

ORDINANCE NO. 23-060

AN ORDINANCE **AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, RELATING TO THE GENERAL EMPLOYEES RETIREMENT SYSTEM**; AMENDING CODE SECTION 2-270 – RETIREMENT ANNUITY, SUBSECTION (c); PROVIDING THAT NO MEMBER IS TO RECEIVE TOTAL ANNUAL PENSION PAYMENTS IN EXCESS OF \$115,000; PROVIDING THE STANDARD FORM OF ANNUITY IS INCREASED FROM 75 PERCENT TO 100 PERCENT OF AVERAGE FINAL COMPENSATION; AMENDING CODE SECTION 2-281 – DEFERRED RETIREMENT OPTION PROGRAM (DROP), SUBSECTION (b); EXTENDING DROP FROM 5 YEARS TO 6 YEARS; AMENDING CODE SECTION 2-281 – DEFERRED RETIREMENT OPTION PROGRAM (DROP), SUBSECTION (c); INCREASING THE PAYMENTS MADE MONTHLY INTO DROP TO UP TO 72 MONTHS; CREATING CODE SECTION 2-298 – INVESTMENTS; PRESCRIBING INVESTMENT STANDARDS AND SETTING OUT PROVISIONS FOR INVESTMENT CONTRACTS; AMENDING CODE SECTION 2-333 – ANNUAL REPORTS; PROVIDING FOR PERIODIC REPORTS TO THE FLORIDA DEPARTMENT OF MANAGEMENT SERVICES; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Fort Pierce Retirement Board discussed the changes proposed herein at their meeting on August 17, 2023 and on September 21, 2023; and

WHEREAS, the Fort Pierce Retirement Board voted on September 21, 2023 to recommend the proposed changes to the City Commission.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Fort Pierce, Florida as follows:

SECTION 1. Chapter 2 – Administration, Article IV – Officers and Employees, Division 4 – General Employees’ Retirement System, Subdivision I – In General, Section 2-270 – Retirement Annuity, Subsection (c) is hereby amended so that the same shall read hereinafter as follows:

- (c) If the member last became a member on or after January 1, 1980, the amount of standard form of annuity shall not exceed 100 percent of the member’s average final compensation as defined in F.S. Sec. 112.65, except that as to individuals who become members after October 1, 2012, the amount of the standard form of annuity shall not exceed ~~75~~ 100 percent of the member’s average final compensation. In no event may the maximum pension payment to any member becoming a member after October 1, 2012, exceed ~~\$400,000.00~~ \$115,000.00 annually. Nor shall the maximum amount payable, regardless of the date of membership, exceed the maximum allowable annual payment permitted for a qualified plan under section 401 of the Internal Revenue Code, or other applicable law.

SECTION 2. Chapter 2 – Administration, Article IV – Officers and Employees, Division 4 – General Employees’ Retirement System, Subdivision I – In General, Section 2-281 – Deferred Retirement Option Program (DROP), Subsection (b) is hereby amended so that the same shall read hereinafter as follows:

(b) *Eligibility to participate in the DROP.*

- (1) Any member who is eligible to receive a normal retirement annuity and is employed by a participating employer may participate in the DROP and

there is no break in service between the member's last working day as an employee and first day as a retired member and DROP participant. The member shall advise the participating employer and the retirement system in writing of the date on which DROP shall begin.

- (2) Election to participate shall be forfeited if not exercised within the first 30 years of credited service. However, participation in the first year of enactment will be extended to all eligible members.
- (3) The total years of participation in the DROP shall not exceed ~~five~~ six years.
- (4) Upon a member's election to participate in the DROP, he shall cease to be a member and shall no longer accrue any benefits under the retirement system. For all retirement system purposes, the member becomes, a retired member. The amount of credited service and final average salary freeze as of the date of entry into the DROP. Retirement system amendments which become effective after the date of participation in the DROP will not be applicable to the DROP participant, unless expressly stated by the amendment.
- (5) Upon electing to participate in the DROP, the member shall submit on forms required by the retirement system and/or the third-party administrator:
 - a. A written election to retire;
 - b. A written election to participate in the DROP;
 - c. An irrevocable resignation from service to the city and withdrawal from the DROP effective after no more than ~~60~~ 72 months participation in the DROP;
 - d. A properly completed DROP application for normal retirement as provided in this section; and
 - e. Any other information required by the retirement system or by the third-party administrator or provider.
- (6) Reemployed retired members of the city's retirement system are not eligible to participate in DROP.

SECTION 3. Chapter 2 – Administration, Article IV – Officers and Employees, Division 4 – General Employees' Retirement System, Subdivision I – In General, Section 2-281 – Deferred Retirement Option Program (DROP), Subsection (c) is hereby amended so that the same shall read hereinafter as follows:

(c) Amounts payable upon election to participate in DROP.

- (1) Monthly retirement benefits that would have been payable had the member terminated employment with the participating employer and elected to receive monthly pension payments will be paid into the DROP and credited to the retired member. Payments into the DROP will be made monthly over the period the retired member participates in the DROP, up to a maximum of ~~60~~ 72 months.
- (2) Each DROP participant shall have a DROP account to which his monthly retirement benefits will be transferred. The participating employer shall select a third-party administrator or provider for this purpose. Payments to the DROP shall be directly deposited with a third-party administrator or provider. Each DROP participant shall direct the manner in which the amounts in his DROP account shall be invested from options selected by

the participating employer and approved by the board of trustees. The DROP account will be responsible for investment expenses and the DROP participant will be responsible for the risks associated with investment outcomes. If a retired member does not terminate employment at the end of participation in the DROP, all future DROP transfers shall cease and be permanently forfeited.

