

ORDINANCE NO. 2022-03 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 16, "PENSIONS AND RETIREMENT"; ARTICLE II, "EMPLOYEES' RETIREMENT SYSTEM"; SECTION 16-26, "PARTICIPATION IN THE PENSION PLAN", SECTION 16-27, "VESTING CREDITS", 16-29, "PENSION BENEFITS", SECTION 16-33, "SEVERANCE BENEFITS", SECTION 16-35, "BENEFIT LEVEL"; SECTION 16-44 "CASH BALANCE PLAN CREATED", AND SECTION 16-46, "ELIGIBILITY" TO PERMIT SPECIFIED EMPLOYEES TO PARTICIPANT IN THE CASH BALANCE PLAN AND TO PROVIDE A ONETIME OPTION FOR SPECIFIED EMPLOYEES TO REMAIN IN THE EXISTING BENEFIT STRUCTURE; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION, AND AN EFFECTIVE DATE

WHEREAS, the City has established and maintained the City of Lake Worth Employees Retirement System ("System"), the provisions of which presently are set forth in Divisions 1 and 2 of Article II of Chapter 16 of the City Code; and

WHEREAS the City of Lake Worth Beach previously entered into agreements through collective bargaining with PMSA and PEU resulting in certain amendments to the System in 2018; and

WHEREAS, the agreements provided for the creation of a "Cash Balance Plan" in addition to the currently existing benefit structure;

WHEREAS, the City of Lake Worth Beach has entered into an agreement through collective bargaining with IBEW which provides for IBEW to become eligible for the same amendments to the System provided to PMSA and PEU in 2018; and

WHEREAS, for the purpose of uniformity and consistency of administration, it is desirable to implement these amendments for IBEW employees.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA:

Section 1. That Section 16-26 of the Code of Ordinances of the City of Lake Worth Beach is hereby amended as follows:

Sec. 16-26. - Participation in the pension plan.

(a) An employee shall become a participant on the first day of full-time service. Each full-time employee of the city shall be a participant in the plan, except those employees who were employed by the city on October 1, 1996, and were not participants in the plan at that time shall have the irrevocable option, to be exercised in writing before September 30, 1997, to

continue not to participate in the plan and to permanently waive participation in the plan.

(b) A person shall remain a participant until the earlier of:

(1) Terminating service prior to earning a vested benefit and prior to reaching normal retirement age;

(2) All benefits have been paid to the participant; or

(3) The person dies; or

(4) The person holds or is appointed to a position enumerated in Section 16-15(h)(4), 16-15(h)(5), 16-15(h)(11), 16-15(h)(12), or 16-15(h)(13) on April 4, 2017 or thereafter. Persons holding such positions on the date immediately preceding April 4, 2017, or who are appointed to such positions after that date, and who have been participants in the pension plan, shall have a onetime, irrevocable option either to cease participation in the Pension Plan or to maintain participation in the Pension Plan. Such onetime option must be exercised no later than within 30 days of the date of appointment to such position or on or before 5:00 p.m., September 30, 2018. Any person who does not exercise the option within the allotted period shall remain in the Pension Plan.

(c) A new benefit structure, the Cash Balance Plan, is created effective October 1, 2018. All employees hired on or after October 1, 2018, and holding a position not identified in PERC certification No. 529, as amended or superseded, shall become participants in the Cash Balance Plan on their first day of full-time service. Active employees hired on October 1, 2010, through September 30, 2018, and who are participants in the City of Lake Worth Employees Retirement System shall have the onetime irrevocable option, to be exercised by submitting to the City a signed writing no later than 5:00 p.m. on September 30, 2018, to participate in the Cash Balance Plan commencing October 1, 2018, and to immediately cease participation in the prior benefit structure. Employees who switch will become 100 percent vested in benefits accrued through September 30, 2018, and payable under the terms and conditions then in effect. Any such employee who fails to make an election shall not become a participant in the Cash Balance Plan. No employee will be permitted to begin participation in the prior benefit structure after 11:59 p.m., September 30, 2018. For employees holding a position identified in PERC certification No. 529, as amended or superseded, these same provisions in this subsection (c) shall apply, provided only that each occurrence of the date "October 1, 2018," shall be instead "April 1, 2022," and each occurrence of the date "September 30, 2018," shall be instead "March 31, 2022."

Section 2. That Section 16-27 of the Code of Ordinances of the City of Lake Worth Beach is hereby amended as follows:

Sec. 16-27. - Vesting credits.

