per year (the "COLA 2") based on credited service earned after October 29, 2018. Provided however, that before any retiree is entitled to a COLA 2 based on any credited service earned after October 29, 2018, the retiree must have been separated from City service for five (5) years. Retirees shall not receive more than eight (8) COLA 2 adjustments to their benefit based on credited service earned after October 29, 2018, during their lifetime.

(3) Following a retiree's death who was a Tier One member, the COLA will be paid to each designated beneficiary. Following the death of a retiree who was a Tier Two member, the Tier Two COLA will be paid to each designated beneficiary only if a Tier Two COLA for retirees is to be given as a result of a net return being earned for the Fund that year.

* * * * *

Section 5. Section 2-49 "Contributions" of Chapter 2, Article II, Division 3, Part 1 "Firefighters Pension Fund" of the City Code is hereby created to read as follows:

Sec. 2-49. - Contributions.

(a) Member contributions.

(1) *Amount.* Effective October 1, 1997 through October 29, 2018, the regular contributions of each firefighter member of the system shall be thirteen and seventy-two-one-hundredths (13.72) percent of earnings. Effective after October 29, 2018 through September 30, 2019, the regular contributions of each firefighter Member of the Fund shall be twelve and seventy-two-one-hundredths (12.72) percent of earnings. Effective October 1, 2019 through September 30, 2020, the regular contributions of each firefighter Member of the Fund shall be eleven and seventy-two-one-hundredths (11.72) percent of earnings. Effective October 1, 2020, the regular contributions of each firefighter Member of the system shall be ten and seventy-two-one-hundredths (10.72) percent of earnings. The city shall pick up, rather than deduct, all regular contributions of members. The city shall derive pickup amounts from the same source of funds which is used in compensating members of the retirement system and shall do so by reducing the earnable compensation of each member. All pick-up amounts shall be treated as employer contributions for purposes of determining tax treatment under the Internal Revenue Code of 1954, as amended.

* * * * *

Section 6. Section 2-54 "Deferred retirement option plan (DROP)" of Chapter 2, Article II, Division 3, Part 1 "Firefighters Pension Fund" of the City Code is hereby created to read as follows:

Sec. 2-54. - Deferred retirement option plan (DROP).

1. There is hereby created a DROP Plan.
2. Eligibility.

(a) Tier One - Effective October 1, 2003, any firefighter who is a Tier One member of the City of Lauderhill Firefighters' Retirement Trust Fund is eligible to enter the DROP on the first day of the month following the participant's completion of twenty (20) years of credited service or upon earning a pension benefit equal to eighty

(80) percent. If a Tier One member enters the DROP more than ninety (90) days after attaining the eighty (80) percent accrued benefit, the amount of time after the accrual of the eighty (80) percent benefit until the entry into the DROP will result in a commensurate reduction in the maximum time allowed for DROP participation. All those persons who are eligible to enter the DROP may enter into a five-year DROP at any time during the ninety (90) days window following the effective date of this section. For Tier One members who were in the DROP as of October 29, 2018 and are still in the DROP as of November 25, 2019, they may remain in the DROP for up to five (5) years without making a contribution to the Fund, but must contribute three percent (3%) of their base payroll earnings to the Fund for any period that they elect to remain in the DROP beyond five (5) complete years. DROP interest earnings for any period in excess of five (5) years in the DROP, for Tier One members who were in the DROP as of October 29, 2018, and are still in the DROP as of November 25, 2019, will be variable and based on the actual annual net rate of return earnings (i.e., the gross return of the Plan less the plan's administrative costs) of the Fund, with a floor of zero percent (0%) and a cap of five percent (5%) per year. Any actual annual net rate of return earnings for the Fund in excess of five percent (5%) will go back into the Fund. Tier One members who enter DROP, but were not eligible to enter DROP as of November 25, 2019, may participate in the DROP for a maximum of eighty-four (84) months provided that they contribute three percent (3%) of their base payroll earnings to the Fund while in the DROP and their DROP interest earnings will be variable and based on the actual annual net rate of return earnings (i.e., the gross return of the Plan less the plan's administrative costs) of the Fund, with a floor of zero percent (0%) and a cap of five percent (5%) per year. Any actual annual net rate of return earnings for the Fund in excess of five percent (5%) will go back into the Fund. For Tier One members who were not eligible to enter DROP as of October 29, 2018, but subsequently became eligible to enter DROP prior to November 25, 2019, they may participate in DROP for up to five (5) years without making a contribution to the Fund, but must contribute three percent (3%) of their base payroll earnings to the Fund for any period that they remain in the DROP beyond five (5) complete years. DROP interest earnings for any period in excess of five (5) years in the DROP, for Tier One members who were not eligible to enter DROP as of October 29, 2018, but subsequently became eligible to enter DROP prior to November 25, 2019, will be

variable and based on the actual annual net rate of return earnings (i.e., the gross return of the Plan less the plan's administrative costs) of the Fund, with a floor of zero percent (0%) and a cap of five percent (5%) per year. Any actual annual net rate of return earnings for the Fund in excess of five percent (5%) will go back into the Fund.