- (3) No payments will be made to a retired member until he terminates employment with the city utilities authority.
- (4) Employee benefits, other than benefits under the retirement system, which are granted to employees, will be provided to DROP participants.
- (5) Upon termination of employment, the retired member, or if deceased, such retired member's named beneficiary, and verification of the same to the board of trustees, a retired member or named beneficiary will receive the balance of the DROP in accordance with the option listed below:

Direct rollover. All accrued DROP benefits, plus interest and earnings, if any, shall be paid from the DROP directly to the custodian of an eligible retirement plan, as defined in section 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 DROP participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in section 402(c)(9) of the Internal Revenue Code.

- (6) Any form of payment selected must comply with the minimum distribution requirements of the IRC 401(a)(9).
- (7) The accrued benefits of any DROP participant, and any contributions accumulated under such program, shall not be subject to assignment, execution, attachment, or to any legal process whatsoever, except for income deduction orders and federal income tax levies.
- (8) DROP participants shall not be eligible for disability retirement benefits as provided under the retirement system. In the event a DROP participant becomes incapacitated for employment by the participating employer, the DROP participation will terminate, and the former DROP participant will elect one of the alternatives under subsection (c)(5) of this section.
- (9) Death benefits under the DROP.
 - a. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided under subsection (c)(5) of this section.
 - b. The monthly retirement benefit transferred to the DROP account during the month of a DROP participant's death shall be the final transfer for such DROP account.
 - c. Eligibility to participate in the DROP terminates upon the death of a DROP participant. A DROP participant's annuity beneficiary shall not be eligible for retirement system death benefits as provided in section 2-273 or 2-274, unless the DROP participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being transferred to the DROP.
- (10) Cost-of-living adjustment. The DROP participants' monthly retirement benefit shall be increased as provided in section 2-283.

SECTION 4. Chapter 2 – Administration, Article IV – Officers and Employees, Division 4 – General Employees’ Retirement System, Subdivision I – In General, Section 2-298 – Investments, is hereby created so that the same shall read hereafter as follows:

Sec. 2-298 - Investments.

- (a) No monies from the trust fund may be invested by the city, its investment managers, or its advisors except in compliance with F.S. §112.661, F.S. § 112.662, and F.S. § 218.415.
- (b) Investments shall be made according to the Prudent Man Standard of Care, whereby the fiduciary shall make investments solely in the interest of the system’s participants and beneficiaries, for the exclusive purpose of providing benefits to the participants and their beneficiaries, while defraying reasonable expenses of administering the plan, with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The investments are to be diversified to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of section 2-297. Factors to be considered in making investments shall be limited to pecuniary factors.
- (c) Any contract entered into, amended, or renewed on or after July 1, 2023 between the city and any investment manager or advisor shall include the following provisions:
- (1) That any written communication made by the investment manager or advisor to a company in which such manager or advisor invests funds of the system must include the following disclaimer in a conspicuous location if such communication discusses social, political, or ideological interests; subordinates the interests of the company’s shareholders to the interest of another entity; or advocates for the interest of an entity other than the company’s shareholders:
- The views and opinions expressed in this communication are those of the sender and do not reflect the views and opinions of the people of the State of Florida or the City of Fort Pierce.
- (2) Any investment contract entered into on or after July 1, 2023 may be unilaterally terminated at the option of the City if the investment contract does not include the immediately aforescribed disclaimer.

Secs. ~~2-298~~ 2-299 —2-329. - Reserved.

SECTION 5. Chapter 2 – Administration, Article IV – Officers and Employees, Division 4 – General Employees’ Retirement System, Subdivision II – Retirement Board, Section 2-333 – Annual Reports is hereby amended so that the same shall read hereinafter as follows:

Sec. 2-333 – Annual reports.

- (a) The secretary-treasurer shall keep, or cause to be kept, such data as shall be necessary for an actuarial valuation of the assets and liabilities of the retirement system. The retirement board shall annually report to the mayor and city commission showing the fiscal transactions of the retirement system for the preceding fiscal year. The board shall furnish the mayor and the city commission such additional information regarding the operation of the system as the mayor or city commission shall from time to time request.

(b) Beginning in the year 2023 and each odd-numbered year thereafter, the retirement board shall prepare a report comprehensively detailing and reviewing the governance policies concerning decisionmaking in vote decisions and adherence to the fiduciary standards required of the retirement plan, including the exercise of shareholder rights. Such report shall be submitted to the city commission for approval. Following city commission approval, the report shall be submitted to the Florida Department of Management Services by December 15, 2023, and by December 15 of each odd-numbered year thereafter.

SECTION 6. 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 sections, sentences, clauses, and phrases of this Ordinance, which shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 7. All ordinances or parts thereof that may be determined to be in conflict herewith are hereby repealed.

SECTION 8. This ordinance is and the same shall become effective immediately upon final passage hereof.

APPROVED AS TO FORM
AND CORRECTIONESS

Sara K. Hedges, Esq.
City Attorney

STATE OF FLORIDA
COUNTY OF ST. LUCIE

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 23-060 was duly advertised by title only in the St. Lucie New Tribune on October 27, 2023; copy of said Ordinance was made available at the office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on November 6, 2023; and was duly introduced, read by title only, and passed on second and final reading on November 20, 2023, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida.

Linda Hudson
MAYOR COMMISSIONER

ATTEST

Linda W. Cox
CITY CLERK

(SEAL)