

Agenda

City Council

Monday, November 4, 2019

7:00 PM

Council Chambers

MEMORANDUM TO:

The Honorable Mayor and
Members of the City Council
City of Jacksonville Beach, Florida

Council Members:

The following Agenda of Business has been prepared for consideration and action at the Regular Meeting of the City Council.

OPENING CEREMONIES: INVOCATION, FOLLOWED BY SALUTE TO THE FLAG

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

19-188 Council Briefing held on October 21, 2019

19-189 Regular Council Meeting held on October 21, 2019

ANNOUNCEMENTS

COURTESY OF THE FLOOR TO VISITORS

MAYOR AND CITY COUNCIL

CITY CLERK

CITY MANAGER

19-190 Authorize the Mayor and/or Councilor's Attendance at the Institute for Elected Municipal Officials (IEMO) training, January 10 through 12, 2020 in Jacksonville Florida

19-191 Approve the Price Quote From Vanguard Electrical Contractors, Inc. For Installation of a New Electrical Service to Existing Water Production Well #23 Located at 2771 Pullian Street South of Sunshine Park and West of South Beach Parkway

- 19-192 Approve a Purchase Order for Matting Services to Sunbelt Rentals in the Amount of \$30,340 to Allow Crews to Access the 805 W Transmission Line to Make Repairs to Two (2) Broken Insulators

RESOLUTIONS

- 19-193 RESOLUTION NO. 2044-2019

A RESOLUTION BY THE CITY OF JACKSONVILLE BEACH, FLORIDA, TO ESTABLISH THE CITY OF JACKSONVILLE BEACH MEMORIAL TREE AND BENCH PROGRAM.

ORDINANCES

- 19-194 ORDINANCE 2019-8117 (First Reading) (Public Hearing)

AN ORDINANCE TO AMEND AN ORDINANCE ENACTING AND ESTABLISHING A COMPREHENSIVE LAND DEVELOPMENT REGULATION AND OFFICIAL ZONING MAP FOR THE INCORPORATED AREA OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AS AUTHORIZED BY CHAPTER 163.3202, FLORIDA STATUTES, BY AMENDING ARTICLE VIII. SITE DEVELOPMENT STANDARDS DIVISION 4. SIGN STANDARDS TO PERMIT AND PROVIDE STANDARDS FOR OFF-SITE EMERGENCY WAYFINDING SIGNS FOR EMERGENCY SERVICES ONLY, FOR THE INCORPORATED AREA OF THE CITY, AND TO PROVIDE FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

- 19-195 ORDINANCE NO. 2019-8116 (Third Reading) (Public Hearing)

AN ORDINANCE AMENDING CHAPTER 4, "ALCOHOLIC BEVERAGES," OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY AMENDING SECTION 4-2, "PROHIBITED HOURS OF SALE, CONSUMPTION, AND SERVICE"; PROVIDING FOR REQUIRED SECURITY MEASURES; PROVIDING FOR ENHANCED PENALTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

- 19-196 ORDINANCE NO. 2019-8125 (First Reading)

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA AMENDING CHAPTER 32. UTILITIES, CREATING ARTICLE VII. FATS, OILS, AND GREASE (FOG) PROGRAM; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE PURPOSE AND APPLICABILITY OF THE ORDINANCE; REQUIRING FOOD SERVICE FACILITIES TO INSTALL, OPERATE, AND MAINTAIN GRAVITY GREASE INTERCEPTORS OR HYDRO-MECHANICAL GREASE INTERCEPTORS; PROVIDING FOR SCHEDULED CLEANING OF HYDRO-MECHANICAL GREASE INTERCEPTORS AND GRAVITY GREASE

INTERCEPTORS; PROVIDING FOR VARIANCE; PROVIDING FOR RECORD KEEPING; PROVIDING FOR INSPECTIONS OF GRAVITY GREASE INTERCEPTORS AND HYDRO-MECHANICAL GREASE INTERCEPTORS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, AND PROVIDING FOR AN EFFECTIVE DATE.

19-197 ORDINANCE NO. 2019-8126 (First Reading)

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING AND RESTATING IN ITS ENTIRETY CHAPTER 2, ARTICLE V, DIVISION 5, GENERAL EMPLOYEES' RETIREMENT SYSTEM, OF THE CITY OF JACKSONVILLE BEACH CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

19-198 ORDINANCE NO. 2019-8127 (First Reading)

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING AND RESTATING IN ITS ENTIRETY CHAPTER 2, ARTICLE V, DIVISION 6, POLICE OFFICERS' RETIREMENT SYSTEM, OF THE CITY OF JACKSONVILLE BEACH CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

19-199 ORDINANCE NO. 2019-8128 (First Reading)

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING AND RESTATING IN ITS ENTIRETY CHAPTER 2, ARTICLE V, DIVISION 7, FIREFIGHTERS' RETIREMENT SYSTEM, OF THE CITY OF JACKSONVILLE BEACH CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

ADJOURNMENT

NOTICE

In accordance with Section 286.0105, Florida Statutes, any person desirous of appealing any decision reached at this meeting may need a record of the proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The public is encouraged to speak on issues on this Agenda that concern them. Anyone who wishes to speak should submit the request to the City Clerk or to the recording secretary prior to the beginning of the meeting. These forms are available at the entrance of the City Council Chambers for your convenience.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (904) 247-6299, extension 10, no later than one business day before the meeting.

The Council Briefing began at 5:45 P.M.

The following City Council Members were in attendance:

Mayor: William C. Latham

Council Members: Keith Doherty Georgette Dumont Sandy Golding
Christine Hoffman (absent) Cory Nichols Phil Vogelsang (absent)

Also present was Deputy City Manager Karen Nelson.

Purpose of Briefing

The purpose of the briefing was to update the Council Members about ongoing items in the City.

City Manager

Ms. Nelson stated the three topics of discussion for the briefing would be as follows:

- Legislative oversight of the Community Redevelopment Agency (CRA)
- Operation and maintenance of the downtown CRA and associated levels of service
- Ratifying the vision for the downtown CRA and identifying incentives that would result in fulfilling such vision

Former Acting City Attorney Denise May reviewed the guidelines regarding legislative oversight of the Community Redevelopment Agency and the requirements if the City Council wanted to take over the responsibilities of the agency.

Conversation ensued regarding the possibility of the Council taking over agency responsibilities versus empowering the current CRA. Discussion items included creating a Redevelopment Coordinator position, the three different plans (1987 Plan, 2007 Vision Plan, 2015 Downtown Action Plan), and whether or not to hire someone to start the process over or combine the plans and prioritize.

CRA Chair Art Graham and CRA Vice-Chair Frances Povloski shared their thoughts regarding previous guidance and operations of the CRA. Mr. Graham and Ms. Povloski offered suggestions regarding possible changes to better support and operate the CRA including improving the lines of communication.

Ms. Nelson stated the process for hiring a Redevelopment Coordinator would most likely begin after the first of the year.

The briefing adjourned at 6:57 P.M.

Submitted by: Jodilynn Byrd
Administrative Assistant

Approved:

William C. Latham, MAYOR

Date: _____

DRAFT

**Minutes of Regular City Council Meeting
held Monday, October 21, 2019, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



OPENING CEREMONIES:

Mayor Latham provided the Invocation, followed by the salute to the flag.

CALL TO ORDER:

Mayor Latham called the meeting to order at 7:07 P.M.

ROLL CALL:

Mayor: William C. Latham

Council Members: Keith Doherty Georgette Dumont Sandy Golding
Christine Hoffman (*Absent*) Cory Nichols Phil Vogelsang (*Absent*)

Also present were Deputy City Manager Karen Nelson and City Attorney Chris Ambrosio.

APPROVAL OF MINUTES:

Motion: It was moved by Ms. Dumont, seconded by Ms. Golding, and passed unanimously to approve the following minutes:

- Council Briefing held on October 7, 2019
- Regular Council Meeting held on October 7, 2019

ANNOUNCEMENTS:

Mayor Latham introduced the new City Attorney Chris Ambrosio.

Council Member Golding encouraged increased safety awareness by parents and students following a recent accident involving a student on a bike.

COURTESY OF THE FLOOR TO VISITORS:

- Ken Marsh, 2011 Gail Avenue, Jacksonville Beach, spoke about the discussion at the Council Briefing held prior to this Council meeting regarding the Community Redevelopment Agency and the various Downtown vision plans.
- Casey Jones, 125 11th Street, Atlantic Beach, spoke about sea turtle lighting.

Police Chief Gene Paul Smith explained the test of the first amber light was pretty dark. A second light is currently being tested.

- Mary Frosio, 1830 Nightfall Drive, Neptune Beach, spoke about the Kings Road Bridge and the Lakeside Drive gate. Ms. Frosio shared information she received in an email from Neptune Beach Public Works Director Leon Smith about the Kings Road Bridge from the construction engineer [copy on file].
- Ellen Foley, 4235 Marsh Landing Boulevard, Apartment 126, Jacksonville Beach, stated she spoke before the Council one year ago. Ms. Foley spoke about the need for a public croquet court. Ms. Foley submitted a petition with 37 signatures for the Mayor Latham asking for a croquet court at the Jacksonville Beach Golf Course (Wingate Park) along

with a handout with information about a public croquet club in Sarasota County [copy on file].

- Shandy Thompson, 522 3rd Avenue South, Jacksonville Beach, thanked Council for the flashing safety lights at Jacksonville Beach Elementary School and also for allowing space at the Carver Center to be used for a movie in the park.
- Justin Michael Ptak, 404 8th Street South, Jacksonville Beach, spoke about public welfare, economic development, and local monetary currency.

MAYOR AND CITY COUNCIL:

CITY CLERK:

CITY MANAGER:

Item #19-181 – Approve the Monthly Financial Reports for the Month of September

Motion: It was moved by Ms. Dumont and seconded by Ms. Golding, to approve the monthly financial reports for the month of September.

Roll Call Vote: Ayes – Doherty, Dumont, Golding, Nichols Mayor Latham
The motion passed unanimously.

Item #19-182 – Approve a Budget Increase Not to Exceed \$150,000 to the Contract with JL Malone (General Contractor) for the Expansion of Beaches Energy Services' Guana Substation

Motion: It was moved by Ms. Dumont and seconded by Ms. Golding, to approve a budget increase not to exceed \$150,000 to the contract with JL Malone (General Contractor) for the expansion of Beaches Energy Services' Guana Substation.

Deputy City Manager Karen Nelson stated this project was approved by Council in 2018 and during the project, Beaches Energy has identified the need to expand and revise the scope of the original project. Beaches Energy Services Director Allen Putnam explained the need for the changes to the project.

Roll Call Vote: Ayes –Dumont, Golding, Nichols, Doherty, Mayor Latham
The motion passed unanimously.

Item #19-183 – Award RFP No. 08-1819 Design-Build Contract for Sampson Substation Autotransformer No. 2 Replacement 2019

Motion: It was moved by Ms. Dumont and seconded by Ms. Golding, to award RFP No. 08-1819 Design-Build Contract for Sampson Substation Autotransformer No. 2 replacement 2019.

Mr. Putnam explained Council previously approved a +/- \$3,000,000 budget to procure and install a new transformer at Sampson Substation, the largest transformer in the system. This award would allow negotiation for the remainder of the project.

Roll Call Vote: Ayes –Golding, Nichols, Doherty, Dumont, Mayor Latham
The motion passed unanimously.

RESOLUTIONS:

Item #19-184 – RESOLUTION NO. 2041-2019

Mayor Latham requested the City Clerk read Resolution No. 2041-2019 by title only, whereupon Ms. Scott read the following:

“A RESOLUTION OF AMENDING THE OPERATING BUDGET OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018, AND ENDING SEPTEMBER 30, 2019.”

Motion: It was moved by Ms. Dumont and seconded by Ms. Golding, to adopt Resolution 2041-2019 authorizing the year-end budget adjustment.

Ms. Nelson explained this the annual year-end budget modification with most of the items previously being approved by Council, with exceptions outlined in the cover memo. Ms. Gossett answered questions on the item.

Roll Call Vote: Ayes – Nichols, Doherty, Dumont, Golding, Mayor Latham
The motion passed unanimously.

Item #19-185 – RESOLUTION NO. 2042-2019

Mayor Latham requested the City Clerk read Resolution No. 2042-2019 by title only, whereupon Ms. Scott read the following:

“A RESOLUTION PROVIDING FOR THE SALE OF SURPLUS PROPERTY ONLINE.”

Motion: It was moved by Ms. Dumont and seconded by Ms. Golding, to adopt Resolution No. 2042-2019 providing for the sale of surplus property online.

Ms. Nelson explained the City identifies property, including equipment and vehicles, no longer used in service, and declared surplus. Those items are listed online at public auction.

Discussion ensued about previous discussions to not require this item to come before Council for approval. Ms. Nelson stated City ordinance requires auction items for sale to be approved by Council. A legislative change is required to change the requirement.

Roll Call Vote: Ayes – Nichols, Doherty, Dumont, Golding, Mayor Latham
The motion passed unanimously.

Item #19-186 – RESOLUTION NO. 2043-2019

Mayor Latham requested the City Clerk read Resolution No. 2043-2019 by title only, whereupon Ms. Scott read the following:

“A RESOLUTION OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, RECOGNIZING THE WEEK OF OCTOBER 21-27, 2019, AS FLORIDA CITY GOVERNMENT WEEK.”

Motion: It was moved by Ms. Dumont and seconded by Ms. Golding, to adopt Resolution No. 2043-2019 recognizing Florida City Government Week.

Ms. Nelson explained Florida City Government Week is sponsored by the Florida League of Cities to foster civic education, collaboration, volunteerism and more.

Ms. Dumont stated she would be speaking with 4th and 5th graders at Seabreeze Elementary School on October 24, 2019, who are members of FIRST Lego League about different issues in the city and how they can try and solve some of the problems.

Roll Call Vote: Ayes – Doherty, Dumont, Golding, Nichols, Mayor Latham
The motion passed unanimously.

ORDINANCES:

Item #19-187 – ORDINANCE NO. 2019-8116 (Second Reading) (Public Hearing)

“AN ORDINANCE AMENDING CHAPTER 4, “ALCOHOLIC BEVERAGES,” OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY AMENDING SECTION 4-2, “PROHIBITED HOURS OF SALE, CONSUMPTION, AND SERVICE,” PROVIDING FOR REQUIRED SECURITY MEASURES; PROVIDING FOR ENHANCED PENALTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.”

Mayor Latham called former Acting City Attorney Denise May, with Marks Gray, to the podium to address concerns raised in reference to Ordinance No. 2019-8116. Ms. May explained the ordinance is back before Council with the amendment approved at the October 7, 2019, Council meeting. It was brought to Ms. May’s attention further amendments are needed due to scrivener’s errors from corrections on the last ordinance. Ms. May stated there was discussion by the Council to change “shall” in section (4) to “may,” on page 5 of 10.

Ms. May recommended a change to the wording to add in front of the “unless” in section (4), “so long as the alcoholic beverage establishment is compliant with the requirements of this ordinance, and unless any of the following occur:” followed by the list of three items which, if they occur, would preclude getting a permit.

Ms. May also noted where the time was changed from “6:00 a.m.” to “7:00 a.m.” in reference to hours these establishments could remain open found in subsection (6) and (7) on page 5 of 10, and in subsection (c) on page 3 of 10, was due to a previous typo. Florida Statute 562.14 states licensed premises may not serve “between the hours of midnight and 7 a.m.,” not 6:00 a.m., unless there is an ordinance in the city that permits it. The City’s ordinance permits the extension from midnight to 2:00 a.m., but was never intended to move it back to 6:00 a.m.

Ms. May explained the intent was not to preclude someone who wanted to open at 6:00 a.m. and serve breakfast without serving alcohol from doing so (i.e. 10K runs). Ms. May recommended removing the words “or be open for operation” from section n (6) on page 5 of 10 and subsection (c) on page 3 of 10.

Ms. May was seeking two motions:

- A motion to amend Section 4-2 for the reasons stated by Ms. May by stating “as amended on the floor by Council;” and if approved
- A motion to bring Ordinance No. 2019-8116, as amended, for a third reading on November 4, 2019.

Public Hearing:

Mayor Latham asked if anyone wished to speak on this item. No one came forward.

An extended discussion ensued on the recommended changes, the impact on businesses that open for breakfast who serve alcohol, and the State requirement for alcohol to be secured.

Ms. May suggested, in addition to previously mentioned changes in section (6) on page 5 of 10, adding a sentence to the which reads, “Alcoholic beverage establishments shall not be open for operation between the hours of 2:00 a.m. to 6:00 a.m. on any day of the week.”

Motion: It was moved by Ms. Dumont and seconded by Ms. Golding, to amend Ordinance No. 2019-8116, as amended on the floor by Council.

Voice Vote: Ayes - 4
Nayes - 0
Mr. Doherty did not vote.

Motion: It was moved by Ms. Dumont and seconded by Ms. Golding, to have a third reading of Ordinance No. 2019-8116, to take place on November 4, 2019.

Voice Vote: Ayes – 4
Nayes - 0
Mr. Doherty did not vote.

ADJOURNMENT:

Prior to adjournment, Mayor Latham recognized former Acting City Attorney Denise May for her service to the City of Jacksonville Beach by presenting her with a Resolution of Esteem [copy on file].

There being no further business, the meeting adjourned at 8:02 P.M.

Submitted by: Laurie Scott
City Clerk

LS/sg

Approval:

William C. Latham, MAYOR

Date: _____

DRAFT



City of
Jacksonville Beach
City Hall
11 North Third Street
Jacksonville Beach
FL 32250
Phone: 904.247.6268

www.jacksonvillebeach.org

MEMORANDUM

TO: Mayor and City Council
FROM: Mike Staffopoulos, City Manager
SUBJECT: Florida League of Cities Attendance
DATE: October 30, 2019

ACTION REQUESTED

Authorize Mayor and/or Councilor's attendance at the Institute for Elected Municipal Officials (IEMO) training, January 10 through 12, 2020 in Jacksonville, Florida.

BACKGROUND

The Florida League of Cities (FLC) regularly schedules training sessions for local government elected officials through the IEMO. The FLC has advertised that a basic IEMO training will take place in Jacksonville from January 10 through 12, 2020. This particular program is specially designed for newly elected officials and those with less than one term in office. The primary objective of the IEMO is to provide elected municipal officials with an intensive academic program that will assist them in effectively meeting the requirements of their elected role. The program offers a comprehensive overview of Florida municipal government, presented by a faculty of top professionals in the field. The IEMO is a three-day program, structured in a Friday through Sunday format. Additionally, sessions provided at the IEMO training fulfill the requirements for annual ethics, public records and public meeting training for elected officials under 112.3142, Florida Statutes.

Multiple Councilors have expressed an interest in attending. As there is no defined travel and training policy for the City Council, the intent of this item is for the Council to determine how many elected official should be authorized to attend this conference.

Advertised fees for the conference are as follows:

- Registration - \$300/person; covers instructional costs, materials, refreshment breaks and lunch on Friday and Sunday
- Hotel – NA - Jacksonville
- Self Parking - \$5/day/vehicle

The Travel and Training budget for the City Council has a balance of approximately \$11,000, which could accommodate as many elected officials as want to attend the conference.

RECOMMENDATON

Authorize the following elected officials to attend the Institute for Elected Municipal Officials (IEMO) training, January 10 through 12, 2020 in Jacksonville, Florida: (insert names of elected officials here).

City of
Jacksonville Beach
Department of Public
Works
337 South 1st Avenue
Jacksonville Beach
FL 32250
Phone: 904.247.6278
904.247.6216
Fax: 904.247.6190

www.jacksonvillebeach.org



MEMORANDUM

TO: Michael Staffopoulos, City Manager

THRU: Martin Martirone, P.E., City Engineer

FROM: Michael Taylor, Water Plant Supervisor

SUBJECT: New Electrical Service for Water Production Well #23

DATE: October 17, 2019

ACTION REQUESTED

Approve the price quote from Vanguard Electrical Contractors, Inc. for installation of a new electrical service to Existing Water Production Well #23 located at 2771 Pullian Street south of Sunshine Park and west of South Beach Parkway (see attached location maps).

BACKGROUND

Recently, the existing well pump motor at Well #23 began failing and going offline on utility power due to an electrical fault. Beaches Energy Services (BES) checked the voltage at the transformer and meter can, tested the incoming service, and everything was within parameters. The existing utility source is an open-delta transformer that is supplying the 120/120/208 line-to-neutral single phase, and 240V line-to-line, three phase power. BES indicated that any motor over 20 HP should have a more reliable closed delta power configuration. The pump motor at Well #23 is 40 HP.

BES has identified an existing pole located along South Beach Parkway that is approximately 600 feet from Well #23. BES has completed the new directional bore for the primary electrical connection to a new 150 kVA, 277/480 volt, true 3-phase, pad-mounted transformer. The City's Public Works, Water Plant Division has obtained a price quote from Vanguard Electrical Contractors, Inc. in the amount of \$28,800 for installation of a new electrical service. With a 20% contingency, the total amount will be \$34,560. The new work includes: a new 480 volt, 200 amp panel, 45 kva transformer, new meter can and wiring from the BES primary transformer to the existing Well #23 site (see attached price quote). The price quote was obtained from Contract Renewal of Bid No. 1415-13, approved by

MEMORANDUM

New Electrical Service for Water Production Well #23

October 17, 2019

page 2 of 2

Council on 11/16/2015 (see attached Contract Renewal Form). The first one-year extension is through November 15, 2019. The project will be funded using account # 420-07-0705-533-63-563000 from the operating reserves in the Water/Sewer fund. The budget will be amended as part of the FY2020 mid-year budget adjustment.

City Bid #1415-13 Plumbing, Painting, Electrical and HVAC Services For New Electrical Service to Water Production Well #23		
DESCRIPTION	COST	RECOMMENDATION
Well #23 New Electrical Service (Price Quote)	\$ 28,800.00	Approve Price Quote to Vanguard Electrical Contractors, Inc.
20% Contingency	\$ 5,760.00	
Total Price Quote	\$ 34,560.00	

RECOMMENDATION

Approve the price quote from Vanguard Electrical Contractors, Inc. for installation of a new electrical service to Existing Water Production Well #23 as described in the memorandum from the Public Works City Engineer dated October 17, 2019.



VANGUARD ELECTRICAL CONTRACTORS, INC.

**ELECTRICAL CONTRACTORS EC13003864
3653 REGENT BLVD. SUITE #302 • JACKSONVILLE, FL 32224
(904) 232-4018 • FAX (904) 232-4016**

September 26, 2019

City of Jacksonville Beach
Jacksonville Beach, Florida

Attn: David

Reference: COJB Well 480v. Service.

Vanguard Electric is pleased to submit this scope of work for the electrical construction of the above referenced project. This proposal is based on the drawings and scope clarifications outlined herein.

1. Furnish and install new panels disconnect and Transformer as requested during walk thru.
2. New main panel will be a 480v 200amp panel feeding a wall mounted 45kva transformer that will
3. then feed the existing 120v/208v panel.
4. New wire is included to new meter can and disconnect from Transformer in existing conduit.
5. Provide all new wiring as required in the building for new 480v power and connection to existing 120v/208v panel.
6. Existing generator breaker bypass will be refed and reused.
7. New panel disconnect and transformer are Nema 4X Stainless steel.

Price \$ 28,800.00

We appreciate the opportunity to provide this pricing, and look forward to working with you on this and future projects. If further clarification is required, please do not hesitate to call.

Sincerely,

Brian Kern

Brian Kern
Executive Vice President
Email: bkernvanguardelectric@windstream.net

MEETING ALL OF YOUR ELECTRICAL NEEDS



Multiple Year Contract Renewal Form

City of
Jacksonville Beach
O&M Facility
1460A Shelter Avenue
Jacksonville Beach
FL 32250
Phone: 904.247.6226

TO: Karen Nelson
Deputy City Manager
FROM: Luis F. Flores
Property and Procurement Officer
DATE: November 13, 2018
RE: Contract Renewal - Bid #1415-13 Plumbing, Painting, Electrical and HVAC Services

Purchasing @jaxbchfl.net

Bid #1415-13 Plumbing, Painting, Electrical and HVAC Services was approved by Council on November 16, 2015.

The bid was awarded to Vanguard Electrical Contractors Inc. for three years, with the option to renew for three additional one-year periods. The original terms and conditions will remain unchanged throughout the first extension.

IN WITNESS WHEREOF, the City and Vanguard Electrical Contractors Inc. hereto have affixed their respective signatures for:

First One-Year Extension through November 15, 2019:

City of Jacksonville Beach

By: Karen Nelson

Name: Karen Nelson
Title: Deputy City Manager

Date: 11/16/18

Vanguard Electrical Contractors Inc.

By: Gini B. Phillippe

Name: Gini B. Phillippe

Title: President

Date: November 14, 2018

Attest: [Signature]



ch Pkwy

S Beach Pkwy

Desoto St

Seminole Ave

Seminole Ave



3177 Pullian S

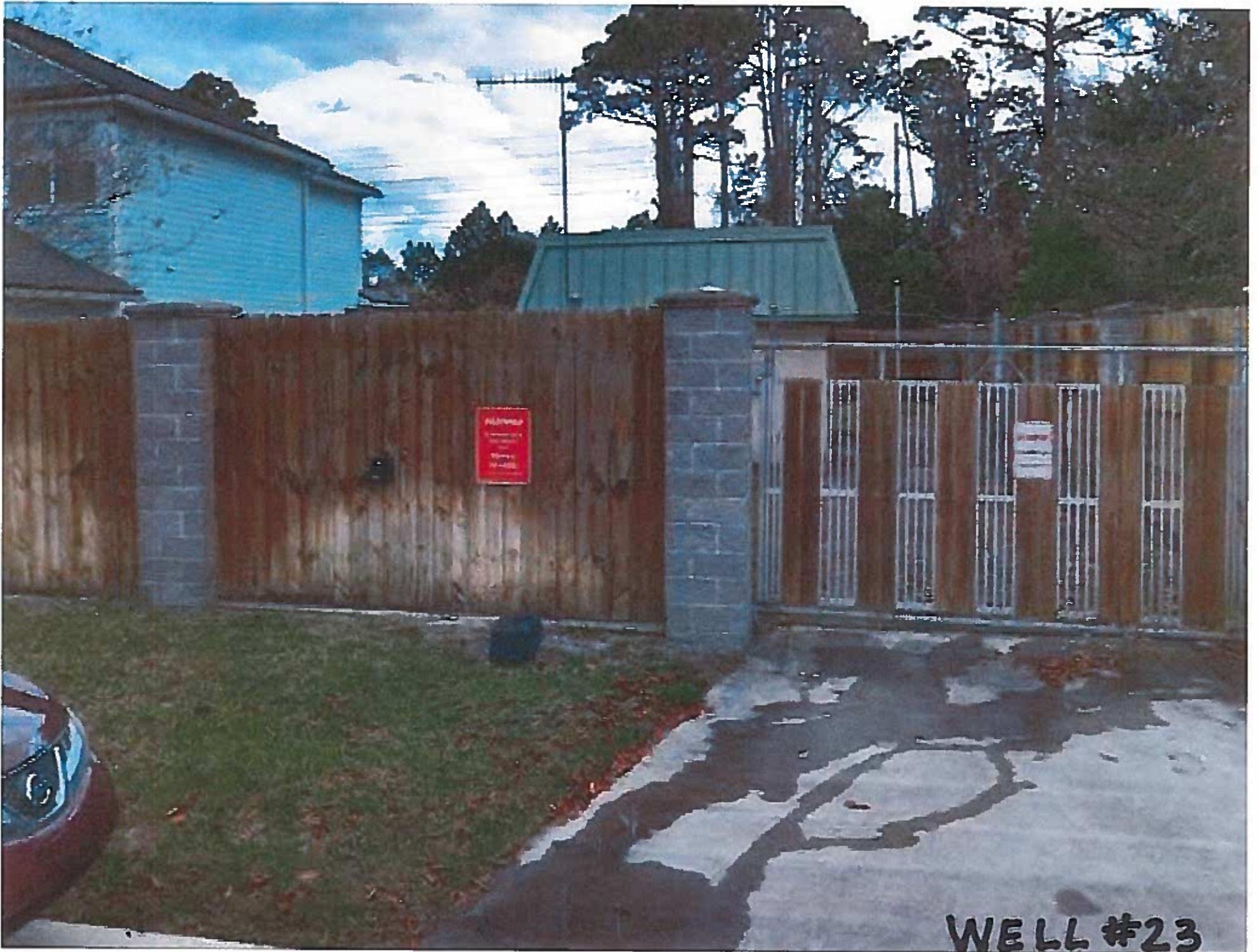
Pullian Ct

South Beach
Park and
Sunshine
Playground

Ponce De Leon St

Horn Ct

WELL #23 LOCATION MAP



WELL #23

MEMORANDUM

TO: Mike Staffopoulos, City Manager
FROM: Allen Putnam, Director, Beaches Energy Services
SUBJECT: Purchase of Matting Services to Facilitate Insulator Repair on the
805 W Transmission Line
DATE: October 28, 2019

ACTION REQUESTED:

Approve a purchase order for matting services to Sunbelt Rentals in the amount of \$30,340 to allow crews to access the 805 W Transmission line to make repairs to two (2) broken insulators.

BACKGROUND:

These two broken insulators are required to be repaired in order to re-energize the 805 transmission line between our Guana and Ft. Diego substations. The area to which our crews require access has standing water that makes it impossible for a vehicle to pass through. This area will not accommodate our 100' bucket truck without laying mats to assist the vehicle in crossing this area to gain access to the two poles in question. Our Guana substation is scheduled to be completed on or before October 28, 2019. These repairs are required to be able to re-energize this transmission line and place our system in normal operation providing the greatest flexibility to restore electric service should a transmission outage occur.

The original quote for these services was less than the Purchasing Policy threshold of \$25,000. However, site conditions that were not identified until installation in the field warranted the purchase of additional services, pushing the total project cost over the \$25,000 threshold. As such, Staff is seeking authorization from Council (albeit after the fact) for award of this purchase.

Funding for this purchase is available within the Beaches Energy FY2020 budget, the purchase will be made from the following account: 410-12-1205-531-44-544000. An internal budget modification will be executed to true-up our accounts as necessary.

MEMORANDUM
Purchase of Matting Services
October 28, 2019

Page 2 of 2

RECOMMENDATION:

Approve matting services from SunBelt Rentals to facilitate repairs to the 805 W transmission line in the amount of \$30,340.

MEMORANDUM

TO: Michael J. Staffopoulos, City Manager

FROM: Jason Phitides, Director Parks & Recreation

SUBJECT: Memorial Tree and Bench program in City parks

DATE: October 28, 2019

ACTION REQUESTED

Approve a Resolution that establishes the City's Memorial Tree and Bench Program for City parks.

BACKGROUND

Tree and bench memorials provide a beautiful and long lasting way to honor a special person, beloved pet, or life event. It also provides a sense of belonging and community. The City currently does not offer a memorial program and staff recommend we offer the following options:

1. Plant a new tree.
2. Adopt an existing tree.
3. Install a memorial park bench.
4. Adopt an existing park bench.

The Level 2 Community Organization Tree Planting Program offered by the City of Jacksonville Tree Commission, affords the installation of new trees in public parks within Duval County, at no cost to the City of Jacksonville Beach. Tree species can be selected from an approved list. Our staff will be responsible for tree maintenance and preservation, subsequent to installation.

The suggested minimum donation for a new tree is \$750, while the suggested minimum donation for a new park bench is \$1,500. The park bench includes purchase and installation. The suggested minimum donation for adopting either an existing tree, or an existing park bench, is \$100.

The donation for a commemorative plaque for either trees or benches, is \$450 and covers the cost of the plaque.

City of
Jacksonville Beach
2508 South Beach
Parkway
Jacksonville Beach
FL 32250
Phone: 904.247.6236
Fax: 904.247.6143

www.jacksonvillebeach.org



MEMORANDUM
Memorial Tree and Bench Program
October 28, 2019

Page 2 of 2

All surplus funds remaining after purchase and installation fees have been paid, will go to the City of Jacksonville Beach General Fund and restricted in use for the maintenance of trees and park benches.

Although donors may have a choice of trees and locations, the City reserves the right to ultimately determine tree species and planting sites that are best suited to survival, while preserving park aesthetics.

Following is the list of parks included in the Memorial Tree and Bench Program:

- 12th Avenue South Park
- Carver Center
- Cradle Creek
- Gonzales Park
- Huguenot Park
- Paws Park
- Penman Park
- Rotary Park
- South Beach Park & Sunshine Playground
- Tall Pines Park
- Wingate Park

Memory trees and benches are not memorials, and may not be decorated with flowers, ribbons, photos or other items. Commemorative plaques will have same standardized verbiage either "In Memory Of..." or "In Honor of..."

While trees may be ordered at any time, they will only be planted during their dormant phase. Care and maintenance of trees and benches will be the responsibility of the Parks and Recreation Department.

The City desires to encourage donations while at the same time preserve aesthetics and control maintenance costs.

RECOMMENDATION

Approve a Resolution that establishes the City's Memorial Tree and Bench Program for City parks, as described in the memorandum from the Director of Parks and Recreation dated October 28, 2019.

Introduced by: _____

Adopted: _____

RESOLUTION NO. 2044-2019

A RESOLUTION BY THE CITY OF JACKSONVILLE BEACH, FLORIDA, ESTABLISHING THE CITY OF JACKSONVILLE BEACH MEMORIAL TREE AND BENCH PROGRAM; ASSIGNING THE CITY PARKS AND RECREATION DEPARTMENT WITH PROGRAM ADMINISTRATION; ESTABLISHING PROGRAM GUIDELINES, FEES AND REQUIREMENTS; SETTING A COMMENCEMENT AND IMPLEMENTATION DATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, trees are an important part of our community benefitting both individuals and the general population by providing beauty, shade and environmental benefits, and park benches provide the public with a comfortable place to relax and enjoy time together outdoors, and

WHEREAS, memorial trees and memorial park benches are commonly used as a thoughtful way to express loving memories and serve as a tribute to beloved individuals and special life events, and

WHEREAS, the City of Jacksonville Beach desires to provide opportunities for the public to offer tribute and remember beloved individuals and special life events by allowing memorial trees to be planted, or by adopting existing trees, or installing or adopting memorial benches in specific public areas within the City of Jacksonville Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, THAT:

SECTION 1. The foregoing recitals are hereby fully incorporated herein by this reference and are deemed a material part of this Resolution.

SECTION 2. The City Council of the City of Jacksonville Beach supports the creation of a Memorial Tree and Bench Program that may include participation and support from the Florida Division of Forestry, the City of Jacksonville Tree Commission, local businesses, non-profit organizations and residents.

SECTION 3. There is hereby established the City of Jacksonville Beach Memorial Tree and Bench Program.

- A. The City of Jacksonville Beach appreciates the many benefits that trees provide for our community. Trees bring an important natural element into our man-made environment as they shade our streets, homes and parks, purify the air, and produce leaves, flowers, fruits and bark of interesting color and texture. Along with these obvious benefits, a tree's stature, strength, and endurance tend to provide it a cathedral-like quality; consequently, trees are often planted as living memorials.
- B. The City Council hereby finds that the acceptable trees listed in Attachment A have been purposefully selected in order for the City to facilitate and sustain an appropriate tree canopy within the City of Jacksonville Beach.
- C. The City believes in providing opportunities for members of the public who wish to acknowledge or remember significant individuals and special life events by allowing trees to be planted, or existing trees to be adopted, or benches to be adopted or installed in select parks within the City of Jacksonville Beach.
- D. To ensure the success of the City's Memorial Tree and Bench Program, the following policies are adopted by the City of Jacksonville Beach:
1. Under the direction of the City Manager, the Parks and Recreation Department will administer the program.
 2. The program is intended to honor individuals (deceased or live human beings) who have family or other relationship ties with the donor. The City reserves the right, at its discretion, to reject any request that is not consistent with the intent and provisions of this Resolution.
 3. The City reserves the right, at its discretion, to determine both the species of tree and location for planting for this program based on location needs/constraints, recognized arbor guidelines and practices, and any applicable provisions of the City Code. Input from the individual requesting the planting will be given consideration prior to the City finalizing the location and species of tree.
 4. The following list of City Parks are approved locations for the Memorial Tree and Bench Program:
 - 12th Avenue South Park
 - Carver Center
 - Cradle Creek
 - Gonzales Park
 - Huguenot Park
 - Paws Park
 - Penman Park

- Rotary Park
 - South Beach Park & Sunshine Playground
 - Tall Pines Park
 - Wingate Park
5. New trees shall be selected and planted according to the Level 2 Tree Community Organization Planting Program provided by the City of Jacksonville Tree Commission. See Attachment A for the approved tree list.
 6. Participants wishing to plant a tree are required to make a contribution of \$750 per tree to the City's General Fund. This money will be directed toward the cost of maintaining each new tree. This money will be restricted in its use to the cost of maintaining trees.
 7. Participants wishing to adopt an existing tree are required to make a contribution of \$100 per tree to the City's Tree Fund. Such contributions shall be restricted to the maintenance of trees and benches.
 8. The City will perform all required maintenance for new and adopted trees and will commit to replanting, in a reasonable amount of time, if the tree should fail within the first three (3) years.
 9. Participants wishing to install a park bench are required to make a contribution of \$1,500 per bench to the City's General Fund. This will cover the cost and installation of the bench. Any surplus funds remaining after the purchase and installation fees have been paid will be used for the maintenance of trees and park benches. All benches shall have standard specifications represented in Attachment B: ADA Compliant Bench. Participants wishing to adopt an existing park bench are required to make a contribution of \$100.
 10. An "on-site" marker for the identification of trees (planted or adopted) and benches (new or adopted) can be installed for an additional contribution of \$450 to the City's General Fund. Such identification will be limited to a 10" x 4" bronze post mounted plaque. An example, legend reads: "*This tree planted in memory of my father, John Q. Public, of Jacksonville Beach, FL*". However, once the marker is installed by the City, the City shall not be responsible for any damage, loss, vandalism, repairs or replacement of the marker. Any surplus funds remaining after the purchase and installation fees have been paid will be used for the maintenance of trees and park benches.
 11. Memory trees and benches are not memorials and may not be decorated with flowers, ribbons, photos or other items.

