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## **DIVISION 2. - FIREFIGHTERS' RELIEF AND PENSION FUND**

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### **Sec. 16-99. - Established; purpose.**

The purpose of this division is to implement the provisions of Chapter 175. The fund hereby created is derived from monies received from the State of Florida through a municipally authorized tax upon property insurance companies on their gross receipts of premiums from holders of policies covering real or personal property within the municipal boundaries of the City of Lake Worth, Florida. Nothing herein shall be construed to in any way affect the operation of any other pension plan of the city that presently exists.

*(Code 1956, § 25-60.5; Ord. No. 91-32, § 1, 12-16-91)*

### **Sec. 16-100. - Definitions.**

The following words and phrases shall, for the purpose of this division, have the meanings hereinafter respectively ascribed to them. Other words and phrases shall have meanings as commonly understood with respect to their context; the singular shall include the plural, and the masculine the feminine.

- (a) *Active duty*: "Active duty" means actual service as a firefighter in the fire department of the City of Lake Worth, Florida, and actual service as a firefighter in the fire department of Palm Beach County, in accordance with the Interlocal Agreement

between the city and county dated April 7, 2009, except for approved leaves of absence as set forth below under subsection (g) of this section.

- (b) *City*: "City" means the City of Lake Worth, Florida.
- (c) *State*: "State" means the State of Florida.
- (d) *Firefighter*: Any person employed solely in the constituted city fire department, and any firefighter transferred to the employment of Palm Beach County on October 1, 2009 by Interlocal Agreement dated April 7, 2009, who is certified as a firefighter as a condition of employment in accordance with the provisions of section 633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life, and to protect property.
- (e) *Fund*: "Fund" is the Lake Worth firefighters' relief and pension fund as provided for herein.
- (f) *Participant*: Every firefighter of the city, as defined herein, who is eligible to have monies credited to his individual account and to receive benefits therefrom under this division shall automatically become a participant. Effective October 1, 2009, this fund shall be closed to new participants.
- (g) *Service or credited service*: "Service" or "credited service" shall mean all time served as a firefighter of the city or county, under this fund for which regular compensation is paid by the city or county; and all time, not to exceed a period of five (5) years during which a participant is absent on a military leave of absence. It shall include all leaves of absence without pay for sickness, for such period of time as may be determined by the board, in excess of accumulated sick time for which compensation is received.
- (h) *Chapter 175*: "Chapter 175" shall mean and refer to chapter 175, Florida Statutes, as it may be amended, from time to time.
- (i) *Retirement date or retirement*: A member's retirement date or retirement shall be the date of termination of employment and the earlier of the following:
  - (1) The date that the member's age, computed in terms of full months, and credited service, also computed in terms of full months, equal or exceed nine hundred (900) months;
  - (2) The date that the member attains age fifty-five (55) with at least ten (10) years of credited services;
  - (3) The date that the member has at least twenty (20) years of credited service; or
  - (4) The date that the member has at least ten (10) years of credited service provided, if the member has not attained retirement age, the member shall not be permitted to withdraw his or her contributions from Division 1.
- (j) *County*: "County" means Palm Beach County, Florida.

(Code 1956, § 25-60.6; Ord. No. 90-26, § 2, 7-16-90; Ord. No. 91-32, § 1, 12-16-91; Ord. No. 96-35, § 1, 1-10-97; Ord. No. 2003-13, § 2, 3-3-03; Ord. No. 2010-22, § 2, 9-21-10)

## **Sec. 16-101. - Fund created.**

There is hereby created in the city a special fund to be known as the Lake Worth firefighters' relief and pension fund, into which shall be paid those monies annually received by the city through the provisions of Chapter 175, as defined herein. Payments into the fund shall be made within five (5) days after receipt by the city.