- (a) *Vesting credits.* A participant shall earn one (1) vesting credit for each year of service. A participant may lose vesting credits as provided in **section 16-28** (loss of credits). The total number of vesting credits earned and retained shall determine whether a participant has a vested right to a pension benefit. Partial vesting credits shall be earned for full months of service.
- (b) *Vesting schedules:*
 - (1) *Adjusted retirement benefit.* A participant shall have a right to an adjusted retirement benefit upon earning ten (10) vesting credits, as set forth in **section 16-33(b)** hereof; provided, however, that employees hired before October 1, 2010, employed by the City as of September 30, 2018 (March 31, 2022 for employees holding a position identified in PERC certification No. 529), and retiring on or after October 1, 2018 (April 1, 2022 for employees holding a position identified in PERC certification No. 529) shall be one hundred percent (100%) vested upon attaining ten (10) vesting credits, as set forth in **section 16-33(b)** hereof.
 - (2) *Normal retirement benefit for participants retiring prior to October 1, 2015.* A participant retiring prior to October 1, 2015 shall have a one hundred (100) percent vested right to a normal retirement benefit upon:
 - a. Earning twenty (20) vesting credits; or
 - b. His or her years of service, when added to his or her age, equals or exceeds seventy-five (75); or
 - c. The termination or partial termination of this pension plan (to the extent funded as of such date).
 - (3) *Normal retirement benefit for participants retiring on or after October 1, 2015 and hired on or after October 1, 2010, through and including September 30, 2018, and who elected not to switch to the Cash Balance Plan.* A participant retiring on or after October 1, 2015, and hired on or after October 1, 2010, through and including September 30, 2018 (March 31, 2022 for employees holding a position identified in PERC certification No. 529) and who elected not to switch to the Cash Balance Plan shall have a one hundred (100) percent vested right to a normal retirement benefit upon:
 - a. Attaining fifty-five (55) years of age and thirty (30) vesting credits;
 - or
 - b. Attaining sixty-five (65) years of age and ten (10) vesting credits; or

- c. The termination or partial termination of this pension plan (to the extent funded as of such date).
- (4) *Normal retirement benefit for participants hired before October 1, 2010, and retiring on or after October 1, 2018.* Notwithstanding the provisions of section 16-27(b)(3), a participant holding a position not identified in PERC certification No. 529, as amended or superseded, and hired before October 1, 2010, through and including September 30, 2018 (March 31, 2022 for employees holding a position identified in PERC certification No. 529) and retiring on or after October 1, 2018, shall have a one hundred (100) percent vested right to a normal retirement benefit upon:
 - a. Attaining fifty-five (55) years of age and thirty (30) vesting credits;
 - or
 - b. Attaining sixty-five (65) years of age and ten (10) vesting credits; or
 - c. The termination or partial termination of this pension plan (to the extent funded as of such date); or
 - d. Attaining the “rule of 80,” which is attained when the sum of the participant’s age and number of vesting credits is 80.

For employees holding a position identified in PERC certification No. 529, as amended or superseded, these same provisions of this subsection (b)(4) shall apply, provided only that each occurrence of the date “October 1, 2018,” shall be instead “April 1, 2022.”

- (c) *Limitation on changes in vesting schedules.* No amendment shall reduce a participant's vested right to a normal retirement benefit at the time such amendment is adopted, or, if later, at the time such amendment is effective.
- (d) *Vesting of benefits.* No participant, beneficiary or other person shall have any vested right to a pension benefit unless the participant has met the requirements for vesting as provided in this title.
- (e) *Purchase of credits for military service.* The years or fractional parts of years that a participant serves or has served full-time active duty in the military service of the Armed Forces of the United States, voluntarily or involuntarily, either during employment or prior to first or initial employment with the city shall be added to his or her years of credited service, provided that:
 - (1) The participant received another than dishonorable discharge from the armed forces.
 - (2) The participant did not receive credited service for the time spent in the armed forces from any other governmental or military retirement or pension system.