12. All trees and benches installed under the Program shall comply with applicable City codes and ordinances, public utility guidelines, easement and covenant restrictions, and City landscape maintenance guidelines.

SECTION 4. Fee Amendments. Fee rates provided as part of this resolution may be amended from time to time as deemed appropriate by the City Council.

SECTION 5. Administrative Authorization. The City Council hereby authorizes the City Manager to commence on December 1, 2019, and implement thereafter, the City's first Memorial Tree and Bench Program, which shall be administered by the Parks and Recreation Department.

SECTION 6. Repeal of Prior Inconsistent Resolutions. All prior resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 7. Severability. If any section, subsection, sentence, clause, phrase, word, or portion of this resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereto.

SECTION 8. This Resolution shall become effective immediately upon its adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA THAT: The City Council of the City of Jacksonville Beach hereby establishes the City of Jacksonville Beach Memorial Tree and Bench Program as set forth in this Resolution.

AUTHENTICATED this ___ day of _____, 2019.

Charles W. Latham, MAYOR

Laurie Scott, CITY CLERK

Attachment A: Level 2 Tree Community Organization Planting Program (City of Jacksonville - Tree Commission).

Attachment B: ADA Compliant Bench.

ATTACHMENT: A
To Resolution 2044-2019
LEVEL 2 COMMUNITY ORGANIZATION
TREE PLANTING PROGRAM

The form below provides individual citizens and organizations with the opportunity to suggest a location for a tree planting project within Duval County that proposes to use funds from the City of Jacksonville Tree Protection and Related Expenses Trust Fund. If a citizen or organization is interested in suggesting a planting location for the City to implement, then use this form.

Requirements to utilize this program:

1. The location of the proposed planting must be:
 - a. In Duval County; and
 - b. On public property, such as a road right-of-way; a local, state or national park; Duval County School Board property, etc.
2. The number of trees requested may not exceed 200.

Complete the following information below:

1. Name/title of project:
2. Legal name of organization/citizen making suggestion:
3. Organization or citizen mailing address:
4. Contact phone number:
Contact e-mail:
5. Location/address of planting project:
6. Has project information been shared with the Council Member of the district?
7. Rationale for project (include information about the public benefit of the project):
8. Description of project:

**TREE COMMISSION
APPROVED TREE PLANTING LIST**

Tree	Right of Way	Parks	DCPS ¹⁴	Height/Spread	¹ Plan Canopy Diameter	² Foliage	³ Light Required	⁴ Soil Drainage	⁵ Drought Tolerance	⁶ Growth Rate	Soil Tolerance (pH)	¹⁴ IFAS FL Friendly
SMALL TREES												
American Hornbeam <i>Carpinus caroliniana</i>	Y	Y		30-35/ 25/30'	20'	DECID	F8/PSH	WD	HIGH	SLOW	(4.2-7.0)	Y
Ash Magnolia <i>Magnolia macrophylla esp. eshei</i>		Y		20'	20'	DECID	PSH, SH	OW	MOD	MOD	(4.8-7.5)	
Eastern Redbud <i>Cercis canadensis</i>	Y	Y		15-30/ 15-25'	20'	DECID	F8, PSH	WD	HIGH	RAPID	(4.2-7.6)	Y
Flattwoods Plum <i>Prunus umbellata</i>	Y	Y		12 - 20'	20'	DECID	F8,PSH	WD	MOD	MOD	(4.8-7.5)	Y
Crape Myrtle <i>Lagerstroemia indica var. Natchez, Muskogee, or Tuskegee), Standard or Multi-trunk</i>	Y	Y	Y	15-20/ 15-25'	18'	DECID	F8	WD	HIGH	MOD	(5.0-7.5)	Y
Hawthorn <i>Crataegus spp.</i>		Y	Y	25'	25'	DECID	F8,PSH	WD	HIGH	MOD	(4.8-7.5)	Y
Fringe Tree <i>Chionanthus virginicus</i>	Y	Y		12-20/ 10-15'	10'	DECID	F8, PSH, SH	WD	MOD	SLOW	(6.0-8.5)	Y
Little Gem Magnolia <i>Magnolia grandiflora 'Little Gem'</i>	Y	Y		25-35/ 8-10'	15'	E'GRN	F8, PSH, SH	AW,WD	MOD	SLOW	(4.5-5.0) tolerant to 7.5	Y
Yaupon Holly <i>Ilex vomitoria</i>	Y	Y	Y	15-25/ 15-20'	15'	E'GRN	F8, PSH, SH	AW,WD	HIGH	SLOW	(4.5 - 8.2)	Y
Wax-Leaf Ligustrum <i>Ligustrum japonicum</i>	Y	Y	Y	8-12/ 15-25'	12'	E'GRN	F8, PSH	WD	MOD	MOD	(5.5-7.0)	Y
Wax Myrtle <i>Myrica caroliniana</i>	Y	Y	Y	15-25/ 20-25'	20'	E'GRN	F8, PSH, SH	W,WD	HIGH	RAPID	(5.5 -7.0) tolerant to 8.2	
Walters Viburnum <i>Viburnum obovatum</i>	Y	Y		8-25/ 8-12'	10'	SEMI-E'GRN	F8, SH	W,OW	HIGH	MOD	(5.0-7.5)	Y
MEDIUM TREES												
Athens Elm <i>Ulmus parvifolia 'Emer'</i>	Y	Y		45/ 50'	30'	DECID	F8	OW,WD	MOD	MOD	(4.8-7.5)	
Bosque Elm <i>Ulmus parvifolia 'Bozque'</i>	Y	Y		45/ 50'	30'	DECID	F8	OW,WD	MOD	MOD	(4.8-7.5)	
Drake Elm <i>Ulmus parvifolia 'Drake'</i>	Y	Y		35-40/ 35-50'	30'	DECID	F8, PSH	OW,WD	MOD	MOD	(4.8-7.5)	
Daloon Holly <i>Ilex cassine</i>	Y	Y	Y	20-30/ 8-12'	15'	E'GRN	F8, PSH	W,OW	MOD	SLOW	(3.5-8.5)	Y
Engelston Holly <i>Ilex attenuata 'Engelston'</i>	Y	Y	Y	30-45/ 15-25'	20'	E'GRN	F8, PSH	WD	MOD	MOD	(4.0-8.0) tolerant to 7.5	
Japanese Blueberry Tree <i>Elaeagnus decipiens</i>	Y	Y		40/ 40'	20'	E'GRN	F8, PSH	WD	MOD	MOD	(4.0-8.0) tolerant to 7.5	Y
Loquat <i>Eriobotrya japonica</i>		Y		20 - 30'	30'	DECID	F8, PSH	WD	MOD	SLOW	(4.8-7.5)	Y
East Palatka Holly <i>Ilex attenuata 'East Palatka'</i>	Y	Y	Y	30-45/ 15-25'	20'	E'GRN	F8, PSH	WD	MOD	MOD	(4.0-8.0) tolerant to 7.5	Y
Sand Pine <i>Pinus clausa</i>		Y		25 - 40'	15 - 25'	E'GRN	F8, PSH	WD	HIGH	SLOW	(4.8-7.5)	Y
Sweetbay Magnolia <i>Magnolia virginiana</i>	Y	Y		40 - 50'	40'	DECID	F8,PSH	OW,WD	MOD	MOD	(4.8-7.5)	Y

**TREE COMMISSION
APPROVED TREE PLANTING LIST**

Tree	Right of Way	Parks	DCPS ¹⁴	Height/Spread	¹ Plan Canopy Diameter	² Foliage	³ Light Required	⁴ Soil Drainage	⁵ Drought Tolerance	⁶ Growth Rate	Soil Tolerance (pH)	¹⁵ FAS FL Friendly
Southern Red Cedar <i>Juniperus silicicola</i>	Y	Y		30-40'/ 20-30'	20'	E'GRN	FS, PSH	WD	HIGH	SLOW	(5.5-7.5) tolerant to 8.0	Y
American Hophornbeam <i>Ostrya virginiana</i>	Y	Y		30 ~ 40'	25 - 30'	DECID	FS, PSH, SH	WD	MOD	MOD	(3.5-6.5)	Y
⁸ River Birch <i>Betula nigra</i>	Y	Y	Y	40-50'/ 25-35'	20'	DECID	FS, PSH	W, OW	LOW	RAPID	(4.0-6.5) tolerant to <4.0	Y
Winged Elm <i>Ulmus alata</i>	Y	Y		40-50'/ 30-40'	30'	DECID	FS, PSH	OW, WD	LOW	MOD	(5.0-7.0) tolerant to 8.0	Y
¹² LARGE TREES												
Allea Elm <i>Ulmus parvifolia 'Emer II'</i>	Y	Y		75'/ 60'	30'	DECID	FS	OW, WD	MOD	MOD	(4.8-7.5)	
Bald Cypress <i>Taxodium distichum</i>	Y	Y	Y	60-80'/ 25-30'	25'	DECID	FS, PSH	W, OW, WD	MOD	RAPID	(4.0 to 6.0), tolerant to 7.5	Y
Hickory <i>Carya sp.</i>		Y		50 - 60'	35'	DECID	FS, PSH	WD	MOD	SLOW	(4.8-7.5)	Y
Blackgum <i>Nyssa sylvatica</i>	Y	Y		75'/ 25-30'	30'	DECID	FS, PSH, SH	W, OW, WD	HIGH	SLOW	(6.0-7.0)	Y
Catalpa <i>Catalpa bignonioides</i>		Y	Y	60'/40-60'	35'	DECID	FS, PSH	W, OW, WD	MOD	RAPID	(4.5-6.0)	
⁷ Live Oak <i>Quercus virginiana</i>	Y	Y	Y	60-80'/ 60-120'	50'	E'GRN	FS, PSH	OW, WD	HIGH	MOD	(4.5-6.5) tolerant to 8.0	Y
Swamp Chestnut Oak <i>Quercus michauxii</i>	Y	Y	Y	60-70'/ 30-50'	35'	DECID	FS, PSH	W, OW, WD	LOW	MOD	(4.5-6.0)	Y
Overcup Oak <i>Quercus lyrata</i>	Y	Y	Y	35-50'/ 30-50'	35'	DECID	FS, PSH	W, OW, WD	LOW	MOD	(4.5-6.0)	Y
Laurel Oak <i>Quercus laurifolia</i>	Y	Y	Y	60'/40-60'	35'	DECID	FS, PSH	W, OW, WD	MOD	RAPID	(4.5-6.0)	
Nuttall Oak <i>Quercus nuttallii</i>	Y	Y	Y	60-80'/ 35-50'	35'	DECID	FS	OW, WD	LOW	MOD	(4.5-5.5)	Y
Shumard Oak <i>Quercus shumardii</i>	Y	Y	Y	80'/50-60'	35'	DECID	FS, PSH	W, OW, WD	HIGH	RAPID	(4.5-5.5)	Y
Perseemon <i>Diospyros virginiana</i>		Y		30 - 60'	30'	DECID	FS, PSH	WD	MOD	SLOW	(3.5-6.5)	
¹ Red Maple <i>Acer rubrum</i>	Y	Y	Y	60-75'/ 25-35'	30'	DECID	PSH	W, OW	LOW	MOD	(5.4-7.1)	Y
Loblolly Bay <i>Gordonia lasianthus</i>		Y		70'	20'	E'GRN	FS, PSH	W, OW, WD	MOD	MOD	(4.8-7.5)	Y
Leyland cypress <i>Cupressocyparis leylandii</i>	Y	Y		30-40'/ 20-30'	20'	E'GRN	FS, PSH	WD	HIGH	SLOW	(5.5-7.5) tolerant to 8.0	Y
Slash Pine <i>Pinus elliotii</i>		Y		60-80'/ 30-40'	20'	E'GRN	FS, PSH	OW, WD	HIGH	RAPID	(4.5-7.0)	Y
Long Leaf Pine <i>Pinus palustris</i>	Y	Y		60-80'/ 30-40'	20'	E'GRN	FS	WD	HIGH	MOD	(4.5-7.0)	Y
Southern Magnolia <i>Magnolia grandiflora</i>	Y	Y		30-100'/ 20-40'	30'	E'GRN	FS, PSH	OW, WD	MOD	MOD	(5.5-6.5) tolerant to 7.5	Y
Sweetgum <i>Liquidambar styraciflua</i>	Y	Y	Y	60-75'/ 35-50'	30'	DECID	FS, PSH	W, OW	LOW	MOD	(4.5-7.0) tolerant to 7.5	Y

**TREE COMMISSION
APPROVED TREE PLANTING LIST**

Tree	Right of Way	Parks	DCPS ¹⁴	Height/Spread	¹ Plan Canopy Diameter	² Foliage	³ Light Required	⁴ Soil Drainage	⁵ Drought Tolerance	⁶ Growth Rate	Soil Tolerance (pH)	¹¹ FAS FL Friendly
Sycamore <i>Platanus occidentalis</i>	Y	Y		75-80' / 50-70'	30'	DECID	FS	W, OW, WD	MOD	RAPID	(4.6-8.5), tolerant up to 8.0	Y
Tulip Poplar <i>Liriodendron tulipifera</i>	Y	Y		80-100' / 30-50'	30'	DECID	FS, PSH	OW, WD	MOD	RAPID	(4.5-8.5) tolerant up to 7.5	Y
⁸ Weeping Willow <i>Salix babylonica</i> or <i>alba</i>		Y		45-70' / 4 5-70'	30;	DECID	FS, PSH	OW, WD	MOD	RAPID	(4.5-7.5)	
PALMS												
Washington Palm <i>Washingtonia robusta</i>	Y	Y		80-100' / 10-15'	12'	E'GRN	FS, PSH	OW, WD	HIGH	RAPID	(5.5-7.5) tolerant up to 8.0	Y
Cabbage Palm <i>Sabal palmetto</i>	Y	Y	Y	40-50' / 10-12'	10'	E'GRN	FS	OW, WD	HIGH	MOD	(6.0-8.5) tolerant up to 8.0	Y
Ribbon Palm <i>Lythia decipiens</i>	Y	Y		30-50' / 18-25'	15'	E'GRN	FS	WD	HIGH	MOD	(5.5-7.5)	

**TREE COMMISSION
APPROVED TREE PLANTING LIST**

Tree	Right of Way	Parks	DCPS ¹⁴	Height/Spread	Plan Canopy Diameter	Foliage	Light Required	Soil Drainage	Drought Tolerance	Growth Rate	Soil Tolerance (pH)	FAS FL Friendly
------	--------------	-------	--------------------	---------------	----------------------	---------	----------------	---------------	-------------------	-------------	---------------------	-----------------

LEGEND

¹Draw each tree symbol on the landscape plan to the diameter shown above to match the normal mature (20 year) canopy of each tree species. Do not overlap tree canopies of different species (i.e. do not show the canopy circle of a sun loving crape myrtle overlapping the mature canopy circle of a live oak). However, tree canopy circles of the same species can overlap to create tree clusters or to create a solid, closely spaced row of trees. Also, new understory trees can be shown under existing shade trees if existing trees have high branching.

²Foliage: DECID = Deciduous, E'GRN = Evergreen

³Light Requirement: FS = Full Sun, PSH = Partial Shade (2-5 hrs. of sun or filtered sun), SH = Full Shade (<2 hrs. sun)

⁴Soil Drainage: W=Always Wet (soil saturated for more than several days during growing season), OW=occasionally Wet (Soil saturated for several days during several days of growing season), WD=Well Drained

⁵Drought Tolerance: HIGH=High (no watering required once well established), MOD= Moderate (occasional watering required during dry periods in growing season), LOW= Low (frequent watering required during dry periods of growing season)

⁶Growth Rate: SLOW=Slow (<1ft/ yr.), MOD=Moderate (1-2 ft/ yr.), FAST=Fast (>2ft/ yr.)

⁷Use Live Oak cultivars (Q. v. 'SDLV' ('Cathedral' Live Oak) or Q. v. 'QVTA' ('Highrise' Live Oak)) in medians when a single row of oaks with uniform spacing is desired. Use 'Highrise' Oak where oaks are near overhead power lines. Use common live oak for informal groupings.

⁸Limit use of River Birch, Red Maple, and Weeping Willow to clusters around retention ponds and in areas of R.O.W. undisturbed by construction. **Do not use in medians or within 20' of pavement.** These trees don't do well in alkaline conditions generally found near pavement. Because River Birch and Willows have a short life span, use these tree sparingly. Generally, cluster with longer lived tree types.

⁹Use Wax Myrtle only in mass planting for visual screening and transition into natural areas.

¹⁰Provide 6'-8' minimum between Large Trees and pavement, curbs and other structures.

¹¹Trees not on the above approved list may be considered for approval by the Tree Commission. (www.co.ja.net/departments/public-works/tree-commission)

¹²Because of weeping nature of Drake Elm, limit use to medians 30' wide or greater, measured from the edge of travel lane (i.e. two 1.5' curb & gutter & 27' grassed median) and where the tree can be set back 15' from the travel lane, if planted on the side of the street.

¹³The definition of Florida-Friendly Landscaping™ in Florida Statutes section 373.185 (adopted in 2009 in Senate Bill 2080) addresses "quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. The principles of such landscaping include planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Additional components include practices such as landscape planning and design, soil analysis, the appropriate use of solid waste compost, minimizing the use of irrigation, and proper maintenance."

¹⁴DCPS=Duval County Public Schools. When landscaping on Public Educational Facilities in Florida (including colleges and universities), please refer to [State Requirements for Educational Facilities](http://www.flrules.org) manual for a comprehensive description of planting standards at www.flrules.org.

ATTACHMENT: B

ADA Compliant Bench w Arms



Introducing our new ADA Compliant Handicap Bench with arms by Polly Products. This bench complies to ADA standards and is sturdy, yet comfortable. The seating is wide with a tall back for maximum support.

Since plastic takes hundreds of years to degrade, using recycled plastic creates a long lasting product and keeps the plastic and the discarded wood benches out of our landfills.

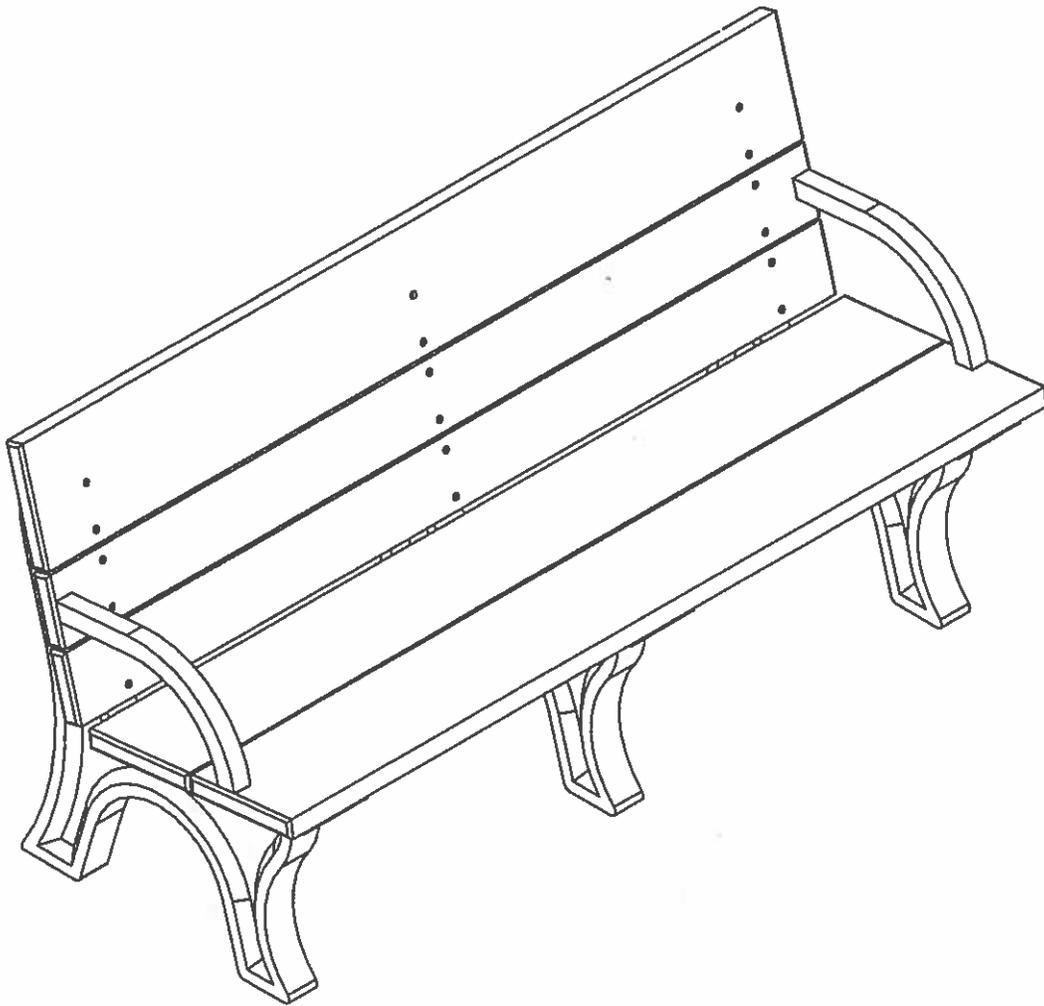
- Maintenance free! No need to stain or paint
- Heavy duty and can be surface mounted with brackets
- Resists fading or peeling as the color is molded all the way through
- Weather resistant
- No need to stain or paint
- stainless steel fasteners are long-lasting and do not rust
- slatted design keeps rainwater from collecting on surfaces

See back of page for exact measurements and Available Color Options





Traditional Bench - With Back & Arms - 6FT





City of Jacksonville Beach Guidelines for Memorial Tree & Bench Program

Honor someone special, celebrate an occasion, or remember a loved one by donating a tree or bench.
A tree or bench provides a gift to the entire community.

Program Benefits

- Clean Air
- Erosion Control
- Beautification of City parks
- Ease noise pollution
- Enrich the environment and community
- A lasting tribute
- A unique gift

Available Park Locations for Tree Planting/Adoption & Bench Placement

- 12th Avenue S. Park: 12th Avenue S. & 4th Street S.
- Carver Center: 777 5th Avenue S.
- Cradle Creek: Corner of 15th Street S. & Fairway Lane
- Gonzales Park: 2nd Avenue N. & 10th Street N.
- Huguenot Park: 3rd Street S. between 16th & 19th Avenues S.
- Paws Park: 468 S. Penman Road
- Penman Park: Penman Road N. & 2nd Avenue N.
- Rotary Park: Behind Beach Marine, next to the Florida Marine Patrol Station
- South Beach Park & Sunshine Playground: South Beach Parkway & Osceola Avenue
- Tall Pines Park: 9th Avenue N. west of N. Penman Road
- Wingate Park: S. Penman Road, adjacent to Golf Course

Program Options

Option 1: New Tree Planting

A new tree will be planted in memory/honor of your loved one (see attached Tree Approval List).
Price: \$750.00

Option 2: Adopt an Existing Tree

Adopt an existing tree in one of our parks.
Price: \$100.00

Option 3: Bench Placement

A bench will be placed in the park of your choice, or at the discretion of the City of Jacksonville Beach.

Price includes purchase and installation.

Price: \$1,500.00

Option 4: Adopt an Existing Bench

Adopt an existing park bench.

Price \$100.00

Donation for a memorial plaque for either tree or benches is \$450.00.

Note:

- All options include a commemorative certificate and a map of the tree or bench location.

Payment Methods

Acceptable methods of payment are cash, check, or money order. Made payable to the City of Jacksonville Beach.

Guidelines

The Memorial Tree & Bench Program is subject to the guidelines set forth by the City of Jacksonville Beach Parks & Recreation Department.

Memory trees and benches are not memorials and may not be decorated with flowers, ribbons, photos, or other items.

The dimensions of all plaques are 10"L x 4"W x 3/8"D.

Two standard markers are available with the same standardized verbiage: 'In Honor Of' or 'In Memory Of' followed by the name of your loved one.

All language on tree and bench plaques is subject to approval by the City.

The City reserves the right, at its discretion, to determine both the species of tree and location for planting for this program based on and not limited to: location needs/constraints, recognized arbor guidelines and practices, and any applicable provisions of the City Code. Input from the individual requesting the planting will be given consideration prior to the City finalizing the location and species of tree. No trees or benches shall be planted or placed without prior approval from the City.

The City of Jacksonville Beach is not be responsible for any loss or damage, including but not limited to theft, vandalism, or natural disaster, that may occur to the tree, marker, or bench.

While trees may be ordered at any time, they will only be planted during their dormant phase.

In the event a tree must be permanently removed, the donor may adopt an existing tree at no charge. The City will relocate the memorial plaque to the new location.

In the event a bench must be permanently removed, the City will, when feasible, seek an alternate location consistent with these guidelines. If no alternate location can be found, the memorial bench, at the donor's request, may be given to the donor.

Pricing is based on current valuation, installation, and upkeep. Additional funds are reserved for preservation and maintenance. Pricing is subject to change.

Perpetual care and maintenance of the trees and benches shall remain with and under the control of the City of Jacksonville Beach, and shall be maintained as outlined in the Memorial Tree & Bench Program Guidelines.

**City of Jacksonville Beach
Memorial Tree & Bench Program Registration**

2508 South Beach Parkway
Jacksonville Beach FL 32250
(904) 247-6236

Honor someone special, celebrate an occasion, or remember a loved one by donating a tree or bench.

Name of Recipient _____

Name of Donor _____

Donor Address _____

City/State/Zip _____

Phone _____

Email _____

- Option 1: Plant a new tree \$750.00
- Option 2: Adopt an existing tree \$100.00
- Option 3: Place a bench \$1,500.00
- Option 4: Adopt an existing bench \$100.00
- Commemorate Plaque \$450.00

Acceptable methods of payment: Cash, Check, Money Order

Name of Park you wish the tree to be planted/adopted or the bench to be placed/adopted

Type of tree requested _____

Choose one, please: In Honor Of In Memory Of

Plaque Inscription (4 lines maximum)

I have read, fully understand, and agree to abide by the general terms and conditions of the Memorial Tree and Bench Program as outlined in this application. My signature below indicates that I agree and understand the City of Jacksonville Beach Memorial Tree & Bench Program guidelines.

Signature

Date

MEMORANDUM

City of
Jacksonville Beach
City Hall
11 North Third Street
Jacksonville Beach
FL 32250
Phone: 904.247.6231
Fax: 904.247.6107
Planning@jaxbchfl.net

To: Mike Staffopoulos, City Manager

From: Bill Mann, Planning and Development Director

Subject: Ordinance No. 2019-8117, amending the text of the Land Development Code Division 4. Sign Standards to provide standards for off-site signage for emergency services only, such as police stations, fire stations, paramedic facilities, and hospitals, (Applicant – Baptist Medical Center of the Beaches)

Date: October 29, 2019

www.jacksonvillebeach.org

ACTION REQUESTED:

Defer 1st Reading/Public Hearing of Ordinance No. 2019-8117 to the February 3, 2020 City Council meeting.

BACKGROUND:

Baptist Medical Center of the Beaches submitted the attached Land Development Code (LDC) Text Amendment application in February of this year to amend the City's LDC's sign regulations to provide standards for off-site signage for emergency services only, to include police, fire, paramedic and hospital facilities.

It was originally scheduled to be heard by City Council on May 6, 2019. However, at the request of the City Attorney at that meeting, and then subsequently by the applicant prior to a subsequently scheduled City Council meeting, the application has been carried over several times, ultimately to the November 4 City Council meeting. In between these meetings the City Manager and staff have been exploring other options that might be available to the Hospital regarding offsite directional signage and have met several times with Hospital representatives and their attorney to discuss same.

It was agreed to by the City Manager, Planning Director, and Hospital representatives at our last meeting that staff would appear at the November 4 City Council meeting and request that the amendment be deferred to the February 3, 2020 City Council meeting in order that additional research may be performed and perhaps one or more meetings with staff could be held in order to arrive at a mutually agreed upon solution to the Hospital's offsite sign needs/desires.



RECOMMENDATION:

Defer First Reading and Public Hearing of Ordinance No. 2019-8117 to the February 3, 2020 City Council meeting, as requested by staff.



LAND DEVELOPMENT CODE TEXT PC No. 3-19 AMENDMENT APPLICATION AS/400# 19-100019

This form is intended for use by persons applying for a change in the text of the comprehensive plan. A change to the text of the comprehensive plan is not intended to relieve a particular hardship, nor to confer special privileges or rights on any person, but to make necessary adjustments. No text amendment to the comprehensive plan may be approved except in conformance with the Jacksonville Beach 2030 Comprehensive Plan Elements. An application for a text amendment to the comprehensive plan shall include the information and attachments listed below, unless the requirement for any particular item is waived by the Planning and Development Director.

APPLICANT INFORMATION

Land Owner's Name: Baptist Medical Center of the Beaches, Inc; Baptist Health Properties, Inc. Baptist Beaches Medical Condominium Association Inc.
Mailing Address: 3563 Phillips Highway Building F Suite 608, Jacksonville, Florida 32207

Telephone: 904-627-2900
Fax: _____
E-Mail: _____

Applicant Name: Baptist Medical Center of the Beaches, Inc.
Mailing Address: 3563 Phillips Highway Building F Suite 608, Jacksonville, Florida 32207

Telephone: _____
Fax: _____
E-Mail: _____

NOTE: Written authorization from the land owner is required if the applicant is not the owner.

Agent Name: Paul M. Harden, Esq.
Mailing Address: 501 Riverside Avenue, Suite 901
Jacksonville, Florida 32202

Telephone: 904-396-5731
Fax: 904-399-5461
E-Mail: paul_harden@bellsouth.net
zach_miller@bellsouth.net

RECEIVED

FEB - 5 2019

TEXT AMENDMENT DATA

PLANNING & DEVELOPMENT

Current Goal/Objective/Policy Number: Section 34, Division 4, Sign Standards

<u>REQUESTED INFORMATION</u>	<u>Attached?</u>	
	<u>Yes</u>	<u>No</u>
1. A copy of the relevant Duval County Property Assessment Map, showing the exact location of the land affected by the text amendment, with the boundaries clearly marked;	X	
2. An 8 1/2" x 11" vicinity map identifying the property affected by the text amendment;	X	
3. An aerial photograph, less than twelve (12) months old, of the land affected by text amendment, with the boundaries clearly marked;	X	
4. For a text amendment, include a narrative and explanation of the proposed amendment	X	
5. For a text amendment, include the current text of the LDC section proposed to be changed and the full text of the proposed amendment. The proposed text amendment submittal must include a cover letter containing a narrative statement explaining the amendment, why it is needed and how it will comply with the goals, objectives, and policies in the Jacksonville Beach 2030 Comprehensive Plan Elements.	X	

Applicant Signature: Paul M. Harden Date: 2/5/19

Narrative

Attached is a proposed text amendment to the Jacksonville Beach Land Development Code.

The purpose of the proposed amendment is to allow for off-site signage which provides wayfinding to emergency services such as police stations, fire stations, paramedic facilities and hospitals, such as Baptist Medical Center Beaches, which provide “Emergency services and care” as this term is defined under Florida Statutes.

In its decades of operation, Baptist Medical Center, Beaches has repeatedly heard from patients that it is difficult to find the facility, in particular during an emergency. The purpose of this amendment is to allow Beaches Baptist to place limited wayfinding signage on the major roadways that will help guide patients to the hospital.

The applicant understands that amending this portion of the land development code is the beginning of the process and that final design and location of signs will involve oversight and approval from the City in order to ensure that the signs do not detract from the character of the community in which they are located.

Applicant respectfully submits, per the application requirements, that the proposed amendment furthers the following goals and objectives of the 2030 Comprehensive Plan:

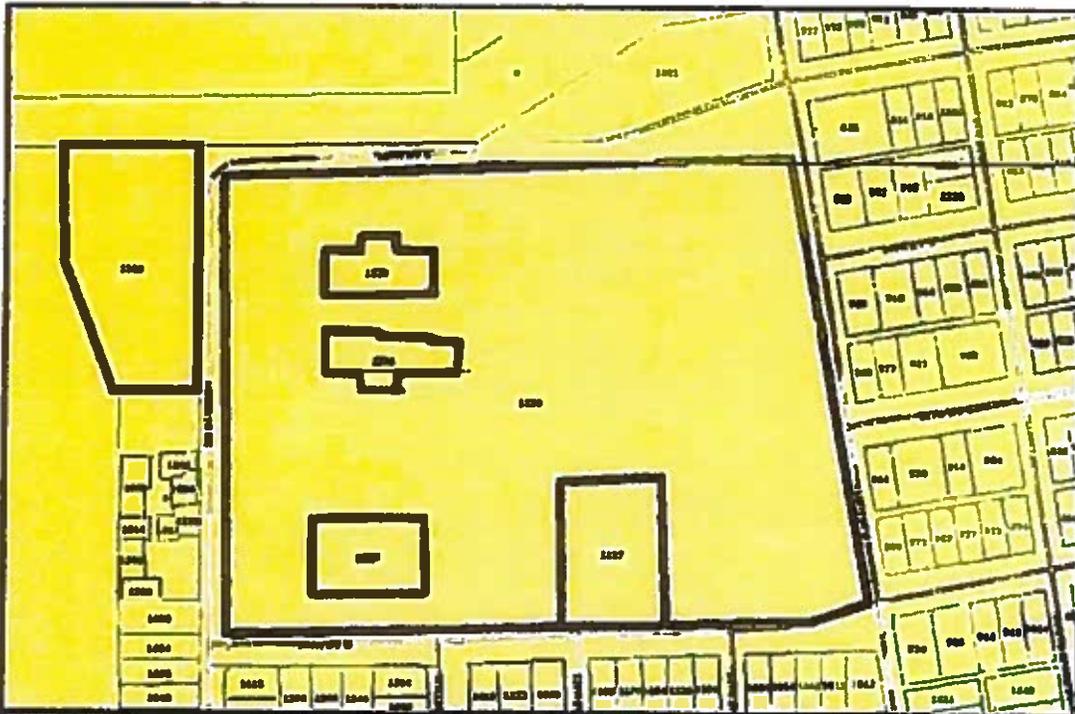
Objective TE 1.4 Provide for safe and convenient traffic flow and parking.

Policy LU.1.1.3 Prepare, adopt, and enforce regulatory measures to promote and enhance the visual appearance of the City such as sign controls, tree preservation and landscaping requirements, and nuisance laws. Encourage the use of street furniture in appropriate pedestrian areas.

Policy TE 1.6.2 Newdevelopment shall provide operational improvements to the City’s transportation system to mitigate their impacts on the system, to ensure smooth traffic flow, and to aid in the elimination of hazards. Improvements may include, but are not limited to adding turn lanes, deceleration lanes, signing, signals, and pavement marking.

Policy TC 1.4.7 Encourage travel demand management strategies to modify peak hour travel demand and reduce the number of vehicle miles traveled per capita within the City, as well as transportation system management strategies to improve system efficiency and enhance safety.