(Code 1956, § 25-60.7; Ord. No. 91-32, § 1, 12-16-91)

**Sec. 16-102. - Board of trustees created; officers; terms; duties; quorum; compensation.**

- (a) There is hereby created a board of trustees of the Lake Worth firefighters' relief and pension fund, which board shall consist of three (3) employees of the fire department to be elected by fire participants, the fire chief, and a fifth member appointed by the board who is a qualified elector and freeholder of the city. At the first election of trustees, there shall be elected one firefighter to serve as trustee for a term ending October 1, 1977; one firefighter to serve as trustee for a term ending October 1, 1978; and one firefighter to serve as trustee for a term ending October 1, 1979; thereafter, each year, one firefighter shall be elected to serve as trustee for a three (3) year term. The firefighters thus elected as trustees shall appoint a fifth trustee to serve on the board for a term of one year. The board shall annually elect from its membership a chairman, a secretary and a treasurer. The chairman, or in his absence the treasurer, shall preside at all meetings. The secretary shall keep complete minutes of all proceedings of the board, and send a copy thereof to the city clerk.
- (b) The treasurer shall supervise the books and records which record the receipts and disbursements of the fund and the inventory of assets of the fund. He shall report at each quarterly meeting the assets and liabilities of the fund as of the date of such meeting.
- (c) The certified public accountant retained to audit city funds shall audit the fund annually at the expense of the city. The original audit report shall be submitted to the board, with a copy thereof to the city clerk.
- (d) A quorum of the board shall be three (3) members, one of whom shall be the chairman or the treasurer. The affirmative vote of three (3) members shall be required to take action. The trustees shall receive no compensation as such.
- (e) If the active firefighter membership of this plan falls below ten (10), an active firefighter member seat may be held by either a retired member or an active firefighter member of the plan who is elected by the active and retired members of the plan. If there are no active or retired firefighters remaining in the plan or capable of serving, the remaining board members may elect an individual to serve in the active firefighter seat. Upon receipt of such person's name, the city shall, as a ministerial duty, appoint such person to the board.

*(Code 1956, § 25-60.9; Ord. No. 90-26, § 2, 7-16-90; Ord. No. 2010-22, § 3, 9-21-10)*

**Sec. 16-103. - Board elections.**

- (a) All elections of firefighters to the board shall be by secret written ballot. Only participants in the fund shall be eligible for nomination and election to the board and only participants shall be eligible to vote in such elections.
- (b) Notice of each election shall be posted in the fire station of the city at least two (2) weeks prior to the date upon which such elections shall be held.

*(Code 1956, § 25-60.10; Ord. No. 90-26, § 2, 7-16-90)*

**Sec. 16-104. - Board meetings.**

- (a) The board of trustees will hold regular meetings quarterly or more often as determined by the board. Special meetings may be called by the chairman and secretary or by any three (3) members of the board. Ten (10) days' written notice of a special meeting shall be given in writing to all board members, which notice shall contain the purpose, date, time and place of the special meeting.
- (b)

If any elected member of the board of trustees, or the fifth member who has been appointed by the board, shall fail to attend meetings of the board, on two (2) consecutive meeting dates without cause, as determined by the board of trustees, his membership on the board shall be terminated. Written notice of this fact shall be given to the member whose membership is thus terminated.

*(Code 1956, § 25-60.11)*

### **Sec. 16-105. - Replacement of board members.**

If at any time between elections a vacancy occurs on the board for any reason whatsoever, the remaining board members, by majority vote, shall file said vacancy. The new members so chosen shall serve until the next election of the board of trustees. At the next election a new trustee shall be elected to serve the remainder of the term of any trustee whose membership was terminated.

*(Code 1956, § 25-60.12)*

### **Sec. 16-106. - Powers of board.**

The board shall be the administrator of the fund and, as such, it shall control and manage the administration and operation of the fund. The board shall have the power and authority as follows:

- (a) To invest and reinvest monies of the fund. In making such investments they shall be governed by the laws of the State of Florida relating to the investment of fiduciary funds. Such laws shall not restrict the board from investing in such securities as the general pension fund of the city is authorized to invest in by law, or in shares of state or federal chartered savings and loan associations whose shares are insured by the Federal Savings and Loan Insurance Corporation. Such laws shall not restrict the board from investing in bonds, stocks, or other evidence of indebtedness provided:
  - (1) The corporations listed on any one or more of the recognized national stock exchanges; or if corporation bonds, holding a rating in one of three (3) highest classifications by a major rating service.
  - (2) The board of trustees shall not invest more than five (5) percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five (5) percent of the outstanding capital stock of that company, nor shall the aggregate of its investments in equities at cost exceed seventy (70) percent of the fund's assets.
- (b) To approve disbursements, pay claims and authorize payments from the fund by warrants signed by the chairman and secretary of the board.
- (c) To interpret the provisions of this division where the meaning is not clear or ambiguity exists; and to promulgate necessary rules respecting the operation of the fund, or elections of trustees, not in conflict with the wording or clear intent of this division.
- (d) To authorize expenditures in connection with preliminary research, technical service, legal services and accounting services; to contract for employees necessary to the general administration of the fund and to employ legal counsel and auditors necessary to the proper administration of the fund.