- (3) The participant contributes to the fund, for the years or fractional parts of years that the participant served as full-time active duty in the military service of the Armed Forces of the United States, voluntarily or involuntarily prior to employment with the city, the full actuarial cost of all service credits purchased.
 - (4) The years or fractional parts of years that a participant served as full-time active duty in the military service of the Armed Forces of the United States, voluntarily or involuntarily, during employment with the city shall be added to his or her years of credited service without participant contribution.
 - (5) The purchase of credited service under this section by a participant shall be paid in full prior to the participant's retirement date, and in accordance with all terms, rules, procedures or regulations established by the board of trustees. Such payment may be by direct in-service transfer from a participant's deferred compensation account (457 accounts) pursuant to section 457(e)(17) of the Internal Revenue Code or any other qualified plan.
 - (6) The maximum credit which may be purchased by a participant for any military service in the Armed Forces of the United States under this section shall be five (5) years.
 - (7) All credited service purchased pursuant to this section shall count toward vesting.
- (f) *Purchase of credits for military reserve service.* The years or fractional parts of years that a participant serves or has served in reserve military service of the Armed Forces of the United States, prior to or while in the employ with the city shall be added to the participant's years of credited service, provided subsections (e)(1) through (e)(6) are met. Such credited service shall be calculated by dividing the total number of official military reserve points by three hundred sixty-five (365) to determine the equivalent years or fractional parts thereof to be so credited.
- (g) *Service in other employment classifications.* Participants who served in more than one (1) of the city's employment classifications due to transfer to another classification, shall be credited for vesting purposes, with total service as an employee of the city. The benefit amount shall be calculated by multiplying the vesting credits earned in each employment classification by the benefit level for the original pre-transfer classification, and the employee's average final compensation in effect at the time of the participant's retirement, provided that service as a firefighter, police officer and general employee shall be accounted for separately and benefits shall be paid accordingly from the appropriate plan. However, the total of all such benefit payments shall be subject to limitations established by F.S. § 112.65.

Section 3. That Section 16-29 of the Code of Ordinances of the City of Lake Worth Beach is hereby amended as follows:

Sec. 16-29. – Pension Benefits.

- (a) *Right to pension benefits.* A pension benefit shall be payable if the participant:
- (1) Has a vested right to a pension benefit; and
 - (2) Has reached the applicable retirement age; and
 - (3) Has retired; and
 - (4) Has filed a claim for pension benefits.
- (b) *Normal retirement age.*
- (1) The normal retirement age for participants retiring before October 1, 2015, shall be the first day of the month on which or after the participant attains:
 - A. Twenty (20) vesting credits; or
 - B. Vesting credits and years of age totaling seventy-five (75) or more; provided the participant has at least ten (10) vesting credits.
 - (2) The normal retirement age for participants retiring on or after October 1, 2015, and hired on or after October 1, 2010, through and including September 30, 2018 (March 31, 2022 for employees holding a position identified in PERC certification No. 529) shall be the first day of the month on which or after the participant attains:
 - A. Fifty-five (55) years of age and thirty (30) vesting credits; or
 - B. Age sixty-five (65) and ten (10) vesting credits.
 - (3) Notwithstanding the provisions of section 16-29(b)(2), the normal retirement age for a participant holding a position not identified in PERC certification No. 529, as amended or superseded, and hired before October 1, 2010, and retiring on or after October 1, 2018, shall be the first day of the month on which or after the participant attains:
 - a. Fifty-five (55) years of age and thirty (30) vesting credits; or
 - b. Sixty-five (65) years of age and ten (10) vesting credits; or
 - c. The “rule of 80,” which is attained when the sum of the participant’s age and number of vesting credits is 80.

For employees holding a position identified in PERC certification No. 529, as amended or superseded, these same provisions shall apply, provided only that each occurrence of the date “October 1, 2018,” shall be instead “April 1, 2022.”

- (4) Notwithstanding any other provision of this plan to the contrary, a member's accrued benefits shall become one hundred (100) percent nonforfeitable upon the attainment of normal retirement age.
- (c) *Normal retirement benefit.* The normal retirement benefit shall be the benefit level provided in section 16-35 (benefit level).
- (d) *Forfeiture of benefits.* A participant's benefits under this division are subject to forfeiture:
 - (1) For the reasons and in the manner set forth in section 112.3173, F.S.; or
 - (2) For conviction, as defined in section 112.3173(2)(a), F.S., of a felony, following the forfeiture determination procedures set forth in F.S. section 112.3173(5), F.S., the person remains in the city's employ after the conviction.
- (e) *Contributions refund guarantee.* If any benefit paid hereunder shall cease before the retiree or his survivors or beneficiaries has received an amount equal to the participant's accumulated contributions, an amount equal to the difference thereof shall be paid to those persons designated in writing duly executed by the retiree and filed with the board. If there is no such designation, such amount shall be payable to the employee's estate.
- (f) *Early retirement program.* Notwithstanding the provisions of this section a participant who, as of January 1, 2003, is within forty-eight (48) months of normal retirement and has ten (10) vesting credits shall be permitted to purchase up to forty-eight (48) months of additional service time and/or years of age. Purchase of such service time and/or years of age shall be conditioned upon the participant executing no later than close of business on November 15, 2002, an irrevocable agreement for participation and waiver in the early retirement program form which shall specify a date of retirement no earlier than January 1, 2003, and no later than March 31, 2003, as approved by the city manager.