EXHIBIT A

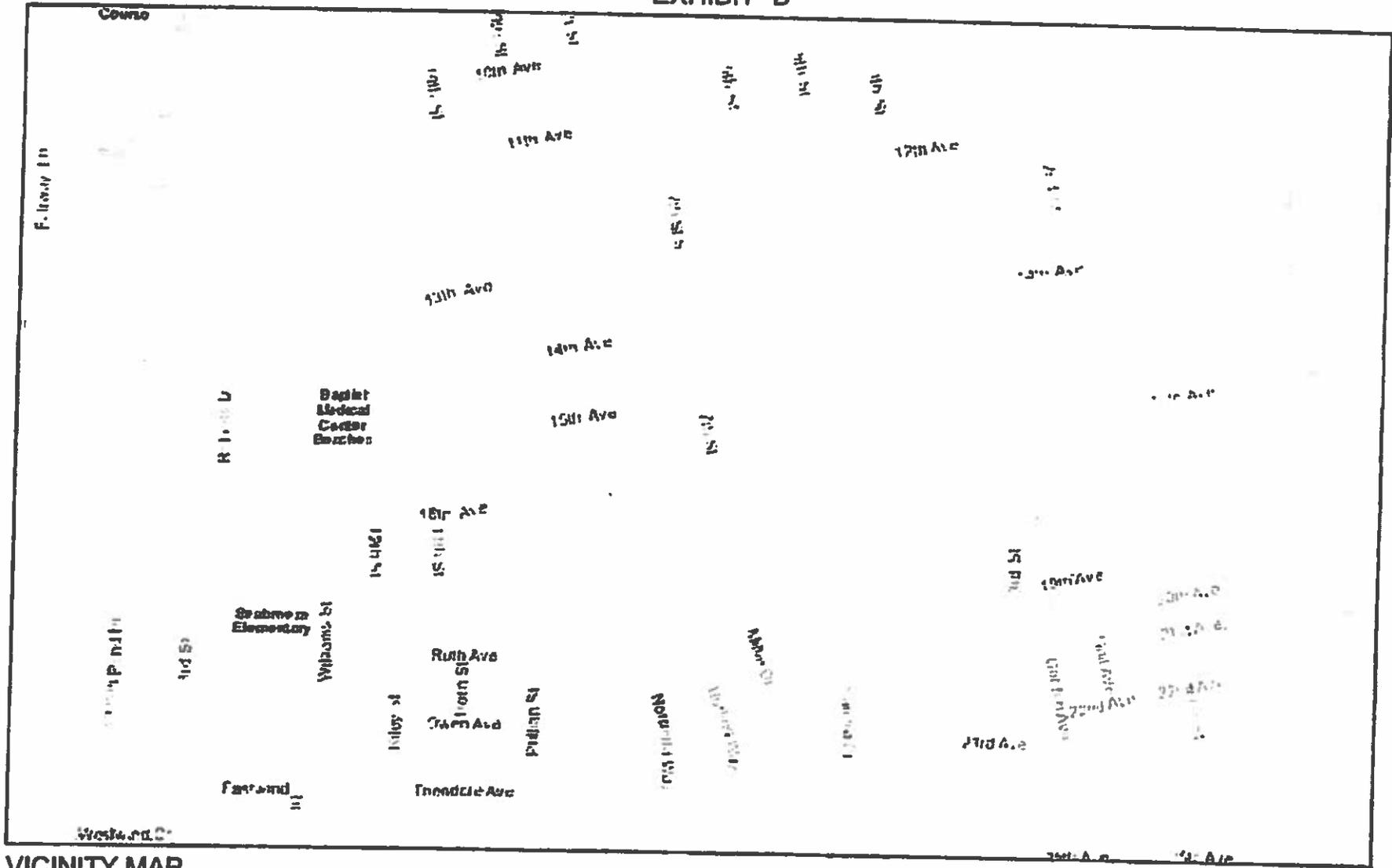


Duval County Property Assessment Map

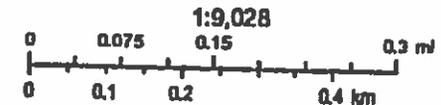
APN	PROPERTY	APN	PROPERTY	APN	PROPERTY	APN	PROPERTY	APN	PROPERTY	APN	PROPERTY		
1220	SAPPHIRE MEDICAL CENTER OF THE BAY	1221	SAPPHIRE MEDICAL CENTER OF THE BAY	1222	SAPPHIRE HEALTH PROPERTIES INC	1223	SAPPHIRE HEALTH PROPERTIES INC	1224	SAPPHIRE HEALTH PROPERTIES INC	1225	SAPPHIRE HEALTH PROPERTIES INC	1226	SAPPHIRE HEALTH PROPERTIES INC
1227	SAPPHIRE HEALTH PROPERTIES INC	1228	SAPPHIRE HEALTH PROPERTIES INC	1229	SAPPHIRE HEALTH PROPERTIES INC	1230	SAPPHIRE HEALTH PROPERTIES INC	1231	SAPPHIRE HEALTH PROPERTIES INC	1232	SAPPHIRE HEALTH PROPERTIES INC	1233	SAPPHIRE HEALTH PROPERTIES INC
1234	SAPPHIRE HEALTH PROPERTIES INC	1235	SAPPHIRE HEALTH PROPERTIES INC	1236	SAPPHIRE HEALTH PROPERTIES INC	1237	SAPPHIRE HEALTH PROPERTIES INC	1238	SAPPHIRE HEALTH PROPERTIES INC	1239	SAPPHIRE HEALTH PROPERTIES INC	1240	SAPPHIRE HEALTH PROPERTIES INC
1241	SAPPHIRE HEALTH PROPERTIES INC	1242	SAPPHIRE HEALTH PROPERTIES INC	1243	SAPPHIRE HEALTH PROPERTIES INC	1244	SAPPHIRE HEALTH PROPERTIES INC	1245	SAPPHIRE HEALTH PROPERTIES INC	1246	SAPPHIRE HEALTH PROPERTIES INC	1247	SAPPHIRE HEALTH PROPERTIES INC
1248	SAPPHIRE HEALTH PROPERTIES INC	1249	SAPPHIRE HEALTH PROPERTIES INC	1250	SAPPHIRE HEALTH PROPERTIES INC	1251	SAPPHIRE HEALTH PROPERTIES INC	1252	SAPPHIRE HEALTH PROPERTIES INC	1253	SAPPHIRE HEALTH PROPERTIES INC	1254	SAPPHIRE HEALTH PROPERTIES INC
1255	SAPPHIRE HEALTH PROPERTIES INC	1256	SAPPHIRE HEALTH PROPERTIES INC	1257	SAPPHIRE HEALTH PROPERTIES INC	1258	SAPPHIRE HEALTH PROPERTIES INC	1259	SAPPHIRE HEALTH PROPERTIES INC	1260	SAPPHIRE HEALTH PROPERTIES INC	1261	SAPPHIRE HEALTH PROPERTIES INC
1262	SAPPHIRE HEALTH PROPERTIES INC	1263	SAPPHIRE HEALTH PROPERTIES INC	1264	SAPPHIRE HEALTH PROPERTIES INC	1265	SAPPHIRE HEALTH PROPERTIES INC	1266	SAPPHIRE HEALTH PROPERTIES INC	1267	SAPPHIRE HEALTH PROPERTIES INC	1268	SAPPHIRE HEALTH PROPERTIES INC
1269	SAPPHIRE HEALTH PROPERTIES INC	1270	SAPPHIRE HEALTH PROPERTIES INC	1271	SAPPHIRE HEALTH PROPERTIES INC	1272	SAPPHIRE HEALTH PROPERTIES INC	1273	SAPPHIRE HEALTH PROPERTIES INC	1274	SAPPHIRE HEALTH PROPERTIES INC	1275	SAPPHIRE HEALTH PROPERTIES INC
1276	SAPPHIRE HEALTH PROPERTIES INC	1277	SAPPHIRE HEALTH PROPERTIES INC	1278	SAPPHIRE HEALTH PROPERTIES INC	1279	SAPPHIRE HEALTH PROPERTIES INC	1280	SAPPHIRE HEALTH PROPERTIES INC	1281	SAPPHIRE HEALTH PROPERTIES INC	1282	SAPPHIRE HEALTH PROPERTIES INC
1283	SAPPHIRE HEALTH PROPERTIES INC	1284	SAPPHIRE HEALTH PROPERTIES INC	1285	SAPPHIRE HEALTH PROPERTIES INC	1286	SAPPHIRE HEALTH PROPERTIES INC	1287	SAPPHIRE HEALTH PROPERTIES INC	1288	SAPPHIRE HEALTH PROPERTIES INC	1289	SAPPHIRE HEALTH PROPERTIES INC
1290	SAPPHIRE HEALTH PROPERTIES INC	1291	SAPPHIRE HEALTH PROPERTIES INC	1292	SAPPHIRE HEALTH PROPERTIES INC	1293	SAPPHIRE HEALTH PROPERTIES INC	1294	SAPPHIRE HEALTH PROPERTIES INC	1295	SAPPHIRE HEALTH PROPERTIES INC	1296	SAPPHIRE HEALTH PROPERTIES INC
1297	SAPPHIRE HEALTH PROPERTIES INC	1298	SAPPHIRE HEALTH PROPERTIES INC	1299	SAPPHIRE HEALTH PROPERTIES INC	1300	SAPPHIRE HEALTH PROPERTIES INC						

Saphire Medical Center Beaches

EXHIBIT "B"



VICINITY MAP

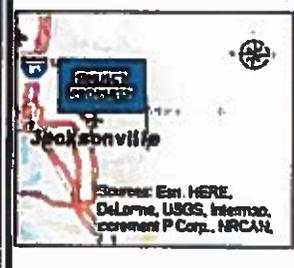


Source: Earl, HERE, DeLorme, Intermap, Incomat P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeBCO, IGN, Metastat NL, Ordnance Survey.

**Baptist Medical
Center Beaches**

Aerial

Legend



Map of Jacksonville showing the location of Baptist Medical Center Beaches. The map includes a red box highlighting the location and a north arrow.

Source: Esri, HERE, DeLorme, USGS, Intermap, iGeonair P Corp., NRCAN

PAUL M. HARDEN
ATTORNEY AT LAW
SUITE 201
501 RIVERSIDE AVENUE
JACKSONVILLE, FLORIDA 32202
—
(904) 396-5731
FAX (904) 399-8461
E-mail: paul_harden@bellsouth.net

February 28, 2018

RECEIVED

Bill Mann
Planning and Development Director
City of Jacksonville Beach
11 North Third Street
Jacksonville Beach, FL 32250

MAR - 4 2019

PLANNING & DEVELOPMENT

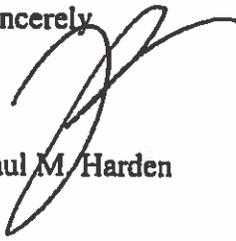
Re: Beaches Baptist Hospital PUD

Dear Bill:

In response to our phone call on February 21, 2019, enclosed please find a revised proposed text amendment to the Jacksonville Beach Land Development Code sign provisions. Also, enclosed is a redline showing the changes from the previously submitted version.

If you have any questions please do not hesitate to contact me.

Sincerely


Paul M. Harden

PMH/zm
encl.

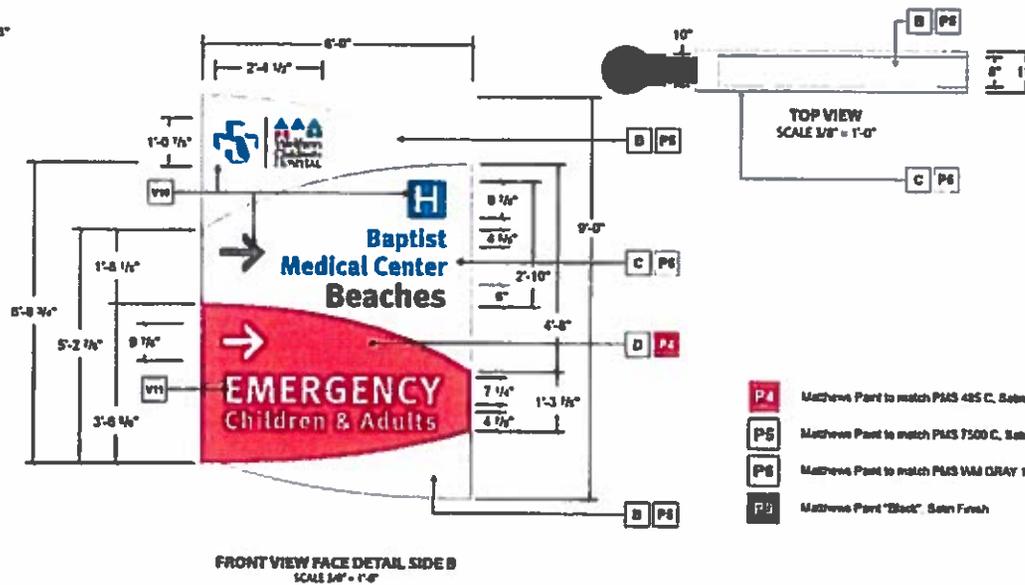
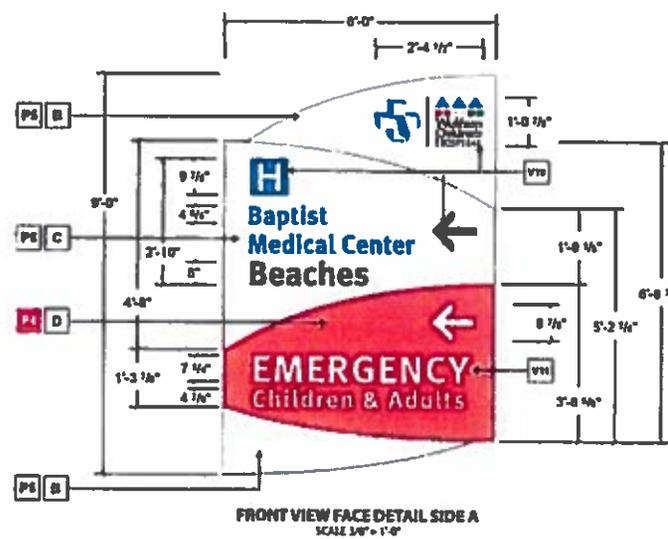
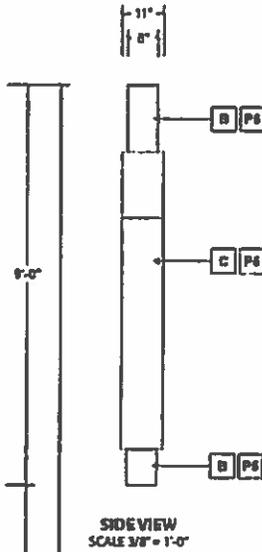
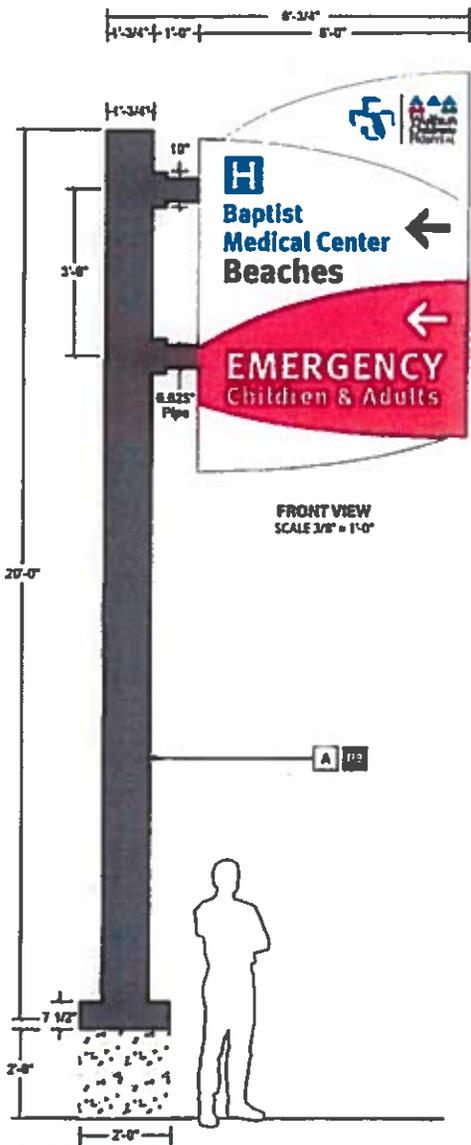
c: Keith Tickell
Joe Mitrick

D/F Flag Mounted Pole Sign (FLAG-P_DF-B)

54.00 sq.ft.

GENERAL NOTES

- A. Satin Black Polyurethane Point Finish (Sandblast Steel prior to paint application) (Painted P9).
- B. .125" Aluminum face (Painted P5)
- C. .125" Aluminum face (Painted P6).
- D. .125" Aluminum face (Painted P4).

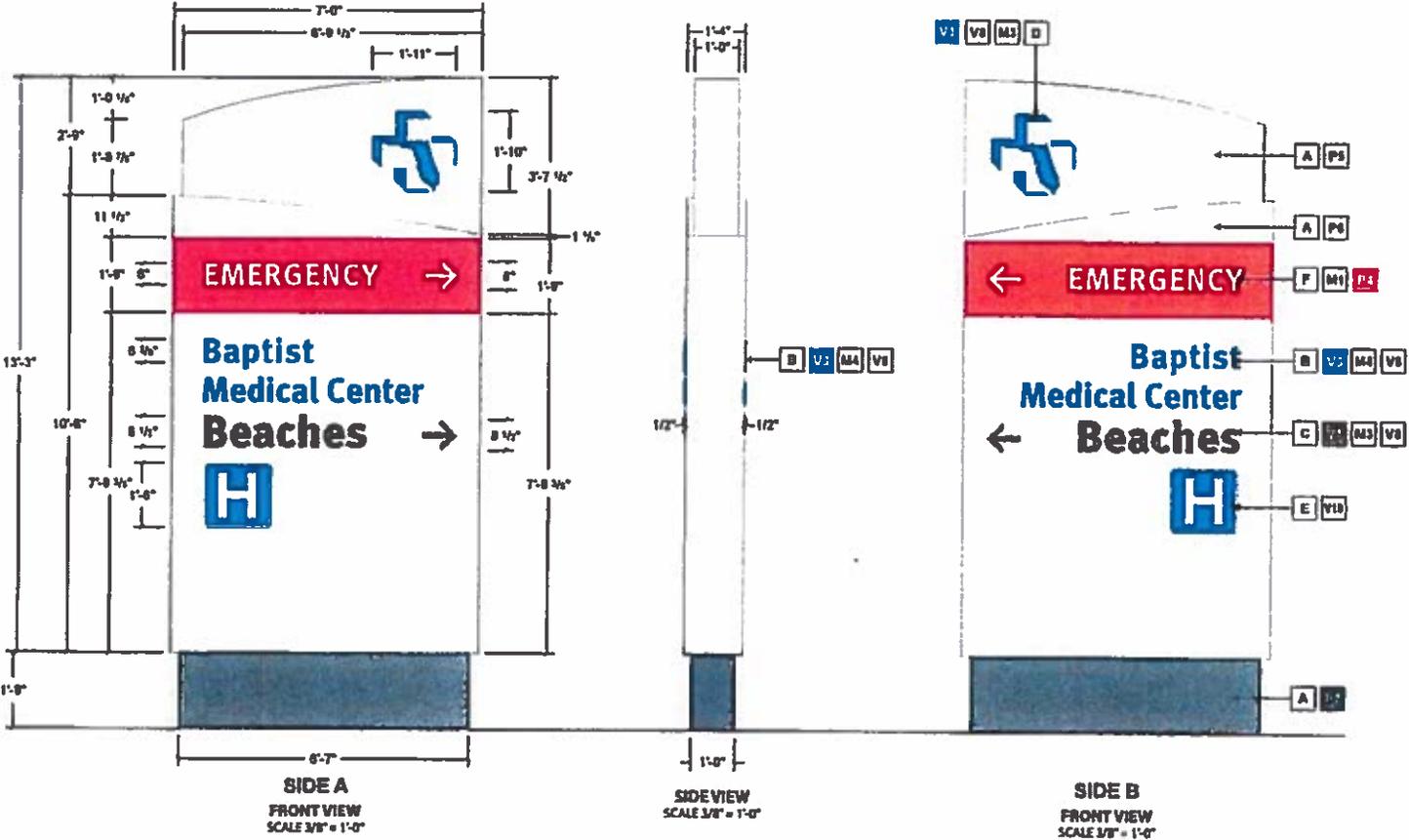


- P4** Matchwa Part to match PMS 485 C, Satin Finish
- P5** Matchwa Part to match PMS 7500 C, Satin Finish
- P6** Matchwa Part to match PMS 444 GRAY 1, Satin Finish
- P9** Matchwa Part "Black" Satin Finish
- V10** 3M Vinyl Reflective with Digital Printed Graphics
- V11** 3M White Vinyl Reflective

<p>3010 FARROW ROAD COLUMBIA, SC 29203 PHONE: 803-790-2121 FAX: 803-790-2125 www.imageresourcegroup.com</p>	<p>THIS IS AN UNPUBLISHED DESIGN OFFERED BY IRL, INC. IF IS SUBMITTED FOR YOUR PERSONAL USE IN CONNECTION WITH THE PROJECT PLANNED FOR YOU BY IRL, INC. IT IS NOT TO BE SHOWN TO ANYONE OUTSIDE OF YOUR ORGANIZATION NOR IS IT TO BE USED, REPRODUCED, COPIED, OR EXHIBITED IN ANY MANNER UNLESS ALL ON ANY PART OF THIS DESIGN IS PROTECTED REGISTERED TRADEMARKS) REMAINS THE PROPERTY OF IRL, INC.</p>	CLIENT: Baptist Medical Center Beaches	REVISIONS:	DRAWING NUMBER:	
		LOCATION: 1360 13th Ave S, Jacksonville Beach, FL		SHEET: 1	OF: 4
		DRAWN BY: JP	PROJECT MANAGER: MICHAEL TURNER	DATE: 11-26-10	PAGE: 1

D/F Primary Entrance Monolith (MON_DF_93sqft)

92.75 sq.ft.



- GENERAL NOTES**
- A. .125" Aluminum Face, top to be (Painted P5), middle to be (Painted P6), bottom to be (Painted P7).
 - B. "Baptist Medical Center" is 3/4" Clear Acrylic routed out and pushed through 1/2". Returns to be frosted. Face to have (Vinyl V3) applied to first surface. (Vinyl V8) 2nd surface.
 - C. "Beaches" "Arrow" are 3/16" Clear Acrylic routed out backed up. (Vinyl V1) applied to the 1st surface. Vinyl to have a 3/16" Keyline. (Vinyl V8) applied to the 2nd surface.
 - D. "BMC Logo" is 3/16" Clear Acrylic routed out backed up. (Vinyl V3) applied to the 1st surface. (Vinyl V8) applied to the 2nd surface.
 - E. (Vinyl V10) 3M Vinyl Reflective with Digital Printed Graphics applied to 1st surface of sign.
 - F. Emergency reading and arrow is 3/16" while acrylic #7326 routed out and backed up. Emergency background (Painted P4)

- | | |
|--|---|
| V1 3M Vinyl Reflective Film "Charcoal Gray" 3633-6111 | P4 Matthews Paint to match PMS 485 C, Satin Finish |
| V2 3M Vinyl Translucent "Dusted Blue" 3630-67 | P5 Matthews Paint to match PMS 7508 C, Satin Finish |
| V10 3M Vinyl Reflective with Digital Printed Graphics | P6 Matthews Paint to match PMS Vals GRAY 1, Satin Finish |
| | P7 Matthews Paint to match PMS 432 C, Satin Finish |
| | M1 3/16" White Acrylic #7326 |
| | M2 3/16" Clear Acrylic |
| | L1 AcLight WHITE LEDs (Signlays Base) |

<p>9018 FARROW ROAD COLUMBIA, SC 29263 PHONE: 803-789-2121 FAX: 803-789-2123 www.imagegroup.com</p>	<p>THIS IS AN UNPUBLISHED DESIGN OFFERED BY IRI, INC. IT IS SUBMITTED FOR YOUR PERSONAL USE IN CONNECTION WITH THE PROJECT PLANNED FOR YOU BY IRI, INC. IT IS NOT TO BE SHOWN TO ANYONE OUTSIDE OF YOUR ORGANIZATION NOR IS IT TO BE LOANED, REPRODUCED, COPIED, OR SUBMITTED IN ANY MANNER WHATSOEVER. ALL OR ANY PART OF THIS DESIGN (INCLUDING REGISTERED TRADEMARKS) REMAINS THE PROPERTY OF IRI, INC.</p>	<p>CLIENT: Baptist Medical Center Beaches</p>	<p>REVISIONS</p>	<p>DRAWING NUMBER:</p>	
		<p>LOCATION: 1360 13th Ave S, Jacksonville Beach, FL.</p>		<p>SHEET: 3</p>	<p>OF: 4</p>
		<p>DRAFTED BY: JP PROJECT MANAGER: MICHAEL TURNER</p>		<p>DATE: 11-26-18</p>	<p>PAGE: 1</p>

Introduced by: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2019-8117

AN ORDINANCE TO AMEND AN ORDINANCE ENACTING AND ESTABLISHING A COMPREHENSIVE LAND DEVELOPMENT REGULATION AND OFFICIAL ZONING MAP FOR THE INCORPORATED AREA OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AS AUTHORIZED BY CHAPTER 163.3202, FLORIDA STATUTES, BY AMENDING ARTICLE VIII. SITE DEVELOPMENT STANDARDS DIVISION 4. SIGN STANDARDS TO PERMIT AND PROVIDE STANDARDS FOR OFF-SITE EMERGENCY WAYFINDING SIGNS FOR EMERGENCY SERVICES ONLY, FOR THE INCORPORATED AREA OF THE CITY, AND TO PROVIDE FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE:

WHEREAS, the City of Jacksonville Beach has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida; Chapters 163 & 166, Florida Statutes; and

WHEREAS, the City of Jacksonville Beach updated Division 4. Sign Standards in 2015 under Ordinance Numbers 2015-8064 and 2016-8065; and

WHEREAS, Baptist Medical Center Beaches desires to amend Division 4. Sign Standards to permit off-site wayfinding signs for emergency services such as police stations, fire stations, paramedic facilities, and hospitals; and

WHEREAS, the Jacksonville Beach Planning Commission, after notice and public hearing, has considered the ordinance and has presented its recommendation to the City Council;

WHEREAS, the City Council has considered the application, all relevant support materials, the staff report, the recommendation of the Planning Commission, and public testimony given at the public hearings.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. Recitals. The above recitals are ratified and confirmed as being true and correct and are made a part of this Ordinance and adopted as legislative findings.

SECTION 2. Amendment of City Code. That Article VIII. Division 4. Sign Standards is hereby amended and, as amended, shall henceforth read as follows:

DIVISION 4. - SIGN STANDARDS

Sec. 34-441. - Purpose, intent and scope.

It is the purpose of this division to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory sign standards. The sign regulations in this division are also designed and intended to meet the statutory requirement that this municipality adopt land development regulations that regulate signage, a requirement set forth in F.S. § 163.3202(f). The sign regulations in this division are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and safety. The sign regulations are designed to serve substantial governmental interests and, in some cases, compelling governmental interests such as traffic safety and warning signs of threats to bodily injury or death.

This division regulates signs, as defined in this Land Development Code, which are placed on private property or on property owned by public agencies including the city and over which the city has zoning authority. This division is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation.

The city of Jacksonville Beach is primarily a single family residential and small resort community on the east coast of Florida. The eastern boundary of the city is the Atlantic Ocean and the western boundary is the Atlantic Intracoastal Waterway (Pablo Creek). The economic base of the city is heavily dependent on visitors from the Northeast Florida and Southeast Georgia area, as well as other areas of the United States. In order to preserve and promote the city as a desirable community in which to live, vacation and do business, a pleasing, visually attractive environment is of foremost importance. The regulation of signs within the city is a highly contributive means by which to achieve this desired end.

These sign regulations have been prepared with the intent of enhancing the visual environment of the city and promoting its continued well-being, and are intended to:

- (1) Encourage the effective use of signs as a means of communication in the city;
- (2) Maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth;
- (3) Improve pedestrian and traffic safety;
- (4) Minimize the possible adverse effect of signs on nearby public and private property;
- (5) Foster the integration of signage with architectural and landscape designs;
- (6) Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;
- (7) Allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;
- (8) Encourage and allow signs that are appropriate to the zoning district in which they are located;
- (9) Establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains;
- (10) Preclude signs from conflicting with the principal permitted use of the site and adjoining sites;
- (11) Regulate signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;

- (12) Except to the extent expressly preempted by state or federal law, ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe signs;
- (13) Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all districts of the city;
- (14) Allow for traffic control devices consistent with national standards and whose purpose is to promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and that notify road users of regulations and provide warning and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream;
- (15) Protect property values by precluding, to the maximum extent possible, sign types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;
- (16) Protect property values by ensuring that sign types, as well as the number of signs, are in harmony with buildings, neighborhoods, and conforming signs in the area;
- (17) Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the city and that complements the natural surroundings in recognition of this city's reliance on its natural surroundings and beautification efforts in retaining economic advantage for its resort community, as well as for its major subdivisions, shopping centers and industrial parks;
- (18) Enable the fair and consistent enforcement of these sign regulations;
- (19) Promote the use of signs that positively contribute to the aesthetics of the community, are appropriate in scale to the surrounding buildings and landscape, and advance the city's goals of quality development;
- (20) Provide standards regarding the non-communicative aspects of signs, which are consistent with city, county, state and federal law;
- (21) Provide flexibility and encourage variety in signage, and create an incentive to relate signage to the basic principles of good design; and
- (22) Assure that the benefits derived from the expenditure of public funds for the improvement and beautification of streets, sidewalks, public parks, public rights-of-way, and other public places and spaces, are protected by exercising reasonable controls over the physical characteristics and structural design of signs.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15)

Sec. 34-442. - Definitions.

The definitions in Article IV shall apply to this division. Any term or phrase not defined therein **or herein** shall have its commonly understood meaning.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15)

Cross reference— Definitions—General, § 34-41.

Sec. 34-443. - Applicability.

This division does not pertain and is not applicable to:

- (1) A sign, other than a window sign, located entirely inside the premises of a building or enclosed space.
- (2) A sign on a car, other than a prohibited vehicle sign or signs.
- (3) A statutory sign.
- (4) A traffic control device sign.
- (5) Any sign not visible from a public street, sidewalk or right-of-way or from a navigable waterway or body of water; except that the foregoing does not exempt a sign for a commercial use that is visible from an abutting residential use.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15_)

Sec. 34-444. - Prohibited signs.

The signs and sign types listed below are prohibited within the city limits and shall not be erected, operated or placed on any property. Any lawfully existing permanent sign structure or sign type that is among the prohibited signs and sign types listed below shall be deemed a nonconforming sign subject to the provisions of section 34-450, nonconforming signs.

- (1) Abandoned signs; discontinued signs.
- (2) Animated signs.
- (3) Attached signs that are taller than the wall of the building to which the sign is attached.
- (4) Attached signs that exceed two hundred fifty (250) square feet in sign area.
- (5) Billboards; off-site commercial signs, except Emergency Services Wayfinding Signage authorized pursuant to Sec. 34-458.
- (6) Bandit signs; snipe signs.
- (7) Bus bench advertising signs and bus shelter advertising signs.
- (8) Flashing signs.
- (9) Floodlights and beacon lights, except when required by the Federal Aviation Administration.
- (10) Freestanding or ground signs, including any ground mounted monument signs, which are higher than sixteen (16) feet.
- (11) Freestanding or ground signs that exceed two hundred (200) square feet in sign area.
- (12) Holographic display signs.
- (13) Moving, twirling, or swinging signs, including multi-prism and tri-vision signs.
- (14) Pavement markings, except for official traffic control markings and building address markings required by law.
- (15) Flutter signs, feather signs, streamers, balloons, wind signs, wind activated banners, cold air inflatables, pennants and other fixed aerial signage used for commercial advertising.
- (16) Permanent pole signs, unless allowed within certain zoning districts pursuant to this division.

- (17) Portable signs, except for A-frame and T-frame signs as allowed herein.
- (18) Revolving signs; rotating signs.
- (19) Roof signs.
- (20) Signs within a sight visibility triangle, as described in subsection 34-425(b)(1) herein, that obstruct a clear view of pedestrian or vehicular traffic.
- (21) Signs attached to a seawall, dock, buoy, tie pole or pier; other than warning signs and safety signs.
- (22) Signs in, on, or over the public right-of-way; other than fixed projecting signs in the Central Business District (CBD) and the Redevelopment Zoning District (RD), traffic control device signs, bus stop informational signs, warning signs; safety signs, vertical streetlight banners, A-frame signs, T-frame signs, and awning. Emergency Services Wayfinding Signage or attached canopy signs over a public right-of-way as allowed in this division.
- (23) Signs in or upon any river, bay, lake, or other body of water within the limits of the city; except government regulatory signs, warning signs, and safety signs.
- (24) Signs located on real property without the permission of the property owner.
- (25) Signs nailed, fastened, affixed to, or painted on any tree or part thereof (living or dead), or other vegetation.
- (26) Signs, other than traffic control device signs, that use the word "stop" or "danger," or present or imply the need or requirement of stopping or the existence of danger, or which are a copy or imitation of traffic control device signs and which are adjacent to the right-of-way of any road, street, or highway.
- (27) Signs that are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled public rights-of-way thereby creating a potential traffic or pedestrian hazard or a nuisance to inhabitants of an adjacent neighborhood. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.
- (28) Signs that contain any food or other substance that attracts large numbers of birds or other animals and causes them to congregate on or near the sign.
- (29) Signs that emit sound, vapor, smoke, odor, or gaseous matter.
- (30) Signs that obstruct, conceal, hide or otherwise obscure from view any traffic control device sign or official traffic signal.
- (31) Wall wrap signs.
- (32) Vehicle sign or signs with a total sign area in excess of twenty (20) square feet on any vehicle, and
 - a. The vehicle is not "regularly used in the conduct of the business," and
 - b. The vehicle is visible from a street right-of-way within fifty (50) feet of the vehicle, and
 - c. The vehicle is parked for more than two (2) consecutive hours in any twenty-four (24) hour period within fifty (50) feet of any street right-of-way, and
 - d. A vehicle shall not be considered "regularly used in the conduct of the business" if the vehicle is used primarily for advertising, and
 - e. This provision is not to be construed as prohibiting the identification of a firm or its principal products on a vehicle operating during the normal hours of business; and which is currently licensed, insured and operable; provided, however, that no such vehicle shall be parked on

public or private property with signs attached or placed on such vehicle primarily for the purpose of advertising a business establishment or firm or calling attention to the location of a business establishment or firm.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15)

Sec. 34-445. - General provisions for signs.

The following general sign provisions shall apply to this division and to all lawful conforming and nonconforming signs, unless otherwise indicated.

(1) *Measurement of sign size (sign area)*. The area of a sign is measured or calculated as follows:

- a. *Background panel signs*. Sign copy that is mounted, affixed, or painted on a background panel or area distinctively painted, textured or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest rectangles, squares, triangles, parallelograms, circles or ellipses that will enclose both the sign copy and the background.
- b. *Background surface signs*. The area of a sign consisting of copy mounted as individual letters or graphics against a wall, fascia, or parapet of a building surface or another surface, that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy, is measured as the sum of the smallest rectangles, squares, triangles, parallelograms, circles or ellipses that will enclose each word, graphic or discrete visual element in the total sign.
- c. *Illuminated background signs*. The area of a sign with copy mounted, affixed, or painted on an illuminated surface or illuminated element of a building or structure, is measured as the entire illuminated surface or illuminated element which contains sign copy.
- d. *Double-faced signs*. If a sign has two display faces, and the interior angle between the two faces is thirty (30) degrees or less, then the sign area is one sign face only; however, if the two faces are of different sizes or shapes, then the larger is used. If the sign has two display faces, and the interior angle between the two faces is greater than thirty (30) degrees, then the sign area is the sum of the areas of the two faces.
- e. *Multi-faced signs*. If a sign has three or more faces, then the sign area is equal to fifty (50) percent of the aggregate area of all sign faces. The area of each face shall be determined according to subsection (a) or (b) of this section, as applicable.
- f. *Sculptural and nonplanar signs*. The area of a spherical, free form, sculptural or other nonplanar sign is fifty (50) percent of the sum of the areas, using only the four vertical sides of the smallest four-sided polyhedron which will completely enclose the entire sign structure.

(2) *Measurement of sign height*. The height of a freestanding sign shall be measured as the vertical distance from the average finished grade of the ground below the sign excluding any filling, berming, mounding or excavating solely for the purposes of increasing the height of the sign, to the top edge of the highest portion of the sign. The maximum height allowed for a freestanding sign, however, shall not include any architectural embellishment provided the embellishment does not exceed thirty-six (36) inches at the base of the sign and eighteen (18) inches at the top of the sign.

For the purposes of this section, average finished grade shall be considered the lower of (a) the lowest elevation where the base of the sign meets ground level; or (b) the top of the curb of the

nearest public street adjoining the property upon which the sign is erected, or (c) the grade of the land at the principal entrance to the lot on which the sign is located.

(3) *Sign illumination for temporary signs and permanent signs.*

- a. Sign illumination is prohibited for temporary signs.
- b. Permanent sign on a parcel in residential use. A permanent sign located on a parcel in residential use in any zone may not be separately or specially illuminated, unless otherwise specified in this division.
- c. Permanent sign on a parcel in nonresidential use. A permanent sign on a parcel in nonresidential use may be illuminated by internal illumination, internal indirect (halo) illumination, or lit by external indirect illumination, unless otherwise specified in this division. However, a permanent sign may not be illuminated in a manner that leaves the illumination device exposed to public view except with the use of neon tubing as provided in subsection (h) of this section.
- d. Internal illumination. Outdoor internally illuminated signs, including but not limited to awning/canopy signs, cabinet signs (whether freestanding or building mounted), changeable copy panels or service island signs, shall be constructed with an opaque background and translucent letters or other graphical elements, or with a colored background and lighter letters or graphics.
- e. External indirect illumination. Externally lit signs are permitted to be illuminated only with steady, stationary, down directed and shielded light sources directed solely onto the sign. Light bulbs or tubes (excluding neon), used for illuminating a sign, shall not be visible from the adjacent public rights-of-way or residential properties.
- f. Illumination of signs adjacent to single-family residential uses. No sign located within fifty (50) feet of a property with a single-family use or zoned for a single-family use shall be internally illuminated.
- g. Any portion of the sign face or sign structure that is illuminated shall count against the total square footage of allowable sign area.
- h. Neon.
 - (i) *Exposed neon.* Exposed neon tube illumination is not permitted in residential zones, or for residential uses in any zone. It is allowed in all other places, unless otherwise specified.
 - (ii) *Neon borders.* Neon illumination used as a sign copy projection, border, frame or other embellishment of sign copy shall not be included in the total size or area of the sign, provided the measured area of any such projection or detailed embellishment does not exceed twelve (12) square feet in area, or twenty-five (25) percent of the sign display face area, whichever is greater. If neon embellishments exceed these limits, then the embellishments shall be included and counted as part of the permitted sign area for the use.