*(Ord. No. 96-35, § 1, 1-10-97)*

### **Sec. 16-107. - Custody of assets.**

The custody of all securities and cash of the fund shall be with the board. The board shall deposit all funds not invested as above, in a national or state chartered bank located within the city, whose deposits are insured by the Federal Deposit Insurance Corporation. All securities shall be kept in a safe deposit box or deposited with a corporate trustee, and current inventories of such securities shall be kept as a part of the permanent records of the board.

*(Code 1956, § 25-60.14)*

### **Sec. 16-108. - Reserved.**

#### *Editor's note—*

Former § 16-108 was deleted by § 2 of Ord. No. 90-26, adopted July 16, 1990. The deleted provisions pertained to bonding of personnel and derived from Code 1956, § 25-60.15.

### **Sec. 16-109. - Payment of costs, expenses and fees.**

At the first meeting of the board, the trustees shall examine all known bills of expense for setting up the fund, and shall approve and allow for payment all those that are found to have been necessary and proper charges against the fund, and these bills shall be paid promptly.

*(Code 1956, § 25-60.16)*

### **Sec. 16-110. - Credits to individual accounts.**

- (a) An individual account shall be established for each firefighter of permanent status on February 7, 1977, and for each firefighter who attains permanent status subsequent to February 1, 1977. Accounts shall be credited and effective as of October 1, 1974.
- (b) The expenses of administering the fund for the preceding year shall be prorated by the board and charged against monies received for participants during said year. The length of time of service during the calendar year preceding the date upon which payment is received from the state is the only criterion upon which the amount due each participant out of the state monies received annually is to be calculated. No credit is to be given on account of seniority, rank or amount of compensation which the participants receive. Any part of a month of credited service of a participant shall be credited as a full month.
- (c) The amount of earnings from investments credited to the amount of the participants shall bear the same ratio to the total amount of annual earnings as the invested funds belonging to the participant in the fund bear to the total monies invested on behalf of the fund.
- (d) In addition to the monies received from the state and as earnings on investments, there shall be prorated and credited to the accounts of the individual participants, all forfeitures from firefighters as provided for in section 16-111 hereof. Such sums shall be prorated to their individual accounts.
- (e) Subsequent to the effective date of this division after a firefighter has retired and ceased to be a member on active duty, as defined in section 16-100(a) hereof, no credits shall be made to his account.
- (f) As of January 1 of each year, the value of each firefighter's account for that year shall be computed based upon the market value of the fund's assets as of the preceding December 31. The amount of benefits to be paid pursuant to section 16-111 hereof upon the retirement, disability or death of a firefighter shall be the value of the firefighter's account as of January 1

of the year in which the benefits are payable plus the firefighter's prorated share of any monies received from the state or forfeitures occurring between January 1 and the date of retirement, disability or death.

*(Code 1956, § 25-60.17; Ord. No. 82-4, § 1, 6-7-82; Ord. No. 88-30, § 1, 10-3-88; Ord. No. 90-26, § 2, 7-16-90; Ord. No. 91-32, § 1, 12-16-91)*

### **Sec. 16-111. - Benefits.**

No participant shall receive benefits from the funds in excess of the amount credited to his account. Subject to this provision, a participant shall receive benefits as follows:

