

ORDINANCE O-2024-

A BILL FOR AN ORDINANCE AMENDING SECTION 3.04.885 OF THE LONGMONT

MUNICIPAL CODE ADOPTING AN AMENDMENT TO THE CITY OF LONGMONT

POLICE PENSION PLAN AND TRUST AGREEMENT

THE COUNCIL OF THE CITY OF LONGMONT, COLORADO, ORDAINS:

Section 1

The Council finds:

Pursuant to sections 4.9 and 4.10 of the Home Rule Charter, the Longmont City Council has, by section 3.04.885 of the Longmont Municipal Code, previously adopted certain pension plans and trust agreements for City employees promulgated by the City and its pension attorneys; and

The City, in consultation with the City Attorney's Office and its pension attorneys, has amended the City of Longmont Police Pension Plan and Trust Agreement; and

The Council has determined to adopt the amendments to the City of Longmont Police Pension Plan and Trust Agreement now before the Council.

Section 2

In this Ordinance, ellipses indicate material not reproduced as the Council intends to leave that material in effect as it now reads.

Section 3

The Council approves and authorizes execution of the amendments of the City of Longmont Police Pension Plan and Trust Agreement as described herein.

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(2) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, as defined in Section 7.5.e., then, except as otherwise elected under Section 7.6, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained ~~age 70½~~, *the applicable age as defined in Code section 401(a)(9)(C)(v)*, if later.

...

e. Definitions.

...

(5) Required Beginning Date. The Required Beginning Date means April 1 of the calendar year following the later of the calendar year in which the employee attains ~~age 70½~~*the applicable age as defined in Code section 401(a)(9)(C)(v)* or the calendar year in which the employee retires from employment with the Employer.

f. 2020 Required Minimum Distributions. Notwithstanding any provision of this section, a Participant or Beneficiary who would have been required to receive required minimum distributions under Code section 401(a)(9) for 2020 but for the enactment of Code section 401(a)(9)(I) ("2020 RMDs"), and who would have satisfied that requirement by receiving distributions that are either (1) equal to the 2020 RMDs, or (2) one or more payments (that include the 2020 RMDs) in a series

of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancies) of the Participant and the Participant's Beneficiary, or for a period of at least 10 years (Extended 2020 RMDs) will receive those distributions for 2020 unless the Participant or Beneficiary chooses not to receive such distributions for 2020.

There shall be no new annuity starting date upon recommencement of required minimum distributions if suspended in accordance with this provision.

Section 5

Effective January 1, 2022, the Council amends Article VII of the City of Longmont Police Pension Plan and Trust Agreement by adding the italicized language and deleting the struck language to read as follows:

• • •

Section 7.5 Minimum Distribution Requirements.

...

b. Time and Manner of Distribution.

(1) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date, as defined in Section 7.5.e.

(2) **Death of Participant Before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

1 (a) *Spouse Beneficiary.* If the Participant's surviving *S*spouse is the Participant's
2 sole Designated Beneficiary, as defined in Section 7.5.e., then, ~~except as otherwise~~
3 ~~elected under Section 7.6,~~ distributions to the surviving *S*spouse will begin by
4 December 31 of the calendar year immediately following the calendar year in which
5 the Participant died, or by December 31 of the calendar year in which the
6 Participant would have attained the applicable age as defined in Code section
7 401(a)(9)(C)(v), if later.

8 (b) *Non-Spouse Beneficiary.* If the Participant's surviving *S*spouse is not the
9 Participant's sole Designated Beneficiary, as defined in Section 7.5.e, then, ~~except~~
10 ~~as otherwise elected under Section 7.6,~~ distributions to the Designated Beneficiary,
11 as defined in Section 7.5.e, will begin by December 31 of the calendar year
12 immediately following the calendar year in which the Participant died.

13 (c) *No Designated Beneficiary.* If there is no Designated Beneficiary, as
14 defined in Section 7.5.e, as of September 30 of the year following the year of the
15 Participant's death, the Participant's entire interest will be distributed by
16 December 31 of the calendar year containing the fifth anniversary of the
17 Participant's death.