(4) *Viewpoint neutrality.* Notwithstanding anything in this division to the contrary, no sign or sign structure shall be subject to any limitation based upon the viewpoint of the message contained on such sign or displayed on such sign structure.

(5) *Substitution of noncommercial speech for commercial speech.* Notwithstanding anything contained in this division to the contrary, any sign erected pursuant to the provisions of this division may, at the option of the owner, contain a non-commercial message in lieu of a

commercial message and the noncommercial copy may be substituted at any time in place of the commercial copy. The noncommercial message (copy) may occupy the entire sign face or any portion thereof. The sign face may be changed from a commercial message to a noncommercial message or from one noncommercial message to another non-commercial message; provided, however, that there is no change in the size, height, setback or spacing criteria contained in this division.

- (6) *Consent of legal owner of property.* No sign may be displayed without the consent of the legal owner of the property on which the sign is mounted or displayed. For purposes of this policy, "owner" means the holder of the legal title to the property and any party and person holding a present legal right to possession, control, or use of the property.
- (7) *Signs on public property.* Any sign installed or placed on public property, except in conformance with the requirements of this division, shall be deemed illegal and shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such sign the cost of removal and disposal of such sign. The foregoing shall not apply to temporary A-frame signs and T-frame signs as allowed pursuant to the conditions and limitations set forth herein.
- (8) *Signs that obstruct means of egress.* No sign shall be erected so as to obstruct any fire escape, required exit, window, or door opening intended as a means of egress.
- (9) *Signs that interfere with ventilation openings.* No sign shall be erected that interferes with any opening required for ventilation.
- (10) *Signs must maintain clearance from utilities and shall not interfere with surface and underground water or with drainage.* Signs shall maintain a minimum distance of six (6) feet horizontal clearance and twelve (12) feet overhead clearance from electrical conductors and from all communications equipment or lines. Signs and their supporting structures shall maintain clearance from and noninterference with all surface and underground facilities and conduits for water, sewage, electricity, or communications equipment or lines. Sign placement shall not interfere with surface or underground water or with natural or artificial drainage.
- (11) *Signs shall not be attached to certain property and shall not impair roof access.* Signs shall not be attached to standpipes, gutters, drains or fire escapes. Signs shall not be installed so as to impair access to a roof.
- (12) *Signs declared a nuisance and repair; signs presenting immediate peril to public health or safety.* The building official may order the repair of signs declared a nuisance, and with or without notice may cause any structurally unsafe or structurally insecure sign to be immediately removed if in his or her professional judgment and professional opinion the sign presents an immediate peril to the public health or safety.
- (13) *Street address signs.* For each parcel and for each tenant space, one sign for the official street address shall be displayed for public safety and to serve as visible street address for delivery of mail and official governmental notification.
 - a. For a parcel in residential use, the street address sign shall not exceed two (2) square feet in sign area.
 - b. For a parcel in non-residential use, the street address sign shall not exceed four (4) square feet in sign area.
 - c. The street address sign in a residential use may be externally illuminated and in a non-residential use may be externally or internally illuminated.

(14) *Flagpoles and flags; flag brackets, flag stanchions and flags.*

- a. Flagpoles and flags. For each parcel and development site in residential use with one principal structure, one flagpole may be installed and two (2) flags may be displayed per flagpole. For each parcel and development site that is over one-half (½) acre in size and is in nonresidential use, up to three flagpoles may be installed and up to two (2) flags may be displayed per flagpole. A flag shall not exceed twenty-four (24) square feet in size.
- b. Flag brackets, flag stanchions, and flags. For each principal structure on a parcel, up to two flag brackets or stanchions may be attached or placed for the display of flags. A flag displayed from a flag bracket or a flag stanchion shall not exceed twenty-four (24) square feet in size.
- c. For the purpose of determining the size of a flag, only one side of the flag shall be counted as the display surface.
- d. Flags on parcels in non-residential use may be externally illuminated.

(15) *Noncommercial onsite parking space signs.* Parking space signs identifying parking spaces necessary for traffic safety, regulation, control and circulation. A parking space sign shall carry no commercial message and shall not exceed two (2) square feet of sign face per sign. Parking space signs shall be allowed on each parcel having multiple parking spaces onsite. One such sign shall be allowed for each parking space. The maximum height for a freestanding or an attached parking space sign shall be six (6) feet.

(16) *Signs at service station islands.* For service stations, one (1) double-sided sign or two (2) single-sided signs are allowed per island. Such signs shall not exceed four (4) square feet per side and shall not be mounted higher than eight (8) feet. Such signs shall not be mounted on any bollard or barrier designed to protect equipment from damage. Such signs may not be illuminated.

For service stations, one (1) canopy sign may be installed for each canopy side facing a public street or driveway. A canopy sign shall not exceed ten (10) square feet and shall not be mounted higher than the top of the canopy itself. A canopy sign may be internally illuminated. The square footage of all canopy signs on a canopy shall be counted against the maximum square footage of allowed wall signage for any building wall sign on the same parcel.

(17) *Monument signs.*

- a. *Monument signs for single occupant or tenant buildings.* One (1) monument sign is allowed for each single occupant or tenant building. The maximum size of a monument sign shall be the lesser of: (1) one hundred (100) square feet, or (2) one (1) square foot of sign area for each one (1) linear foot of road frontage along the street toward which the monument sign is oriented. The maximum height of the monument sign shall be ten (10) feet, and the maximum width of the monument sign shall be twelve (12) feet. Up to fifty (50) percent of the sign surface of the monument sign may consist of a changeable copy sign; provided, however, that the sign copy cannot be changed more frequently than once in a twenty-four (24) hour time period. The monument sign may be illuminated.
- b. *Monument signs for multiple occupant or tenant developments.* One (1) monument sign is allowed for each multiple occupant or tenant development inclusive of a shopping center. The maximum size of the monument sign shall be the lesser of: (1) two hundred (200) square feet, or (2) one (1) square foot of sign area for each one (1) linear foot of road frontage along the street toward which the monument sign is oriented for the first one hundred (100) feet of frontage plus one-fourth (¼) square foot of sign area for each additional linear foot of the aforesaid road frontage. The maximum height of the monument sign shall be sixteen (16) feet, and the maximum width of the monument sign shall be twelve and one-half (12½) feet.

Up to fifty (50) percent of the sign surface of the monument sign may consist of a changeable copy sign; provided, however, that the sign copy cannot be changed more frequently than once in a twenty-four (24) hour time period. The monument sign may be illuminated.

- c. *Monument signs at entrances to single-family and multi-family developments.* One (1) monument sign is allowed at each point of ingress or egress from or to a single-family development and from or to a multi-family development. The maximum size of a monument sign shall not exceed twenty-four (24) square feet in size and shall not exceed six (6) feet in height. The twenty-four (24) square feet of sign area may be split equally between two monument signs located on each side of the entry or exit street. The monument sign shall be located on a landscaped island or lawn area protected from vehicular contact, and shall not encroach into any corner sight visibility triangle required pursuant to section 34-395. The sign may be internally or indirectly illuminated.
 - d. *Monument sign for a parcel in educational, religious or public use.* In addition to any monument sign allowed above, one (1) permanent monument sign may be allowed for a parcel in educational, religious or public use. The sign shall not exceed thirty-two (32) square feet in sign area and shall not exceed eight (8) feet in height. The sign may be illuminated. However, this additional monument sign shall not be allowed if there is an additional permanent wall sign on the same parcel.
- (18) *Wall signs.* One (1) wall sign is allowed for each face of a building or part of a building that is occupied by a permitted or conditional non-residential use. The size (area) of the wall sign for an occupant or a tenant shall be the lesser of: (i) two hundred fifty (250) square feet, or alternatively (ii) one (1) square foot per one (1) linear foot of building frontage for a single occupant building or one (1) square foot per one (1) linear foot of building frontage for the occupant or tenant space in a multi-tenant development, each as measured on the street toward which the wall sign is oriented. A wall sign shall not extend higher than the building wall to which it is attached. Up to fifty (50) percent of the wall sign surface may consist of a changeable copy sign; provided, however, that the sign copy of the changeable copy sign shall not change more than once in any twenty-four (24) hour time period. The wall sign shall not project more than twelve (12) inches from the wall. If the wall sign projects more than two and one-half (2 ½) inches from the wall, the wall sign shall be mounted so that the bottom of the wall sign is at least nine (9) feet above ground at finished grade below the wall sign. The wall sign may be illuminated.
- In addition to any wall sign allowed above, one (1) permanent wall sign may be allowed for a parcel in educational, religious or public use. The wall sign shall not exceed thirty-two (32) square feet in sign area and shall not exceed eight (8) feet in height. The wall sign may be illuminated. However, this additional permanent wall sign shall not be allowed if there is an additional monument sign on the same parcel.
- (19) *Wall signs at restaurants.* In addition to any other wall sign allowance, a restaurant shall be allowed one (1) wall sign installed within twenty (20) feet of its main entrance. The wall sign shall not exceed six (6) square feet in area and shall not exceed six (6) feet in height. The wall sign may be illuminated.
- (20) *Drive-through lane signs.* For a drive-through establishment, an additional display sign is allowed for each drive-through lane provided that such sign does not exceed forty (40) square feet in size and does not exceed eight (8) feet in height. The additional display sign may be internally illuminated and may emit sound only as part of a business transaction. Any sounds emitted must comply with Chapter 18 of the Code of Ordinances of the City of Jacksonville Beach.
- (21) *Umbrella signs.* For each table in an outside seating area for a licensed business establishment, one (1) umbrella sign per umbrella is allowed. An umbrella sign shall not exceed three (3) square

feet in area and shall not exceed eight (8) feet in height. An umbrella having an umbrella sign shall be mounted on or in the table or in an umbrella holder adjacent to the table. A sign permit is not required for an umbrella sign.

- (22) *Awning signs.* For each awning, one (1) sign is allowed. The awning sign shall not exceed an area greater than twenty (20) percent of the surface area of the awning or canopy. The total square footage of the awning sign shall count toward the maximum square footage of the wall sign area allowed for a parcel or a tenant. An awning sign may be internally illuminated.
- (23) *Canopy signs.* For each canopy, one sign is allowed. Except for the sign area limitation for canopy signs at service station islands, a canopy sign shall not exceed an area greater than twenty (20) percent of the surface area of the canopy. The total square footage of the canopy sign shall count toward the maximum square footage of the wall sign area allowed for a parcel or a tenant. A canopy sign may be internally illuminated.
- (24) *Changeable copy signs.* As part of a permitted monument sign or wall sign, a changeable copy sign, manual or electronic (LED), may be installed. The changeable copy sign shall not exceed fifty (50) percent of allowable area of the monument sign or wall sign. The changeable copy sign shall not exceed ten (10) feet in height when installed as a part of a monument sign for a single occupant or tenant building. The changeable copy sign shall not exceed sixteen (16) feet in height if part of the monument sign is for a multiple occupant or tenant building. A changeable copy sign that is a part of wall sign shall not be installed higher than the wall of the building. The sign copy on a changeable copy sign shall not be changed more than once in any twenty-four (24) hour time period. Changeable copy signs may be internally illuminated.
- (25) *Projecting signs.* For buildings in the Central Business District (CBD) or a Redevelopment District (RD), one (1) projecting sign is allowed for each ground floor occupant or tenant space. The projecting sign shall be attached to the building frontage on the street or driveway on which the sign is located. The maximum size of the projecting sign shall be the lesser of (1) sixteen (16) square feet or (2) one (1) square foot per linear foot of occupant or tenant building frontage on the street or private driveway on which it is located; however, the square footage of a projecting sign shall count toward the maximum square footage of wall signage allowed for the building. The maximum thickness of the sign face of a projecting sign shall not exceed twenty-four (24) inches when such sign is of solid construction. A projecting sign shall have a minimum vertical clearance of nine (9) feet, and shall not be mounted higher than the wall of the building. A projecting sign that extends over a sidewalk in the public right-of-way shall be limited to a projection distance not to exceed two-thirds ($\frac{2}{3}$) of the width of the sidewalk. A projecting sign may be illuminated.
- (26) *Window signs.* Window signs are permitted provided that the window sign may not cover more than twenty-five (25) percent of the area of any window. Window signs may be internally illuminated. A sign permit is not required for a window sign.
- (27) *Door signs.* Door signs are permitted provided that the door sign may not cover more than twenty-five (25) percent of the area of any door. Door signs shall not be illuminated. A sign permit is not required for a door sign.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15_)

Sec. 34-446. - Temporary and permanent signs allowed in zoning districts.

The signage rights and responsibilities for temporary signs and permanent signs shall be determined by the provisions of section 34-445, general provisions for signs, and by the sign provisions for the zoning

districts as set forth below in section 34-447.1, temporary signs allowed in zoning districts, and section 34-447.2, permanent signs allowed in zoning districts.

However, in connection with residential uses in nonresidential zoning districts and nonresidential uses in residential zoning districts, the signage rights and responsibilities applicable to any particular use shall be determined as follows:

- (1) In a residential zoning district where a nonresidential use is allowed, whether as a matter of right or by way of a conditional use permit or other process with stated criteria governing the allowance of the nonresidential use, the nonresidential use shall be treated as if it was located in a zoning district where the nonresidential use would be allowed, either as a matter of right or subject to a conditional use permit or other process with stated criteria governing the allowance of the nonresidential use; and
- (2) In a nonresidential zoning district where a residential use is allowed, the residential use shall be treated as if it was located in the residential zoning district where that type of use would be allowed as a matter of right.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15.)

Sec. 34-447.1. - Temporary signs allowed in zoning districts.

Within its zoning districts and subject to any applicable provisions with section 34-445, general provisions for signs, the city shall allow temporary signs that meet the criteria and limitations set forth in Table 34-447.1a and Table 34-447.1b, shown below.

A government sign shall not require a sign permit and shall be allowed in all zoning districts on public property and public rights-of-way unless otherwise provided herein. However, the foregoing shall have no impact on any separate requirements established by state statute for building permits, electrical permits or other statutory permits.

A temporary sign displayed on a window surface must be displayed on the inside of the window surface, shall cover no more than twenty-five (25) percent of the window surface, and shall not be illuminated.

Maximum Number of Signs	1 per business
Maximum Width	3 feet
Maximum Height	3½ feet
Minimum Setback/Distance from Curb	1 foot
Maximum Width of Public Sidewalk that the Sign May Obstruct	No more than one third of width of public sidewalk
Maximum Distance of Sign from Main Entrance to Business	10 feet
Duration Allowed	Only during hours while business is open
Allowed on Public Property and Right-of-Way	Yes
Allowed in a sight visibility triangle described in section 34-395	No

Illumination Allowed	No
----------------------	----

Table 34-447.1b. Criteria and Limitations for All Other Temporary Signs in All Zoning Districts			
Zoning Districts	RS-1, RS-2, RS-3, RM-1, RM-2	CPO, C-1, C-2, CS, I-1	CBD, RD, PUD
Maximum Number of Temporary Signs Per Parcel ¹	8	4	4
Maximum Sign Size (Area) for a Temporary Sign ²	4 sf.	16 sf.	16 sf.
Maximum Sign Height for a Temporary Freestanding Sign ³	6 ft.	6 ft.	6 ft.
Maximum Sign Height for a Temporary Wall Sign (inclusive of a Window Sign)	15 ft.	15 ft.	15 ft.
Minimum Sign Setback required to be maintained by a Temporary Ground Sign from any property line ⁴	3 ft.	3 ft.	3 ft.
Minimum Sign Setback required to be maintained by a Temporary Ground Sign from the edge of any paved street or road	3 ft.	3 ft.	3 ft.
Minimum Spacing that is required to be maintained by a Temporary Ground Sign from any other Temporary Ground Sign ⁵	15 ft.	15 ft.	15 ft.
Maximum Aggregate Surface Area Allocated for All Temporary Signs on a Parcel ⁶	64 sf.	128 sf.	128 sf.
Whether Temporary Sign is Allowed on Public Property or Public Right-of-Way	No	No	No
Allowed in a sight visibility triangle described in section 34-395	No	No	No
Direct Illumination of Surface of Temporary Sign Allowed	No	No	No
Duration allowed after event ends	7 calendar days	7 calendar days	7 calendar days

¹ The number of temporary commercial signs per parcel shall be no more than two (2) signs; however, no more than one (1) temporary commercial sign per parcel may be a banner sign and a temporary commercial banner sign is limited to a maximum duration of display of no more than thirty (30) days per calendar year per parcel.

² The square footage limitation is per side for a back-to-back sign. For example, a four (4) square foot limitation means that there is a limit of four (4) square feet of surface area per side of a back-to-back sign, and an aggregate limit of eight (8) square feet is allowed if the sign is a back-to-back temporary sign.

³ Not applicable to signs displayed on flagpoles.

⁴ Minimum sign setbacks do not apply to wall signs. Except as set forth in Table 34-447.1a for A-frame signs and T-frame signs, all temporary signs are prohibited on public property and from public rights-of-way.

⁵ Not applicable to signs displayed on flagpoles.

⁶ There is no limit to the number of separate messages that may appear on the allowable surface(s) of any temporary sign. The maximum aggregate surface area allowed is subject to circumstances that may reduce the maximum aggregate surface area allowable on some parcels.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15.)

Sec. 34-447.2. - Permanent signs allowed in zoning districts.

Within its zoning districts and subject to any applicable provisions within section 34-445, general provisions for signs, the city shall allow permanent signs that meet the criteria and limitations set forth in the subsections below. Unless otherwise provided herein, a permanent sign shall require a sign permit; however, a government sign on public property or public rights-of-way shall not require a sign permit and shall be allowed in all zoning districts on public property or public rights-of-way unless otherwise provided herein. The foregoing shall have no impact on separate requirements established by state statute for building code permits or other code permits.

- (1) *Single-Family Residential Zoning Districts (RS-1, RS-2, RS-3)*. Within Single-Family Residential Zoning Districts (RS-1, RS-2, RS-3) and subject to the provisions with section 34-445, general provisions for signs, the city shall allow permanent signs that meet the criteria and limitations set forth in Table 34-447.1 below.

Table 34-447.1 Single-Family Residential Zoning Districts (RS-1, RS-2, RS-3)		
Ingress and Egress Signs	Allowed as per Sec. 34-451	Sign Permit Not Required
Street Address Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Flagpoles	Allowed as per Sec. 34-445	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Sec. 34-445	Sign Permit Not Required
On-Site Parking Space Signs	Not Allowed	N/A
Emergency Services Wayfinding Signage	Allowed as per Sec. 34-458	Sign Permit Required
Signs at Service Station Islands	Not Allowed	N/A
Monument Signs	Allowed as per Sec. 34-445	N/A
Wall Signs	Not Allowed	N/A
Restaurant Wall Signs	Not Allowed	N/A
Drive-Through Lane Signs	Not Allowed	N/A
Umbrella Signs	Not Allowed	N/A
Awning Signs	Not Allowed	N/A
Canopy Signs	Not Allowed	N/A
Changeable Copy Signs	Not Allowed	N/A

Projecting Signs	Not Allowed	N/A
Window Signs	Not Allowed	N/A
Door Signs	Not Allowed	N/A

- (2) *Multi-Family Residential Zoning Districts (RM-1, RM-2)*. Within Multi-Family Residential Zoning Districts (RM-1, RM-2) and subject to any applicable provisions within section 34-445, general provisions for signs, the city shall allow permanent signs that meet the criteria and limitations set forth in Table 34-447.2 below.

Ingress and Egress Signs	Allowed as per Sec. 34-451	Sign Permit Not Required
Street Address Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Flagpoles	Allowed as per Sec. 34-445	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Sec. 34-445	Sign Permit Not Required
On-Site Parking Space Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Emergency Services Wayfinding Signage	Allowed as per Sec. 34-458	Sign Permit Required
Signs at Service Station Islands	Not Allowed	N/A
Monument Signs	Allowed as per Sec. 34-445	N/A
Wall Signs	Not Allowed	N/A
Restaurant Wall Signs	Not Allowed	N/A
Drive-Through Lane Signs	Not Allowed	N/A
Umbrella Signs	Not Allowed	N/A
Awning Signs	Not Allowed	N/A
Canopy Signs	Not Allowed	N/A
Changeable Copy Signs	Not Allowed	N/A
Projecting Signs	Not Allowed	N/A
Window Signs	Not Allowed	N/A
Door Signs	Not Allowed	N/A

- (3) *Commercial Zoning Districts (CPO, C-1, C-2, CS)*. Within Commercial Zoning Districts (CPO, C-1, C-2, CS) and subject to any applicable provisions within section 34-445, general provisions for signs, the city shall allow permanent signs that meet the criteria and limitations set forth in Table 34-447.3 below.

Table 34-447.3 Commercial Zoning Districts (CPO, C-1, C-2, CS)		
Ingress and Egress Signs	Allowed as per Sec. 34-451	Sign Permit Not Required
Street Address Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Flagpoles	Allowed as per Sec. 34-445	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Sec. 34-445	Sign Permit Not Required
On-Site Parking Space Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Signs at Service Station Islands	Allowed as per Sec. 34-445	Sign Permit Required
Monument Signs	Allowed as per Sec. 34-445	Sign Permit Required
Wall Signs	Allowed as per Sec. 34-445	Sign Permit Required
Restaurant Wall Signs	Allowed as per Sec. 34-445	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Sec. 34-445	Sign Permit Required
Umbrella Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Awning Signs	Allowed as per Sec. 34-445	Sign Permit Required
Canopy Signs	Allowed as per Sec. 34-445	Sign Permit Required
Changeable Copy Signs	Allowed as per Sec. 34-445	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Door Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Emergency Services Wayfinding Signage	Allowed as per Sec. 34-458	Sign Permit Required

- (4) *Central Business Zoning District (CBD)*. Within the Central Business Zoning District (CBD) and subject to any applicable provisions within section 34-445, general provisions for signs, the city shall allow permanent signs that meet the criteria and limitations set forth in Table 34-447.4 below.

Table 34-447.4 Central Business Zoning District (CBD)		
Ingress and Egress Signs	Allowed as per Sec. 34-451	Sign Permit Not Required
Street Address Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Flagpoles	Allowed as per Sec. 34-445	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Sec. 34-445	Sign Permit Not Required
On-Site Parking Space Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Signs at Service Station Islands	Allowed as per Sec. 34-445	Sign Permit Required
Monument Signs	Allowed as per Sec. 34-445	Sign Permit Required
Wall Signs	Allowed as per Sec. 34-445	Sign Permit Required
Restaurant Wall Signs	Allowed as per Sec. 34-445	Sign Permit Required

Drive-Through Lane Signs	Allowed as per Sec. 34-445	Sign Permit Required
Umbrella Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Awning Signs	Allowed as per Sec. 34-445	Sign Permit Required
Canopy Signs	Allowed as per Sec. 34-445	Sign Permit Required
Changeable Copy Signs	Allowed as per Sec. 34-445	Sign Permit Required
Projecting Signs	Allowed as per Sec. 34-445	Sign Permit Required
Window Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Door Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Emergency Services Wayfinding Signage	Allowed as per Sec. 34-458	Sign Permit Required

(5) *Industrial Zoning District (I-1)*. Within the Industrial Zoning District (I-1) and subject to any applicable provisions within section 34-445, general provisions for signs, the city shall allow permanent signs that meet the criteria and limitations set forth in Table 34-447.5 below.

Ingress and Egress Signs	Allowed as per Sec. 34-451	Sign Permit Not Required
Street Address Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Flagpoles	Allowed as per Sec. 34-445	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Sec. 34-445	Sign Permit Not Required
On-Site Parking Space Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Signs at Service Station Islands	Allowed as per Sec. 34-445	Sign Permit Required
Monument Signs	Allowed as per Sec. 34-445	Sign Permit Required
Wall Signs	Allowed as per Sec. 34-445	Sign Permit Required
Restaurant Wall Signs	Allowed as per Sec. 34-445	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Sec. 34-445	Sign Permit Required
Umbrella Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Awning Signs	Allowed as per Sec. 34-445	Sign Permit Required
Canopy Signs	Allowed as per Sec. 34-445	Sign Permit Required
Changeable Copy Signs	Allowed as per Sec. 34-445	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Door Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Emergency Services Wayfinding Signage	Allowed as per Sec. 34-458	Sign Permit Required

- (6) *Redevelopment Zoning District (RD)*. Within the Redevelopment Zoning District (RD) and subject to any applicable provisions within section 34-445, general provisions for signs, the city shall allow permanent signs that meet the criteria and limitations set forth in Table 34-447.6 below.

Table 34-447.6 Redevelopment Zoning District (RD)		
Ingress and Egress Signs	Allowed as per Sec. 34-451	Sign Permit Not Required
Street Address Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Flagpoles	Allowed as per Sec. 34-445	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Sec. 34-445	Sign Permit Not Required
On-Site Parking Space Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Signs at Service Station Islands	Allowed as per Sec. 34-445	Sign Permit Required
Monument Signs	Allowed as per Sec. 34-445	Sign Permit Required
Wall Signs	Allowed as per Sec. 34-445	Sign Permit Required
Restaurant Wall Signs	Allowed as per Sec. 34-445	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Sec. 34-445	Sign Permit Required
Umbrella Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Awning Signs	Allowed as per Sec. 34-445	Sign Permit Required
Canopy Signs	Allowed as per Sec. 34-445	Sign Permit Required
Changeable Copy Signs	Allowed as per Sec. 34-445	Sign Permit Required
Projecting Signs	Allowed as per Sec. 34-445	Sign Permit Required
Window Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Door Signs	Allowed as per Sec. 34-445	Sign Permit Not Required

- (7) *Planned Unit Development Zoning District (PUD)*. Within its Planned Unit Development Zoning District (PUD) and subject to any applicable provisions within section 34-445, general provisions for signs, the city shall allow permanent signs that meet the criteria and limitations set forth in Table 34-447.7 below.

Table 34-447.7 Planned Unit Development Zoning District (PUD)		
Ingress and Egress Signs	Allowed as per Sec. 34-451	Sign Permit Not Required
Street Address Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Flagpoles	Allowed as per Sec. 34-445	Sign Permit Not Required
Flag Brackets and Stanchions	Allowed as per Sec. 34-445	Sign Permit Not Required
On-Site Parking Space Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Signs at Service Station Islands	Allowed as per Sec. 34-445	Sign Permit Required

Monument Signs	Allowed as per Sec. 34-445	Sign Permit Required
Wall Signs	Allowed as per Sec. 34-445	Sign Permit Required
Restaurant Wall Signs	Allowed as per Sec. 34-445	Sign Permit Required
Drive-Through Lane Signs	Allowed as per Sec. 34-445	Sign Permit Required
Umbrella Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Awning Signs	Allowed as per Sec. 34-445	Sign Permit Required
Canopy Signs	Allowed as per Sec. 34-445	Sign Permit Required
Changeable Copy Signs	Allowed as per Sec. 34-445	Sign Permit Required
Projecting Signs	Not Allowed	N/A
Window Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Door Signs	Allowed as per Sec. 34-445	Sign Permit Not Required
Emergency Services Wayfinding Signage	Allowed as per Sec. 34-458	Sign Permit Required

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15.)

Sec. 34-448. - Building permits.

It shall be unlawful for any person or business or the person in charge of the business to erect, construct, alter or maintain a sign structure, as defined in the Florida Building Code, without first obtaining a building permit from the city in accordance with the provisions of the Florida Building Code and applicable law. Permit fees for a building permit shall be paid in accordance with the applicable city fee schedules. The requirement of a building permit under the Florida Building Code is separate and independent of the requirement for a sign permit under this division.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15.)

Sec. 34-449. - Sign permits.

Temporary signs do not require a sign permit.

Unless exempt from permitting, no permanent sign shall be erected, altered, relocated, maintained or displayed until a sign permit is obtained from and the appropriate fee paid to the city. The sign permit is in addition to any building permit required to be obtained pursuant to the provisions of the Florida Building Code.

- (1) No sign permit shall be issued for the erection of a prohibited sign.
- (2) A sign lawfully erected may be repainted or have ordinary and customary repairs performed, including replacement of plastic or glass panels, without a sign permit; however, if such sign is to be structurally altered in any manner, a new sign permit shall be required and the altered sign must meet all requirements of this division and this Code.
- (3) Exceptions from permitting. Temporary signs shall not require a sign permit. Unless identified in the tables in section 34-447.2 as not requiring a sign permit and unless otherwise excepted from requiring a sign permit such as a government sign, all permanent signs shall require a sign permit. However these exemptions in no way waive any requirement set forth in the Florida Building Code; or any limitation or restriction on the number, size, height, setback, placement or duration

of such signs under this division, or any limitation or restriction under any other applicable law or regulation.

- (4) Permits not required for change of sign copy. No permit or permit fee shall be required for changing the copy of a sign, as long as no changes are made to the sign's height, size, location, or structure. This exemption shall also apply to any change of copy on a changeable copy sign.
- (5) Sign permit applications. A sign permit application for a permanent sign as may be required by this division shall be prepared and submitted on forms available at the department of planning and development. The sign permit application is in addition to any building permit application required by the Florida Building Code. The applicant shall furnish the following information on or with the sign permit application form:
 - a. Name, address, telephone number, and e-mail address (if available) of the person making application for the permit. If the applicant is anyone other than the property owner, the applicant shall provide written authorization from the property owner permitting the installation of the sign.
 - b. Name, address, telephone number, and e-mail address (if available) of the property owner. If the owner is an entity other than an individual, list the contact person's name.
 - c. Name, address, telephone number, and e-mail address (if available) of the business tenant, if applicable. If the tenant is an entity other than an individual, list the contact person's name.
 - d. Name, address, telephone, e-mail address (if available), and license number of the contractor, if applicable. If the contractor is an entity other than an individual, list the contact person's name.
 - e. Address and legal description of the property upon which the sign is to be located. The legal address may be located on a certified boundary survey.
 - f. Lot frontage on all streets and public rights-of-way.
 - g. Indicate in feet and inches the location of the sign in relation to property lines, public rights-of-way, easements, overhead utility lines, other utility facilities and equipment, buildings and other signs on the property.
 - h. Freestanding signs, including monument signs, shall require an accurate boundary survey signed and sealed by a land surveyor or engineer licensed in Florida showing the proposed location of the sign.
 - i. For all wall mounted signs, the facade elevation with dimensions, drawn to scale. Windows and doors and other openings shall be delineated and their dimensions given.
 - j. Sign dimensions and elevation, drawn to scale.
 - k. Maximum and minimum height of the sign measured from finished grade.
 - l. Dimensions of the supporting members of the sign.
 - m. Sign illumination, specifying illumination type, placement, and intensity.
 - n. Two (2) copies of the plans, specifications, calculations and details, signed and sealed as required by the Florida Building Code; and specifications documenting the applicable windload and electrical specifications, if applicable, meeting the minimum requirements of the applicable Electric Code.
 - o. Number, type, location and surface area of all existing signs on the same property.
 - p. Landscape plan, as applicable.

- q. Notarized signature of applicant. If the value of construction is two thousand five hundred dollars (\$2,500.00) or greater, a certified copy of notice of commencement shall be required prior to permit issuance.
- (6) Sign construction specifications.
- a. *Florida Building Code.* Construction and erection of signs shall be in accordance with the structural requirements set forth in the Florida Building Code.
 - b. *National Electrical Code.* Signs having electrical connections of any kind shall be wired in accordance with the National Electrical Code.
 - c. *Inspections.* Any sign having an electrical connection shall be permitted, inspected and approved by the electrical inspector prior to its completion. All sign structures shall be inspected and approved by the building official. The inspection point shall be selected by the building official. All excavations for concrete sign support bases shall be inspected and approved by the building official prior to the pouring of concrete.
 - d. *Support requirements.* The supporting members of all signs shall be free of any external bracing such as guy wires or cables. All supporting columns shall be designed as integral or architectural features of the sign.
 - e. *Materials.* Paper or cardboard signs and cloth or plastic fabric banners may only be used in conjunction with a special event as provided herein. However, paper or cardboard signs may be used for indoor window or election signs, when such are allowed.
 - f. *Construction standards.* All signs shall be installed and constructed in a professional and workmanlike manner; and shall be maintained in good and safe structural condition and good physical appearance. All exposed structural components shall be painted, coated, or made of rust inhibitive material.
- (7) Design requirements. All signs and sign structures, except temporary signs and except for prohibited signs such as billboards and off-premises signs, shall be subject to the design requirements below.
- a. *Monument signs.* Monument sign structures may extend above the allowable height and/or permitted horizontal dimension for the purposes of architecturally embellishing and enhancing the appearance of the sign structure. Such extensions shall not exceed thirty-six (36) inches for the base, eighteen (18) inches at the top of the sign, or twelve (12) inches for each vertical side of the sign.
 - b. *Tenant panels in monument signs.* All tenant panels in a monument sign, including those added to an existing sign structure, shall be constructed of similar materials and illuminated by a similar method.
 - c. *Wall signs.* Wall signs shall not be installed to cover windows, doors, or other types of fenestration.
 - d. *[Sign work.]* Sign work on all permanent signs shall ensure that all the letter strokes are vertically plumb or evenly slanted, and with alignment true and horizontally level.
 - e. *Manufactured signs.* All manufactured signs requiring a sign permit shall have a permanent and visible weatherproof identification plate affixed to the sign exterior. The plate shall identify (1) the name of the manufacturer, (2) the date of installation, (3) the sign permit number, and (4) the electric permit number (if any) with the input VA (Volt Amperes) at full load for electric.
- (8) Sign permit application review.

- a. An applicant shall submit a sign permit application for a permanent sign to the planning and development department, building inspection division, or such other office as may be designated by the city. The sign permit application shall be reviewed for a determination of whether the proposed sign meets the applicable requirements of this division and any applicable zoning law of the City of Jacksonville Beach as set forth in the City of Jacksonville Beach's Code of Ordinances. Whenever required by state statute, the explanation for a denial of a sign permit shall include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit; in the event that the applicant fails to receive a statutorily required explanation, the applicant shall submit a written request for the explanation to the city's planning and development director via certified mail.
 1. The review of the sign permit application shall be completed within thirty (30) calendar days following receipt of a completed application, not counting the day of receipt and not counting any Saturday, Sunday, or legal holiday that falls upon the first or the thirtieth (30th) day after the date of receipt.
 2. A sign permit shall either be approved, approved with any condition that is specifically described and set forth in the LDC or the Jacksonville Beach Code of Ordinances, or disapproved, and the decision shall be reduced to writing. A disapproval shall include or be accompanied by a statement of the reason(s) for the disapproval.
 3. In the event that no decision is rendered within thirty (30) calendar days following submission, the application shall be deemed denied and the denial shall be a final decision of the City if the applicant chooses not to seek reconsideration at that time. At any time within sixty (60) calendar days, not counting any intervening Saturday, Sunday, or legal city holiday, following passage of the thirty (30) calendar day period, the applicant may submit a written request via certified mail to the city and request a decision setting forth the reason that the application was not approved and the city shall promptly respond within ten (10) calendar days after receipt of the written request, not counting the day of receipt and not counting any Saturday, Sunday, or legal holiday, by providing a written explanation of the reason(s) for the nonapproval of the application for the permanent sign.
- b. An approval, an approval with conditions, or disapproval by the director of planning and development shall be deemed the final decision of the city upon the application.
- c. In the case of an approval with conditions or a disapproval, including a disapproval by lapse of time as described herein, an applicant may ask for reconsideration of the decision on the grounds that the director of planning and development may have overlooked or failed to consider any fact(s) that would support a different decision.
 1. A written request for reconsideration accompanied by such additional fact(s) that address the deficiencies that the applicant may wish the director of planning and development to consider, shall be filed with the director of planning and development within fourteen (14) calendar days after the date of the written decision. No fee shall be required for a request for reconsideration.
 2. Upon the timely filing of a request for reconsideration, the decision of the director of planning and development or designee shall be deemed stayed and not a final decision, until the request for reconsideration is decided. The request for reconsideration shall be decided within fourteen (14) calendar days of receipt by the city, not counting any intervening Saturday, Sunday, or legal city holiday. Such decision shall be in writing and shall include a statement of the reason(s) for the decision. In the event that no

decision is rendered within fourteen (14) calendar days following the request for reconsideration, the application shall be deemed denied and the denial shall then be a final decision of the city. At any time within sixty (60) calendar days, not counting any intervening Saturday, Sunday, or legal city holiday, following passage of the fourteen (14) calendar day period, the applicant may submit a written request via certified mail to the city and request a decision setting forth the reason for the denial of the request for reconsideration and the city shall promptly respond within ten (10) calendar days after receipt of the written request, not counting the day of receipt and not counting any Saturday, Sunday, or legal holiday, by providing a written explanation of the reason(s) for not approving the application upon reconsideration.

