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**Section 1. Recitals.** The foregoing “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. Amendment.** Chapter 18, “Taxation and Finance,” Article V, “Investment Plan,” of the Town Code of Ordinances, is hereby amended to read as follows<sup>1</sup>:

\* \* \*

**Chapter 18 – TAXATION AND FINANCE**

\* \* \*

**ARTICLE V. – INVESTMENT PLAN**

\* \* \*

**Sec. 18-133. Authorized investments.**

The Town's eligible investments shall be as follows:

- (1) Bonds, notes or other obligations of the United States for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof (F.S §§ 215.47(1)(a) and 218.345(1)(b)).
- (2) Securities of, or other interest in, any open-end or closed-end management type of investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. Section 80a-1 et seq., as amended from time to time, provided that the portfolio of such investment company or investment trust is limited to United States government obligations and to repurchase agreements fully collateralized by

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<sup>1</sup> Additions to existing text are shown in underline. Deletions are shown in ~~strikethrough~~. Additions to existing text since 1<sup>st</sup> reading are shown in double underline. Deletions since 1<sup>st</sup> reading are shown in ~~double strikethrough~~.

49 such United States government obligations and provided that such investment  
50 company or investment trust takes delivery of such collateral either directly or through  
51 an authorized custodian.

52 (3) Investments in securities authorized by subsection (1) above may be under repurchase  
53 agreements. All repurchase agreement transactions shall adhere to the requirements of  
54 a master repurchase agreement which is negotiated and authorized by the Town  
55 Commission. The Town will require a minimum over-collateralization of 102 percent  
56 on all repurchase agreements.

57 (4) Participation in the State Board of Administration (SBA), local government surplus  
58 trust funds investment pool.

59 (5) Savings accounts and certificates of deposit in state-certified qualified public  
60 depositories, as defined in F.S. ch. 280.

61 (6) Any other investments authorized by F.S. Sec. 218.415 (16), as may be amended.

62 **Sec. 18-134. Qualifications of financial institutions.**

63 (a) *Broker dealers.* The Town will ~~only~~ transact business only with those broker dealers  
64 classified as primary dealers that report directly to the Federal Reserve Bank of New York  
65 with a minimum net capital of \$20,000,000, or non-primary securities (regional) dealers  
66 doing business in the state. Both the firm and the dealer for non-primary dealers must have  
67 been engaged in the business of effecting transactions in U.S. government and agency  
68 obligations for at least five (5) consecutive years. The non-primary dealer's firm must have  
69 capital of no less than ten million dollars (\$10,000,000). Both primary and non-primary  
70 dealers must qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net

71 capital rule). Annual reports may be required from each primary dealer and non-primary  
72 dealer to ensure its status and minimum capital requirement. The Town may purchase or sell  
73 securities through the broker dealer of its Town-authorized financial institution. When  
74 purchasing or selling securities in excess of ~~\$2,000,000~~ \$5,000,000 through broker dealers,  
75 the selection process will be through competitive bid with a minimum of three firms  
76 contacted for each trade.

77 (b) *Public depositories.* The Town will only transact business with those public depositories  
78 which are listed as qualified public depositories under F.S. ch. 280. The Town will further  
79 limit the qualified public depositories to those institutions which have a branch or their main  
80 office within Broward County, Florida.

81 (c) *Other financial institutions.* The Town may transact business with open-end management  
82 type investment companies or investment trusts registered under the Investment Company  
83 Act of 1940, 15 U.S.C. Section 80a-1 et seq., as amended from time to time, provided that  
84 the portfolio of such investment companies or investment trusts is limited to United States  
85 Government obligations.

86 \* \* \*

87 **Sec. 18-136. Reporting.**

88 The ~~Town Clerk~~ Finance Director shall provide an investment portfolio report to the  
89 Town Manager annually, in conjunction with issuance of the Town's annual financial statements.  
90 This report shall contain a summary of the Town's present and matured investment securities,  
91 book value, income earned and market value for the fiscal year ending September 30. It will  
92 provide detail as to each investment held, original cost, purchase date, maturity, yield and other  
93 performance measures as may be requested.

94 **Sec. 18-137. Delegation of Town.**

95 The ~~Town Clerk~~ Town Manager, or their designee, is designated as the primary  
96 investment officer of the Town and is responsible for investment decisions and activities. The  
97 day-to-day administration of the cash management program is handled within the ~~Town Clerk's~~  
98 Finance Director's Office. No person may engage in an investment transaction except as  
99 provided under the terms of this policy and the procedures so established.