18 (d) *Surviving Spouse Dies Prior to Receiving Benefits.* If the Participant's
19 surviving *S*spouse is the Participant's sole Designated Beneficiary, as defined in
20 Section 7.5.e, and the surviving *S*spouse dies after the Participant but before
21 distributions to the surviving *S*spouse begin, this Section 7.5.b(2), other than
22 Section 7.5.b(2)(a), will apply as if the surviving *S*spouse were the Participant.

1 For purposes of this Section 7.5.b(2) and Section 7.5.d, unless Section 7.5.b(2)(d)
2 applies, distributions are considered to begin on the Participant's Required
3 Beginning Date, as defined in Section 7.5.e. If Section 7.5.b(2)(d) applies,
4 distributions are considered to begin on the date distributions are required to begin
5 to the surviving ~~S~~spouse under Section 7.5.b(2)(a). If distributions under an annuity
6 purchased from an insurance company irrevocably commence to the Participant
7 before the Participant's Required Beginning Date, as defined in Section 7.5.e (or to
8 the Participant's surviving ~~S~~spouse before the date distributions are required to
9 begin to the surviving ~~S~~spouse under Section 7.5.b(2)(a)), the date distributions are
10 considered to begin is the date distributions actually commence.

11 . . .

12 c. Required Minimum Distributions During Participant's Lifetime.

13 (1) Amount of Required Minimum Distribution For Each Distribution Calendar
14 Year. During the Participant's lifetime, the minimum amount that will be distributed
15 for each Distribution Calendar Year, as defined in Section 7.5.e, is the lesser of:

16 (a) the quotient obtained by dividing the Participant's Account Balance, as
17 defined in Section 7.5.e, by the distribution period in the Uniform Lifetime Table
18 set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's
19 age as of the Participant's birthday in the Distribution Calendar Year, as defined in
20 Section 7.5.e; or

21 (b) if the Participant's sole Designated Beneficiary, as defined in Section 7.5.e,
22 for the Distribution Calendar Year, as defined in Section 7.5.e, is the Participant's
23 ~~S~~spouse, the quotient obtained by dividing the Participant's Account Balance, as

defined in Section 7.5.e, by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the Distribution Calendar Year, as defined in Section 7.5.e.

(2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 7.5.c beginning with the first Distribution Calendar Year, as defined in Section 7.5.e, and up to and including the Distribution Calendar Year, as defined in Section 7.5.e, that includes the Participant's date of death.

d. Required Minimum Distributions After Participant's Death.

(1) Death On or After Date Distributions Begin.

(a) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, as defined in Section 7.5.e, the minimum amount that will be distributed for each Distribution Calendar Year, as defined in Section 7.5.e, after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance, as defined in Section 7.5.e, by the longer of the remaining Life Expectancy, as defined in Section 7.5.e, of the Participant or the remaining Life Expectancy, as defined in Section 7.5.e, of the Participant's Designated Beneficiary, as defined in Section 7.5.e, determined as follows:

(i) The Participant's remaining Life Expectancy, as defined in Section 7.5.e, is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(ii) If the Participant's surviving ~~Spouse~~ is the Participant's sole Designated Beneficiary, as defined in Section 7.5.e, the remaining Life Expectancy, as defined in Section 7.5.e, of the surviving ~~Spouse~~ is calculated for each Distribution Calendar Year, as defined in Section 7.5.e, after the year of the Participant's death using the surviving ~~Spouse~~'s age as of the ~~Spouse~~'s birthday in that year. For Distribution Calendar Years, as defined in Section 7.5.e, after the year of the surviving ~~Spouse~~'s death, the remaining Life Expectancy, as defined in Section 7.5.e, of the surviving ~~Spouse~~ is calculated using the age of the surviving ~~Spouse~~ as of the ~~Spouse~~'s birthday in the calendar year of the ~~Spouse~~'s death, reduced by one for each subsequent calendar year.

(iii) If the Participant's surviving ~~Spouse~~ is not the Participant's sole Designated Beneficiary, as defined in Section 7.5.e, the Designated Beneficiary's remaining Life Expectancy, as defined in Section 7.5.e, is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

...

(2) Death Before Date Distributions Begin.