- d. All decisions shall be mailed, transmitted electronically, or hand delivered to the applicant. A record shall be kept of the date of mailing, electronic transmittal, or hand delivery. For the purposes of calculating compliance with the thirty (30) day deadline for a decision upon an application or the fourteen (14) day deadline for a decision upon request for reconsideration, the decision shall be deemed made when deposited in the mail, transmitted electronically, or hand delivered to the applicant.
- e. As exceptions to the foregoing, the thirty (30) day deadline for approval and the fourteen (14) day deadline for a decision upon receipt of a request for a reconsideration shall not apply (that is, the time shall be suspended):
 1. In any case in which the application requires a rezoning of the property, or an amendment to the comprehensive plan of the city, then upon written request of the applicant delivered to the director of planning and development by certified mail before the applicable deadline, the time shall be suspended until a final decision is made upon the application for the variance, rezoning, or comprehensive plan amendment.
 2. If the applicant is required to make any change to the application in order to obtain an unconditional approval so as to satisfy an express provision of state law, the LDC, or the City of Jacksonville Beach Code of Ordinances, then upon the written request of the applicant delivered by certified mail to the director of planning and development before the applicable deadline, the time shall be suspended while the applicant makes such change.
 3. If an applicant is required by state statute or by any express provision of either the LDC or the City of Jacksonville Beach Code of Ordinances, to obtain an approval of the sign from any other governmental agency within the limitations set forth in F.S. § 166.033(4), then upon the request of the applicant in writing delivered by certified mail before the applicable deadline, the time shall be suspended. The time shall remain suspended until such approval is obtained or until the applicant requests in writing delivered by certified mail to the director of planning and development that the city take final action. The city shall comply with the provisions of F.S. § 166.033(4).
 4. In any of the foregoing cases, the applicant may elect to not make any changes to the application or to not obtain an approval that may be required by another governmental agency, and may instead demand in writing a final decision upon the sign permit application as filed. Such a written demand shall be delivered by certified mail to the director of planning and development. In such event, the director of planning and development shall make a decision on the application as appropriate within thirty (30) business days after receiving such demand. If a decision is not made in such a time, the application shall be deemed denied.

- f. Any person aggrieved by the decision of the director of planning and development upon a sign permit application, or aggrieved by any failure by the director of planning and development or by any other city official to act upon a sign permit application in accordance with the LDC, shall have the right to seek judicial review by the Circuit Court of the Fourth Judicial Circuit in and for Duval County, Florida, or by any other court of competent jurisdiction, filed in accordance with the requirements of law, seeking such appropriate remedy as may be available.
 - g. If an applicant believes that his or her speech rights are being denied due to enforcement of subsection (8)c. or (8)e., above, he or she may immediately contact the planning and development department director, in writing via certified letter, and request immediate review of any pending sign permit application. If such a letter is received by the planning and development department director, the city shall have twenty (20) days to review the permit application as under subsection (8)a., above, notwithstanding the provisions of subsection (8)c or (8)e., above. If the planning and development department director does not respond to the applicant following receipt of the certified letter, the substance of the applicant's complaint shall be deemed rejected.
 - h. If an application is deemed incomplete, the applicant may either take steps to submit a complete application or challenge the City's decision by seeking judicial review by the Circuit Court of the Fourth Judicial Circuit in and for Duval County, or by any other court of competent jurisdiction, filed in accordance with the requirements of law, seeking such appropriate remedy as may be available.
- (9) Sign permit fees. Before issuance of a permit, the director of planning and development shall collect the necessary sign permit fees. The sign permit fees shall be as designated by resolution of the city council.
- (10) Inspection. The director of planning and development may make or require any inspections to ascertain compliance with the provisions of this division and the Land Development Code.
- (11) Revocation of sign permit. If the work under any sign permit is proceeding in violation of this division, the Land Development Code, or the Florida Building Code, or should it be found that there has been any false statement or misrepresentation of a material fact in the application or plans on which the sign permit was based, the permit holder shall be notified of the violation. If the permit holder fails or refuses to make corrections within ten (10) days, it shall be the duty of the director of planning and development to revoke such sign permit and serve notice upon such permit holder. Such notice shall be in writing and signed by the director of planning and development. It shall be unlawful for any person to proceed with any part of work after such notice is issued.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15.)

Sec. 34-450. - Nonconforming signs.

All signs that are lawfully in existence or are lawfully erected and that do not conform to the provisions of this division are declared nonconforming signs. It is the intent of this division to recognize that the eventual elimination of nonconforming signs as expeditiously and fairly as possible is as much a subject of health, safety, and welfare as is the prohibition of new signs that would violate the provisions of this division. It is also the intent of this division that any elimination of nonconforming signs shall be effected so as to avoid any unreasonable invasion of established property rights.

- (1) *Legal nonconforming signs:*

- a. A legal nonconforming sign is a sign that lawfully existed at the time of the enactment of this division that does not conform to the regulations as specified in this division.
- b. A legal nonconforming sign may continue to be utilized only in the manner and to the extent that it existed at the time of the adoption of this division or any amendment thereof.
- c. A legal nonconforming sign may not be altered in any manner not in conformance with this division. This does not apply to reasonable repair and maintenance of the sign or to a change of copy provided that by changing the copy structural alterations are not required.
- d. Any building permit for an addition, alteration, or improvement valued at more than fifty (50) percent of the fair market value of the structure or building for work at locations where any nonconforming sign exists shall specify and require that such nonconforming signs located within the boundaries of the development site, and within the limits of the applicant's control, shall be brought into conformance with the provisions of this division, provided that if the nonconforming sign is a type of sign that is prohibited under section 34-444, prohibited signs in all zoning districts, it shall be removed.
- e. Legal nonconforming signs that are located on a parcel of property that is severed from a larger parcel of property and acquired by a public entity for public use by condemnation, purchase or dedication may be relocated on the remaining parcel without extinguishing the legal nonconforming status of that sign provided that the nonconforming sign:
 - 1. Is not increased in area or height to exceed the limits of the zoning district in which it is located;
 - 2. Remains structurally unchanged except for reasonable repairs or alterations;
 - 3. Is placed in the most similar position on the remaining property that it occupied prior to the relocation; and
 - 4. Is relocated in a manner so as to comply with all applicable safety requirements.

After relocation pursuant to this subsection, the legal nonconforming sign shall be subject to all provisions of this section in its new location.

(2) Signs rendered nonconforming:

- a. Except as provided in this section, a nonconforming sign may continue in the manner and to the extent that it existed at the time of the adoption, amendment or annexation of the division that rendered the sign nonconforming. This section shall not prohibit reasonable repairs and alterations to nonconforming signs.
- b. A nonconforming sign shall not be re-erected, relocated or replaced unless it is brought into compliance with the requirements of this division. An existing monument sign that conforms to the size and height limitations set forth herein, but is otherwise nonconforming, may be relocated a single time to another location on the same parcel.
- c. Any nonconforming sign shall be removed or rebuilt in full conformity to the terms of this division if it is damaged or allowed to deteriorate to such an extent that the cost of repair or restoration is fifty (50) percent or more of the cost of replacement of such sign.

(3) Signs for a legal nonconforming use:

- a. New or additional signs for a nonconforming use shall not be permitted.
- b. A nonconforming sign for a nonconforming use that ceases to be used for a period of sixty (60) consecutive days or is replaced by a conforming use, shall be considered a prohibited

sign and shall be removed or brought into conformance upon establishment of a conforming use.

(4) *Signs discontinued:*

- a. Sign structures that remain vacant, unoccupied or devoid of any message, or display a message pertaining to a time, event or purpose that no longer applies, for a period of one hundred eighty (180) days, shall be deemed to be discontinued.
- b. A nonconforming sign deemed discontinued shall immediately terminate the right to maintain such sign.
- c. After a sign structure has been deemed discontinued, it shall be the responsibility of the property owner or the property owner's authorized agent to remove the discontinued sign and to patch and conceal any and all damage to any other structure resulting from removal of the sign.
- d. Removal of a discontinued nonconforming sign shall include all sign support components, angle irons, poles, and other remnants of the discontinued sign, that are not currently in use, or proposed for immediate reuse as evidenced by a sign permit application for a permitted sign.

(5) *Unsafe signs:*

- a. If the building official determines any sign or sign structure to be in an unsafe condition, he/she shall immediately notify, in writing, the owner of such sign who shall correct such condition within forty-eight (48) hours.
- b. If the correction has not been made within forty-eight (48) hours, the building official may have the sign removed if it creates a danger to the public safety or have any necessary repairs or maintenance performed at the expense of the sign owner or owner or lessee of the property upon which the sign is located.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15_)

Sec. 34-451. - Miscellaneous provisions.

- (1) *Maintenance of sign location.* For a sign requiring a sign permit, weeds and grass shall be kept cut in front of, behind, underneath, and from around the base of the sign for a minimum distance of ten (10) feet from the sign base, and there shall be no rubbish or debris within ten (10) feet of the sign base or underneath the sign.
- (2) *Ingress and egress signs.* For safety purposes and for traffic circulation purposes, permanent ingress and egress signs to a parcel are permitted provided the same do not exceed four (4) square feet in size and no more than three (3) feet in height. Such signs shall not require a permit.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15_)

Sec. 34-452. - Penalties.

Penalties for violation of this division shall be as provided in section 34-640; however, notwithstanding anything in the LDC or in the Jacksonville Ordinance Code to the contrary, a penalty for a violation of this division shall be limited to civil penalties only and shall not extend to any criminal penalty including but not limited to incarceration.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15_)

Sec. 34-453. - Severability.

- (1) *Generally.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division.
- (2) *Severability where less speech results.* Without diminishing or limiting in any way the declaration of severability set forth above in subsection (1), above, or elsewhere in this division, the Jacksonville Beach Code of Ordinances, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.
- (3) *Severability of provisions pertaining to prohibited signs.* Without diminishing or limiting in any way the declaration of severability set forth above in subsection (1), above, or elsewhere in this division, the Jacksonville Beach Code of Ordinance, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed under section 34-444, prohibited signs, of this division. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 34-444 is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 34-444 thereby ensuring that as many prohibited sign types as may be constitutionally prohibited continue to be prohibited.
- (4) *Severability of prohibition on billboards.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this division and/or any other Code provisions and/or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on billboards as contained in this Division or in the Jacksonville Beach Code of Ordinances.

(Ord. No. 2015-8065, § 2(Exh. A), 12-7-15)

Secs. 34-454—34-457. - Reserved.

Sec. 34-458 – Emergency Services Wayfinding Signage

It is the express purpose of the sign regulations contained herein to promote public safety while promoting and enhancing the beautification of the city and protecting property values. It is fully acknowledged that safe and effective transit to emergency services is in the best interest of the general public. Per the regulations and restrictions contained herein, signage directing the general public to emergency services, as defined herein, shall be allowed off site from the property providing said services.

- (1) *Emergency Service.* “Emergency Service” shall mean police stations, fire stations, paramedic facilities, as well as, hospitals which feature an on-site emergency facility licensed by the State of

Florida which provides "Emergency services and care" as said term is defined per Sec. 395.002, Florida Statutes.

(2) *Wayfinding Signage.* "Wayfinding Signage" shall mean signage which contains directions, distances and general guidance to a particular point of interest which qualifies as an "Emergency Service."

(3) *Signage Parameters.* Emergency Services Wayfinding Signage shall conform to the following requirements:

a. *Pole Sign.*

1. *Height.* Maximum of Twenty-four (24) feet in height, not including any architectural embellishment provided the embellishment does not exceed thirty-six (36) inches at the base of the sign and eighteen (18) inches at the top of the sign.
2. *Signage Area.* Maximum signage area of fifty-four (54) square feet for each side.

b. *Monument Signs.*

1. *Height.* Maximum of sixteen (16) feet in height, not including any architectural embellishment provided the embellishment does not exceed thirty-six (36) inches at the base of the sign and eighteen (18) inches at the top of the sign.
2. *Signage Area.* Maximum signage area of one-hundred (100) square feet for each side.

c. *Illumination.* Signage allowed under this subsection may be internally or externally illuminated. For internal illumination, the sign may be constructed with an opaque background and translucent letters or other graphical elements, or with a colored background and lighter letters or graphics. For external illumination, the sign may be illuminated only with steady, stationary, directed and shielded light sources directed solely onto the sign. Light bulbs or tubes (excluding neon), used for illuminating a sign, shall not be visible from the adjacent public rights-of-way or residential properties. Illuminated signage shall not be located within fifty (50) feet of the property line of a single-family residence.

d. *Content.* Signage allowed under this subsection may identify:

1. The name and type of Emergency Service.
2. The approximate distance from the sign location to the Emergency Service.
3. Approximate directions from the sign location to the Emergency Service.

e. *Sign Locations.* Signs allowed under this subsection shall only be located within fifty (50) feet of roadways which serve as a collector, arterial or highway, or which feature more than ten-thousand (10,000) daily trips.

f. Approval of Sign Locations. The public works department and the planning and development department shall review and approve the proposed location for signage allowed under this subsection. In review of a proposed sign, the departments shall consider the particular location of a sign and the character of the immediate surroundings of the sign location.

g. Compliance with other laws. Any sign allowed pursuant to this subsection shall comply with all other applicable government laws and regulations.

SECTION 3. That this ordinance shall take effect upon its adoption by the City Council.

SECTION 4. That if any section, subsection, clause or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered into by the City or any of its officials and that are in conflict with this ordinance are repealed to the extent inconsistent herewith.

AUTHENTICATED THIS _____ DAY OF _____, A.D., 2019.

William C. Latham, Mayor

Laurie Scott, City Clerk



City of
Jacksonville Beach
City Hall
11 North Third Street
Jacksonville Beach
FL 32250
Phone: 904.247.6268

www.jacksonvillebeach.org

Memorandum

To: Mayor and City Council
From: Denise C. May
Date: October 29, 2019
Re: Ordinance 2019-8116 Amendments to Sec. 4-2 Prohibited hours of sale, consumption, and service – Third Reading

ACTION REQUESTED:

Adoption of Ordinance 2019-8116 amending section 4-2, "Prohibited hours of sale, consumption, and service" of Chapter 4 "Alcoholic Beverages" of the Code of Ordinances of the City of Jacksonville Beach, Florida.

SUMMARY

After several incidents for disorderly and violent encounters involving restaurants holding state issued Special Restaurant licensing (SRX/SFS) the City Council conducted workshops to address the public safety, health, and welfare concerns related to these establishments.

The City Council held multiple workshops and briefings over the course of a year. First reading public hearing of this Ordinance was held October 7, 2019 and second reading and public hearing was held October 21, 2019.

At second reading Council requested amendments clarifying the hours of operation for alcoholic beverage establishments as well as the conditions for renewal of permits annually.

RECOMMENDATION:

Adopt Ordinance No. 2019-8116, amending section 4-2, "Prohibited hours of sale, consumption, and service" of Chapter 4 "Alcoholic Beverages" of the Code of Ordinances of the City of Jacksonville Beach, Florida as presented.



Introduced By: _____

1st Reading: _____

2nd Reading: _____

ORDINANCE NO. 2019-8116

AN ORDINANCE AMENDING CHAPTER 4, “ALCOHOLIC BEVERAGES”, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY AMENDING SECTION 4-2, “PROHIBITED HOURS OF SALE, CONSUMPTION, AND SERVICE”, PROVIDING FOR REQUIRED SECURITY MEASURES; PROVIDING FOR ENHANCED PENALTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the City of Jacksonville Beach has the authority to adopt Ordinances pursuant to Article VIII of the Constitution of the State of Florida and Florida Statutes Chapter 166.41; and

WHEREAS, the City has received a number of complaints concerning certain alcoholic beverage establishments licensed under the state beverage laws as special restaurant or special food service establishments which operate as de-facto bars or lounges by operating in violation of applicable laws, including but not limited to, violation of the fifty-one percent (51%) food sales requirement as set forth in F. S. § 561.20; removal of chairs and tables to below state mandated thresholds of 150 seats; failing to provide full service kitchens up to the required hour; among other violations of law; and

WHEREAS, Chapter 562.14 of the Florida Statutes authorizes a municipality to regulate the hours that an alcoholic beverage establishment may sell alcoholic beverages; and

WHEREAS, Chapter 562.14 of the Florida Statutes authorizes a municipality to regulate conduct related to the sale of alcoholic beverages at an alcoholic beverage establishment; and

WHEREAS, the City has experienced an increase in law enforcement costs as a result of the sale and consumption of alcoholic beverages to individuals who consume alcoholic beverages to the point of intoxication, and particularly after midnight, and the City’s law enforcement personnel must respond to a greater number of calls for service directly resulting from the need to keep the peace with individuals who have over-consumed alcohol, particularly after midnight; and

WHEREAS, the City Council, in order to protect the public health and safety of the residents of the City of Jacksonville Beach, desires to regulate the hours of sale, consumption and service of alcoholic beverages, provide for a process and procedures for issuance of extended hours of operation permits, and encourage responsible alcohol beverage establishments by providing for

enhanced penalties, suspension, and revocation of the extended hours of operation permit in the event of violation of the regulations and ordinances of the City; and

WHEREAS, the City finds it is in the best interest of the public health, safety, and welfare to encourage responsible alcohol beverage establishments by providing for requirements for security plans approved by the Jacksonville Beach Police Department and the Jacksonville Beach Fire Marshal as may be needed in furtherance of punishing or preventing criminal activity; and

WHEREAS, the City finds that an Extended Hours of Operation Permit is the exercise of its quasi-legislative function, and further finds that such extended hours of operation represent a privilege rather than a right.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. That Section 4-2, “Hours of sale permitted”, of Chapter 4 of the Code of Ordinances of the City of Jacksonville Beach, Florida, be amended, and the same shall read as follows¹:

Sec. 4-2. Prohibited hours of sale, consumption, and service.

(a) Applicability. The provisions of this section shall apply to the following state alcoholic beverage license types: **1-COP** (beer only consumption on premises), **2-COP** (beer and wine consumption on premises), **4-COP Quota License** (beer, wine, and liquor package sales and consumption on premises), **4-COP-S** (beer, wine, and liquor consumption on premises in connection with the operation of a hotel, motel, motor court, or condominium), **4-COP-SRX/SFS** (beer, wine, and liquor consumption on premises in connection with a restaurant), **4-COP-SBX** (beer, wine, and liquor consumption on premises in connection with a bowling alley), **11-GC** (beer, wine, and liquor consumption on premises in connection with a golf club), **11-C** (beer, wine, and liquor in connection with a bona fide club, including fraternal or benevolent association lodges or clubs, social clubs; and tennis, racquetball, cabana, or beach clubs, for consumption on premises by members and their guests only), and **ODP** (beer, wine, and liquor consumption on premises for a bona fide non-profit civic organization for a period not to exceed three days and no more than three times per year).

¹ (~~strikethrough~~ text indicates deletions, underline text indicates additions).

(b) *Definitions.*

- (1) *Sale and Sell* shall mean and include not only selling but also consuming, serving, and/or permitting to be served or consumed, any alcoholic beverages.
- (2) *Alcoholic beverage* shall mean (as provided in F.S. § 561.01) distilled spirits and all beverages containing one-half of one percent or more alcohol by volume.
- (3) *Alcoholic beverage establishment* shall mean any commercial establishment located in the City which allows for alcoholic beverages (beer, wine, or liquor) to be sold for consumption on the premises.
- (4) *Beer, wine and liquor* shall have the same meanings as provided in F.S. §§ 563.01, 564.01, 565.01, as those Sections may be amended or renumbered from time to time.
- (5) *Establishment* shall have the same meaning as alcoholic beverage establishment.
- (6) *Extended Hours of Operation Permit* shall mean a permit issued by the City of Jacksonville Beach that allows an alcoholic beverage establishment to operate and sell alcoholic beverages for purposes of consumption on the premises between the hours of 12:00 midnight and 2:00 a.m.
- (7) *Restaurant* shall mean the same as public food service establishment as defined in F. S. § 509.013 (5)(a), and shall mean and include any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared before being delivered to another location for consumption. For the purposes of this Chapter, the definition of a restaurant shall include any business with a special license issued by the Division of Alcohol and Tobacco of the Florida Department of Business and Professional Regulation.
- (8) *Transfer of ownership* shall mean a transfer of a license, change of officers or directors, or transfer of interest as defined and regulated under the provisions of F. S. § 561.32.

(c) *Restricted hours of sale and operation.* Except as provided in Section 4-2(d), no alcoholic beverage establishment licensed under the state alcoholic beverage laws to sell alcoholic beverages (beer, wine, or liquor), shall sell or offer for sale, or serve or offer to serve, any beer, wine, liquor, or alcoholic beverages of any kind, regardless of alcoholic content, or be open for operation, on any day of the week between the hours of 12:00 midnight and 6:00 a.m. Alcoholic beverage establishments shall not be open for operation between the hours of 2:00 a.m. to 6:00 a.m. on any day of the week.

(d) *Permit required for certain alcoholic beverage establishments to sell alcoholic beverages between the hours of 12:00 midnight and 2:00 a.m.*

(1) *Permit required.* **Any qualifying** alcoholic beverage establishment licensed under the state alcoholic beverage laws to sell, offer for sale, or deliver alcoholic beverages, for purposes of consumption on the premises, between the hours of 12:00 midnight and 2:00 a.m., but in any case no later than 2:00 a.m., on any day of the week, shall make application with the City Clerk for an Extended Hours of Operation Permit.

(2) The alcoholic beverage establishment shall complete an application form provided by the City, including, but not limited to, the name and street address where notices related to this section are to be mailed. An annual fee, in an amount set by resolution of the City Council and payable upon issuance, shall be charged for the permit. The application form shall include, but not be limited to, the following information:

- a) Name and street address of the owner of the alcoholic beverage establishment,
- b) **Name, street address, and signature of the property owner of record if different from the owner of the alcoholic beverage establishment acknowledging an understanding of Section 4-2 of the Code of the City of Jacksonville Beach.**
- c) Valid business tax receipt for the alcoholic beverage establishment,
- d) Verification of compliance by the alcoholic beverage establishment with City zoning regulations,
- e) Specific type of state alcoholic beverage license held by the alcoholic beverage establishment.
- f) If the establishment holds a state alcoholic beverage license other than a 4-COP Quota License, the establishment will submit a copy of the proposed seating diagram, to include any proposed dining area.
- g) **Signed approval of the alcohol beverage establishments' security emergency action plan by the Jacksonville Beach Police Department and the Jacksonville Beach Fire Marshal.**

(3) The City Manager or designee shall review the application and, if the application is complete, and the alcoholic beverage establishment is in compliance with the Code of Ordinances and state alcoholic beverage laws, a permit shall be issued allowing the alcoholic beverage establishment to sell alcoholic beverages, as restricted by the alcoholic beverage establishment's state beverage license, for purposes of consumption on the premises, between the hours of 12:00 midnight and 2:00 a.m. on every day of the week.

(4) Such permit ~~shall~~ may be renewed by the City annually on or before the 30th day of September, so long as the alcoholic beverage establishment is compliant with the requirements of this ordinance, unless any of the following occur:

- a) The permit is under suspension at the time of renewal.
- b) The alcoholic beverage establishment's state beverage license has been revoked or suspended,
- c) A transfer of ownership, as defined in Section 4-2. (b)(98) *Definitions.*, or a change in location of the establishment has occurred, and this information was not provided to the City.

(5) The City shall be notified immediately, and the alcoholic beverage establishment shall apply for a new permit if a transfer of ownership, as defined in Section 4-2(b)(8), or a change in location of the establishment has occurred. Until such time as the alcoholic beverage establishment makes application, is approved, and receives a new permit, the privilege of extended hours for the sale of alcoholic beverages shall be suspended. Failure to renew the Extended Hours of Operation Permit on or before the 30th day of September of each year, or to pay the annual fee as set by resolution of the City Council, shall be cause for the immediate suspension of extended hours privileges pursuant to Section 4-2. (e) *Notice of violations, hearings, and penalties.*

(6) No alcoholic beverage establishment is authorized to sell or serve alcoholic beverages for purposes of consumption on the premises after 12:00 midnight unless it possesses a valid Extended Hours of Operation Permit from the City. No alcoholic beverage establishment is authorized to sell or serve alcoholic beverages, ~~or be open for operation~~, after 2:00 a.m. and before ~~67:00~~ 6:00 a.m. on any day of the week. Alcoholic beverage establishments shall not be open for operation between the hours of 2:00 a.m. to 6:00 a.m. on any day of the week.

(7) The provisions of this section shall not impair or affect the right of an alcoholic beverage establishment with a state alcoholic beverage license to remain open and sell alcoholic beverages between the hours of ~~67:00~~ 6:00 a.m. and 12:00 midnight.

(e) *Notice of violations, hearings, and penalties.* The ability of an alcoholic beverage establishment to sell, offer for sale, deliver or permit to be consumed upon the premises any alcoholic beverage between the hours of 12:00 midnight and 2:00 a.m. on any day of the week is hereby declared to be and is a privilege subject to suspension, and no person may reasonably rely upon a continuation of that privilege. As a condition of the continuation of the privilege, alcoholic beverage establishments are required to take all necessary steps to minimize illegal activities.

(1) *Illegal activities included.* The following are representative, but not all-inclusive, of activities that may result in suspension of the privilege of extended hours of operation for authorized alcoholic beverage establishments to sell alcoholic beverages for purposes of consumption on the premises:

- a) Illegal activities requiring a police response that occur on or adjacent to the premises of an alcoholic beverage establishment. Particular emphasis will be given to illegal activities of the owner, employees, patrons of the establishment, or others associated with the establishment; including, but not limited to, the use, sale, or delivery of controlled substances, allowing underage drinking, continuing to sell alcoholic beverages after closing time, violation of open container laws, serving alcoholic beverages to intoxicated persons, disturbances, batteries, driving under the influence (DUI), disorderly intoxication, violations of the Florida Fire Prevention Code, and other violations of law during all hours of operation. The City shall consider whether the need for police services is the result of the establishment's failure or inability to maintain proper order and control during all hours of operation;
- b) Failure of any restaurant, as defined in Section 4-2(b)(7), which possesses a 4-COP-SRX/SFS (Special Restaurant/Special Food Service Establishment) state alcoholic beverage license as addressed under the provisions of F. S. § 561.20(2)(a)4;
 - 1. To maintain at least 2,500 square feet of service area,
 - 2. To be equipped to serve 150 persons full course meals from a menu at tables at all times during all hours of operation,
 - 3. To keep the kitchen open and capable of preparing food and filling customers' orders up to 30 minutes before time of closing,
 - 4. To keep all tables and chairs **must remain** upright and in place during all hours of operation as per diagram submitted to the city during the permitting process,
 - 5. To derive at least fifty-one (51%) percent of its gross revenue from the sale of food and nonalcoholic beverages. Failure to derive at least fifty-one (51%) percent of its gross revenue from the sale of food and nonalcoholic beverages shall be based on the findings of an audit of the 4-COP-SRX/SFS licensee by the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation, irrespective of any sanctions or penalties imposed by said Division pursuant to that audit.
- c) Complaints verified and documented by police arising from adverse effects of extended hours of operation upon neighboring properties, including, but not limited to, excessive noise, illegal parking, vandalism, generation of trash or garbage on or adjacent to the establishment, loitering by intoxicated persons, or exterior lighting on neighboring residential properties;
- d) Violations of any provisions of the City of Jacksonville Beach Code of Ordinances; including, but not limited to, Chapter 18, relating to noise and sound limitations;
- e) Failure to obtain an Extended Hours of Operation Permit, or failure to renew the permit as required;
- f) Violations of state statutes and/or fire codes related to the maximum permissible occupancy at the alcoholic beverage establishment location;
- g) *Sales by employees during prohibited hours.* No person, or any agent,

servant, or employee of any person licensed under the state alcoholic beverage laws shall sell, or offer for sale, any beer, wine, liquor, or alcoholic beverage of any kind during prohibited hours.

- h) *Gifts.* It is a violation of this section for any person, or any agent, servant or employee of any person licensed under the state alcoholic beverage laws, during prohibited hours as set forth in this section, to gratuitously give any kind of alcoholic beverage, whether conditioned upon the purchase of any kind of alcoholic beverage or product of any nature, at any inflated price or otherwise, or in the form of a so-called bonus predicated upon another purchase, or as a gift.
- i) Failure to adhere to and follow the security emergency action plan as approved by the City of Jacksonville Beach Police Department and the City of Jacksonville Beach Fire Marshal.

(2) *Successive violations.* In order to invoke the enforcement provisions of this section, a violation must be traceable to the particular alcoholic beverage establishment against which action is taken, and must be verified and documented by a police officer, code enforcement officer, or fire department official.

- a) *1st Notice of Violation.* ~~Except as provided, a~~ first violation by an alcoholic beverage establishment of this section, any section of the Code of Ordinances or state statutes shall result in a written notice of violation. ~~that will not require an appearance before the special magistrate. Issuance of a written 1st notice of violation for a violation of this ordinance shall not prevent the filing of charges against the alcoholic beverage establishment or any person with any other violation of the Code of Ordinances or state statutes.~~ The 1st notice of violation shall be issued by a police officer. The 1st notice of violation shall be left with the owner, proprietor, manager, or highest-ranking employee then on the premises of the alcoholic beverage establishment. Issuance of a 1st notice of violation for a violation of this ordinance shall not prevent the filing of charges against the alcoholic beverage establishment or any person with any other violation of the Code of Ordinances or state statutes. ~~If the first violation is the result of a felony criminal offense being committed on the premises, or the incident resulting in a felony criminal offense being committed began on the premises of the establishment, the first violation may be presented to the special magistrate for consideration of the suspension of the extended hours permit.~~
- b) *2nd Notice of violation.* A subsequent violation of this section, any section of the Code of Ordinances or state statutes by an alcoholic beverage establishment within one hundred, eighty (180) days of issuance of a written 1st notice of violation shall result in a written 2nd notice of violation. The 2nd notice of violation shall be issued by a police officer. The 2nd notice of violation shall be left with the owner, proprietor, manager, or highest-ranking employee then on the premises of the alcoholic beverage establishment. Issuance of a 2nd notice of violation for a violation of this ordinance shall not prevent the filing of charges against the alcoholic beverage establishment or any person with any other violation of the

Code of Ordinances or state statutes.

- c) *Special magistrate.* ~~A 2nd~~ All notices of violation shall be taken before the City's Special Magistrate for consideration of suspension of the alcoholic beverage establishment's Extended Hours of Operation Permit. The Special Magistrate shall exercise jurisdiction over such matters as set forth in Article VI, Sec. 2-170 of the Code of Ordinances of the City of Jacksonville Beach.
- d) *Action by the Special Magistrate.* Upon completion of the hearing, the Special Magistrate shall deliver a ruling either that no action shall be taken against the alcoholic beverage establishment's Extended Hours of Operation Permit, ~~or that~~ the Extended Hours of Operation Permit shall be suspended, or that the Extended Hours of Operation Permit be revoked.
1. A suspension of the Extended Hours of Operation Permit for a first finding by the special magistrate of a violation shall be ~~not less than thirty (30) days nor more than ninety (90) days~~ for up to sixty (60) days at the discretion of the Special Magistrate depending upon the severity of the violation(s).
 2. A second ~~and any subsequent~~ finding by the special magistrate of a violation of the Extended Hours of Operation Permit within one hundred eighty (180) days of issuance of the first notice of violation regardless of the Special Magistrate's finding in said violation shall be suspended for no less than thirty (30) days nor more than ninety (90) days.
 3. A third and any subsequent findings of violations occurring within one year (365 days) of the date of completion of the most recent suspension period shall result in a ~~suspension of not less than ninety (90) days nor more than one hundred and eighty (180) days~~ revocation of the Extended Hours of Operation Permit which suspension shall travel with the property for a period of one year (365) days from the date of the finding of violation by the Special Magistrate.
 4. In addition to any suspension of the Extended Hours of Operation Permit, as listed above, the Special Magistrate may issue a fine of not more than five hundred dollars (\$500.00) per violation of this ordinance.

The Special Magistrate shall base his/her ruling upon substantial, competent evidence presented that supports a finding of non-compliance with this section. The special magistrate's written order of suspension of the extended hours of operation permit shall state the effective date of suspension and shall give the alcoholic beverage establishment at least ten calendar days notice of the suspension.

- e) *Failure of alleged violator to appear.* If an alcoholic beverage establishment served with a Notice of Violation fails to appear at the hearing after having received proper notice, the Special Magistrate shall take testimony from city staff, and other relevant testimony, as available, and shall deliver a ruling either that no action shall be taken against the alcoholic beverage establishment's Extended Hours of Operation Permit,

~~or that~~ the Extended Hours of Operation Permit shall be suspended for a period of time as set forth in Section 4-2. (e)(2)(d), or that the Extended Hours of Operation Permit be revoked as set forth in Section 4-2. (e)(2)(d) of this section. A ruling that the Extended Hours of Operation be suspended shall take effect on the eleventh calendar day after the order~~ed~~ is issued and provided to the alcoholic beverage establishment. The enforcement of such order shall be stayed if the alcoholic beverage establishment files a request for a rehearing with the City Clerk's office before the date the order is scheduled to take effect. In such case, the alcoholic beverage establishment shall be rescheduled for a hearing before the Special Magistrate. At that hearing, the Special Magistrate shall take testimony from the alcoholic beverage establishment, and other relevant testimony, as available, and shall deliver a ruling upholding the previous order suspending the Extended Hours of Operation Permit, amending the order suspending the Extended Hours of Operation Permit, or rescinding the order suspending the Extended Hours of Operation Permit. If the Special Magistrate upholds a suspension of the Extended Hours of Operation Permit, such suspension shall take effect the next calendar day after the ruling is issued.

- f) Any alcoholic beverage establishment that has had an Extended Hours of Operation Permit suspended cannot avoid the consequences of the Special Magistrate's action by changing its business name or corporate status, as set forth in F. S. § 561.32.
- g) The enforcement procedures contained herein are alternative procedures, and the City reserves the right to arrest, prosecute, or take action utilizing alternative procedures authorized by law.

(f) Existing holders of valid Extended Hours of Operation Permits on the date of passage of this ordinance shall be granted six (6) months or the next annual renewal of the permit, whichever is less, in order to comply with the requirements of Sec. 4-2. (d)(2)(g).

SECTION 2. If any provision of this Ordinance or the particular application of this Ordinance shall be held invalid by any Court, administrative agency or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases shall remain in effect.

SECTION 3. That all other ordinances or parts of ordinances in conflict with this ordinance are, to the extent the same may be in conflict, repealed.

SECTION 4. Codification of this ordinance in the Code of Ordinances of the City of Jacksonville Beach is hereby authorized and directed.

SECTION 5. This ordinance shall take effect upon ninety (90) days from the date of its adoption.

DONE IN OPEN MEETING THIS ___ DAY OF _____, A.D. 2019.

William C. Latham, MAYOR

Laurie Scott, CITY CLERK

City of
Jacksonville Beach
Department of Public
Works
910 S. 10th Street
Jacksonville Beach
FL 32250
Phone: 904.247.6294
904.247.6219
Fax: 904.247.6289

www.jacksonvillebeach.org

MEMORANDUM

TO: Michael J. Staffopoulos, City Manager
FROM: Phil Brown, Utility Plant Supervisor
SUBJECT: Ordinance Number 2019-8125, amending Chapter 32 Utilities
Creating Article VII. Fats, Oils, and Grease (FOG) Program
DATE: October 28, 2019

ACTION REQUESTED

Adopt Ordinance Number 2019-8125, providing for the purpose and applicability of the ordinance; requiring food service facilities to install, operate and maintain gravity grease interceptors or Hydro mechanical grease interceptor. Providing for schedule cleaning, record keeping, and inspection of Hydro-mechanical grease interceptors and gravity grease interceptors.

BACKGROUND

The City is seeking to adopt a Fats, Oils and Grease Program ordinance in order to maintain the City Sanitary Sewer System in accordance with the Clean Water Act (1977) and the National Pollutant Discharge Elimination System (NPDES) program. This program prohibits discharges of pollutants from any point source into the nation's waters except as authorized under an NPDES permit. EPA and state NPDES inspectors evaluate collection system and treatment plants to determine compliance with permit conditions including proper Operation and Maintenance.

The FDEP initiated a state-wide program to prevent discharges from sanitary sewers to storm water systems and surface waters. Maintaining sanitary sewer collection systems is a critical element in complying with these state requirements and the successful performance of the wastewater treatment process. Failure to do so can result in sewer overflows, affecting public health, the environment, or both.

Nationwide data shows the majority of sanitary sewer overflows (SSO) are caused by pipe blockage from fats, oils, and grease. As such, the City is seeking to crate



Memorandum
Ordinance 2019-8125
October 28, 2019

Page 2 of 2

this FOG program to minimize the potential for overflows in the sanitary sewer collection system, and reduce the potential for FOG impacts at lift stations and the pollution control plant (PCP).

