

ORDINANCE 2018-45

TOWN OF LADY LAKE, FLORIDA

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LADY LAKE, LAKE COUNTY, FLORIDA AMENDING CHAPTER 10.5, PENSIONS AND RETIREMENT, ARTICLE III, POLICE OFFICERS' RETIREMENT TRUST FUND OF THE CODE OF ORDINANCES OF THE TOWN OF LADY LAKE; CREATING SECTION 10.5-59 ADOPTING A DEFINED CONTRIBUTION COMPONENT FOR THE PENSION IN THE FORM OF A "SHARE PLAN"; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY in ABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lady Lake police officers are presently provided pension benefits pursuant to Article III, Chapter 10.5, Lady Lake Code of Ordinances, which establishes a plan intended to meet or exceed the minimum benefits and minimum standards set out in Chapter 185, Florida Statutes; and

WHEREAS, the Town of Lady Lake and the members' collective bargaining representative have reached mutual consent, as described in Section 285.35(g), Florida Statutes, in an agreement dated October 1, 2017 regarding the use of certain premium tax revenues; and

WHEREAS, the Town Commission desires to amend its "local-law" pension plan to maintain benefits for police officers, and to establish a defined contribution component for the plan as required by Sec. 185.35(6), Florida Statutes, which component will be funded in accordance with the collective bargaining agreement; and

WHEREAS, the proposed changes have been approved and recommended by the Board of Trustees of the plan.

NOW, THEREFORE, BE IT ORDAINED by the Town Commission of the Town of Lady Lake, Lake County, Florida:

SECTION 1:

CHAPTER 10.5, PENSIONS AND RETIREMENT, ARTICLE III, POLICE OFFICERS' RETIREMENT TRUST FUND is hereby amended to append Section 10.5, entitled "Supplemental benefit component for special benefits; Chapter 185 share accounts", as set forth hereinafter

SECTION 2:

Section 10.5-59 as set forth below is hereby appended to Article III, Section 10.5, and made a part thereof:

Sec. 10.5-59. Excess Premium Tax Revenues; Supplemental Share Account Benefit.

There is hereby established an additional plan component to provide special benefits in the form of a supplemental retirement, termination, death and disability benefits to be in addition to the benefits provided for in the previous Sections of this Plan, such benefit to be funded solely and entirely by F.S. Chapter 185, premium tax monies for each plan year which are allocated to this supplemental defined contribution component for special benefits as provided for in F.S. §185.35. As of October 1, 2017, there is mutual consent of the members' collective bargaining representative and the municipality to use premium tax revenues in the manner described herein. Of the additional premium tax revenues received that are in excess of the amount received for the 2012 calendar year, 50 percent must be used to reduce any unfunded liabilities of the Plan and 50 percent must be placed in a defined contribution plan component. If there is no Unfunded Actuarial Accrued Liability as of the most recent actuarial valuation report, then the 50% that was to be used to reduce any unfunded liabilities of the Plan will be used to reduce the Town's funding requirement for that year. Amounts allocated to this supplemental component ("Share Plan"), if any, shall be further allocated to the members as set forth herein.

(a) Individual Member Share Accounts. The board shall create individual "member share accounts" for all persons who were actively employed plan members as of October 1, 2017 and maintain appropriate books and records showing the respective interest of each member hereunder. Each member shall have a member share account for his share of the F.S. Chapter 185 tax revenues described above, forfeitures and income and expense adjustments relating thereto. The board shall maintain separate member share accounts; however, the maintenance of separate accounts is for accounting purposes only and a segregation of the assets of the trust fund to each account shall not be required or permitted.

(b) Share Account Funding.

(1) Individual member share accounts shall be established as of September 30, 2017 for all members who were actively employed as of October 1, 2017 and for each member who becomes employed thereafter. Individual member share accounts shall be credited with an allocation as provided for in the following subsection (c) of any premium tax monies, which have been allocated to the share plan for that plan year, beginning with the plan year ending September 30, 2018.

(2) Any forfeitures as provided in subsection (d), shall be used as part of future allocations to the individual member share accounts in accordance with the formula set forth in subsection (c)(1).

(c) Allocation of Monies to Share Accounts.

(1) Allocation of Chapter 185 Contributions.

a. Effective as of October 1, 2017, the amount of any premium tax monies allocated to the share plan shall be allocated to individual member share accounts as provided for in this subsection. Members retiring on or after October 1, 2017 and prior to September 30, 2018 shall receive an allocation. In addition, all premium tax monies allocated to the share plan in any subsequent plan year shall also be allocated as provided for in this subsection. Available premium tax monies shall be allocated to individual member share accounts at the end of each plan year on September 30 (a "valuation date").

b. On each valuation date, each current actively employed member of the plan with a minimum of one year of credited service and each retiree with at least one year of credited service who retires in the plan year ending on the valuation date (including each disability retiree), or beneficiary of a vested member who died during the plan year ending on the valuation date (not including terminated persons) and is otherwise eligible shall receive a share allocation as follows:

c. The total funds subject to allocation on each valuation date shall be allocated to each member share account of those eligible for an allocation in an amount equal to the total funds divided by the number of all individuals to whom allocations are being made.

d. For the purposes of establishing and maintaining share accounts, re-employed retirees shall be deemed new employees and shall receive an allocation based solely on the credited service in the reemployment period.

