

## ORDINANCE NO. 2020-06

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE IV, POLICE OFFICERS RETIREMENT, OF THE WEST MELBOURNE CODE OF ORDINANCES; AMENDING SECTION 34-74, FINANCES AND FUND MANAGEMENT; ESTABLISHMENT AND OPERATION OF THE FUND; AMENDING SECTION 34-97, INTERNAL REVENUE CODE COMPLIANCE; PROVIDING FOR COMPLIANCE WITH THE SECURE ACT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of West Melbourne, Brevard County, Florida, that:

**Section 1.** That Article IV, Police Officers Retirement, of the Code of Ordinances of the City Code of West Melbourne, Florida, is hereby amended to amend Section 34-74, Finances and Fund Management; Establishment and Operation of the Fund, to read as follows:

**Sec. 34-74. - Finances and fund management; establishment and operation of the fund.**

\* \* \*

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

\* \* \*

- (2) All monies paid into or held in the fund shall be invested and reinvested by the board. The board shall, in acquiring, investing, reinvesting, exchanging, retaining, selling and maintaining property for the benefit of the system exercise the judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, the board is authorized to acquire and retain

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every kind of investment specifically including, but not by way of limitation; bonds, debentures and other corporate obligations, and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account and, within the limitations of the foregoing standard, the board may retain property acquired, without limitation as to time and without regard to its suitability for original purchase. Upon recommendation by the board's investment consultant, the board may make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100 and Revenue Ruling 2011-1 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Section 401(a) of the Code, individual retirement accounts that are exempt under Section 408(e) of the Code, eligible governmental plans that meet the requirements of Section 457(b) of the Code, and governmental plans under 401(a)(24) of the Code. For this purpose, a trust includes a custodial account that is treated as a trust under Section 401(f) or under Section 457(g)(3) of the Code. While any portion of the assets of the Fund are invested in such a group trust, such group trust is itself adopted as a part of the system or plan. Similarly, upon recommendation by the board's investment consultant, the board may make investments in other investment vehicles, and while any portion of the assets of the fund are invested in such other investment vehicles, the terms of such are adopted by the system or plan. The board may invest in foreign securities up to the limits allowed by F.S. § 185.06(1)(c). The intent of this provision is to remove any and all restrictions which are otherwise imposed by F.S. ch. 185, which may be removed.

\* \* \*

**Section 2.** That Section 34-97, Internal Revenue Code Compliance, of Chapter 34, Article IV, Police Officers Retirement Plan, of the Code of Ordinances of the City of West Melbourne, Florida, is hereby amended by adding underlined language and removing stricken language to subsection (b), *Required beginning date*, as follows:

**Sec. 34-97. - 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.

\* \* \*

**Section 3. Severability.** That it is hereby declared to be the intention of the Council that the section, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clauses sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

**Section 4. Conflict with Other Ordinances.** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

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**Section 5. Inclusion in Code.** It is the intention of the City Council of the City of West Melbourne that the provisions of this ordinance hereto shall be made a part of the City of West Melbourne Code of Ordinances and the sections be renumbered to accomplish such intention.

**Section 6. Effective Date.** That this Ordinance shall become effective immediately upon adoption in accordance with the Charter of the City of West Melbourne, except as otherwise specified above.

PASSED AND ADOPTED by the City Council of the City of West Melbourne, Brevard County, Florida, this 9<sup>th</sup> day of September, 2020.



ATTEST:

Cynthia Hanscom  
CYNTHIA HANSCOM, CITY CLERK

Hal Rose  
HAL J. ROSE, MAYOR

Reviewed as to form and legal sufficiency:

Morris Richardson  
Morris Richardson, City Attorney

1<sup>st</sup> READING: August 11, 2020

2<sup>nd</sup> READING: September 9, 2020

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