

ORDINANCE 2015-14

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WALES AMENDING THE CITY OF LAKE WALES GENERAL EMPLOYEES' PENSION PLAN AND TRUST; AMENDING SECTION 16-46 BENEFIT AMOUNT AND ELIGIBILITY; AMENDING SECTION 16-61 TO RESTATE ELIGIBLE ROLLOVER DISTRIBUTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHERE AS: The City is seeking a favorable letter of determination from the IRS.

NOW, THEREFORE BEIT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WALES, FLORIDA THAT:

Sec. 16-46. Benefit Amounts and Eligibility

(m) *Member accrued benefit not exceeding ~~five one thousand dollars (\$5,000.00-1,000.00)~~.* Notwithstanding anything ~~herein~~ contained in this plan to the contrary, effective March 28, 2005 a member whose employment terminates for any reason other than death, with an accrued benefit of less than five one thousand dollars (\$5,000-1,000.00), will receive a lump sum payment equal to the present value of member's accrued benefit, calculated based upon the form of benefit for which the member qualifies (i.e., a deferred benefit versus a refund benefit) which is most favorable to the member, without any requirement of member consent. Such payment shall be in lieu of all other benefits under the plan.

Sec 16-61. Eligible rollover distributions.

(a) General. A distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. If the distributee of any eligible rollover distribution under this plan elects to have such distribution paid directly to an eligible retirement plan, and specifies the eligible retirement plan to which such distribution is to be paid, such distribution shall be made in the form of a direct trustee to trustee transfer to the eligible retirement plan so specified.

(b) Definitions

(1) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more, any distribution to the extent such distribution is required under Section 401 (a)(9) of the Code, and the portion of any extent such distribution that is not includible in gross income. For purposes of this section, any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan. For purposes of this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such

portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) Eligible retirement Plan: an eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of the eligible rollover distribution to the surviving Spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. For purposes of this section, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Code and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the Code.

(3) Distributee. A Distributee includes an employee or former employee. In addition, the employee's or former employee's surviving Spouse is a distributee with regard to the interest of the Spouse.

(4) Direct Rollover. A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(c) Notice of eligible rollover distributions

(1) The member's retirement plan shall, within a reasonable period of time before making an eligible rollover distribution, provide a written explanation to the recipient of such distribution explaining to the following:

- a. The provisions under which the recipient may have the distribution directly transferred to an eligible retirement plan and that the automatic distribution by direct transfer applies to certain distributions in accordance with section 401(a)(31)(B) IRC of the Code.
- b. The provision which requires the withholding of tax on the distribution if it is not directly transferred to an eligible retirement plan.
- c. The provisions under which the distribution will not be subject to tax if transferred to an eligible retirement plan within sixty (60) days after the date on which the recipient received the distribution.

- d. The provisions under which distributions from the eligible retirement plan receiving the distribution may be subject to restrictions and tax consequences which are different from those applicable to distributions from the plan making such distribution.

(2) For the purpose of subsection (d)(1), the term "reasonable period of time" shall have the meaning assigned to it under section 401(a)(31) IRC of the Code and the regulations thereunder.

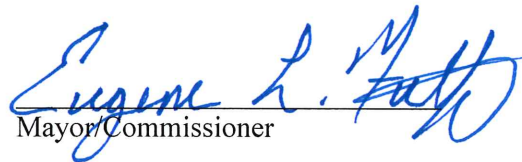
SECTION 3: Inclusion in Code. It is the intention of the City Commission of the City of Lake Wales, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Lake Wales Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "division," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4: If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be construed as eliminated and shall in no way affect the validity of the remaining portions of this Ordinance.

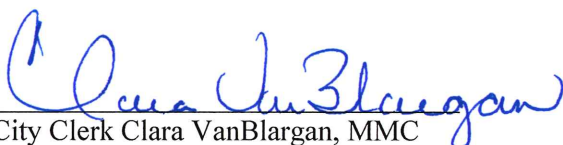
SECTION 5: All Ordinances or Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

CERTIFIED AS TO PASSAGE, this 17th day of November, 2015.

CITY OF LAKE WALES, FLORIDA


Mayor/Commissioner

ATTEST:


City Clerk Clara VanBlargan, MMC