100 Positions authorized as investment signatories are Town Manager, ~~Town Clerk~~ Deputy  
101 Town Manager, and ~~Deputy Town Clerk~~ Finance Director. Other than automated overnight bank  
102 repurchase agreements, each investment transaction shall require written authorization by two  
103 investment signatories with no more than one signatory coming from the Town Clerk Manager.  
104 The persons holding these positions are also authorized to initiate wire transfers for the Town.  
105 These investment plan procedures shall be reviewed by the Town's authorized independent  
106 auditors as part of the Town's annual financial audit.

107 This policy shall be reviewed at least annually by the Town Manager and the Finance  
108 Director who may recommend any policy changes or revisions for adoption by the Town  
109 Commission.

110 **Sec. 18-138. Prudence.**

111 The standard of prudence to be applied by the investment officer shall be the "prudent  
112 person" rule, which states: "Investments shall be made with judgment and care, under  
113 circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in  
114 the management of their own affairs, not for speculation, but for investment, considering the

115 probable safety of their capital as well as the probable income derived." The "prudent person"  
116 rule shall be applied in the context of managing the overall portfolio.

117 The Town ~~Clerk~~Manager and staff, acting in accordance with these written procedures  
118 and exercising due diligence, shall not be held personally responsible for a specific security's  
119 credit risk or market price changes, provided that these deviations are reported immediately and  
120 that appropriate action is taken to control adverse developments.

121 **Section 3. Codification.** This Ordinance shall be codified in accordance with the  
122 foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall  
123 become and be made a part of the Town of Lauderdale-By-The-Sea Code of Ordinances; and that the  
124 sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be  
125 changed to "section", "article" or such other appropriate word or phrase in order to accomplish such  
126 intentions.

127 **Section 4. Severability.** If any section, sentence, clause, or phrase of this Ordinance is  
128 held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall  
129 in no way affect the validity of the remaining portions of this Ordinance.

130 **Section 5. Conflicting Ordinances.** All prior ordinances or resolutions or parts thereof in  
131 conflict herewith are hereby repealed to the extent of such conflict.

132 **Section 6. Effective Date.** This Ordinance shall become effective immediately upon  
133 passage on second reading.

134 Passed on the first reading, this 8th day of October, 2024. Passed on  
135 the second reading, this \_\_\_\_ day of \_\_\_\_\_, 2024.

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# Business Impact Estimate

*This form should be included in the "set for public hearing" agenda item for ordinances, and must be posted on the Town's website by the time notice of the proposed ordinance is published.*

Ordinance title:

AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, AMENDING CHAPTER 18, "TAXATION AND FINANCE," ARTICLE V, "INVESTMENT PLAN," OF THE CODE OF ORDINANCES TO AMEND AUTHORIZED INVESTMENTS, QUALIFICATIONS OF FINANCIAL INSTITUTIONS AND DESIGNATION OF PRIMARY INVESTMENT OFFICER; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

If any of the following exceptions to the Business Impact Estimate requirement apply, check the applicable box and leave the remainder of the form blank.

- The ordinance is required for compliance with federal or state law or regulation;
- The ordinance relates to the issuance or refinancing of debt;
- The ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The ordinance is required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by the Town;
- The ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The ordinance is enacted to implement the following:
  - a. Part II of Chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
  - b. Sections 190.005 and 190.046, regarding community development districts;
  - c. Section 553.73, relating to the Florida Building Code; or
  - d. Section 633.202, relating to the Florida Fire Prevention Code.

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

Section 218.415, Florida Statutes provides that investment activities by a local government must be consistent with a written investment plan adopted by the governing body. The Town's investment plan is in need of updating to provide for additional authorized investments, to include minimum requirements for non-primary broker dealers, in addition to broker dealers that report directly to the Federal Reserve Bank of New York, to provide for the Town Manager as primary investment officer instead of the Town Clerk, and to provide that the investment policy be reviewed annually by the Town Manager and Finance Director to enable the policy to be current with the financial markets

2. Estimate of direct economic impact of the proposed ordinance on private, for-profit businesses in the Town of Lauderdale-By-The-Sea:

N/A

3. Estimate of direct compliance costs that businesses may reasonably incur:

N/A

4. Any new charge or fee imposed by the proposed ordinance:

N/A

5. Estimate of the Town of Lauderdale-By-The-Sea's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:

N/A

6. Estimate of the number of businesses likely to be impacted by the proposed ordinance:

N/A

7. Additional information (if any):

N/A