

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 46 OF THE CODE OF ORDINANCES ENTITLED "PENSIONS AND RETIREMENT PLANS," BY AMENDING SECTION 46-108 OF THE CODE OF ORDINANCES TO MEMBERS OF THE CITY OF KEY WEST EMPLOYEES' RETIREMENT FUND TO PURCHASE UP TO 5 YEARS OF PRIOR MILITARY SERVICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of Trustees of the City of Key West Employees' Retirement Fund has recommended allowing Fund members to purchase prior military service; and

WHEREAS the City Commission finds that this ordinance will best serve the interest of the citizens of Key West.

NOW, THEREFORE, BE IT ORDAINED by the City of Key West, Florida:

**Section 1:** That Section 46-246 of the Code of Ordinances is hereby amended as follows\*:

**Section 46-108. - Buybacks/reemployment.**

(a) Any member of the plan who is employed by the city prior to entry into military service and who takes a leave of absence for the purpose of entering into military service in the Armed Forces of the United States and thereafter re-enters the employ of the city, and is vested, shall be entitled to purchase service credits

for the period of absence by contributing the amount that would have been contributed had the member continued in city employment for the period of military service based on the salary in effect on the date of the leave of absence, for each year being purchased.

~~(b) A member who is receiving, or will receive a pension benefit for military service in any other pension plan supported by public funds, may not use that service for this plan. A member who is receiving, or will receive any other pension in which time served in the military was used by the employee in that other pension plan shall not be eligible for military buyback as provided in this section.~~ Prior Military - Any member who has successfully completed all of the terms of the probationary period for the City of Key West and who has served on active military duty in the Armed Forces of the United States prior to entry or re-entry into the plan may receive credit for a maximum of five (5) years of military service time in the plan, provided that for each year being purchased the member pays to the plan the full actuarial cost of the buyback. Members purchasing military service credit shall provide the Board of Trustees with proof of the prior service with honorable separation.

(c) The contribution for military buyback required of the employee may be made in one lump sum or may be made by payroll deductions in installments for a period of time which shall not exceed the number or years being purchased. Payment for additional service may be made via direct transfer or rollover of an eligible rollover distribution from a qualified retirement plan as determined by the Board of Trustees. An employee making installment payments shall complete all required payments prior to payment of any benefit under this section. If installment payments are not completed at the time an employee retires, the employee shall not receive military credit for the remaining period for which payments were not made. An employee making installment payments shall pay an interest rate as established by a uniform rule of the board.

(d) Any member who has previously separated from service with the city and withdrawn his or her accumulated contributions shall be permitted to buy back all prior service credits as set forth in this section. Employees may purchase all past service credit, including time spent as a full-time employee in the program funded by the Comprehensive Employment and Training Act (CETA) or as a full-time contract employee with the city. No service credit may be purchased for temporary, seasonal or part-time work. The employee shall pay the full cost of the buyback, including the employee contribution, the contribution, a uniform rate of interest as adopted by the board, and the actual administrative

cost of the buyback, including, but not limited to, actuarial, accounting and legal fees. All buybacks shall be at the current contribution and salary rates as determined by the most recent actuarial valuation adopted by the board. Employees wishing to exercise the buyback right must do so within one year from the date of reemployment. Any employee who fails to have completed the application process and tender the full amount of the buyback within the time limits provided in this section, shall be deemed to have irrevocably waived the right of the buyback. The buyback under this section shall be made in a single sum payment at the time of application. If an employee who exercises the buyback rights under this section should again leave city employment and withdraw accumulated contributions, the employee shall only be entitled to a return of that portion of the buyback amount which would have represented the regular employee contribution had the employee made that contribution in the regular course of employment. Any monies paid as part of the buyback which represented the contribution, interest contribution, or the administrative cost shall not be refundable.

(e) At the time any buyback is made under this section, the member shall consent to a medical examination in a form to be determined by the board, which examination shall be at the cost of the member, for the purpose of determining the presence of any preexisting medical condition. Any preexisting condition determined to exist at the time of the buyback may not serve as the basis for a subsequent claim for service or non-service connected disability retirement.

(f) An employee choosing to exercise a buyback may purchase all or any portion of prior service credit, but said buyback may be exercised only one time by a member.

(g) Reemployment by the city, other than as a full-time employee shall not affect receipt of benefits from the plan. In the event that a retiree is reemployed as a full-time employee in a position covered by this plan, receipt of benefits shall be suspended for the period of reemployment. Upon ending the period of reemployment, benefits shall be recalculated, taking into account, any additional credited service or change in final monthly compensation.

(h) The Board of Trustees has the authority to adopt administrative rules to implement military buybacks.

**Section 2:** It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall

become and be made a part of the Code of the City of Key West, that the sections of the Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 3:** If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

**Section 4:** All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

**Section 5:** This Ordinance shall be effective upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Filed with the Clerk \_\_\_\_\_, 2022.

Mayor Teri Johnston \_\_\_\_\_  
Vice Mayor Sam Kaufman \_\_\_\_\_  
Commissioner Lissette Carey \_\_\_\_\_  
Commissioner Mary Lou Hoover \_\_\_\_\_  
Commissioner Clayton Lopez \_\_\_\_\_  
Commissioner Billy Wardlow \_\_\_\_\_  
Commissioner Jimmy Weekley \_\_\_\_\_

\_\_\_\_\_  
TERI JOHNSTON, MAYOR

ATTEST:

\_\_\_\_\_  
CHERYL SMITH, CITY CLERK