A participant electing to participate in this early retirement program shall pay the full actuarial cost of the employee's contribution for such additional service time and/or years of age no later than January 2, 2003. The purchase price will be calculated based on the employee's retirement date, as approved by the city manager. Such payment shall be by lump sum.
- (g) *Voluntary separation incentive program.* Notwithstanding the provisions of this section, a participant who, as of September 15, 2009, is within twelve (12) months of normal retirement age shall be permitted to purchase up to twelve (12) months of additional service time. Purchase of such service time shall be conditioned upon the participant executing no later than close of business on September 15, 2009, an irrevocable agreement for participation and waiver on the voluntary separation incentive program form which shall specify a date of retirement no later than September 30, 2009, as approved by the city manager.

A participant electing to participate in this voluntary separation incentive program shall pay the full actuarial cost of such additional service time no later than September 30, 2009. The purchase price will be calculated based on the employee's retirement date, as approved by the city manager. Such payment shall be by lump sum.

Section 4. That Section 16-33 of the Code of Ordinances of the City of Lake Worth Beach is hereby amended as follows:

Sec. 16-33. - Severance benefits.

Upon termination of a participant's employment for reasons other than normal retirement, death or disability, the following benefits shall be payable.

- (a) *Termination prior to ten years of service.* If a participant terminates employment before attaining ten (10) vesting credits, the participant shall receive his or her accumulated contributions in a single lump sum payment.
- (b) *Termination after ten years of service.* If a participant terminates employment, after attaining ten (10) vesting credits, the participant may choose either a single lump sum payment of his or her accumulated contributions or an adjusted retirement pension commencing at age sixty-five (65). The adjusted retirement pension shall be the normal retirement benefit multiplied by the following percentages, according to the number of vesting credits attained by the participant at time of termination:

Vesting Credits	Percentage
10	50
11	55
12	60
13	65
14	70
15	75
16	80

17	85
18	90
19	95
20 or more	100

Provided however, that any participant who retires on or after attaining age sixty-five (65) and ten (10) vesting credits shall be one hundred (100) percent vested. The participant's pension shall be based upon the participant's vesting credits, average final compensation, and the benefit rate in effect at the time that the participant's employment was terminated. If the participant dies after termination of employment but before reaching age sixty-five (65), the participant's accumulated contributions shall be paid in a lump sum to his or her designated beneficiary, or if none, to his or her estate. Alternatively, the participant's designated beneficiary may elect to receive a one hundred (100) percent joint and survivor pension, commencing as of the date that the participant would have reached normal retirement age and continuing for the life of the designated beneficiary in the amount which the participant would have received had the participant retired on the date of his/her death.

Further provided, however, that a participant holding a position not identified in PERC certification No. 529, as amended or superseded, and hired before October 1, 2010, employed by the City as of September 30, 2018, and retiring on or after October 1, 2018, shall be one hundred percent (100%) vested upon attainment of 10 vesting credits. For employees holding a position identified in PERC certification No. 529, as amended or superseded, these same provisions in this paragraph shall apply, provided only that each occurrence of the date "October 1, 2018," shall be instead "April 1, 2022," and each occurrence of the date "September 30, 2018," shall be instead "March 31, 2022."

Section 5. That Section 16-35 of the Code of Ordinances of the City of Lake Worth Beach is hereby amended as follows:

Sec. 16-35. - Benefit level.

- (a) *Calculation of benefit amount.* The monthly benefit level applicable to vesting credits earned prior to October 1, 2010 is the product of the vesting credits earned multiplied by three (3) percent of average final compensation. The monthly benefit level applicable to vesting credits earned on or after October 1, 2010, is the product of the vesting credits multiplied by two (2) percent of average final compensation. Provided, however, that for a participant holding a position not identified in PERC certification No. 529, as amended or superseded, and hired before October 1, 2010, employed by the City as of September 30, 2018, and retiring on or after October 1, 2018, the monthly benefit level applicable to vesting

credits earned on or after October 1, 2010, is the product of the vesting credits multiplied by two and one-quarter (2.25) percent of average final compensation. For employees holding a position identified in PERC certification No. 529, as amended or superseded, these same provisions of this subsection (a) shall apply, provided only that each occurrence of the date "October 1, 2018," shall be instead "April 1, 2022," and each occurrence of the date "September 30, 2018," shall be instead "March 31, 2022."

