

ORDINANCE 2021-21

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA, AMENDING SECTIONS 16-164, 16-167, 16-168, 16-175, and 16-186, CHAPTER 16, ARTICLE III, FIREFIGHTERS' PENSION PLAN AND TRUST FUND, OF THE LAKE WALES CODE, TO PROVIDE FOR CLARIFICATION AND COMPLIANCE WITH ADMINISTRATIVELY RECOMMENDED PRACTICES AND THE SECURE ACT; PROVIDING FOR CODIFICATION; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1: Section 16-164(6) b.4, and c. of the City of Lake Wales Code be amended by adding the underlined language and deleting the stricken language as follows:

Sec. 16-164. Finances and fund management.

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(6) The board shall have the following investment powers and authority:

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b. All monies paid into or held in the fund shall be invested and reinvested by the board and the investment of all or any part of such funds shall be limited to:

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4. Bonds, stocks, mutual funds, commingled funds administered by national or state banks, or evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, provided that the security of the corporation is traded on a nationally recognized exchange and holds a rating or ranking in one (1) of the four ~~three~~ (4~~3~~) highest classifications by a major rating or ranking service, and if such investments are made in a commingled fund administered by a state or national bank, then the rating or ranking of each issue in the commingled fund

shall hold a rating or ranking within the top four
~~three (43)~~ rating or ranking classifications of a
major rating or ranking service.

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- c. The board shall not invest more than five (5) percent of its assets in the common stock or capital stock of any one (1) issuing company, nor shall the aggregate investment in any one (1) issuing company exceed five (5) percent of the outstanding capital stock of that company; nor shall the aggregate of its investments in common stock, capital stock and convertible bonds at market cost ~~cost~~ exceed seventy ~~sixty (760)~~ percent of the assets of the fund.

SECTION 2: Section 16-167(a) of the City of Lake Wales code be amended by adding the underlined language and deleting the stricken through language as follows:

Sec. 16-167. Disability.

(a) *Disability benefits in-duty.* Each firefighter who is a member in the system and who shall have become totally and permanently disabled, while, actively employed as a firefighter with the city to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a firefighter, and which disability was directly caused by the performance of his duty as a firefighter shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to either, (i) two and one-half (2½) percent of his or her compensation for a member separating from service prior to October 1, 1998, or (ii) three (3) percent of his or her compensation for a member separating from service on or after October 1, 1998, multiplied by the total years of credited service, but in any event the minimum amount paid to the member shall be forty-two (42) percent of the member's compensation. For the purposes of this paragraph, compensation shall be deemed to be the greater of the member's average compensation based upon his or her pay status at the time the disability occurred or his or her average final compensation. As provided and subject to the limitations in section 112.1816, Florida Statutes, effective July 1, 2019 a firefighter (as defined in section 112.1816(1), Florida Statutes)Member shall be considered to be totally and permanently disabled in the line of duty if he or she meets the Plan's

definition of Totally and Permanently Disabled due to a diagnosis of cancer (as defined in section 112.1816(1), Florida Statutes) or circumstances that arise out of the treatment of such cancer (as defined in section 112.1816(1), Florida Statutes).

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SECTION 3: Section 16-168(d) of the City of Lake Wales Code be amended by adding a subparagraph (d) as follows:

Sec. 16-168. Pre-retirement death.

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(d) Cancer Presumption. As provided and subject to the limitations in section 112.1816, Florida Statutes, effective July 1, 2019 a firefighter (as defined in section 112.1816(1), Florida Statutes) Member shall be considered to have died in the line of duty if he or she dies as a result of cancer (as defined in section 112.1816(1), Florida Statutes) or circumstances that arise out of the treatment of cancer (as defined in section 112.1816(1), Florida Statutes).

SECTION 4: Section 16-175, Internal Revenue Code Compliance, subsection (b), *Required beginning date*, of the City of Lake Wales Code be amended as follows:

Sec. 16-175. Internal Revenue Code Compliance.

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(b) *Required beginning date:*

Notwithstanding any other provision of the plan, payment of a participant's retirement benefits under the plan shall commence not later than the participant's required beginning date, which is defined as ~~the later~~ of:

(1) With regard to distributions required to be made to a participant who reaches age 70 ½ before January 1, 2020: April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of 70½ years; or ~~¶~~ April 1 of the calendar year that next follows the calendar year in which the participant retires, whichever is later.

(2) With regard to distributions required to be made on or after January 1, 2020 to a participant who reaches the age of 70 ½ on or after said date: April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of 72 years, or April 1 of the calendar year that next follows the calendar year in which the participant retires, whichever is later.

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SECTION 5: Section 16-186(b) and (c) of the City of Lake Wales code be amended by adding the underlined language and deleting the stricken through language as follows:

Sec. 16-186. Defined Contribution Component Supplemental Retirement Benefit.

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- (b) *Annual crediting.* Effective September 30, 2016~~January 1, 2017~~, and each September 30th~~January 1~~ thereafter, the share account of each Member and DROP participant on the City's payroll as of the preceding September 30 shall be credited as follows. Each Member and DROP participant who was employed on the preceding September 30 shall receive one share for each complete year and fractional part of years of Credited Service, as defined in section 16-161, determined as of the end of the Plan year ending on the same September 30. The total number of shares thus determined shall be divided into the total premium tax revenues received during that plan year to determine the amount to be credited to the share account of each eligible share plan participant.
- (c) *Investment earnings and losses.* Effective September 30, 2016~~January 1, 2017~~, and each September 30th~~January 1~~ thereafter, the share account of each Member and DROP participant shall be credited or debited with earnings or losses based upon the amount in the share account at the beginning of the immediately preceding fiscal year, as may be adjusted for any subsequent distributions, at a rate equal to the Plan's actual net rate of investment return for such fiscal year. Share accounts shall be commingled in the Fund and invested as with any other Fund asset. Share accounts shall be segregated into

individual member accounts on a bookkeeping basis only. Alternatively, effective upon adoption, instead of the "net investment return" as set forth above, each Member may direct a one-time irrevocable election at any time prior to separation from service that his or her Share account be invested in a money market fund as may be made available from time to time by the board. The electing member's Share account shall be credited or debited at a rate equal to the net rate of investment return realized by such money market fund.

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SECTION 6: If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 7: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8: This ordinance shall become effective immediately upon passage by the City Commission.

CERTIFIED AS TO PASSAGE this 8th day of September, 2021.

**CITY COMMISSION OF THE
CITY OF LAKE WALES, FLORIDA**

ATTEST:

City Clerk

Eugene L. F...

Mayor

(SEAL)