

ORDINANCE NO. 212-\_\_

**AN ORDINANCE OF THE TOWN OF HOWEY-IN-THE-HILLS, LAKE COUNTY, FLORIDA, AMENDING CHAPTER 34 ARTICLE II OF THE CODE OF ORDINANCES OF THE TOWN OF HOWEY-IN-THE-HILLS TITLED MUNICIPAL OFFICERS' RETIREMENT TRUST FUND; CREATING SECTION 34-6.30 TITLED DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Howey-in-the-Hills police officers are presently provided pension benefits pursuant to Chapter 185, Florida Statutes, and Ordinances of the Town of Howey-in-the-Hills; and

**WHEREAS**, the following proposed changes have been approved and recommended by the Board of Trustees of the pension plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Howey-in-the-Hills, Florida, as follows:

**SECTION 1.** Chapter 34, Article II of the Code of Ordinances of the Town of Howey-in-the-Hills, titled Municipal Police Officer's Retirement Trust Fund, is hereby amended by creating Section 34-6.30, Deferred Retirement Option Plan as follows:

**Sec. 34-6.30 Deferred retirement option plan**

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A. *Deferred Retirement Option Plan.* A deferred retirement option plan (DROP) is hereby created. In general, and subject to the provisions of this section, the DROP is a program under which an eligible member of the Plan may elect to participate, deferring receipt of retirements benefits while continuing employment with the City. The deferred monthly benefits shall accrue in the pension fund on behalf of the participant, plus interest equal to the net investment return of the plan valued quarterly, for the period of DROP participation. Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits.

B. *Eligibility and Participation in DROP.*

(1) A member who is eligible for normal retirement shall be eligible to enter the DROP beginning on the first day of the month following their eligibility for normal retirement or on the first day of any month thereafter. 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 15 business days after it is received by the Board. Participation in the DROP is limited to 60 consecutive months. As of the first day of each month of a member's period of participation in the DROP, the monthly retirement benefit he or she would have received under the Plan had the member terminated employment as a police officer and elected to receive monthly benefit payments thereunder, shall be transferred to a DROP account created for the member under the Plan.

(2) Upon entry into the DROP, a member shall be considered a retired member of the Plan. The member's benefits shall be calculated as if the member had actually separated from service and no further credited salary increases, or system changes (except for any additional benefits provided under any cost-of-living adjustment for retirees in the system) shall apply to a member in the DROP for purposes of determining the member's benefit under the Plan. In all other respects however, the member shall remain an active member of the police department and otherwise be eligible for all other contractual and job benefits. By entering into the DROP, a member agrees to terminate active service with the police department not later than 60 months following the date of entry into the DROP. Nothing shall prohibit a member who has entered the DROP or the City from terminating service prior to the expiration of 60 months. 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.

(3) Upon entry into the DROP, a member shall not be permitted to contribute to the system and shall no longer be eligible for disability or retirement death benefits. In the event that a member suffers a disabling injury, the member shall commence a regular service retirement. In the event that a member in the DROP shall die, the member shall be treated the same as any other retired member who dies and any survivorship option which the member may have elected shall be paid in accordance with the provisions of the Plan. In the event that no beneficiary has been named by the member, the DROP account balance shall be paid to the member's estate. No amounts shall be paid to a member from the Plan while the member is a participant in the DROP.

(4) A member's DROP account shall be debited or credited after each fiscal year quarter with interest equal to the net investment return of the Plan valued quarterly. "Net investment return" for the purpose of this subsection 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, 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.

(5) A member's participation in the DROP shall cease when either of the first occurs:

- i. Death or termination of the member's employment as a police officer.
- ii. Expiration of 60 months from date of entry into the DROP.

C. *Benefits payable under DROP.* Upon separation from service and the commencement of the receipt of retirement benefits, a member shall be eligible for distribution of the DROP account. The DROP member or, if deceased, such member's named beneficiary, shall elect on a form as designated by the Board to receive payment of the DROP benefits in accordance with one of the options below. The form of payment selected shall comply with the minimum distribution requirements of the Internal Revenue

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Code. For a DROP participant that fails to make an election within 60 days of termination of DROP participation, the Plan will pay a lump sum as provided below.

(1) Lump sum: All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.

(2) Direct rollover: All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code.

(3) Partial lump sum: A portion of the accrued DROP benefits shall be paid to the DROP participant or surviving beneficiary, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or surviving beneficiary.

*D. General provisions applicable to DROP.*

(1) 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.

(2) No employer discretion. The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.

(3) 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).

(4) 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.

(5) 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

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representative. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.

(6) *Written elections, notification.* 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. Each member or retiree who has a DROP account shall be responsible for furnishing the Board with his current address and any subsequent changes of 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.

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(7) *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.

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(8) *Construction.* The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls. The titles and headings of the subsections in this section 34-6.30 are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

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(9) *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 Plan. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.

**SECTION 2.** Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the Town of Howey-in-the-Hills, Florida.

**SECTION 3.** All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**SECTION 4.** 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.

**SECTION 5.** This Ordinance shall become effective upon its adoption.

PASSED ON FIRST READING, this \_\_\_\_ day of \_\_\_\_\_, 2024.

PASSED AND ADOPTED ON SECOND READING, this \_\_\_\_ day of

\_\_\_\_\_, 2024.

\_\_\_\_\_  
Mayor-Councilor

ATTEST:

Approved as to form:

\_\_\_\_\_  
Town Clerk

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