- (a) If a participant shall be found by the board of trustees to be totally and permanently incapacitated for the performance of his duties as a firefighter as described in section 175.191(2), Florida Statutes, as a result of an accident or occurrence while on duty at a definite time and place, or as a result of disabilities described in section 175.231, Florida Statutes, as amended from time to time, the participant shall receive the entire amount credited to this account if separated from the fire department as a result of the injuries aforescribed.
- (b) If a participant shall be found by the board to be totally and permanently incapacitated for the performance of his duties as a result of illness, accident or sickness not occurring in the line of duty, excepting from death, and shall separate from the service of the department prior to completing nine (9) years of service with the department he shall be entitled to severance benefits as follows:
  - (1) Prior to completing three (3) years of service, one-fourth ( $\frac{1}{4}$ ) of the amount credited to his account as of the date of severance;
  - (2) Prior to completing six (6) years of service, but after completing three (3) years of service, one-half ( $\frac{1}{2}$ ) of the amount credited to his account as of the date of severance;
  - (3) Prior to completing nine (9) years of service, but after completing six (6) years of service, three-fourths ( $\frac{3}{4}$ ) of the amount credited to his account as of the date of severance;
  - (4) After completing nine (9) years of service, the participant shall be entitled to the entire amount credited to his account as of the date of severance.
- (c) Forfeitures of monies: A participant who becomes separated from the department, other than through retirement or disability, shall forfeit all benefits credited to his account. Forfeited benefits shall be placed in the fund.
- (d) If a participant shall die while a member of the fire department, the entire amount of his credit as of the date of his death shall be paid to his designated beneficiary. This designation shall be made in writing to the board on a form provided by said board, and the designated beneficiary may be changed during the lifetime of the participant upon duly executed forms filed by said participant as provided by the board of trustees. If the person designated to act for a participant shall predecease him or cannot be located by reasonable effort, or shall refuse to act, or if the deceased participant has failed to designate anyone, the board shall make payment to the person(s) designated by the participant with regard to the participant's city life insurance policy. If such payment cannot be made, payment of the benefits shall be made to the estate of the deceased participant when such payment is appropriate.
- (e) A participant who shall be retired by reason of length of service or disability under any plan of the city and who has terminated employment with the city shall be paid the



entire amount standing to his credit as of the date the participant has both retired and terminated employment. He may elect to take such amount in a lump sum, to take it in annual payments over a period not to exceed five (5) years, or to have all or any portion paid directly to an eligible retirement plan specified by the distributee in a direct rollover. A written notice of election to receive payments other than a lump sum must be filed with the board upon a form prescribed by the board therefor, and must be sworn to by the person entitled to receive such monies.

A retired participant or a participant who has separated from the department after nine (9) years active service who has elected to receive monies due him in annual payments rather than in a lump sum as above shall not be an active participant under [section 16-100\(h\)](#).

- (f) Settlement as provided in subsections (a), (b), and (c) of this section shall be in full settlement of all claims of a participant against the fund, and he shall thereupon cease to be a participant, and he shall have no further interest in said fund, and shall receive no further benefits.
- (g) A participant with ten (10) or more years of credited service with the city may utilize his share account to purchase up to four years of credited service for the years or fractional parts of years the participant served in active military service, as is provided for in [section 16-64\(f\)\(7\)](#) of this Code, so long as the participant otherwise meets all of the requirements of F.S. ch. 175 and this Code regarding such military service credit.
- (h) A participant with ten (10) or more years of credited service with the city's fire department may utilize his share account to purchase credited service for the time a participant served as a full-time firefighter employed by another city, county, state, federal or other public agency, as is provided for in [section 16-64\(f\)\(9\)](#) of the City Code, so long as the participant otherwise meets all of the requirements of F.S. ch. 175, and the City Code regarding such purchase of prior fire service credit.

(Code 1956, § 25-60.18; Ord. No. 82-4, §§ 2, 3, 6-7-82; Ord. No. 98-37, § 1, 12-15-98; Ord. No. 2003-13, § 3, 3-3-03; Ord. No. 2003-14, § 1, 5-6-03; Ord. No. 2004-27, § 1, 7-20-04)

### **Sec. 16-112. - Rights declared vested; not subject to alienation.**

The rights and benefits provided for herein are vested rights of the participants in the fund, and shall not be subject to garnishment, attachment or execution of any other legal process.

(Code 1956, § 25-60.19)

### **Sec. 16-113. - Limitation of city's responsibility.**

The city shall have no responsibility for the operation of the fund except those specified herein and shall bear no expense in connection therewith.

(Code 1956, § 25-60.20)

### **Sec. 16-114. - Legal capacity of trustees to sue.**

The board of trustees of this fund may sue or be sued in their respective capacity as such.

(Code 1956, § 25-60.21)

### **Sec. 16-115. - Termination of plan and distribution of fund.**

If this pension plan is terminated or permanently discontinued for any reason, the provisions of Florida Statute 175.361 in effect as of this date or as amended shall govern and control the distribution of the fund.

*(Ord. No. 79-5, § 2, 3-5-79)*

**Secs. 16-116—16-125. - Reserved.**