(b) Tier Two – Tier Two members may enter into the DROP on the first day of the month following the Tier Two member's completion of ~~twenty (20)~~ ~~twenty five (25)~~ years of credited service. A Tier Two member may participate in the DROP for a maximum of ~~eighty-four (84)~~ ~~sixty (60)~~ months provided they contribute three percent (3%) of their base payroll earnings while in the DROP to the Fund. The number of months a Tier Two member may participate in the DROP shall be reduced by one (1) month for each month of eligibility following the completion of ~~twenty (20)~~ **twenty five (25)** years of credited service during which the member does not participate in the DROP. Tier Two member DROP accounts will be credited at a rate of interest that is variable and based on the actual annual net rate of return earnings (i.e., the gross return of the Plan less the plan's administrative costs) of the Fund, with a floor of zero percent (0%) and a cap of five percent (5%) per year. Any actual annual net rate of return earnings for the Fund in excess of five percent (5%) will go back into the Fund.

3. The maximum participation in DROP shall be ~~eighty-four (84)~~ ~~sixty (60)~~ months, ~~except as provided in subsections 2 and 4, below.~~ All those persons who ~~were~~ ~~are~~ DROP participants on October 29, 2018, the effective date of the adoption of this section may extend their DROP participation for an additional number of months as herein described, if applicable. ~~so that their total number of months does not exceed sixty (60).~~

7. Contributions. Upon the effective date of the firefighter's commencement of participation in the DROP, the firefighter's contribution shall be discontinued except as provided in subsection 2, above.
8. Irrevocable resignation. The City of Lauderhill Firefighters' Retirement System shall promulgate the appropriate administrative

forms for administering the DROP, which forms must include, at a minimum, an irrevocable resignation from employment of the city, which ~~shall be is~~ effective no more than ~~three-seven~~ (37) years from the date of entry into the DROP. The resignation is irrevocable, unless the resignation was submitted by a Member who was in the DROP as of October 29, 2018, and is currently in the DROP as of November 25, 2019, then that Member may revoke his or her current effective resignation date and designate a new effective resignation of on or before the latest date allowable in accordance with Section 2-54 after November 25, 2019. A DROP member may actually separate from service prior to the expiration of the ~~three-seven~~-year DROP period, but may not continue in the employ of the city as a firefighter after the ~~seven three~~-(37) year DROP period. A DROP member may participate in the DROP only once.

10. Payments to DROP account. The monthly retirement benefits, including any variable benefits paid pursuant to section 2-43 that would have been payable had the member elected to cease employment and not join the DROP, shall be deposited in the participant's DROP account. The money in all participants' DROP accounts will be commingled with all other assets of the fund, but separate accountings shall be made. For any Member already in DROP as of October 29, 2018 and remaining in the DROP as of November 25, 2019, as well as for any Tier One member who was not eligible to enter DROP as of October 29, 2018, but subsequently became eligible to enter DROP prior to November 25, 2019 ~~On~~ each October 1, January 1, April 1, and July 1, the participant's DROP account shall be credited at a rate of interest equal to the actual rate of return achieved by the ~~trust~~-Fund net of administrative expenses, as determined by the board of trustees for up to the first five (5) years in the DROP and any time spent after that in the DROP will be credited at a rate of interest that is variable and based on the actual annual net rate of return earnings (i.e., the gross return of the Plan less the plan's administrative costs) of the Fund, with a floor of zero percent (0%) and a cap of five percent (5%) per year. Any actual annual net rate of return earnings for the Fund in excess of five percent (5%) will go back into the Fund. Alternatively, at the option of any Tier One member who was not eligible to enter DROP as of October 29, 2018, but subsequently became eligible to enter DROP prior to November 25, 2019 the Tier One member's DROP account will

be paid a fixed interest amount as determined by the board of trustees for up to the first five (5) years in the DROP and any time spent after that in the DROP will be credited at a rate of interest that is variable and based on the actual annual net rate of return earnings (i.e., the gross return of the Plan less the plan's administrative costs) of the Fund, with a floor of zero percent (0%) and a cap of five percent (5%) per year. Any actual annual net rate of return earnings for the Fund in excess of five percent (5%) will go back into the Fund. In no event will this fixed interest amount be greater than the actuarially assumed investment earnings. Following resignation and prior to distribution, a rate of interest, as determined by the board of the trustees, shall be credited to the participant's DROP account. Tier Two members and Tier One members not eligible for normal retirement as of November 25, 2019, shall not have the option of receiving a fixed interest amount in their DROP account. The DROP variable interest rate for Tier One members who were not eligible for normal retirement as of November 25, 2019 and Tier Two members shall will be credited at a rate of interest that is variable and based on the actual annual net rate of return earnings (i.e., the gross return of the Plan less the plan's administrative costs) of the Fund, with a floor of zero percent (0%) and a cap of five percent (5%) per year. Any actual annual net rate of return earnings for the Fund in excess of five percent (5%) will go back into the Fund. ~~have a floor of zero (0) percent.~~

* * * * *

Section 7. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining section, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, if being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 8. It is the intention of the City Commission, and it is hereby ordained that this Ordinance shall become and be made a part of the City of Lauderdale Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 9. That this Ordinance shall be effective immediately upon adoption on Second Reading, except as otherwise specifically provided herein.

DATED this ____ day of _____, 2019.

PASSED on first reading this ____ day of _____, 2019.

PASSED on second reading this _____ day of _____,
2019.

PASSED AND ADOPTED on third reading this ____ day of _____,
2019.

PRESIDING OFFICER

ATTEST:

CITY CLERK

	FIRST READING	SECOND READING	THIRD READING
MOTION	_____	_____	_____
SECOND	_____	_____	_____
M. BATES	_____	_____	_____
H. BERGER	_____	_____	_____
R. CAMPBELL	_____	_____	_____
D. GRANT	_____	_____	_____
K. THURSTON	_____	_____	_____