RECOMMENDATION

Adopt Ordinance Number 2019-8125, amending Chapter 32 Utilities creating Article VII Fats, Oils, and Grease (FOG) Program.

Introduced by: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2019-8125

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA AMENDING CHAPTER 32. UTILITIES, CREATING ARTICLE VII. FATS, OILS, AND GREASE (FOG) PROGRAM; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE PURPOSE AND APPLICABILITY OF THE ORDINANCE; REQUIRING FOOD SERVICE FACILITIES TO INSTALL, OPERATE, AND MAINTAIN GRAVITY GREASE INTERCEPTORS OR HYDRO-MECHANICAL GREASE INTERCEPTORS; PROVIDING FOR SCHEDULED CLEANING OF HYDRO-MECHANICAL GREASE INTERCEPTORS AND GRAVITY GREASE INTERCEPTORS; PROVIDING FOR VARIANCE; PROVIDING FOR RECORD KEEPING; PROVIDING FOR INSPECTIONS OF GRAVITY GREASE INTERCEPTORS AND HYDRO-MECHANICAL GREASE INTERCEPTORS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, AND PROVIDING FOR AN EFFECTIVE DATE:

WHEREAS, the City of Jacksonville Beach has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida; Chapters 163 & 166, Florida Statutes; and

WHEREAS, the City of Jacksonville Beach is charged with ownership and maintenance of the City's water and wastewater conveyance and treatment systems; and

WHEREAS, wastewater discharges containing high concentrations of fats, oils, and grease from restaurants and other food handling facilities is a main contributor to blockages and sanitary sewer overflows (SSO) in the City's wastewater collection system; and

WHEREAS, such excessive amounts of grease result in the immediate threat to the health and safety of the public and our environment; and

WHEREAS, to effectively address the issue, the City finds it in the best interest of the public health, safety, and welfare to develop a Fats, Oil, and Grease (FOG) Program;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. Recitals. The above recitals are ratified and confirmed as being true and correct and are made a part of this Ordinance and adopted as legislative findings.

SECTION 2. Amendment of City Code. That Chapter 32. Utilities is hereby amended to add Article VII. Fats, Oils, and Grease (FOG) Program to read as follows:

Section 32-180. Purpose and intent.

(a) Purpose. This article establishes maintenance and monitoring requirements and provides for regulation of:

- (1) The interception and collection of fats, oils, and grease from food service facilities.
- (2) The maintenance and monitoring requirements to control the discharge of grease from food service facilities.

(b) Intent. The intent of the FOG Program is:

- (1) To prevent the introduction of excessive amounts of fats, oil and grease into the City of Jacksonville Beach wastewater collection system and subsequently into the pollution control plant.
- (2) To prevent clogging or blocking of City sewer lines due to grease build-up causing backup and flooding of streets, residences, and commercial buildings.

Section 32-181. Definitions.

(a) Food Service Facility or Facilities means any facility, which prepares and/or packages food or beverages for sale and consumption, on or off site, with the exception of private residences. Food service facilities shall include, but are not limited to: food courts, food manufacturers, food packagers, food trucks, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, coffee shops, schools, and any other food service facilities not listed above.

(b) Gray Water means all of the liquid contained in a grease interceptor that lies below the floating grease layer and above the food solids layer

(c) Grease means a material either liquid or solid, and composed primarily of fat, oil, and grease from animal or vegetable sources. The terms “fats, oils, and

grease (FOG),” “oil and grease,” or “oil and grease substances” shall be included within this definition.

- (d) *Grease Hauler* means a person who collects the contents of a grease interceptor or trap and transports it to an approved recycling or disposal facility. A grease hauler may also provide other services to a food service facility related to grease interceptor maintenance.
- (e) *Gravity Grease Interceptor* means a device located underground and outside of a food service facility designed to collect, contain or remove food wastes and grease from the waste stream while allowing the balance of liquid waste to discharge to the wastewater collection system by gravity. Interceptors shall be separated into two chambers by baffle. The baffle shall be set 50/50 or 2/3 – 1/3 and have at least two inspection hatches on the top surface for cleaning and maintenance by a grease hauler.
- (f) *Hydro-mechanical Grease Interceptor* means a plumbing appurtenance or appliance that is installed outside of the food service facility and in the sanitary drainage system to intercept nonpetroleum fats, oils, and grease (FOG) from a wastewater discharge and is identified by flow rate, separation, and retention efficiency. The term “grease trap” shall be included within this definition.
- (g) *Lift Station* means a pumping station installed inline after a grease interceptor to pump gray water to the City sewer system.
- (h) *Notice of Violation (NOV)* means a notice generally issued by the City of Jacksonville Beach personnel or its representative to a food service facility, informing of noncompliance and/or violations of the City’s Utility ordinances or the requirements of this section. The specific violations shall be provided on the NOV.
- (i) *Solids Layer* means the settled matter that accumulates on the bottom of a grease trap or interceptor.

Section 32-182. Applicability.

- (a) The provisions of this Article shall apply to all existing food service facilities located within the municipal boundaries of the City of Jacksonville Beach. Further, this Article applies to all food service facilities that begin operations within the municipal boundaries of the City of Jacksonville Beach on or after the effective date of this Ordinance.

Section 32-183. General requirements.

- (a) *Requirements.* All food service facilities are required to have a hydro-mechanical or gravity grease interceptor installed outside the facility. The

requirements of this Article are in addition to any applicable requirements of the Florida Plumbing Code and the Standard Plumbing Code, and any pretreatment requirement adopted by the City for protection of the City's Pollution Control Plant.

- (1) *New Facilities.* On or after the effective date of this ordinance, food service facilities which are newly proposed, constructed, or permitted, or existing facilities which are expanded or renovated to include a food service facility, where such facility did not previously exist, shall be required to install, operate, and maintain a hydro-mechanical or gravity grease interceptor according to the requirements contained in this ordinance. Gravity grease interceptors or hydro-mechanical grease interceptors shall be installed and permitted prior to the issuance of a certificate of occupancy.
 - (2) *Existing Facilities.* For the purpose of sizing and installation of grease interceptors, all food service facilities existing within the City prior to the effective date of this ordinance shall be permitted to operate and maintain existing grease interceptors or hydro-mechanical grease interceptors provided their grease interceptors or hydro-mechanical grease interceptors are in compliance with the criteria for the individual interceptor as defined in this division.
- (b) *Compliance.* On or after the effective date of this Ordinance, the City may require an existing food service facility to install, operate, and maintain a new hydro-mechanical or gravity grease interceptor that complies with the requirements of this Article or to modify or repair any noncompliant plumbing or existing interceptor or grease trap within ninety (90) days of written notification by the City when any one or more of the following conditions exists:
- (1) The facility is found to be discharging fats, oils, and grease in quantities greater than (100) milligrams per liter in the facility effluent sample.
 - (2) The facility does not have a hydro-mechanical or gravity grease interceptor(s).
 - (3) The facility has an undersized, irreparable or defective hydro-mechanical or gravity grease interceptor(s).
 - (4) When remodeling or renovating an existing facility where a plumbing permit is issued by the City of Jacksonville Beach.
 - (5) The existing facility effluent causes sewer line blockage (SSO) or stoppage that require the City of Jacksonville Beach to increase maintenance that exceeds twice a calendar year.

- (6) The existing facility does not have plumbing connections to a hydro-mechanical or gravity grease interceptor(s) in compliance with the requirements of this Article.
- (c) Plumbing Connections. Hydro-mechanical or gravity grease interceptor. All plumbing connections shall be located outside the food service facilities lateral sewer line between all fixtures which may introduce grease into the sewer system and the connection to the City's wastewater collection system. Such fixtures shall include, but not be limited to hand, prep, and mop sinks, dishwashers, garbage disposals, automatic hood wash units, floor drains in food preparation and stage areas, and any other fixture which is determined to be a potential source of grease. Wastewater from sanitary facilities and other similar fixtures shall not be introduced into hydro-mechanical or gravity grease interceptor(s) under any circumstance.
- (d) Hydro-mechanical grease interceptors. Hydro-mechanical grease interceptors shall be prohibited for all new food service facilities with the exception of those facilities in which it is determined there is inadequate space available for the installation of a gravity grease interceptor. Approval of the installation of a hydro-mechanical grease interceptor instead of a gravity grease interceptor at a new food service facility shall meet the following criteria:
- (1) Interceptor design and location. Hydro-mechanical grease interceptors shall conform to the standards in the Plumbing and Drainage Institute (PDI) Standards G101. Hydro-mechanical grease interceptors shall be installed in strict accordance with the manufacturer's instructions. Hydro-mechanical grease interceptors shall be equipped with a cover that can be opened for inspection and sampling with a mechanism for secure closing. Covers must be air and watertight. Covers must be traffic rated if located within a traffic area.
 - (2) Capacity. The capacity of the hydro-mechanical interceptor shall be related to the flow rate as defined in the appendix and Table 1 of PDI Standards G101.
 - (3) Flow-through rate. Flow-through rates shall be calculated in accordance with the procedures in PDI Standards G101.
 - (4) Flow control device. Hydro-mechanical grease interceptors shall be equipped with a device to control the rate of flow through the unit. The rate of flow shall not exceed the manufacturers rated capacity recommended in gallons per minute for the unit.
 - (5) Venting. The flow control device and the hydro-mechanical grease interceptor shall be vented in accordance with the Florida Plumbing

Code current edition. The vent shall terminate not less than six inches (6") above the flood-rim level or in accordance with the manufacturer's instructions.

- (6) Cleaning, and maintenance. Each food service facility shall be solely responsible for the cost of the hydro-mechanical grease interceptor(s) installation, inspection, cleaning, and maintenance. Each food service facility shall contract with a grease hauler for cleaning services. Alternatively, a food service facility may develop a written protocols and procedures for the cleaning and maintenance of hydro-mechanical grease interceptors. Cleaning and maintenance must be performed when the total volume of capture grease and solid materials displaces more than twenty percent (20%) of the total volume of the unit. The City shall use a core sampling method during monthly or bi-monthly routine inspection in order to determine the frequency at which a hydro-mechanical grease interceptor(s) shall be cleaned, however, all hydro-mechanical grease interceptors shall be opened, inspected, cleaned, and maintained at a minimum of once per week.
 - (7) Inspection. The City shall inspect hydro-mechanical grease interceptors as necessary to assure compliance with this division as well as proper cleaning and maintenance schedules are adhered to.
 - (8) Repairs. The food service facility shall be responsible for the cost and scheduling of all repairs to its hydro-mechanical grease interceptor(s). Repairs required by the City shall be completed within fourteen (14) calendar days after the date of written notice of required repairs is received by the food service facility unless a different schedule is approved by the City in writing.
 - (9) Disposal. Grease and solid materials removed from a grease interceptor(s) shall be disposed of in a solid waste disposal facility.
 - (10) Record keeping. The food service facility shall maintain records including the date and time of all cleaning and maintenance, details of any repairs required, and dates of repairs for each hydro-mechanical grease interceptor(s) in a bound logbook and shall make the logbook available for inspection by the City on request. The food service facility shall also maintain all written protocols and procedures concerning the hydro-mechanical grease interceptor(s) cleaning and maintenance and shall make such available to the City on request. Such records shall be kept for a period of three years from time of cleaning or repair.
- (e) Gravity grease interceptors. Gravity grease interceptors shall be installed at all new food service facilities with the exception of those facilities in which it is determined there is inadequate space available for the installation of a gravity

grease interceptor. All new and existing gravity grease interceptors shall meet the following criteria:

- (1) *Interceptor design and location.* Gravity grease interceptors shall have a minimum of two (2) compartments and shall be capable of separation and retention of grease and storage of settled solids. Gravity grease interceptor designs shall conform to the requirements of Florida Plumbing Code Section 1003.5.1. A control manhole over each compartment for monitoring purposes shall be required and installed at the owner/operator sole expense. Covers shall have a gas tight fit. The gravity grease interceptor shall be designed, constructed, and installed for adequate load-bearing capacity. Flow control devices shall be required where the water flow through the gravity grease interceptor may exceed its rated flow. Interceptors shall be installed in a location outside of the building and which provides easy access at all times for inspections, cleaning, and maintenance, including pumping. Nothing shall be stored on top or built over the gravity grease interceptor covers.

- (2) *Capacity.* Gravity grease interceptor capacity calculations shall be performed by each food service facility based on size and type of operation according to the formula contained in Tables 1003.4.1 and 1003.5.1 of the Florida Plumbing Code and the sizing methods contained in PDI G101 and its appendices A1.0 thru A1.7, where applicable. Minimum capacity of any one unit shall be seven hundred fifty (750) gallons as required by the Florida Plumbing Code. Maximum capacity of any one unit shall be one thousand two hundred fifty (1,250) gallons. Where sufficient capacity cannot be achieved within a single unity, installation of gravity grease interceptors in series is required. Prior to the installation of the gravity grease interceptor(s), the City shall approve the gravity grease interceptor(s) capacity calculations. The capacity of the gravity grease interceptor(s) required for food manufacturing or processing facilities which are not covered by the Florida Plumbing Code shall be approved by the City according to the mass and type of food prepared, the wastewater volume produced from food preparation or manufacture, total hours of operation per day and a load factor depending on the installed equipment.

- (3) *Pumping, and maintenance.* Each food service facility shall be solely responsible for the cost of the gravity grease interceptor installation, inspection, cleaning, and maintenance. All food service facilities with gravity grease interceptors shall contract with and utilize a grease hauler. Pumping services shall include the initial complete removal of all contents, including floating materials, wastewater and bottom sledges and solids from the interceptor. The return of gray water back into the gravity grease interceptor from which the wastes were removed is strictly prohibited. Gravity grease interceptor cleaning shall include

scraping excessive solids from the walls, floors, baffles, and all pipe work. It shall be the responsibility of each food service facility to inspect its gravity grease interceptor during the pumping procedure to ensure it is properly cleaned out and all fittings and fixtures inside the interceptor are in good working condition and functioning properly.

- (4) *Pumping frequency.* Each food service facility shall have its gravity grease interceptor(s) pumped at a minimum frequency of once every calendar month. In addition to required monthly pumping, the City of Jacksonville Beach may determine by monthly or bi-monthly core sampling inspection that additional pumping is required or more interceptor space is needed if the following criteria cannot be met with the existing grease interceptor space:
 - a. When the floatable grease layer exceeds six inches (6") in depth as measured by an approved dipping method.
 - b. When the settled solids layer exceed eight inches (8") in depth as measured by an approved dipping method.
 - c. When the total volume of captured grease and solid material displaces more than twenty percent (20%) of the capacity of the interceptor as calculated using an approved dipping method.
 - d. When the interceptor is not retaining or capturing oil and greases or the removal efficiency of the device, as determined through sampling and analysis, is less than eighty percent (80%).
- (5) *Inspection.* The City shall inspect gravity grease interceptors as necessary to assure compliance with this Article as well as adherence to proper cleaning and maintenance schedules.
- (6) *Repairs.* The food service facility shall be responsible for the cost and scheduling of all repairs to its gravity grease interceptor(s). Repairs required by the City shall be completed within fourteen (14) calendar days after the date of written notice of required repairs is received by the food service facility unless a different schedule is approved by the City in writing.
- (7) *Disposal.* Waste removed from any gravity grease interceptor shall be disposed of at a facility permitted to receive such waste. Neither grease nor solid material removed from a gravity grease interceptor shall be returned to any gravity grease interceptor, private sewer line or to any portion of the City's wastewater collection system or water reclamation facilities without prior written approval of the City of Jacksonville Beach Public Works Director.

- (8) Record keeping. The food service facility shall maintain records including the date and time of all cleaning and maintenance, details of any repairs required, and dates of repairs for each gravity grease interceptor in a bound logbook and shall make the logbook available for inspection by the City on request. Additionally, each food service facility shall maintain a file on site and available at all times for inspection and review by the City which contains the following information:
- a. The as-built drawings of the plumbing system.
 - b. Records of all inspections.
 - c. Receipts of all repairs.
 - d. Log of pumping activities.
 - e. Log of maintenance activities.
 - f. Grease hauler information.
 - g. Disposal information.
 - h. Records shall be kept for a period of three years from time of cleaning or repair.
- (f) Variance procedure. If a food service facility determines that monthly pumping of the gravity grease interceptor is unnecessary in order to remain in compliance with the criteria of Section 32-183(e) above, the food service facility may make written application for a variance from the monthly pumping requirements to the City. The variance procedure shall be as follows:
- (1) The food service facility shall submit an application for a variance on a form provided by the City along with the appropriate application fee if required. The application shall include the next scheduled date and time for pumping and cleaning of the gravity grease interceptor(s).
 - (2) The City shall observe the pump out procedure and inspect the gravity grease interceptor(s) on the scheduled date and time.
 - (3) If the gravity grease interceptor(s) is in good working condition during the initial inspection, the City shall re-inspect the gravity grease interceptor(s) approximately one month after the initial inspection. If there is less than four inches (4") of surface grease and less than six inches (6") of bottom solids at the time of this re-inspection, the gravity

grease interceptor(s) will not need to be pumped out at that time.

- (4) After the initial re-inspection the City shall inspect the gravity grease interceptor(s) at intervals of approximately every ten (10) working days to determine the grease and solids levels using a dipping method approved by the City.
 - (5) When either the level of grease reaches six inches (6”) or the level of solids reaches eight inches (8”), the City shall use the number of days from the initial pumping date to the final re-inspection date as the new pumping frequency requirement to be included in the variance granted.
 - (6) At all times, pump-out and cleaning of a gravity grease interceptor(s) shall be required at least once every one hundred eighty (180) days.
- (g) *Interceptor additives.* Any chemicals, enzymes, emulsifiers, live bacteria or other grease cutters or additives shall be approved, in writing, by the City prior to their use by the food service facility or grease hauler. Material Safety Data Sheets (MSDS) and any other applicable information concerning the composition, frequency of use, and mode of action of the proposed additive shall be sent to the City together with a written statement outlining the proposed use of the additive(s). Based on the information received, the facility premises (including a list of all equipment), raw materials, chemicals used or stored, MSDS, and any other information received from the food service facility or supplier, the City shall permit or deny the use of the additive in writing. Permission to use any specific additive may be withdrawn by the City at any time.
- (h) *Alternative grease removal devices or technologies.* Alternative devices and technologies such as automatic grease removal systems shall be subject to written approval by the City prior to installation. Approval of the device shall be based on demonstrated and proven removal efficiencies and reliability of operation.
- (i) *Lift station.* When a lift station is required it shall have a high level alarm that is audio and visual with a City approved sign stating the contact name and phone number for response in the event the alarm sounds.

Section 32-184. Administrative enforcement and abatement.

- (a) *Food service facility enforcement.* Enforcement actions against food service facilities determined to be in violation of this Article shall be as follows:
 - (1) *Notice of violation.* A Notice of Violation (NOV) shall be issued to a food service facility for any one or more of the following reasons:

- a. Failure to properly maintain the hydro-mechanical grease interceptor(s), the gravity grease interceptor(s) or any alternative grease removal device or technology in accordance with the provisions of the fats, oil, and grease discharge certificate and this Article.
- b. Failure to report significant changes in operations or wastewater constituents and characteristics.
- c. Failure to maintain the required records and logbook on site at all times.
- d. Failure to report pumping activities or the use of an unauthorized pumping company.
- e. Failure to provide logs, files, records or access for inspection or monitoring activities.

(2) Notice of Violation response.

- a. Any NOV issued will state the nature of the violation, corrective action required, and timeframe for corrective measures. A food service establishment shall respond to the City in writing within seven (7) calendar days of receipt describing how the non-compliance occurred and what steps will be taken to prevent the re-occurrence.
- b. A food service facility that violates, remains in non-compliance, has repeated non-compliance issues or fails to initiate and complete corrective action in response to a NOV shall be subject to one or more of the following:
 - 1. Actual cost for compliance inspections, costs associated with service calls for sewer line blockages, line cleaning, and any or all labor, materials, and equipment required in response.
 - 2. Continued non-compliance may result in suspension of utility services if the food service facility presents danger to the health and welfare of the public or the environment.
 - 3. Notice to appear before the City's Special Magistrate pursuant to Chapter 2 Article VI of the City of Jacksonville Beach Code of Ordinances.

SECTION 3. INCLUSION IN CODE. The City Council intends that the provisions of this Ordinance shall become and shall be made part of Chapter 32. Utilities of the Code of the City of Jacksonville Beach, that the sections of this Ordinance may be renumbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

SECTION 4. SEVERABILITY. It is hereby declared to be the intention of the City Council for the City of Jacksonville Beach that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable. If any phrase, clause, sentence, paragraph or section of this Code shall be declared to be 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 Ordinance, and this Ordinance shall be read and/or applied as if the invalid, unconstitutional, illegal, or unenforceable section, subsection, sentence, clause, phrase, word, term or provision did not exist.

SECTION 5. CONFLICTING ORDINANCES. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this ordinance are repealed to the extent of conflict or inconsistency herewith.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect upon its adoption in accordance with applicable law.

AUTHENTICATED THIS _____ DAY OF _____, A.D., 2019.

William C. Latham, Mayor

Laurie Scott, City Clerk

City of

Jacksonville Beach

City Hall

11 North Third Street

Jacksonville Beach

FL 32250

Phone: 904.247.6263

Fax: 904.247.6169

www.jacksonvillebeach.org

MEMORANDUM

TO: Michael J. Staffopoulos, City Manager

FROM: Ann Meuse, Human Resources Director

SUBJECT: Ordinances number 2019-8126, 2019-8127 and 2019-8128 amending Chapter 2, Article V, Division 5 - General Employees' Retirement System, Division 6 – Police Officers' Retirement System and Division 7- Firefighters" Retirement System of the City of Jacksonville Beach Code of Ordinances.

DATE: November 4, 2019

ACTION REQUESTED

Adopt ordinances number 2019-8126, 2019-8127 and 2019-8128 amending Chapter 2, Article V, Division 5 - General Employees' Retirement System, Division 6 – Police Officers' Retirement System and Division 7- Firefighters" Retirement System of the City of Jacksonville Beach; Providing for Severability; Providing for the Repeal of Ordinances in Conflict Herewith; And Providing an Effective Date.

BACKGROUND

The General Employees', Police Officers" and Firefighters' Retirement Systems' ordinances have been amended multiple times over the years. Many of these amendments were made in a manner that did not follow a logical sequence, referred to sections of the ordinances that no longer existed, and contained conflicting provisions that made the ordinances difficult to understand and administer. The Board of Trustees for the City's pension plans initiated a project to restate the City's pension ordinances to resolve these issues. Attached are the restated ordinances for the General Employees', Police Officers" and Firefighters' Retirement Systems' along with summaries of the changes made.

The ordinances have been completely re-written in order to make them easier to read, understand and to administer. Definitions and clarification language has been added, outdated provisions and extraneous language has been removed and the ordinances have been re-sequenced to follow a logical order. None of the changes made have any financial impact on the participants or the City or



Memo
November 4, 2109
Page 2

change the way in which benefits are determined, administrated and paid.

The Firefighters' Retirement System ordinance has also been amended to reflect the City's Interlocal Agreement with the City of Jacksonville to take over fire services on November 23, 2019.

RECOMMENDATION

Adopt ordinances number 2019-8126, 2019-8127 and 2019-8128 amending Chapter 2, Article V, Division 5 - General Employees' Retirement System, Division 6 – Police Officers' Retirement System and Division 7- Firefighters' Retirement System of the City of Jacksonville Beach.

SUGARMAN & SUSSKIND

PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

Robert A. Sugarman ♦
Howard S. Susskind
Kenneth R. Harrison, Sr.
D. Marcus Braswell, Jr.
Pedro A. Herrera
David E. Robinson
Ivelisse Berio LeBeau

♦ Board Certified Labor
& Employment Lawyer

100 Miracle Mile
Suite 300
Coral Gables, Florida 33134
(305) 529-2801
Broward 327-2878
Toll Free 1-800-329-2122
Facsimile (305) 447-8115

October 29, 2019

Board of Trustees
City of Jacksonville Beach General Employees' Retirement System
c/o Duston Scott, Payroll/Benefits Administrator
11 North 3rd Street
Jacksonville Beach, FL 32250

*Re: Draft Ordinance Restatement for the City of Jacksonville Beach General
Employees' Retirement System*

Dear Trustees:

It is with great pleasure that we present to you the enclosed draft ordinance restatement of the City of Jacksonville Beach General Employees' Retirement System. We hope that you will find the new plan document to be clearer and easier to administer.

The restatement contains substantial changes, both as to form and to content.

As to the form of the document, you will notice that we have changed the order of many of the sections, in an effort to achieve a more logical sequence of provisions.

Concerning the wording in the document, we have made extensive changes in order to clarify the meaning of certain sections, to resolve certain conflicting provisions, and to ensure that key words are employed in a uniform manner throughout the document. This should make the document easier to use and to understand. The most noteworthy of these changes are as follows:

1. Section 2-162.2 – The current definition of “Accumulated Member Contributions” does not state that a member’s accumulated member contributions include the interest earned thereupon. We have added language to state clearly that a member’s accumulated member contributions include the interest earned on the contributions.
2. Section 2-162.2 – The current plan document does not contain a definition of the term “Actuarially Equivalent,” despite the provision in current Section 2-162.10 that optional forms of benefits shall be actuarially equivalent to the Straight Life form. We have added

a definition of the term "Actuarially Equivalent" in Section 2-162.2 in order to ensure a uniform application of Section 2-162.10.

3. Section 2-162.2 –The current plan document does not contain a definition of the term "City." We have added a definition of "City".
4. Section 2-162.2 – As a result of several changes over the years to the types of pay included in "Compensation," the definition of that term in the current plan document is cumbersome. We have simplified the language, taking into consideration the changes that entered into effect on November 25, 2013.
5. Section 2-162.2 – The current plan document does not contain a definition of "Member," though that term is employed throughout the document. Furthermore, under the current document, an individual who is no longer employed by the City, but who still has his/her accumulated member contributions in the fund, is referred to as a "former member," which has led to significant confusion in the administration of the document. Since member is a term that is used throughout the document, we have added a definition of member in Section 2-162.2. That definition clarifies that the term member includes any individual whose contributions are still in the fund.
6. Section 2-162.2 – The current plan document does not contain a definition of "Vested Member." We have made vested member a defined term, as the right to benefits under the system is limited to vested members.
7. Section 2-162.3 – The current plan document provides for participation in the system for individuals who are employed in a position "regularly requiring" more than 1,000 hours of work in a year. The term "regularly requiring" is ambiguous. We recommend "budgeted for" 1,000 hours as a clearer standard of participation.
8. Section 2-162.3 – Under current Subparagraph (b)(3), an individual who is employed in an executive position or as a department head, and who first declines participation in the system and later wishes to enroll retroactively, must pay the member and employer contributions for the years during which the individual did not participate, plus interest. The new Subparagraph clarifies that interest will be compounded monthly.
9. Subsection 2-162.3(c) – Currently, the plan document provides that membership in the system ceases upon termination of employment by the City. That provision is confusing, however, with regard to individuals whose benefits are vested at the time of termination, as well as with regard to non-vested individuals who leave their member contributions in the plan. In both cases, such individuals still have rights in the system. We have amended this provision to provide that membership does not cease until the member has received a refund of his/her contributions, or has received all of his/her vested benefits. The recommended amendment is also consistent with the new definition of "Member" under Section 2-162.2 (see item 5 above). In accordance with Section 2-162.4(b) (see item 11

below), a Member whose employment has been terminated may leave his/her contributions in the plan for a period of five years from the date of termination pending the possibility of being rehired in covered service.

10. Subsection 2-162.4(a) – The current subsection provides for crediting of service to the nearest 1/12th of a year. That does not accurately reflect the actual administrative practice, which is to credit service to the nearest day. We have therefore amended this subsection to provide for crediting service to the nearest day.
11. Subsection 2-162.4(b) – We have redrafted this Subsection to provide that a member is not entitled to credited service for years with respect to which he/she has received a refund of his/her member contributions, unless the contributions are repaid to the system as provided in Section 2-162.4(c). Also, we have moved to new Subsection 2-162.7 the provision of this Subsection that allows individuals to leave their contributions in the plan for a period of 5 years following termination of service.
12. Subsection 2-162.4(c) – Consistent with current Subsection 2-162.4(b) (which allows individuals to leave their contributions in the plan for a period of 5 years following termination of service), we have added language to clarify that an individual may repurchase years for which he/she received a refund following a termination of service only if he/she returns to service within five years following the termination.
13. We have re-ordered current Sections 2-162.7 (Normal retirement conditions), 2-162.8 (Vested termination of membership), 2-162.19A (Early retirement conditions), and 2-162.22 (Refund of accumulated member contributions for non-vested employees) in order to achieve a logical progression in the document from refund of contributions for non-vested employees (new Section 2-162.7) to vested termination of employment (new Section 2-162.8) to conditions for early and normal retirement (combined in new Section 2-162.9).
14. Section 2-162.8 – Currently this section refers to individuals who have a vested interest in the system, but whose employment is terminated prior to retirement, as “vested former members.” Under the new definition of Member (see items 5 and 9 above), such individuals are still considered to be members of the plan, and also meet the new definition of “Vested Member”, which we have recommended adding to the plan (see item 6 above).
15. Section 2-162.8 – Under the current section, vested members whose employment has been terminated prior to retirement, must wait until the attainment of Normal Retirement Age to begin to receive deferred benefits. We have recommended amending this section to permit vested members whose employment terminates following the effective date of the restatement to begin to receive their deferred benefits upon the attainment of eligibility for Early Retirement.

16. New Section 2-162.9 (Current Section 2-162.7) – As a result of recent changes to the eligibility for normal retirement, the wording in the current section is cumbersome. We have simplified the wording, taking into consideration the changes that entered into effect on November 25, 2013. We have also moved the conditions for early retirement eligibility into the same section (from current Section 2-162.19A) in order to consolidate into a single section the conditions for early and normal retirement.
17. New Subsection 2-162.9(d) (Current Section 2-162.7) – The current language does not specify the effective beginning date of benefits. We have added language referencing Section 2-162.18 which sets forth the benefit beginning date. We have also revised 2-162.18 to clarify that the effective date shall not be earlier than the date upon which an application is filed and approved. In other words, if a member delays filing until after his/her normal retirement age, benefits will not be payable retroactively to normal retirement age.
18. New Section 2-162.10(a) (Current Subsection 2-162.9(a)) – We have added language to state clearly that the accumulated member contribution guarantee (which guarantees that the total amount of benefits paid must equal or exceed the accumulated member contributions) applies to all benefits payable under this Section.
19. New Section 2-162.10 (Current Subsection 2-162.9(c)) – Current Subsection 2-162.9(c) requires the suspension of benefits if a retiree returns to full-time employment with the City. If the Subsection were to be deleted, retirees who have attained normal retirement age could continue to receive their pension benefits while working for the City.
20. New Section 2-162.10 (Current Subsections 2-162.9(d) and 2-162.9(e)) – We have deleted the current Subsection 2-162.9(d) (setting forth the DROP) in its entirety to reflect the fact that the DROP has been discontinued. We have moved all provisions relating to Back DROP (Subsection 2-162.9(e)) to Section 2-162.11 (which sets forth the different forms of benefit payment) by adding a new paragraph (6).
21. New Section 2-162.11 (Current Section 2-162.10) – With regard to certain forms of benefit payment, the current section does not permit a member to change his/her named beneficiary after benefit payments have begun. The new section would allow a member to change his/her designated beneficiary twice during the duration of his/her benefit payments (with a revised actuarial equivalent benefit calculation) without seeking the approval of the Board.
22. New Subsection 2-162.11(6)d. (Current Section 2-162.9(e)(4)) – We have amended the language to clarify that interest on Back DROP benefits shall be compounded monthly.
23. We have combined current Sections 2-162.12 and 2-162.14 into a single section (new Section 2-162.12) regarding survivor benefits. Furthermore, under the current sections 2-162.12 and 2-162.14, survivor benefits must be paid to the member's spouse or children,

if any. The new section would permit members to designate a beneficiary other than his/her spouse, upon the notarized consent of the spouse.

24. New Section 2-162.12 (Current Sections 2-162.12 and 2-162.14) – Current Sections 2-162.8, 2-162.12 and 2-162.14 create a disparity between terminated vested employees and current employees with regard to survivor benefits (pre-retirement death benefits). Under the last sentence of current Section 2-162.8, survivors of terminated employees who are vested with 5 years of service are entitled to survivor benefits under current Section 2-162.12. Current employees, however, under current Sections 2-162.12 and 2-162.14, must have 10 years of service in order for their survivors to be entitled to survivor benefits. The new Section 2-162.12 eliminates the disparity by making the automatic survivor benefit available to all vested Members. Also, we have added language referencing Section 2-162.18 which sets forth the benefit beginning date.
25. New Subsection 2-162.14(a)(1) (Current Subsection 2-162.15(a)(1)) – We have added language requiring that an application for disability be filed no later than 90 days following the administrative termination of a member as a result of disability.
26. New Subsection 2-162.14(b) (Current Subsection 2-162.15(b)) – The current language does not specify the effective beginning date of disability benefits. We have added language referencing Section 2-162.18 which sets forth the benefit beginning date.
27. New Subsection 2-162.15(2)b. (Current Subsection 2-162.16(2)b.) – The amendment adopted by Ordinance 2006-7922, which established a minimum 42% benefit was inadvertently omitted during codification. The new provision includes the language contained in the Ordinance.
28. New Section 2-162.25 (Current Section 2-162.26) – The current section designates the City Clerk as the Secretary of the Board of Trustees. The new section would provide for the Secretary to be elected by the Board of Trustees.
29. New Subsection 2-162.26(a) (Current Subsection 2-162.27(a)) – The current section provides that the Board shall furnish an annual report to the Council “prior to the February 1 following the end of the fiscal year covered by the report.” The new section extends the timeframe to “no later than 9 months following the end of the fiscal year covered by the report.”
30. New Section 2-162.34 (Current Section 2-162.35) – We have added language to clarify that the interest that accrues on a member’s accumulated contribution account shall be compounded monthly.

Board of Trustees
City of Jacksonville Beach General Employees' Retirement System
In re: Draft Restatement
October 29, 2019
Page | 6

It is our sincere hope that the proposed restatement will facilitate your duties as trustees, as well as those of the administrator. We look forward to responding to any questions that you might have.

Sincerely,



DAVID E. ROBINSON

DER/jd

Enclosure

Introduced by: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2019-8126

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING AND RESTATING IN ITS ENTIRETY CHAPTER 2, ARTICLE V, DIVISION 5, GENERAL EMPLOYEES' RETIREMENT SYSTEM, OF THE CITY OF JACKSONVILLE BEACH CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 2000-7781 restated the General Employees' Retirement System; and

WHEREAS, since its original adoption, the Retirement System has been amended by several subsequent ordinances; and

WHEREAS, the trustees of the City of Jacksonville Beach General Employees' Retirement System have requested and approved such restatement as being in the best interests of the participants and beneficiaries as well as improving the administration of the plan; and

WHEREAS, the City Council desires to restate the provisions of the Retirement System in order to facilitate the administration thereof by the Board of Trustees; and

WHEREAS, the City Council has received, reviewed and considered an actuarial impact statement describing the actual impact of the amendments provided for herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. That Chapter 2, Administration, Article V, Employee Benefits, Division 5, The City of Jacksonville Beach General Employees' Retirement System, of the Code of Ordinances of the City of Jacksonville Beach, Florida, as restated by Ordinance No. 2000-7781, and subsequently amended by ordinances 2000-7797, 2000-7802, 2002-7835, 2002-7844, 2004-7883, 2004-7887, 2005-7906, 2006-7922, 2007-7943, 2009-7984, 2012-8022, 2013-8029, 2013-8035, 2013-8039, 2014-8044, 2014-8047, 2014-8055, is hereby amended and restated in full as set forth in the copy attached hereto.

SECTION 2. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. That this Ordinance shall become effective immediately upon adoption in accordance with the Charter of the City of Jacksonville Beach, except as otherwise specified above.

SECTION 4. That this Ordinance was passed on the first reading at a regular meeting of the City Council on ____ day of _____, 2019, and adopted on the second/final reading at a regular meeting of the City Council on the ____ day of _____, 2019.

William C. Latham, Mayor

Laurie Scott, City Clerk

DIVISION 5. - GENERAL EMPLOYEES' RETIREMENT SYSTEM

Sec. 2-162.1. - Name, establishment; effective date.

The City of Jacksonville Beach General Employees' Retirement System established effective November 1, 1951, is continued for the purpose of providing retirement income to qualifying employees and former employees, and survivor income to their qualifying beneficiaries. The effective date of the Retirement System is November 1, 1951.

Sec. 2-162.2. - Definitions.

As used in this division:

Accumulated Member Contributions means the sum of all amounts credited to a Member's individual account in the reserve for Member contributions, including the interest applied thereto in accordance with Section 2-162.34.

Actuarially Equivalent means, for a specified date of reference, the equivalence of the present values of different forms of payment of a benefit, using such actuarial assumptions as shall from time to time be recommended by the Retirement System's actuary and adopted by the board of trustees.

Beneficiary means an individual who is being paid, or who may become eligible to be paid, a Pension on account of the death of a Member.

City means the City of Jacksonville Beach, Florida.