The actual benefit amount is determined by making the adjustment, if any, for the form of benefit which the participant selects.

- (b) *Annual adjustment.* On October first of each year, the monthly benefits paid to each participant retiring prior to October 1, 2010 and any beneficiary thereof shall be increased by two dollars and fifty cents (\$2.50). Participants retiring on or after October 1, 2010 shall not be eligible for the annual adjustment under this paragraph.
- (c) Reserved.
- (d) *Annual cost of living adjustments.* The monthly retirement benefits payable to all participants who have been retired for three (3) consecutive years shall be adjusted, as of June 1 of each year, commencing on June 1, 2000, pursuant to procedures, methods, and actuarial assumptions established by the board of trustees. This adjustment shall be equal to one-half ($\frac{1}{2}$) of the actuarial gain realized for the prior fiscal year, ending as of September 30, that exceeds the assumed rate of return for the prior year as established by the board of trustees. All retired participants qualifying for this adjustment shall receive equal annual percentage adjustments to their respective level of retirement benefits. Such cost of living adjustment, in no event, shall exceed the percentage increase set forth in the Bureau of Labor Statistics Consumer Price Index, Urban Consumers, All Cities (CPI-U) for the preceding calendar year. If there was no actuarial gain realized for the prior fiscal year, then there shall be no cost of living adjustment the following June 1. If there is an actuarial gain in excess of the stated CPI, it shall be carried forward to future years. Any cost liability created by the implementation of this adjustment shall be amortized over a 30-year period.

Sec. 16-44. - Cash balance plan created.

Effective October 1, 2018, there is hereby added a cash balance plan feature ("cash balance plan") to the City of Lake Worth Employees Retirement System, set forth in sections 16-44. All employees who are hired on or after October 1, 2018 (April 1, 2022 for employees holding a position identified in PERC certification No. 529), and all employees hired before that date and after September 30, 2010, who elect to participate in the cash balance plan the cash balance plan is intended to meet the applicable requirements of Internal Revenue Code Section 401(a), hereinafter referred to as "Code Section". The plan is a "governmental plan" within the meaning of Code Section 414(d), and as such, is exempt from the Employee Retirement Income Security Act of 1974, as

amended. Except as otherwise provided below, the terms of the City of Lake Worth Employees Retirement System shall apply to the cash balance plan.

Section 6. That section 16-46 of the Code of Ordinances of the City of Lake Worth Beach is hereby amended as follows:

Sec. 16-46. – Eligibility.

Any employee holding a position not identified in PERC certification No. 529, as amended or superseded, and hired on or after October 1, 2018, shall automatically become a participant in the Cash Balance Plan as a mandatory condition of their employment, in addition to those employees electing to participate in the Cash Balance Plan pursuant to Section 16-26(c). For employees holding a position identified in PERC certification No. 529, as amended or superseded, these same provisions of this section shall apply, provided only that each occurrence of the date “October 1, 2018,” shall be instead “April 1, 2022.”

Section 7. Severability. That if any word, phrase, clause, subsection or section of this ordinance for any reason be held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 8. Repeal of Laws in Conflict. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith and the same are hereby repealed to the extent of such conflict.

Section 9. Codification. The sections of this Ordinance may become a part of the City Code of Ordinances and may be renumbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “division,” or any other appropriate word.

Section 10. This Ordinance shall become effective upon passage.

The passage of this ordinance on first reading was moved by Commissioner Stokes, seconded by Commissioner Malega, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch	AYE
Vice Mayor Herman Robinson	AYE
Commissioner Sarah Malega	AYE
Commissioner Christopher McVoy	ABSENT
Commissioner Kimberly Stokes	AYE

The Mayor thereupon declared this ordinance duly passed on first reading on the 1st day of March, 2022.

The passage of this ordinance on second reading was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Herman Robinson
Commissioner Sarah Malega
Commissioner Christopher McVoy
Commissioner Kimberly Stokes

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2022.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne City Clerk