(a) Participant Survived by *Surviving Spouse* ~~Designated Beneficiary~~. ~~Except as otherwise elected under Section 7.6, if~~ the Participant dies before the date distributions begin and *the Participant's surviving Spouse is the Participant's Designated Beneficiary*, ~~there is a Designated Beneficiary, as defined in Section 7.5.e,~~ the minimum amount that will be distributed for each Distribution Calendar Year, as defined in Section 7.5.e, after the year of the Participant's death is the

quotient obtained by dividing the Participant's Account Balance, as defined in Section 7.5.e, by the remaining Life Expectancy, as defined in Section 7.5.e, of the Participant's Designated Beneficiary, as defined in Section 7.5.e, determined as provided in Section 7.5.d(1).

(b) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary, as defined in Section 7.5.e, as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, as defined in Section 7.5.e, and the surviving Spouse dies before distributions are required to begin to the surviving Spouse under Section 7.5.b(2)(a), this Section 7.5.d(2) will apply as if the surviving Spouse were the Participant.

(d) Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and the Participant's sole Designated Beneficiary is not his Spouse as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the 10th anniversary of the Participant's death.

e. Definitions.

...

(5) Required Beginning Date. The Required Beginning Date means April 1 of the calendar year following the later of the calendar year in which the employee attains the applicable age as defined in Code section 401(a)(9)(C)(v) or the calendar year in which the employee retires from employment with the Employer.

~~Section 7.6 Elections.~~

~~a. — Election to Allow Participants or Beneficiaries to Elect 5 Year Rule. Participants or Beneficiaries may elect on an individual basis whether the 5 year rule or the life expectancy rule in Sections 7.5.b(2) and 7.5.d(2) applies to distributions after the death of a Participant who has a Designated Beneficiary, as defined in Section 7.5.e. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 7.5.b(2), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor Beneficiary makes an election under this Section 7.6.a, distributions will be made in accordance with Sections 7.5.b(2) and 7.5.d(2).~~

~~b. — Election to Allow Designated Beneficiary Receiving Distributions Under 5-Year Rule to Elect Life Expectancy Distributions. A Designated Beneficiary, as defined in Section 7.5.e, who is receiving payments under the 5 year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all Distribution Calendar Years, as defined in~~

~~Section 7.5.e, before 2004 are distributed by the earlier of December 31, 2003, or the end of the 5 year period.~~

Section 6

Effective January 1, 2024, the Council amends Article V of the City of Longmont Police Pension Plan and Trust Agreement by adding the italicized language and deleting the struck language to read as follows:

...

Section 5.5 Vesting of Participants' Interests.

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d. Forfeitures. Any portion of the interest of a Participant which shall not have become vested in accordance with the provisions of this Section 5.5 shall be a forfeitable interest. A Participant shall forfeit his or her forfeitable interest on the date on which he or she terminates his or her employment except as a result of retirement, Total Disability, Total Disability Incurred in the Line of Duty, or death. Any forfeiture, including earnings thereon, and any forfeitures returned by the FPPA, shall be applied either to pay the expenses of maintaining the Plan or applied to reduce the next contribution or contributions of the Employer at the discretion of the Employer. Forfeitures shall not increase the interest of any Participant *and shall be applied as soon as possible, but not later than 12 months following the close of the Plan Year in which the forfeitures were incurred.*

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a. Determination of Form of Distribution. When a Participant's interest shall become distributable, the Administrator shall direct the Trustee as to the manner of distribution, which shall be elected by the Participant or his or her Beneficiary after consultation with and the approval of the Administrator. The Administrator shall determine the form of distribution available to the Participant or Beneficiary. Distribution may be made in one or more of the ~~following~~ methods *provided in subsections (1) through (4)*; provided, however, that *for the distributions described in Section 7.10, only a lump sum distribution is payable.* ~~effective January 1, 2002, if the Participant's non forfeitable interest determined without regard to that portion of his or her interest that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of Code sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) is not greater than the amount specified in Code section 411(a)(11)(A), such interest shall be payable immediately upon separation from service with the Employer. The amount specified in Code section 411(a)(11)(A) is \$5,000:~~

(1) Lump Sum Distribution. The Participant's interest may be paid to the Participant or his or her Beneficiary by the distribution of the total vested balance

1 of hire or her account in one lump sum. In the event of the Participant's death, his
2 or her Beneficiary shall have the right to have the distribution made in a lump sum
3 by filing a written election with the Administrator within such time as the
4 Administrator shall prescribe.