Compensation :

- 1) For Service performed on or after November 25, 2013, except with regard to any Member who as of said date had attained either age sixty (60) with at least five (5) years of credited service, or thirty (30) or more years of credited service regardless of age, Compensation means the Member's base pay and longevity pay, and shall exclude overtime pay and all other payments.
- 2) For all other Service, Compensation means the Member's salary or wages, including longevity pay, overtime pay, shift differentials, incentive pay, pay for periods of absence from work by reason of vacation, holiday, and sickness; and deferred compensation amounts under deferred compensation programs recognized by the board of trustees. Any remuneration or reimbursement not specifically included above shall be excluded, such as, but not limited to, allowances for clothing, equipment, cleaning, and travel; reimbursement of expenses; bonuses; termination of pay; severance pay; payments in consideration of unused vacation or sick leave; and the value of fringe benefits.
- 3) For the purpose of this definition, overtime pay means pay for hours worked in excess of forty (40) hours in a workweek.
- 4) A Member's annual Compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. However, for those Members who commenced participation in the Retirement System prior to the first Plan Year beginning after December 31, 1995, the limitation on Compensation

shall not be less than the amount that was allowed to be taken into account under the Retirement System as in effect on July 1, 1993.

Final Average Compensation means one-fifth of the aggregate amount of a Member's Compensation during the five (5) years of the Member's last ten (10) years of credited service in which the aggregate amount of Compensation is greatest. For this purpose, a year of credited service shall mean each consecutive twelve-month period counting backward from the Member's last day of employment. If the Member has less than five (5) years of credited service, Final Average Compensation means the aggregate amount of the Member's Compensation divided by the Member's credited service.

Member means an individual who is rendering Service to the City; an individual who has separated from Service to the City, other than by death or retirement, and who has Accumulated Member Contributions in the Retirement System; a Retiree.

Pension means the death and retirement benefits provided herein. Payment may be for a temporary period or throughout the future life of a Retiree or Beneficiary.

Plan Year means the 12 month period from October 1 through September 30.

Retiree means an individual who is being paid a Pension on account of the individual's membership in the Retirement System.

Retirement System means the City of Jacksonville Beach General Employees' Retirement System.

Service means personal service rendered to the City in a position included in Section 2-162.3(a), and qualifying military service pursuant to section 2-162.5.

Vested Member means a Member who: has ten (10) or more years of credited service; or had at least five (5) years of credited service on November 25, 2013 ; or has reached normal retirement age as defined in Section 2-162.9. For the purposes of determining a Member's vested status and benefit eligibility (but not the amount of a Member's benefit) the Member shall receive credited service for all years with respect to which the member has earned credited service in any other retirement plan of the City.

Sec. 2-162.3. – Membership of the General Employees' Retirement System.

(a) An individual who is employed by the City in a position that is budgeted (in accordance with the City's legally adopted budget) for 1,000 or more hours of work in a year shall be a Member of the Retirement System, unless employed in an excluded position described in subsection (b) of this section.

(b) Excluded positions are:

(1) Mayor and City Council members.

(2) Independent contractor or positions which are compensated on a basis not subject to the withholding of federal income taxes or FICA taxes by the City.

(3) Positions designated by the City Council as executive or department head, provided that any person initially employed in or promoted to any such position, shall elect within ninety (90) days of initial employment or promotion to participate or not to participate in the Retirement System. Such election may be revoked only

one (1) time prior to vesting, after which no further participation changes shall be allowed. Should any such Member elect to discontinue participation in the Retirement System, the Retirement System shall return to such Member all Accumulated Member Contributions pursuant to the procedures described in Section 2-162.7. If a Member previously elected not to participate in the Retirement System and later chooses to participate, the Member shall be required to pay to the Retirement System any Accumulated Member Contributions that were withdrawn from the Retirement System, and shall pay all Member and City contributions for the time that the person did not participate in the Retirement System plus interest compounded monthly at the Retirement System's assumed rate(s) of return that was/were in effect during the period for which Service is being purchased, as calculated by the Retirement System's actuary.

- (4) Temporary employees.
 - (5) Police officers and reserve police officers.
 - (6) Firefighters.
 - (7) Part-time employees who are Retirees of a City of Jacksonville Beach Retirement System receiving normal retirement Pensions from this Retirement System.
- (c) An individual shall continue to be a Member until the earlier of the following: the date upon which all Accumulated Member Contributions have been refunded to the Member following termination of Service in accordance with Section 2-162.7; the date upon which the entirety of the Member's accrued benefit has been paid; the date of the Member's death.

Sec. 2-162.4. - Credited service.

- (a) Service rendered by the Member shall be credited to the Member's individual credited service account in accordance with rules the board of trustees shall from time to time prescribe. Service shall be credited to the nearest day and in no case shall more than one (1) year of credited service be credited on account of all Service rendered by a Member in any one (1) Plan Year.
- (b) Except as provided in Subsection (c) below, credited service shall not include any year (and/or fraction thereof) of Service with regard to which a Member has received a refund of his Accumulated Member Contributions pursuant to Section 2-162.7.
- (c) A former Member who has received a refund of his or her Accumulated Member Contributions as provided in Subsection 2-162.7, and who subsequently recommences Service, may restore his or her previous credited service for which he or she received a refund, if the effective date of recommencement of Service is within five (5) years of the effective date of the termination of Service. Credited service shall be restored by paying to the Retirement System, within ninety (90) days following the effective date of recommencement of Service, the total amount of the refund of Accumulated Member Contributions that the Member received, plus interest compounded monthly from the date of the refund to the date of repayment at the

Retirement System's assumed rate(s) of return in effect for the period to which the interest applies, as calculated by the Retirement System's actuary.

Sec. 2-162.5. - Intervening military service.

A Member whose Service is terminated for the purpose of entering any armed service of the United States shall be entitled to credited service for periods of active duty, without payment of employee contributions for such period, subject to the following conditions:

- (1) The individual becomes a Member within the later of one (1) year from the date of release from such military service or the time periods provided in the Uniformed Service Employment and Reemployment Rights Act (USERRA).
- (2) The Member pays the Retirement System the total amount of Accumulated Member Contributions withdrawn at the time of, or subsequent to, the termination of Service to enter armed service, in accordance with the provisions of USERRA.
- (3) No more than five (5) years of credited service shall be granted a Member under the provisions of this section. Credited service shall not be granted for periods of armed service which are or could be used for obtaining or increasing a benefit from another retirement system.

Sec. 2-162.6. - Benefit group General.

- (a) The benefit group "general" is designated for the purpose of determining benefit conditions, benefit amounts, and Member contribution rates applicable to general employee Members of the Retirement System which shall consist of all general employees who are not Members of another City retirement system and not excluded in section 2-162.3.
- (b) Except as provided in Section 2-162.8, benefit eligibility conditions shall be those applicable to the Member at the time of death or retirement, whichever is earlier.
- (c) Pension amounts shall be separately determined for each retirement system for which a Member has credited service, and, except as provided in Section 2-162.8 (or its equivalent in any other retirement system), shall be calculated using Retirement System provisions in effect at the time of retirement or death, whichever is earlier.

Sec. 2-162.7 Refund of Accumulated Member Contributions.

- (a) A non-Vested Member who ceases Service for the City for any reason except retirement or death, shall, upon written request of the Member, receive a refund of his or her Accumulated Member Contributions. The Member's credited service in the plan shall be nullified as of the end of the five (5) year period beginning on the effective date of the termination of Service, or the date upon which the member receives a refund of his or her contributions, whichever is earlier.
- (b) If an individual dies and no Pension becomes or will become payable by the Retirement System on account of the death, the deceased individual's Accumulated Member Contributions shall be paid to such individual or individuals as the deceased individual shall have named by written designation duly executed and filed with the

Retirement System. If there is no such named individual surviving the deceased individual, the Accumulated Member Contributions shall be paid to the deceased individual's estate.

Sec. 2-162.8. - Vested termination of membership.

The rights of a Vested Member whose Service terminated prior to November 18, 2019, shall be determined in accordance with the plan provisions in effect on the date of the termination of Service.

A Vested Member whose Service is terminated on or after November 18, 2019 and prior to the normal retirement age in effect on the date of the termination of service, shall become eligible for deferred vested benefits upon attainment of the early or normal retirement age in effect on the date of the termination of Service. Deferred vested benefits shall be calculated and payable in accordance with the provisions for early or normal retirement, whichever applies, in effect on the date of the termination of Service, including Sections 2-162.11 and 2-162.18 relating respectively to the form and to the commencement of benefit payments. In the event that any such Vested Member shall die from any cause before the Member receives a deferred benefit in accordance with this Section and before satisfaction of the requirements for normal retirement under 2-162.9, then a pre-retirement death Pension shall be payable to the deceased Vested Member's surviving Beneficiary(ies) as provided in Section 162.12.

Sec. 2-162.9. – Early and Normal Retirement conditions.

(a) An individual may retire upon satisfaction of each of the following requirements:

- (1) A written application for retirement, in the form established by the board of trustees, has been filed with the Retirement System.
- (2) Service is terminated prior to the date of retirement.
- (3) The individual reaches his/her early or normal retirement age.

(b) Normal retirement age means:

(1) For any Member retiring on or after November 25, 2013, who on said date had ten (10) or more years of credited service or had attained the age and/or service requirements in Subparagraph (A), or (B) of this Paragraph 1, the date upon which the Member attains or attained-

(A) Age sixty (60) or older with five (5) or more years of credited service;
or

(B) Thirty (30) or more years of credited service without regard to age.

(2) For any Member retiring on or after November 25, 2013, who on said date was a Vested Member, had fewer than ten (10) years of credited service and had not attained the age and Service requirements under Paragraph (1)(A) or (1)(B) above, the date upon which the Member attains-

(A) Age sixty-two (62) with ten (10) years of credited service; or

- (B) Age fifty-five (55) with thirty (30) years of credited service, or
 - (C) Age sixty-five (65) with five (5) years of credited service.
- (3) For all other Members retiring on or after November 25, 2013, the date upon which the Member attains –
 - (A) Age sixty-two (62) with ten (10) years of credited service; or
 - (B) Age fifty-five (55) with thirty (30) years of credited service.
- (c) Early retirement age means the date upon which the Member attains Twenty (20) years of credited service, regardless of age.
- (d) The amount of a Member's retirement benefits under this Section shall be determined in accordance with Section 2-162.10. Benefits shall be payable in a form set forth in Section 2-162.11 and shall commence as set forth in Section 2-162.18.
- (e) Notwithstanding any other provision hereunder, a Member's accrued benefit under the plan shall become non-forfeitable upon his/her normal retirement age.

Sec. 2-162.10–. - Amount of a Pension.

- (a) (1) The Accumulated Member Contribution Guarantee under Section 2-162.19 shall apply to all benefits provided under this Section.
- (2) The amount of Pension under optional form of payment SL pursuant to section 2-162.11 shall be equal to the sum of separate amounts determined in accordance with the benefit formula applicable to each retirement system for which the retiring individual has credited service in force.
- (3) The amount of Pension attributable to credited service under a particular retirement system shall be equal to a fraction of the amount of Pension determined as if the individual's total credited service were under the retirement system. The fraction shall be the individual's credited service under the retirement system over the individual's total credited service.
- (b) The benefit formula is:
 - (1) For Normal Retirement:
 - For retirements with an effective date prior to October 1, 1990, two (2) percent of Final Average Compensation multiplied by credited service, to a maximum of sixty (60) percent of Final Average Compensation.
 - For retirements with an effective date after September 30, 1990, and before November 25, 2013, two and one-half percent (2½) of Final Average Compensation multiplied by credited service, to a maximum of seventy-five (75) percent of Final Average Compensation.
 - For retirements with an effective date on or after November 25, 2013, for a Member who had not reached normal retirement eligibility on that date, two and one-half percent (2½ %) of Final Average Compensation multiplied by credited service, to a maximum of seventy-five (75) percent of Final Average

Compensation or ninety thousand dollars (\$90,000.00) annually, whichever is less; provided, any Member whose accrued benefit as of November 25, 2013 was in excess of ninety thousand dollars (\$90,000.00) which is not greater than seventy-five (75) percent of the Member's Final Average Compensation, shall retain that accrued benefit, but shall not accrue any additional benefit after that date.

- A minimum monthly benefit amount shall apply to Retirees who have been retired for thirty (30) or more years or who have accumulated ten (10) or more years of credited service, as periodically established by the City. Such monthly benefit shall be reduced by the applicable survivor benefit as elected by the Retiree pursuant to section 2-162.11. The City shall make deposits into the General Employees' Retirement System equal to the full annual cost of such increase in benefit payments to achieve said minimum monthly benefit.

(2) For Early Retirement:

A Member retiring on or after his or her early retirement age but before the Member's normal retirement age shall receive the monthly benefit level provided in Paragraph (1) above relating to normal retirement, reduced to take into account the Member's younger age and the earlier commencement of income payments. Such reduction shall be equal to 0.6250 percent for each of the first sixty (60) months between the date of early retirement and the normal retirement age, and 0.4583 percent for each month after the first sixty (60) months between the date of early retirement and the Member's normal retirement age. The early retirement benefit shall commence in accordance with Section 2-163.18 and no sooner than the Member's early retirement age. Benefits shall be payable in a form set forth in Section 2-163.11.

Sec. 2-162.11. - Forms of payment of a Pension.

A Member may elect to have Pension payments made under any one (1) of the following forms of payment and name a survivor Beneficiary, provided that for married participants, benefits shall be paid in Form of Payment III with the spouse as the named survivor Beneficiary of a 50% survivor benefit, unless the spouse gives his/her notarized consent to the election of a different Beneficiary and/or form of payment. The election and naming of a survivor Beneficiary shall be in writing and filed with the Retirement System prior to the date the first Pension payment is made. An election of form of payment may not be changed on or after the date the first Pension payment is made. A named survivor Beneficiary may be changed on or after the date the first Pension payment is made up to two (2) times, without the approval of the board of trustees, subject to the notarized consent to the change by the Member's spouse if the Member was married to the spouse on the date of retirement. A named survivor Beneficiary may be more than one (1) person if Form of Payment I is elected. Payment shall be made under Form of Payment SL if there is not a timely election of form of payment. The amount of Pension under Forms of

Payment I, II, and III, shall be Actuarially Equivalent, as of the date of retirement (and, if applicable, as of the effective date of any change of Beneficiary as permitted above), to the amount of Pension under Form of Payment SL.

- (1) *Form of Payment SL (Straight Life Pension)*. Under Form of Payment SL, the Retiree is paid a Pension for life. The amount shall be determined as provided in section 2-162.10.
- (2) *Form of Payment I (Life with Period Certain Guarantee)*. Under Form of Payment I, the Retiree is paid a reduced Pension for life. Upon the death of the Retiree during the guaranteed period, the named survivor Beneficiary is paid the full amount of the Form of Payment I Pension for the remainder of the guaranteed period. The guaranteed period is one hundred twenty (120) months. If both the Retiree and the named survivor Beneficiary die during the guaranteed period, the actuarial present value of the remaining guaranteed Pension payments shall be paid in lump-sum to the estate of the one who survived the other.
- (3) *Form of Payment II (Life with Full Continuation to Survivor Beneficiary)*. Under Form of Payment II, the Retiree is paid a reduced Pension until the Retiree dies. Upon the death of the Retiree during the lifetime of the named survivor Beneficiary, the named survivor Beneficiary is paid the full amount of the reduced Form of Payment II Pension over the named survivor Beneficiary's remaining life.
- (4) *Form of Payment III (Life with Reduced Continuation to Survivor Beneficiary)*. Under Form of Payment III, the Retiree is paid a reduced Pension until the Retiree dies. Upon the death of the Retiree during the lifetime of the named survivor Beneficiary, the named survivor Beneficiary is paid one-half ($\frac{1}{2}$), two-thirds ($\frac{2}{3}$) or three-fourths ($\frac{3}{4}$) of the amount of the reduced Form of Payment III Pension over the named survivor Beneficiary's remaining life.
- (5) POP-UP Protection for Forms of Payment II and III. If a Member who retired on or after October 1, 2009 and who elected Form of Payment II or III is predeceased by his or her designated Beneficiary after benefit payments have commenced, then the Retiree's benefit shall be recalculated and automatically revert to the Form of Payment SL as of the date of death of the named survivor Beneficiary. Said "pop-up" protection shall be included in determining actuarial equivalence with the Form of Payment SL.
- (6) *Back-DROP*. Effective November 25, 2013, and subject to the provisions of this section, eligible Members may elect to participate in the Back-DROP in accordance with this Paragraph (6).
 - a. *Eligibility of Member to participate in the Back-DROP*. A Member who was employed and not participating in DROP on November 25, 2013, and who continues employment beyond the normal retirement age, and any Member who reaches normal retirement eligibility on or after November 25, 2013 and continues employment beyond the normal retirement age is eligible to elect the Back-DROP. The Member shall advise the City and the Retirement System in writing of their Back-DROP election prior to separation from employment. A Member may elect the Back-DROP only once.

- b. *Back-DROP date.* A Member's Back-DROP date shall be a date selected by the Member that is on or after the Member's normal retirement age but no more than thirty-six (36) months prior to their separation date.
- c. *Maximum Back-DROP Period.* An eligible Member may elect the Back-DROP for a period equal to the number of months the Member has been employed beyond the normal retirement age, up to a maximum period of thirty-six (36) months.
- d. *Benefits payable under the Back-DROP.* A Member who elects the Back-DROP shall be entitled to a monthly Pension determined as of the Member's Back-DROP date, plus a lump sum payment equal to the Pension benefits the Member would have received had he/she retired on the Back-DROP date, with interest at the annual rate of three (3) percent compounded monthly. The Member's monthly benefit will be actuarially adjusted to reflect the lump sum payment. The lump sum Back-DROP benefit, less applicable withholding taxes, shall be distributed to the Member within sixty (60) days following separation from employment. Alternatively, a Member may elect to rollover some or all of the lump sum Back-DROP benefit into an eligible retirement plan in accordance with Sec. 2-162.36(d) hereof.
- e. *Forfeiture of retirement benefits.* Nothing in this subsection shall be construed to remove Back-DROP participants from the scope of Section 8(d), Art. II of the State Constitution, and F.S. § 112.3173. Back-DROP participants who commit a specified offense while employed will be subject to forfeiture of all retirement benefits, including Back-DROP benefits, pursuant to those provisions of law.
- f. *Administration of program.* The board of trustees shall make such rules as are necessary for the effective and efficient administration of this subsection. The Retirement System shall not be required to advise Members of the federal tax consequences of an election related to the Back-DROP but may advise Members to seek independent advice.

Sec. 2-162.12. Pre-Retirement Death Pension.

- (a) In the event of the death of a Vested Member prior to retirement, a pre-retirement death Pension shall be paid, as provided below, to the surviving Beneficiary(ies) of the Vested Member, which Pension shall be equal to the Vested Member's accrued benefit on that date, and shall be subject to the Accumulated Member Contributions Guarantee under Section 2-162.19. Benefits shall commence as set forth in Section 2-162.18.
- (b) Except as otherwise provided in Subsection (e) below, the pre-retirement death Pension shall be paid to:
 - (1) the surviving spouse of the deceased Vested Member for life; or, if none,
 - (2) each surviving child of the deceased Vested Member, who is unmarried and has not attained age eighteen (18).

- (c) For the purposes of this Section, surviving spouse means the person to whom the Member is married at the time of death.
- (d) A surviving child's Pension shall terminate at the end of the calendar month in which occurs the child's eighteenth (18th) birthday, marriage, or death. The amount of a surviving child's Pension shall be an equal share of the deceased Vested Member's accrued Pension. A child's share shall be recomputed each time there is a change in the number of surviving children eligible for payment of a Pension.
- (e) A Member may at any time designate a person(s) to receive the pre-retirement death Pension provided herein in place of the surviving spouse, if the spouse consents to such election in writing bearing the notarized signature of the spouse. Such consent shall be valid only with regard to a benefit otherwise payable to the consenting person as the surviving spouse.
- (f) (1) A deceased Vested Member's accrued Pension shall be computed under the following presumptions:
 - a. The deceased Vested Member shall be presumed to have retired under the normal retirement provisions of Section 2-162.9 on the day preceding the Member's death.
 - b. The deceased Member shall be presumed to have elected Form of Payment SL, if the pre-retirement death Pension is to be paid to a surviving spouse or an eligible child. If the pre-retirement death Pension is to be paid to a Beneficiary designated under Subsection (e) above who is neither the spouse nor an eligible child as provided in Subsection (b) above, then the deceased Vested Member shall be presumed to have elected Form of Payment II and named the designated Beneficiary(ies) as survivor Beneficiary(ies).
- (2) The spouse may designate a beneficiary to receive any remainder benefit due in the event of his or her death before the end of the benefit certain period.
- (3) In the case of a Member who dies on or after January 1, 2007, while performing "Qualified Military Service" under Title 38, United States Code, Chapter 43, Uniformed Services Employment and Reemployment Rights Act ("USERRA") within the meaning of Section 414(u) of the Internal Revenue Code, any "additional benefits" (as defined by Section 401(a)(37) of the Internal Revenue Code) provided under the plan that are contingent upon a Member's termination of employment due to death shall be determined as though the Member had resumed employment immediately prior to his death. With respect to any such "additional benefits," for vesting purposes only, credit shall be given for the period of the Member's absence from covered employment during "Qualified Military Service".

Sec. 2-162.13. - Special conditions applicable to death in line of duty.

In the event the death of a Member is found by the board of trustees to be the natural and proximate result, independent of all other causes, of a personal injury or disease

arising out of and in the course of the Member's actual performance of duty with the City, the following additional provisions shall apply to section 2-162.12:

- (1) The Member's eligibility shall be determined without regard to the vesting requirement specified in section 2-162.12.
- (2) The amount of Pension paid a surviving spouse shall not be less than thirty-five (35) percent of the deceased Member's Final Average Compensation.
- (3) The amount of Pension paid a surviving child shall not be less than an equal share of fifty (50) percent of the deceased Member's Final Average Compensation.

Sec. 2-162.14. - Disability retirement—General conditions.

(a) The board of trustees may retire a Member who becomes incapacitated for continued employment by the City if each of the following conditions is met:

- (1) Application for disability retirement is filed with the Retirement System by the Member. In the event that a Member's employment with the City is administratively terminated prior to the Member's filing of a disability application, the Member must file his/her application no later than ninety (90) days following the effective date of the termination of the Member's employment.
- (2) The Member has ten (10) or more years of credited service.
- (3) The Member undergoes the medical examinations and tests ordered by the Retirement System.
- (4) The medical advisor certifies to the board of trustees that the Member is incapacitated, that the incapacity is likely to be permanent, and that the Member should be retired, and, the Member is mentally or physically incapacitated for any continued employment by the City.

(b) The amount of disability Pension shall be computed in accordance with the rules for normal retirement under Section 2-162.10 based upon the Member's years of credited service on the date of separation from Service, and the disability Retiree shall have the right to elect a Form of Payment provided in Section 2-162.11. However, in no event shall such benefit be less than twenty-five (25) percent of the Member's Final Average Compensation. The disability Pension shall be subject to the Accumulated Member Contributions Guarantee under Section 2-162.19. Benefits shall commence as set forth in Section 2-162.18.

Sec. 2-162.15. - Same—Special conditions applicable to duty disability.

If the board of trustees finds that the Member's disability is the natural and proximate result of a personal injury or disease arising out of and in the course of the Member's actual performance of duty in the employ of the City, the following additional provisions shall apply to section 2-162.14:

- (1) The Member's eligibility shall be determined without regard to the credited service requirement in Section 2-162.15.

- (2) A Member who is retired on account of duty disability, shall be paid a duty disability Pension during the Member's duty disability benefit period. A Member's duty disability benefit period begins on the first day of the first month after the board of trustees determines entitlement, provided that the monthly retirement income shall be effective as of the date the board of trustees determines such entitlement. A Member's duty disability benefit period ends on the first to occur of the following dates: the date the Pension is terminated as provided in section 2-162.16 or the date the Pension has been paid for the maximum disability benefit period. The maximum disability benefit period is

Member's Age When Duty Disability Benefit Period Begins	Maximum Benefit Period
Less than age 55	To age 60
Age 55 and over	60 months

- a. The amount of a duty disability Pension is the larger of the Member's accrued Pension calculated as provided in section 2-162.14 and fifty (50) percent of the Member's Final Average Compensation.
 - b. Upon termination of the Member's duty disability benefit period, the Member's credited service shall be increased by the Member's duty disability benefit period. However, in no event shall such benefit be less than 42 percent of the Member's Final Average Compensation.
 - c. The duty disability Pension shall be subject to the provisions of sections 2-162.16 and 2-162.17.
- (3) A Member may elect to continue to be covered by the duty disability, in lieu of the benefit provided in subsection (2) of this section. The election shall be made in accordance with procedures established by the board. A Member who so elects shall thereby be precluded from claiming age discrimination with respect to the duty disability benefit.

Sec. 2-162.16. - Same—Effect on gainful employment.

- (a) The provisions of this section shall apply during the period, if any, between the effective date of disability retirement and the date the disability Retiree first satisfies the age and/or Service requirement for normal retirement pursuant to subsection 2-162.9. Application of the limitation shall be to the amount of Pension under Form of Payment SL. The effect of an election of any other form of payment shall be taken into account after application of the provisions of this section.

- (b) The amount of Pension shall not exceed the difference between one hundred ten (110) percent of the disability Retiree's Final Average Compensation and the amount of the disability Retiree's considered income, however in no event shall such disability retirement benefit be reduced below the minimums as stated in sections 2-162.14 and 2-162.15 herein. A disability Retiree's considered income is the annual amount of remuneration for personal services rendered in any gainful employment. Gainful employment existing at the time of disability retirement, other than with the City, shall not be considered to the extent of the amount of remuneration in the last calendar year preceding retirement.
- (c) The Retirement System shall periodically request substantiated income information from disability Retirees subject to the provisions of this section. Failure to provide requested information within ninety (90) days of the request shall cause suspension of payment of the Pension until the information is received.

Sec. 2-162.17. - Same—Continuation subject to reexamination; return to employment.

- (a) The board of trustees may require a disability Retiree to undergo periodic medical examination, by or under the direction of a medical advisor selected by the board of trustees, if the disability Retiree has not satisfied the age and/or Service requirement for normal retirement pursuant to subsection 2-162.9. If a disability Retiree refuses to submit to a medical examination, payment of the Pension may be suspended by the board of trustees until withdrawal of the refusal. Should refusal continue for one (1) year, all the disability Retiree's rights in and to disability Pension may be revoked by the board of trustees. The terminated disability Retiree may be restored to active employment with the City. A disability Pension shall be discontinued if, following medical examination, the medical advisor certifies that the disability Retiree is mentally and physically able and capable of resuming employment with the City, and the board of trustees concurs in the certification of the medical advisor. The City shall be allowed reasonable latitude in placing the terminated disability Retiree in a position commensurate with the position held at the time of disability retirement.
- (b) The membership status of a disability Retiree who has been restored to employment with the City as provided in subsection (a) of this section shall be governed by section 2-162.3. The disability Retiree's years of credited service as of the date of disability retirement shall be retained. Service shall be credited for the period the disability Retiree was being paid a disability Pension if the provisions of section 2-162.15 were applicable; otherwise, credited service shall not be given for the period of disability retirement.
- (c) A terminated disability Retiree who does not return to Service for the City, and who had ten (10) or more years of credited service at the time of disability retirement, shall be entitled to deferred retirement as provided in section 2-162.8.

Sec. 2-162.18. - Commencement and termination dates of Pensions.

Deferred vested benefits under Section 2-162.8 and early and normal retirement benefits under Section 2-162.9 (except as provided for BACK-DROP under Paragraph (6) of Section 2-162.11) shall be payable effective the later of the first day of the calendar month

coincident with or next following the Member's early or normal retirement age, whichever applies, and the first day of the calendar month coincident with or next following the approval of the application by the Board of Trustees. A pre-retirement death Pension pursuant to section 2-162.12, or 2-162.13 shall be payable effective the first day of the calendar month in which occurs the death causing payment of the Pension. A post-retirement survivor Pension pursuant to section 2-162.11 shall be payable effective the first day of the calendar month next following the death causing payment of the Pension. Disability retirement benefits under Section 2-162.14 shall be payable effective the first day of the calendar month coincident with or next following the date of approval of the application by the Board of Trustees. Disability retirement benefits under Section 2-162.15 shall be payable effective as of the date of approval of the application by the Board of Trustees.

Once commenced, benefit payments shall be made on the first business day of each calendar month until termination, which shall occur at the end of the month in which occurs the event causing termination. Payment shall be made for the full month of termination. A change in the amount of a Pension shall occur on the first day of the calendar month next following the month in which occurs the event causing the change.

Sec. 2-162.19. - Accumulated Member Contribution guarantee.

In the event all Pension payments provided in Sections 2-162.10, 2-162.12, 2-162.13, 2-162.14, 2-162.15, terminate before there has been paid an aggregate amount equal to the Retiree's Accumulated Member Contributions at the date of retirement, the difference between the Retiree's Accumulated Member Contributions and the aggregate amount of Pension payments made shall be paid to such person or persons as the Retiree shall have designated in writing and filed with the Retirement System. If there be no such individual surviving the Retiree, the difference shall be paid to the estate of the last survivor among the Retiree and the designated person or persons.

Sec. 2-162.20. - Member contributions.

Member contributions to the Retirement System shall be 7.95 percent of Compensation. For the period February 5, 2001 through November 29, 2013, Member contributions were 6.45 percent of Compensation

Sec. 2-162.21. - City pickup of Member contributions for Federal Income Tax purposes.

The City shall pick up the Member contributions required of Members on account of Compensation earned after the effective date specified in the resolution of the City Council activating the provisions of this section. The picked-up contributions shall be treated as City contributions for the purposes of determining tax treatment under the United States Internal Revenue Code. The specified effective date shall not be prior to ninety (90) days after the Retirement System has received notification from the United States Internal Revenue Service that, pursuant to Section 414(h) of the United States Internal Revenue Code, the Member contributions picked up shall not be included in gross income for income tax purposes until such time as the picked-up contributions are

distributed by refund or Pension payments. The City shall pick up the Member contributions from funds established and available in the retirement deduction account, which funds would otherwise have been designated as Member contributions and paid to the Retirement System. Member contributions picked up pursuant to this section shall be treated for all other purposes, in the same manner and to the same extent, as Member contributions made prior to the specified effective date.

Sec. 2-162.22. - Procedure if claim for benefits denied.

In the event a claim for benefits is denied by the board of trustees, the claimant shall be notified of the denial, in writing, within thirty (30) days of the board's action. The notification shall set forth the reasons for the denial. The claimant may appeal the denial and request a hearing before the board. The appeal shall be in writing to the City Clerk and filed within ninety (90) days of the board's denial. The request shall contain a written statement of the claimant's position regarding the claim. The board of trustees shall schedule a hearing within ninety (90) days of receipt of the appeal.

Sec. 2-162.23. - Board of trustees—Responsibilities and compensation.

- (a) The Retirement System is created, established, and maintained as an irrevocable trust pursuant to § 112.66(8), Florida Statutes. The board of trustees shall receive, hold, manage, control, and administer the Retirement System for the purpose of providing such benefits as now are, or hereafter may be, authorized or permitted by law, for Members and beneficiaries of the Retirement System and for paying the reasonable expenses of administering the system. No portion of the assets of the Retirement System shall revert to or be the property of the City of Jacksonville Beach, Florida.
- (b) The board of trustees shall consist of the following five (5) individuals:
 - (1) Two (2) members of the City Council, selected by the City Council.
 - (2) A fifth member selected by the other four (4) members and appointed, as a ministerial act, by the City Council. The fifth member may be a Retiree of this system.
 - (3) Two (2) Members of the General Employees' Retirement System, other than Retirees, to be elected by the Members of the General Employees' Retirement System.
- (c) Elections of member trustees shall be conducted in accordance with rules adopted by the board of trustees.
- (d) The board of trustees shall adopt its own rules of procedure and shall keep a record of its proceedings. Three (3) trustees shall constitute a quorum at any meeting of the board and at least three (3) concurring votes shall be necessary for a decision. Each trustee shall be entitled to one (1) vote on each question before the board.
- (e) The City, any Member, or Beneficiary, shall not have any right, title, or interest in or to the Retirement System or any part thereof other than vesting and other than a Pension or other benefit for which a Member or Beneficiary is entitled under the terms

and conditions set forth herein. There shall be no pro rata or other distribution of any of the assets of the Retirement System as a result of any group of Members and/or beneficiaries, ceasing their participation in the Retirement System for any purpose or reason, except as required by law.

Sec. 2-162.24. - Same—Term of office; oath of office; vacancies.

- (a) The term of office of Member-elected trustees shall be four (4) years, one such term to expire every two (2) years. The City Council trustees shall serve at the pleasure of the City Council.
- (b) Each trustee shall, before assuming the duties of trustee, qualify by taking an oath of office to be administered by the City Clerk.
- (c) A vacancy shall occur on the board of trustees if a Member-elected trustee retires, ceases to be a Member, ceases to be covered by the appropriate benefit group, or fails to attend three (3) consecutive meetings of the board of trustees unless in each case excused for cause by the trustees attending the meetings, and a trustee resigns or is removed from office. In the event a vacancy occurs on the board of trustees, the vacancy shall be filled within ninety (90) days, for the unexpired term, in the same manner as the position was previously filled.

Sec. 2-162.25. - Same—Officers; administrative services.

- (a) The officers of the Retirement System shall be:
 - (1) *Chairperson.* The board of trustees shall annually elect a chairperson and a chairperson pro tem from its members.
 - (2) *Secretary.* The board of trustees shall annually elect a secretary from its members.
 - (3) *Treasurer.* The City Finance Director shall be treasurer of the Retirement System. The treasurer shall be custodian of the assets of the Retirement System except as to such assets as the board of trustees may from time to time place in the custody of a nationally chartered bank or trust company.
 - (4) *Legal advisor.* The City Attorney may be legal advisor to the board of trustees. However, the board of trustees is authorized to retain independent legal counsel.
 - (5) *Administrative officer.* The human resources director or his or her designee shall be the administrative officer of the Retirement System.
- (b) The board of trustees is authorized and empowered to employ such professional and other services as are required for the proper discharge of their responsibilities.

Sec. 2-162.26. - Same—Annual report; data and tables.

- (a) The Retirement System shall prepare an annual report for each fiscal year. The report shall contain information regarding the financial, actuarial, and other activities of the Retirement System during the fiscal year. A copy of the report shall be furnished to

the mayor and City Council no later than nine (9) months following the end of the fiscal year covered by the report.

- (b) The Retirement System shall prepare and distribute other reports required by applicable laws of the State of Florida or the United States, as required by such laws.

Sec. 2-162.27. - Investment of Retirement System assets.

The board of trustees shall have full power and authority to invest and reinvest such moneys and assets, subject to all terms, conditions, limitations, and restrictions imposed by the State of Florida on the investments of public employee retirement systems, by investing on a market value basis up to sixty-five (65) percent of the Retirement System's assets in equities (common stocks or capital stocks) as well as allowing for the investment of up to twenty-five (25) percent of plan assets in foreign securities on a market-value basis. The board of trustees may invest up to ten (10) percent of the Retirement System's assets, on a market value basis, in real estate. The board of trustees shall invest and reinvest such moneys in those securities or in that property, real or personal, wherever situated, as the trustee shall deem advisable, including but not limited to, stocks, common or preferred, bonds, mortgages, trusts, and other evidences of indebtedness or ownership. The board of trustees shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in F.S. § 215.473, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in such company beginning January 1, 2010 and shall thereafter be prohibited from purchasing or holding such securities. The divestiture of any such security must be completed by September 30, 2010. In accordance with Ch. 2009-97, Laws of Florida, no person may bring any civil, criminal, or administrative action against the board or any employee, officer, director, or advisor of such board based upon the divestiture of any security pursuant to this paragraph. The board of trustees may employ investment managers to manage, invest, and reinvest the assets of the Retirement System. Such investment managers shall be a named fiduciary with respect to the Retirement System, provided the Retirement System's assets are in a separately managed account, and shall so acknowledge in writing. All moneys and assets of the Retirement System shall be held and invested for the sole purpose of meeting disbursements authorized in accordance with the provisions of this Retirement System and shall be used for no other purposes. The board of trustees may engage a custodian to hold the funds and securities of the Retirement System. Said custodian shall be a nationally chartered bank or trust company. In exercising its discretionary authority with respect to the management of the moneys and assets of the Retirement System, the board of trustees and the investment managers shall exercise care, skill, prudence, and diligence, under the circumstances then prevailing, that a person of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character with like aims.

Sec. 2-162.28. - Method of making payments.

All payments from moneys of the Retirement System shall be made according to procedures governing the disbursement of City general fund moneys. No payment shall

be made unless it shall have been previously authorized by a specific or continuing resolution of the board of trustees.

Sec. 2-162.29. - Reserve for Accumulated Member Contributions.