(2) Allocation of Investment Gains and Losses. On each valuation date, each individual member share account shall be adjusted to reflect the net earnings or losses resulting from investments during the year. The net earnings or losses allocated to the individual member share accounts shall be the same percentage, which is earned or lost by the total plan investments, including realized and unrealized gains or losses, net of brokerage commissions, transaction costs and management fees. Net earnings or losses are determined as of the last business day of the fiscal year, which is the valuation date, and are debited or credited as of such date. For purposes of calculating net earnings or losses on a member's share account pursuant to this subsection, brokerage commissions, transaction costs, and management fees for the immediately preceding fiscal year shall be determined for each year by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these annual contractual fees to the board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total plan assets.

(3) Allocation of Costs, Fees and Expenses. On each valuation date, each individual member share account shall be adjusted to allocate its pro rata share of the costs, fees and expenses of administration of the share plan. These fees shall be allocated to each individual member share account on a proportionate basis taking the costs, fees and expenses of administration of the share plan as a whole multiplied by a fraction, the numerator of which is the total assets in each individual member share account (after adding the annual investment gain or loss) and the denominator of which is the total assets of the fund as a whole as of the same date.

(4) No Right to Allocation. The fact of allocation or credit of an allocation to a member's share account by the board shall not vest in any member, any right, title, or interest in the assets of the trust or in the Chapter 185 tax revenues except at the time or times, to the extent, and subject to the terms and conditions provided in this Section.

(5) Members shall be provided annual statements setting forth their share account balance as of the end of the plan year.

(d) Eligibility for Benefits. Any member (or his beneficiary) who terminates employment as a police officer with the Town or who dies, upon application filed with the board, shall be entitled to be paid the value of his individual member share account, subject to the following criteria:

(1) Retirement Benefit.

a. A member shall be entitled to 100% of the value of his share account upon normal or early retirement pursuant to Section 10.5-36.

b. Such payment shall be made as provided in subsection (e).

(2) Termination Benefit.

a. In the event that a Share Member's employment as a police officer is terminated before attaining 10 years of credited service or separates from the Town employment after attaining 10 years of credited service but elects to receive a refund of member contributions in lieu of any benefit from the Share Program, the member shall forfeit his or her share account balance, and the account balance shall be added to the available funds for the next following, and reallocated to other Share Program member accounts.

b. Such payment shall be made as provided in subsection (e).

(3) Disability Benefit.

a. In the event that a member is determined to be eligible for a disability benefit pursuant to Section 10.5-38, he shall be entitled to 100% of the value of his share account.

b. Such payment shall be made as provided in subsection (e).

(4) Death Benefit.

a. In the event that a member dies while actively employed as a police officer, 100% of the value of his member share account shall be paid to his designated Beneficiary as provided in Section 10.5-37.

b. Such payment shall be made as provided in subsection (e).

(e) Payment of Benefits. If a member terminates employment and is eligible under Termination Benefit (2) (a) or dies and he or his beneficiary is otherwise entitled to receive the balance in the member's share account, the member's share account if eligible shall be valued by the plan's actuary on the next valuation date as provided for in subsection (c) above, following termination of employment. Payment of the calculated share account balance shall be payable as soon as administratively practicable following the valuation date, but not later than 150 days following the valuation date and shall be paid in one lump sum payment. No optional forms of payments shall be permitted.

(f) Benefits Not Guaranteed. All benefits payable under this Section 10.5-59 shall be paid only from the assets accounted for in individual member share accounts. Neither the Town nor the board shall have any duty or liability to furnish any additional funds, securities or other assets to fund share account benefits. Neither the board nor any trustee shall be liable for the making, retention, or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the member share account balances, except due to his or its own negligence, willful misconduct or lack of good faith. All investments shall be made by the board subject to the restrictions otherwise applicable to fund investments.

(g) Notional account. The member share account is a notional account, used only for the purpose of calculation of the share distribution amount. It is not a separate account in the system. There is no change in the system's assets, and there is no distribution available to the member until the member's termination from employment. The member has no control over the investment of the share account.

(h) No employer discretion. The share account benefit is determined pursuant to a specific formula, which does not involve employer discretion.

(i) Maximum Additions. Notwithstanding any other provision of this Section, annual additions under this Section shall not exceed the limitations of Section 415(c) of the Code

(j) IRC limit. The share account distribution, along with other benefits payable from the system, is subject to limitation under Internal Revenue Code Section 415(b).

SECTION 3:

All ordinances, resolutions, or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 4:

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5:

It is the intention of the Town Commission of the Town of Lady Lake that the provisions of this Ordinance shall become and be made a part of the Town of Lady Lake 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" or such other appropriate word or phrase to accomplish such intentions.

SECTION 6:

This ordinance shall become effective immediately upon final passage by the Town Commission

SECTION 7:

This ordinance shall be published in accordance with the requirements of law.

PASSED AND ADOPTED this 19th day of **November 2018**, in the regular session of the Town Commission of the Town of Lady Lake, Lake County, Florida, upon the second and final reading.

Town of Lady Lake, Florida

Jim Richards, Mayor

Attest:

Kristen Kollgaard, Town Clerk

Approved as to form:

Derek Schroth, Town Attorney