5 (2) Installments. The Participant's interest may be paid to the Participant or his
6 or her Beneficiary in substantially equal periodic installments.

7 (3) Annuities. The Participant's interest may be distributed in a single life
8 annuity for the Participant, or an annuity for the life of a Participant with a survivor
9 annuity for the life of his or her spouse, provided that the survivor annuity is no
10 greater than the amount of the annuity payable during the joint lives of the
11 Participant and his or her spouse. Any annuity purchased or acquired by the Trustee
12 and distributed to an Employee under the provisions of this Article VII or any other
13 provision of this Plan shall, with respect to such Employee, be non-transferable and
14 the annuity contract will so provide.

15 (4) Other Methods. Notwithstanding the foregoing provisions, any interest
16 which has become distributable for any reason, may be distributed at such time or
17 times, in such amount or amounts, and in such manner as the Administrator and the
18 recipient of such distribution may mutually determine, including a transfer to
19 another qualified plan or individual retirement account as authorized in this Section
20 7.4 and/or Section 11.1 below.

21 . . .

22 (6) Waiver of 30 Day Notice for Cashouts of \$/5,000 or Less. If a distribution
23 is one to which Code sections 401(a)(11) and 417 do not apply, such distribution

1 may commence less than thirty (30) days after the notice required under Section
2 1.411(a)-11(c) of the Income Tax Regulations is given, provided that:

3 (i) the Administrator clearly informs the Participant that the Participant has a
4 right to a period of at least thirty (30) days after receiving the notice to consider the
5 decision of whether or not to elect a distribution (and, if applicable, a particular
6 distribution option), and

7 (ii) the Participant, after receiving the notice, affirmatively elects a distribution.

8 Section 8

9 The Council amends paragraph A of section 3.04.885 of the Longmont Municipal Code,
10 by adding italicized material, to read as follows:

11 3.04.885 Pension plans adopted by reference.

12 Under sections 4.9 and 4.10 of the Charter, the city council adopts the following,
13 all as promulgated by the city and its pension attorneys:

14 A. The City of Longmont Police Pension Plan and Trust Agreement, as
15 amended and restated effective January 1, 1997, and as amended by the first
16 amendment, effective January 1, 2001, and as amended and restated effective
17 January 1, 2001, and as amended and restated effective January 1, 2002, and as
18 amended by the first amendment, effective January 1, 2003, and as amended and
19 restated effective January 1, 2006, and as amended and restated effective January
20 1, 2007, and as amended effective January 1, 2008, by Ordinance No. 2008-09, and
21 as amended effective January 1, 2008, by Ordinance No. 2008-93; and again as
22 amended effective January 1, 2012, by Ordinance No. O-2011-92; and as amended
23 effective January 1, 2013; and as amended and restated effective January 1, 2014;

and as amended and restated effective January 1, 2015; and as amended effective November 10, 2021; and as amended effective December 27, 2021; *and as amended effective January 1, 2020, January 1, 2022, and January 1, 2024 by Ordinance O-2024-11;*

...

Section 9

To the extent only that they conflict with this ordinance, the Council repeals any conflicting ordinances or parts of ordinances. The provisions of this ordinance are severable, and invalidity of any part shall not affect the validity or effectiveness of the rest of this ordinance.

Introduced this _____ day of _____, 2024.

Passed and adopted this _____ day of _____, 2024.

MAYOR

ATTEST:

CITY CLERK

NOTICE: THE COUNCIL WILL HOLD A PUBLIC HEARING ON THIS ORDINANCE AT 7:00 P.M. ON THE _____ DAY OF _____, 2024, AT THE LONGMONT CITY COUNCIL MEETING.

APPROVED AS TO FORM:

ASSISTANT CITY ATTORNEY

DATE

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PROOFREAD

DATE

APPROVED AS TO FORM AND SUBSTANCE:

ORIGINATING DEPARTMENT

DATE

CA File: 24-002700