- (a) The reserve for Accumulated Member Contributions is the account in which is accumulated the contributions deducted from the Compensation of Members, or otherwise paid to the Retirement System by the Member or on the Member's behalf, and from which shall be made refunds and transfers of Accumulated Member Contributions.
- (b) The individual or individuals responsible for preparing the City payroll shall cause the contributions provided for in section 2-162.20 to be deducted from the Compensation of each Member on each and every payroll. The deducted contributions shall be paid to the Retirement System and shall be credited to the Members' individual accounts in the reserve for Accumulated Member Contributions. Members' contributions shall be made notwithstanding that the minimum compensation provided by law for any Member shall be changed thereby. Every Member shall be deemed to consent and agree to the deductions made and provided herein. Payment of Compensation, less the deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered by the Member during the period covered by such payment, except as to benefits provided by the Retirement System.
- (c) The accumulated contributions of a Member shall be transferred from the reserve for Accumulated Member Contributions to the reserve for Pension payments if a Pension is payable on account of a Member's retirement or death.

Sec. 2-162.30. - Reserve for Pension payments.

- (a) The reserve for Pension payments is the account to which is credited contributions made by the City to the Retirement System, all interest, dividends, and other income from the investment of Retirement System assets; all gifts and bequests received by the Retirement System; and all other moneys received by the Retirement System the disposition of which is not specifically provided for, and from which shall be paid all Pensions and refunds required by section 2.162.19.
- (b) The Retirement System shall be funded by the City in compliance with the requirements of Section 14, Art. X of the State Constitution and Chapter 112, Part VII, Florida Statutes.
- (c) City contributions to the Retirement System each fiscal year which, together with the contributions made by Members during the fiscal year, shall be sufficient to fully fund the cost of benefits likely to be paid on account of Service rendered by Members during the year and to finance unfunded costs of benefits likely to be paid on account of Service rendered by Members prior to the current year over periods established by the trustees which shall not exceed the maximum periods specified in Chapter 112, Part VII, Florida Statutes. The contributions shall be computed by actuarial valuation as level percents of Member payroll in accordance with generally recognized actuarial principles. The City shall also contribute the anticipated cost of any other benefits

provided Retirees and Beneficiaries through the Retirement System. The board of trustees shall annually certify to the City Council and the City Manager the contributions determined according to this section, and the City Council shall appropriate and pay to the Retirement System the contributions so certified.

- (d) Should a disability Pension be terminated and the Retiree be returned to the employ of the City, the excess of the Retiree's Accumulated Member Contributions at the time of retirement over the aggregate amount of Pension paid shall be transferred from the reserve for Pension payments to the reserve for Accumulated Member Contributions.

Sec. 2-162.31. - Reserved.

Sec. 2-162.32. - Reserved.

Sec. 2-162.33. - Reserve for administrative expenses.

The reserve for administrative expenses is the account from which shall be paid the expenses of administering the Retirement System.

Sec. 2-162.34. - Interest credited to reserve accounts.

The board of trustees shall at least annually credit interest on the individual balances in the reserve for Accumulated Member Contributions. Interest shall accrue on the prior month's Accumulated Member Contributions ending balance at an annual rate determined by the board of trustees and compounded monthly.

Sec. 2-162.35. - Assets not segregated.

The description of the various reserves of the Retirement System shall be interpreted to refer to the accounting records of the system and not to the segregation of moneys or assets in the reserve accounts of the system.

Sec. 2-162.36. - Internal Revenue Code compliance.

(a) *Maximum amount of retirement income.*

- (1) The limitations of this subsection (a) shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein, and are intended to comply with the requirements of the Pension Protection Act of 2006 and shall be construed in accordance with said Act and guidance issued thereunder. The provisions of this subsection (a) shall supersede any provision of the plan to the extent such provision is inconsistent with this subsection.

The annual pension as defined in paragraph (2) below otherwise payable to a Member at any time shall not exceed the dollar limitation for the Member multiplied by a fraction whose value cannot exceed one (1), the numerator of which is the Member's number of years (or part thereof, but not less than one (1) year) of Service with the City and the denominator of which is ten (10). For this

purpose, no more than one (1) year of Service may be credited for any Plan Year. If the benefit the Member would otherwise accrue in a limitation year would produce an annual pension in excess of the dollar limitation, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the dollar limitation.

- (2) *"Annual pension"* means the sum of all annual benefits, payable in the form of a straight life annuity. Benefits payable in any other form shall be adjusted to the larger of:
 - (A) For limitation years beginning on or after July 1, 2007:
 - (I) The straight life annuity (if any) payable to the Member under the plan commencing at the same annuity starting date as the Member's form of benefit, or
 - (II) The Actuarially Equivalent straight life annuity commencing at the same annuity starting date, computed using a five percent (5.00%) interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).
 - (B) For limitation years beginning before July 1, 2007
 - (I) The Actuarially Equivalent straight life annuity commencing at the same annuity starting date, computed using the interest rate and mortality basis specified by the board of trustees for determining actuarial equivalence under the plan for the particular form of payment, or
 - (II) The Actuarially Equivalent straight life annuity commencing at the same annuity starting date, computed using a five percent (5.00%) interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).

No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to § 417(e)(3) of the Internal Revenue Code and would otherwise satisfy the limitations of this subsection (a), and the amount payable under the form of benefit in any limitation year shall not exceed the limits of this subsection (a) applicable at the annuity starting date, as increased in subsequent years pursuant to § 415(d) of the Code. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

- (3) *"Dollar limitation"* means, effective for the first limitation year beginning after January 1, 2001, one hundred sixty thousand dollars (\$160,000.00), automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a Member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The

dollar limitation shall be further adjusted based on the age of the Member when the benefit begins as follows:

- (A) *For annuity starting dates in limitation years beginning on or after July 1, 2007:*
 - (I) If the annuity starting date for the Member's benefit is after age sixty-five (65):
 - (i) If the plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's annuity starting date that is the actuarial equivalent of the dollar limitation with actuarial equivalence computed using a five percent (5.00%) interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that annuity starting date (and expressing the Member's age based on completed calendar months as of the annuity starting date).
 - (ii) If the plan does have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the lesser of (aa) the dollar limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the Member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age sixty-five (65), both determined without applying the limitations of this subsection (a), and (bb) the limitation determined under subparagraph (3)(A)(I)(i) of this subsection (a). For this purpose, the adjusted immediately commencing straight life annuity under the plan at the Member's annuity starting date is the annual amount of such annuity payable to the Member, computed disregarding the Member's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age sixty-five (65) is the annual amount of such annuity that would be payable under the plan to a hypothetical Member who is age sixty-five (65) and has the same accrued benefit as the Member.
 - (II) Except with respect to a Member who is a "qualified member" as defined in Section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code), if the annuity starting date for the Member's benefit is before age sixty-two (62):

- (i) If the plan does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's annuity starting date that is the actuarial equivalent of the dollar limitation with actuarial equivalence computed using a five percent (5.00%) interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that annuity starting date (and expressing the Member's age based on completed calendar months as of the annuity starting date).

- (ii) If the plan does have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the lesser of (aa) the dollar limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the Member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age sixty-two (62), both determined without applying the limitations of this subsection (a), and (bb) the limitation determined under subparagraph (3)(A)(II)(i) of this subsection (a).

(B) *For annuity starting dates in limitation years beginning before July 1, 2007.*

Age as of Annuity Starting Date:	Adjustment of Dollar Limitation:
Over 65	The smaller of: (a) The actuarial equivalent of the limitation for age 65, computed using the interest rate and mortality basis specified by the board of trustees for determining actuarial equivalence under the plan, or
	(b) The actuarial equivalent of the limitation for age 65, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).
	Any increase in the dollar limitation determined in accordance with this paragraph shall not reflect a mortality decrement between age 65 and the age at which benefits commence if benefits are not forfeited upon the

	death of the Member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.
62 to 65	No adjustment.
Less than 62	The smaller of: (a) The actuarial equivalent of the limitation for age 62, computed using the interest rate and mortality basis specified by the board of trustees for determining actuarial equivalence under the plan, or (b) The actuarial equivalent of the limitation for age 62, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v). This adjustment shall not apply to any "Qualified Member" as defined in Section 415(b)(2)(H), nor to survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code.

- (4) With respect to clause (3)(A)(I)(i), clause (3)(A)(II)(i) and paragraph (3)(B) above, no adjustment shall be made to the dollar limitation to reflect the probability of a Member's death between the annuity starting date and age sixty-two (62), or between age sixty-five (65) and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the Member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Member's death if the plan does not charge Members for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the Member's death.
- (5) The term "limitation year" is the 12-month period which is used for application of the limitations under Code Section 415 and shall be the calendar year.
- (6) The limitations set forth in this subsection (a) shall not apply if the annual pension does not exceed ten thousand dollars (\$10,000.00) provided the Member has never participated in a defined contribution plan maintained by the City.
- (7) Cost-of-living adjustments in the dollar limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury under Section Subsection 415(d) of the Code.
- (8) In the case of a Member who has fewer than ten (10) years of participation in the plan, the dollar limitation set forth in paragraph (3) of this subsection (a) shall be multiplied by a fraction (i) the numerator of which is the number of years (or part thereof) of participation in the plan, and (ii) the denominator of which is 10.

- (9) Any portion of a Member's benefit that is attributable to mandatory Member contributions (unless picked-up by the City) or rollover contributions shall be taken into account in the manner prescribed in the regulations under Section 415 of the Code.
- (10) Should any Member participate in more than one defined benefit plan maintained by the City, in any case in which the Member's benefits under all such defined benefit plans (determined as of the same age) would exceed the dollar limitation applicable at that age, the accrual of the Member's benefit under this plan shall be reduced so that the Member's combined benefits will equal the dollar limitation.
- (11) For a Member who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to § 1.401(a)-20, Q&A 10(d), and with regard to § 1.415(b)1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.
- (12) The determination of the annual pension under paragraph (A)(1) of this subsection (a) shall take into account (in the manner prescribed by the regulations under Section 415 of the Code) social security supplements described in § 411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant § 1.411(d)-4, Q&A-3(c) of the Income Tax Regulations.
- (13) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this subsection (a) and the provisions of Section 415 of the Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code. The value of any benefits forfeited as a result of the application of this subsection (a) shall be used to decrease future employer contributions.
- (14) For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, Compensation shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in this subsection (a), Compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Internal Revenue Code. For limitation years on or after July 1, 2007, Compensation shall

include payments that otherwise qualify as Compensation and that are made by the later of: (a) two and one-half (2½) months after severance from employment with the employer, and (b) the end of the limitation year that includes the date of severance.

(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:

- April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of seventy and one-half (70½) years; or
- April 1 of the calendar year that next follows the calendar year in which the participant retires.

(c) *Required minimum distributions.*

(1) *Required beginning date.* The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date as defined in subsection (b) of this section 2-162.36.

(2) *Death of participant before distributions begin.*

(A) If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the participant's surviving spouse is the participant's sole designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age seventy and one-half (70½), if later.

(ii) If the participant's surviving spouse is not the participant's sole designated Beneficiary, then distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

(iii) If there is no designated Beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(B) The participant's entire interest shall be distributed as follows:

(i) *Participant survived by designated Beneficiary.* If the participant dies before the date distribution of his or her interest begins and there is a designated Beneficiary, the participant's entire interest will be distributed, beginning no later than the time described in subparagraph (2)(A) above, over the life of the designated Beneficiary or over a period certain not exceeding:

- (I) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death; or
- (II) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the annuity starting date.
- (ii) *No designated Beneficiary.* If the participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
- (C) Death of surviving spouse before distributions to surviving spouse begin. In any case in which (i) the participant dies before the date distribution of his or her interest begins, (ii) the participant's surviving spouse is the participant's sole designated Beneficiary, and (iii) the surviving spouse dies before distributions to the surviving spouse begin, subparagraphs (2)(A) and (2)(B) above shall apply as though the surviving spouse were the participant.
- (3) *Requirements for annuity distributions that commence during participant's lifetime.*
- (A) Joint life annuities where the Beneficiary is not the participant's spouse. If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspousal Beneficiary, annuity payments to be made on or after the participant's required beginning date to the designated Beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspousal Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.
- (B) Period certain annuities. Unless the participant's spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age seventy (70), the applicable distribution

period for the participant is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of seventy (70) over the age of the participant as of the participant's birthday in the year that contains the annuity starting date. If the participant's spouse is the participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the participant's applicable distribution period, as determined under this subparagraph (3)(B), or the joint life and last survivor expectancy of the participant and the participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

- (4) *Form of distribution.* Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subparagraphs (4)(A), (4)(B) and (4)(C) below. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the participant's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.
- (A) *General annuity requirements.* If the participant's interest is paid in the form of annuity distributions under the plan, payments under the annuity will satisfy the following requirements:
- (i) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 - (ii) The distribution period will be over a life (or lives) or over a period certain, not longer than the distribution period described in paragraphs (2) or (3) above, whichever is applicable, of this subsection (c);
 - (iii) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
 - (iv) Payments will either be non-increasing or increase only as follows:
 - (I) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - (II) To the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period dies or is no longer the participant's Beneficiary pursuant to a

- qualified domestic relations order within the meaning of Section 414(p) of the Code;
- (III) To provide cash refunds of employee contributions upon the participant's death; or
 - (IV) To pay increased benefits that result from a plan amendment.
- (B) *Amount required to be distributed by required beginning date.* The amount that must be distributed on or before the participant's required beginning date (or, if the participant dies before distributions begin, the date distributions are required to begin under subparagraph (2)(A)(i) or (2)(A)(ii), whichever is applicable) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the participant's required beginning date.
- (C) *Additional accruals after first distribution calendar year.* Any additional benefits accruing to the participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (5) *Beginning date.* For purposes of this subsection (c), distributions are considered to begin on the participant's required beginning date. If annuity payments irrevocably commence to the participant (or to the participant's surviving spouse) before the participant's required beginning date (or, if to the participant's surviving spouse, before the date distributions are required to begin in accordance with subparagraph (2)(A) above), the date distributions are considered to begin is the date distributions actually commence.
- (6) *Definitions.*
- (A) *Designated Beneficiary.* The individual who is designated as the Beneficiary under the plan and is the designated Beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4 of the Treasury regulations.
 - (B) *Distribution calendar year.* A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (2) of this subsection (c).
 - (C) *Life expectancy.* Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

- (d) (1) Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (2) Definitions. The following definitions apply to this section:
- (A) *Eligible rollover distribution:* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
- (i) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten (10) years or more;
 - (ii) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Code;
 - (iii) The portion of any distribution which is made upon hardship of the Member; and
 - (iv) The portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), provided that a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
- (3) Eligible retirement plan: An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, a qualified trust described in Section 401 (a) of the Code, an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, or, with respect to distributions on or after January 1, 2008, a Roth IRA (subject to the limitations of Code Section 408A(c)(3)) that accepts the distributee's eligible rollover distribution.
- (4) Distributee: A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or

former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. Furthermore, effective January 1, 2007, a surviving designated Beneficiary as defined in Section 401(a)(9)(E) of the Code who is not the surviving spouse and who elects a direct rollover to an individual retirement account described in Section 408(a) of the Code or an individual retirement annuity described in Section 408(b) of the Code shall be considered a distributee.

- (5) Direct rollover: A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.
- (e) *Maximum mandatory distribution.* Notwithstanding any other provision of this plan, the maximum amount of any mandatory distribution, as defined in Section 401(a)(31) of the Code, payable under the plan shall be one thousand dollars (\$1,000.00).
- (f) *Compensation limitations under 401(a)(17).* In addition to other applicable limitations set forth in the plan, and notwithstanding any other provision of the plan to the contrary, the annual Compensation of each participant taken into account under the plan shall not exceed the EGTRRA annual Compensation limit for limitation years beginning after December 31, 2001. The EGTRRA annual Compensation limit is two hundred thousand dollars (\$200,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the EGTRRA annual Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

Any reference in the plan to the limitation under Section 401(a)(17) of the Code shall mean the EGTRRA annual Compensation limit set forth in this provision.

- (g) At no time prior to the satisfaction of all liabilities under the plan with respect to Members and their spouses or beneficiaries, shall any part of the corpus or income of the fund be used for or diverted to any purpose other than for their exclusive benefit.

Sec. 2-162.37. - Assignments prohibited.

The right of an individual to a Pension, to the return of Accumulated Member Contributions, the Pension itself, any optional benefit, any other right accrued or accruing to any individual under the provisions of the Retirement System, and any moneys belonging to the Retirement System, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable, except as is otherwise specifically provided herein. If a Member is covered by a group insurance or prepayment plan participated in by the City, and should the Member be permitted to and elect to continue such coverage as a Retiree, the Member may authorize the board of trustees to have deducted from his or her Pension the payments, if any, required of the Retiree to continue coverage under

such group insurance or prepayment plan. The City shall have the right to setoff for any claim arising from embezzlement by a fraud of a Member, Retiree, or Beneficiary as provided in the Florida Statutes.

Sec. 2-162.38. - Subrogation.

- (a) The Retirement System has a right of subrogation against any third-party tortfeasor or insurance carriers representing such third-party tortfeasor, to the extent that the Retirement System becomes obligated to make any disability benefit payments to a Member as a result of injuries caused by the third-party tortfeasor.
- (b) A Member shall execute a subrogation agreement on a form provided by the Retirement System or such other documents, which may be necessary to document the Retirement System's subrogation rights. The Member shall notify the Retirement System of any claim or legal action asserted against any party or insurance carrier for such injuries and shall notify the Retirement System of the name and address of such party and any insurance carrier. The Member shall take no action inconsistent with the requirements of this section, nor settle any claim without obtaining the prior consent of the Retirement System.
- (c) The Retirement System's subrogation rights shall not be subject to equitable distribution or to any reduction for costs or attorneys' fees incurred by the Member in pursuit of his or her claim against a third-party tortfeasor or any insurance carrier. Further, the Retirement System's subrogation rights shall not be subject to reduction regardless of whether the Member recovers the full value of his or her claim against a third-party and/or any insurance carrier.
- (d) In the event that the Member fails to execute a subrogation agreement, or otherwise fails to comply with the terms of this section, then such shall be considered a breach of this Retirement System and disability Pension benefits may be denied and/or discontinued by the board of trustees upon a uniform and nondiscriminatory basis.

Sec. 2-162.39. - Correction of errors.

The Retirement System shall correct errors in the records of the Retirement System. The Retirement System shall seek to recover any overpayments, and shall make up any underpayments, which have been made. The recovery of overpayments may be accomplished by reducing the amount of future payments so that the actuarial present value of actual payments to the recipient is equal to the actuarial present value of the payments to which the recipient was correctly entitled.

Sec. 2-162.40. - Liability.

Payments made by the Retirement System to a Retiree or Beneficiary shall operate as a full discharge, release, and acquittance of the liability of the City and the Retirement System and there shall be no obligation on the part of the City or the Retirement System to assure that such payments are actually used and applied for the benefit of the Retiree or Beneficiary.

Sec. 2-162.41. - Qualified retirement system.

The City intends the Retirement System to be a qualified pension plan under Section 401 of the Internal Revenue Code of 1986, as amended, or successor provisions of law and that the trust be an exempt organization in compliance with Section 501 of said code. The board of trustees may adopt such additional provisions to the Retirement System as are necessary to fulfill the intent of being a qualified pension plan.

Sec. 2-162.42. - Severability.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Sec. 2-162.43. - Merger and termination.

- (a) *Merger.* This Retirement System shall not merge or consolidate with any other retirement system or pension plan, nor transfer any assets or liabilities to any other retirement system or pension plan, unless each Member and Beneficiary of the Retirement System will receive a benefit immediately after such merger, consolidation, or transfer which is at least equal to the benefit the Member or Beneficiary was entitled to immediately before such merger, consolidation, or transfer.
- (b) *Termination.* In the event of termination of the Retirement System, the board of trustees shall follow the procedures contained in Florida Statutes and the Internal Revenue Code. A Member's accrued benefit shall become one hundred (100) percent fully vested (non-forfeitable) upon the termination of this plan.

City of

Jacksonville Beach

City Hall

11 North Third Street

Jacksonville Beach

FL 32250

Phone: 904.247.6263

Fax: 904.247.6169

www.jacksonvillebeach.org

MEMORANDUM

TO: Michael J. Staffopoulos, City Manager

FROM: Ann Meuse, Human Resources Director

SUBJECT: Ordinances number 2019-8126, 2019-8127 and 2019-8128 amending Chapter 2, Article V, Division 5 - General Employees' Retirement System, Division 6 – Police Officers' Retirement System and Division 7- Firefighters' Retirement System of the City of Jacksonville Beach Code of Ordinances.

DATE: November 4, 2019

ACTION REQUESTED

Adopt ordinances number 2019-8126, 2019-8127 and 2019-8128 amending Chapter 2, Article V, Division 5 - General Employees' Retirement System, Division 6 – Police Officers' Retirement System and Division 7- Firefighters' Retirement System of the City of Jacksonville Beach; Providing for Severability; Providing for the Repeal of Ordinances in Conflict Herewith; And Providing an Effective Date.

BACKGROUND

The General Employees', Police Officers' and Firefighters' Retirement Systems' ordinances have been amended multiple times over the years. Many of these amendments were made in a manner that did not follow a logical sequence, referred to sections of the ordinances that no longer existed, and contained conflicting provisions that made the ordinances difficult to understand and administer. The Board of Trustees for the City's pension plans initiated a project to restate the City's pension ordinances to resolve these issues. Attached are the restated ordinances for the General Employees', Police Officers' and Firefighters' Retirement Systems' along with summaries of the changes made.

The ordinances have been completely re-written in order to make them easier to read, understand and to administer. Definitions and clarification language has been added, outdated provisions and extraneous language has been removed and the ordinances have been re-sequenced to follow a logical order. None of the changes made have any financial impact on the participants or the City or



Memo
November 4, 2109
Page 2

change the way in which benefits are determined, administrated and paid.

The Firefighters' Retirement System ordinance has also been amended to reflect the City's Interlocal Agreement with the City of Jacksonville to take over fire services on November 23, 2019.

RECOMMENDATION

Adopt ordinances number 2019-8126, 2019-8127 and 2019-8128 amending Chapter 2, Article V, Division 5 - General Employees' Retirement System, Division 6 – Police Officers' Retirement System and Division 7- Firefighters' Retirement System of the City of Jacksonville Beach.

SUGARMAN & SUSSKIND

PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

Robert A. Sugarman ♦
Howard S. Susskind
Kenneth R. Harrison, Sr.
D. Marcus Braswell, Jr.
Pedro A. Herrera
David E. Robinson
Ivelisse Berlio LeBeau

100 Miracle Mile
Suite 300
Coral Gables, Florida 33134
(305) 529-2801
Broward 327-2878
Toll Free 1-800-329-2122
Facsimile (305) 447-8115

♦ Board Certified Labor
& Employment Lawyer

October 29, 2019

Board of Trustees
City of Jacksonville Beach Police Officers' Retirement System
c/o Duston Scott, Payroll/Benefits Administrator
11 North 3rd Street
Jacksonville Beach, FL 32250

Re: Draft Ordinance Restatement for the City of Jacksonville Beach Police Officers' Retirement System

Dear Trustees:

It is with great pleasure that we present to you the enclosed draft ordinance restatement of the City of Jacksonville Beach Police Officers' Retirement System. We hope that you will find the new plan document to be clearer and easier to administer.

The restatement contains substantial changes, both as to form and to content.

As to the form of the document, you will notice that we have changed the order of many of the sections, in an effort to achieve a more logical sequence of provisions.

Concerning the wording in the document, we have made extensive changes in order to clarify the meaning of certain sections, to resolve certain conflicting provisions, and to ensure that key words are employed in a uniform manner throughout the document. This should make the document easier to use and to understand. The most noteworthy of these changes are as follows:

1. Section 2-163.2 –The current definition of “Accumulated Member Contributions” does not state that a member’s accumulated member contributions include the interest earned thereupon. We have added language to state clearly that a member’s accumulated member contributions include the interest earned on the contributions.
2. Section 2-163.2 – The current plan document does not contain a definition of the term “Actuarially Equivalent,” despite the provision in current Section 2-163.10 that optional

forms of benefits shall be actuarially equivalent to the Life with Period Certain Guarantee form. We have added a definition of the term "Actuarially Equivalent" in Section 2-163.2 in order to ensure a uniform application of Section 2-163.10.

3. Section 2-163.2 –The current plan document does not contain a definition of the term "City." We have added a definition of "City".
4. Section 2-163.2 – As a result of several changes over the years to the types of pay included in "Compensation," the definition of that term in the current plan document is cumbersome. We have simplified the language, taking into consideration the changes that entered into effect on June 23, 2014.
5. Section 2-163.2 – The current plan document does not contain a definition of "Member." Furthermore, under the current document, an individual who is no longer employed by the City, but who still has his/her accumulated member contributions in the fund, is referred to as a "former member," which has led to significant confusion in the administration of the document. Since member is a term that is used throughout the document, we have added a definition of member in Section 2-163.2. That definition clarifies that the term member includes any individual whose contributions are still in the fund.
6. Section 2-163.2 – The current plan document does not contain a definition of "Vested Member." We have made vested member a defined term, as the right to benefits under the system is limited to vested members.
7. Section 2-163.3 – Under current Subparagraph (b)(2), an individual who is hired or promoted to the position of Police Chief, and who first declines participation in the system and later wishes to enroll retroactively, must pay the member and employer contributions for the years during which the individual did not participate, plus interest. The new Subparagraph clarifies that interest will be compounded monthly.
8. Subsection 2-163.3(c) –We have added a new Subsection (c) to this Section to clarify that even following termination of employment, membership in the System does not cease until the member has received a refund of his/her contributions, or has received all of his/her vested benefits. This addition is consistent with the new definition of "Member" under Section 2-163.2 (see item 5 above). In accordance with Section 2-163.4(b) (see item 10 below), a Member whose employment has been terminated may not leave his/her contributions in the plan beyond five years from the date of termination if he/she has not been rehired in covered service.
9. Subsection 2-163.4(a) – The current subsection provides for crediting of service to the nearest 1/12th of a year. That does not accurately reflect the actual administrative practice, which is to credit service to the nearest day. We have therefore amended this subsection to provide for crediting service to the nearest day.

10. Subsection 2-163.4(b) – In its current form, this subsection provides for “forfeiture” of credited service in the event of a break in membership. We believe that the term forfeiture is inaccurate, as generally credited service cannot be denied without a refund of the member’s contributions. Therefore, we recommend amending this subsection to provide more accurately that a member is not entitled to credited service for years with respect to which he/she has received a refund of his/her member contributions, unless the contributions are repaid to the system as provided in Section 2-163.4(c). Also, we have moved to new Subsection 2-163.7 the provision of this Subsection that allows individuals to leave their contributions in the plan for a period of 5 years following termination of service.
11. Subsection 2-163.4(c) – Consistent with current Subsection 2-163.4(b) (which allows individuals to leave their contributions in the plan for a period of 5 years following termination of service), we have added language to clarify that an individual may repurchase years for which he/she received a refund following a termination of service only if he/she returns to service within five years following the termination.
12. We have re-ordered current Sections 2-163.7 (Normal retirement conditions), 2-163.8 (Vested termination of membership), 2-163.19A (Early retirement conditions), and 2-163.22 (Refund of accumulated member contributions for non-vested employees) in order to achieve a logical progression in the document from refund of contributions for non-vested employees (new Section 2-163.7) to vested termination of employment (new Section 2-163.8) to conditions for early and normal retirement (combined in new Section 2-163.9).
13. Section 2-163.8 – Currently this section refers to individuals who have a vested interest in the system, but whose employment is terminated prior to retirement, as “vested former members.” Under the new definition of Member (see items 5 and 8 above), such individuals are still considered to be members of the plan, and also meet the new definition of “Vested Member”, which we have recommended adding to the plan (see item 6 above).
14. Section 2-163.8 – Under the current section, vested members whose employment has been terminated prior to retirement, must wait until the attainment of Normal Retirement Age to begin to receive deferred benefits. We have recommended amending this section to permit vested members whose employment terminates following the effective date of the restatement to begin to receive their deferred benefits upon the attainment of eligibility for Early Retirement.
15. New Section 2-163.9 (Current Section 2-163.7) – As a result of recent changes to the eligibility for normal retirement, the wording in the current section is cumbersome. We have simplified the wording, taking into consideration the changes that entered into effect on June 23, 2014. We have also moved the conditions for early retirement eligibility into

the same section (from current Section 2-163.19A) in order to consolidate into a single section the conditions for early and normal retirement.

16. New Subsection 2-163.9(d) (Current Section 2-163.7) – The current language does not specify the effective beginning date of benefits. We have added language referencing Section 2-163.18 (current Section 2-163.19) which sets forth the benefit beginning date. We have also revised 2-163.18 (current Section 2-163.19) to clarify that the effective date shall not be earlier than the date upon which an application is filed and approved. In other words, if a member delays filing until after his/her normal retirement age, benefits **will not** be payable retroactively to normal retirement age (except as provided in BACK DROP).
17. New Section 2-163.10(a) (Current Subsection 2-163.9) – We have added language to state clearly that the accumulated member contribution guarantee (which guarantees that the total amount of benefits paid must equal or exceed the accumulated member contributions) applies to all benefits payable under this Section.
18. New Section 2-163.10 (Current Subsection 2-163.9(c)) – Current Subsection 2-163.9(c) requires the suspension of benefits if a retiree returns to employment with the City. If the Subsection were to be deleted, retirees who have attained normal retirement age could continue to receive their pension benefits while working for the City.
19. New Section 2-163.10 (Current Subsections 2-163.9(d) and 2-163.9(e)) – We have moved the current Subsection 2-163.9(d) (relating to compliance with IRC Section 415) to Section 2-163.36 (General IRC compliance). With regard to current Subsection 2-163.9(e), we have deleted all provisions relating to DROP, to reflect the fact that the DROP has been discontinued. Paragraph (6) of that Subsection, which relates to BACK DROP, has been retained and moved to new Section 2-163.11 (which sets forth the different forms of benefit payment) by adding a new paragraph (6).
20. New Subsection 2-163.11(6)d. (Current Section 2-163.9(e)(6)d.) – We have amended the language to clarify that interest on Back DROP benefits shall be compounded monthly.
21. We have combined current Sections 2-163.12 and 2-163.14 into a single section (new Section 2-163.12) regarding survivor benefits. Furthermore, under the current sections 2-163.12 and 2-163.14, survivor benefits must be paid to the member's spouse or children, if any. The new section would permit members to designate a beneficiary other than his/her spouse, upon the notarized consent of the spouse.
22. New Section 2-163.12 (Current Sections 2-163.12 and 2-163.14) – Current Sections 2-163.8, 2-163.12 and 2-163.14 create a disparity between terminated vested employees and current employees with regard to survivor benefits. Under the last sentence of current Section 2-163.8, survivors of terminated employees who are vested with 5 years of service are entitled to survivor benefits under current Section 2-163.12. Current

employees, however, under current Sections 2-163.12 and 2-163.14, must have 10 years of service in order for their survivors to be entitled to survivor benefits. The new Section 2-163.12 eliminates the disparity by making the automatic survivor benefit available to all vested members. Also, we have added language referencing Section 2-163.18 which sets forth the benefit beginning date.

23. New Subsection 2-163.14(a)(1) (Current Subsection 2-163.15(a)(1)) – We have added language requiring that an application for disability be filed no later than 90 days following the administrative termination of a member as a result of disability.
24. New Subsection 2-163.14(b) (Current Subsection 2-163.15(b)) – The current language does not specify the effective beginning date of disability benefits. We have added language referencing Section 2-163.18 which sets forth the benefit beginning date.
25. New Subsection 2-163.30(b) (Current Subsection 2-163.31(b)) – We have added language to reflect the agreement between the City and the Fraternal Order Police with regard to the use of Premium Tax funds received under Chapter 185, Florida Statutes.
26. New Subsection 2-163.31 – We have provided for a defined contribution component of the plan, as required by Chapter 185, Florida Statutes.
27. New Section 2-163.34 (Current Section 2-163.35) – We have added language to clarify that the interest that accrues on a member's accumulated contribution account shall be compounded monthly.

It is our sincere hope that the proposed restatement will facilitate your duties as trustees, as well as those of the administrator. We look forward to responding to any questions that you might have.

Sincerely,



DAVID E. ROBINSON

DER/jd

Enclosure

Introduced By: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2019-8127

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING AND RESTATING IN ITS ENTIRETY CHAPTER 2, ARTICLE V, DIVISION 6, POLICE OFFICERS' RETIREMENT SYSTEM, OF THE CITY OF JACKSONVILLE BEACH CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 2000-7782 restated the Police Officers' Retirement System; and

WHEREAS, since its original adoption, the Retirement System has been amended by several subsequent ordinances; and

WHEREAS, the trustees of the City of Jacksonville Beach Police Officers' Retirement System have requested and approved such restatement as being in the best interests of the participants and beneficiaries as well as improving the administration of the plan; and

WHEREAS, the City Council desires to restate the provisions of the Retirement System in order to facilitate the administration thereof by the Board of Trustees; and

WHEREAS, the City Council has received, reviewed and considered an actuarial impact statement describing the actual impact of the amendments provided for herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. That Chapter 2, Administration, Article V, Employee Benefits, Division 6, The City of Jacksonville Beach Police Officers' Retirement System, of the Code of Ordinances of the City of Jacksonville Beach, Florida, as restated by Ordinance No. 2000-7782, and subsequently amended by ordinances 2000-7798, 2001-7811, 2002-7835, 2002-7844, 2004-7884, 2004-7887, 2005-7900, 2006-7922, 2007-7943, 2009-7965, 2009-7983, 2009-7986, 2012-8021, 2012-8022, 2013-8037, 2014-8045, 2014-8048, 2014-8056, is hereby amended and restated in full as set forth in the copy attached hereto.

SECTION 2. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. That this Ordinance shall become effective immediately upon adoption in accordance with the Charter of the City of Jacksonville Beach, except as otherwise specified above.

SECTION 4. That this Ordinance was passed on the first reading at a regular meeting of the City Council on the _____ day of _____, 2019, and adopted on the second/final reading at a regular meeting of the City Council on the _____ day of _____, 2019.

William C. Latham, Mayor

Laurie Scott, City Clerk

DIVISION 6. – POLICE OFFICERS’ RETIREMENT SYSTEM

Sec. 2-163.1. - Name, establishment; effective date.

The City of Jacksonville Beach Police Officers’ Retirement System established effective November 1, 1951, is continued for the purpose of providing retirement income to qualifying employees and former employees, and survivor income to their qualifying beneficiaries. The effective date of the Retirement System is November 1, 1951.

Sec. 2-163.2. - Definitions.

As used in this division:

Accumulated Member Contributions means the sum of all amounts credited to a Member's individual account in the reserve for Member contributions, including the interest applied thereto in accordance with Section 2-163.34.

Actuarially Equivalent means, for a specified date of reference, the equivalence of the present values of different forms of payment of a benefit, using such actuarial assumptions as shall from time to time be recommended by the Retirement System’s actuary and adopted by the board of trustees.

Beneficiary means an individual who is being paid, or who may become eligible to be paid, a Pension on account of the death of a Member.

City means the City of Jacksonville Beach, Florida.

Compensation means base pay, incentive pay, longevity pay and overtime pay, provided:

- (1) For Service on or after June 23, 2014, Compensation does not include overtime pay in excess of 300 hours per calendar year;
- (2) For Service prior to June 23, 2014, Compensation shall also include shift differentials; pay for periods of absence from work by reason of vacation, holiday and sickness; and deferred compensation amounts under deferred compensation programs recognized by the board of trustees. In addition for Service on or after January 1, 2009, but prior to June 23, 2014, Compensation shall include payments in consideration of unused vacation or sick leave up to a maximum of seven hundred fifty (750) hours;

- (3) Compensation shall not include any remuneration or reimbursement not specifically included above, such as, but not limited to, allowances for clothing, equipment, cleaning, and travel; reimbursement of expenses; bonuses; termination of pay; severance pay; payments in consideration of unused vacation or sick leave (except as provided in Paragraph 2 above); and the value of fringe benefits.
- (4) A Member's annual Compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. However, for those Members who commenced participation in the Retirement System prior to the first Plan Year beginning after December 31, 1995, the limitation on Compensation shall not be less than the amount that was allowed to be taken into account under the Retirement System as in effect on July 1, 1993.

Final Average Compensation means one-fifth of the aggregate amount of a Member's Compensation during the five (5) years of the Member's last ten (10) years of credited service in which the aggregate amount of Compensation is greatest. For this purpose, a year of credited service shall mean each consecutive twelve-month period counting backward from the Member's last day of employment. If the Member has less than five (5) years of credited service, "Final Average Compensation" means the aggregate amount of the Member's Compensation divided by the Member's credited service.

Member means an individual who is rendering Service to the City; an individual who has separated from Service to the City, other than by death or retirement, and who has Accumulated Member Contributions in the Retirement System; a Retiree.

Pension means the death and retirement benefits provided herein. Payment may be for a temporary period or throughout the future life of a Retiree or Beneficiary.

Plan Year means the 12 month period from October 1 through September 30.

Police officer means any person who is employed full time by the City, who is certified or required to be certified as a law enforcement officer in compliance with §§ 943.1395 and 185.02(16), Florida Statutes, and who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers.

Retiree means an individual who is being paid a Pension on account of the individual's membership in the Retirement System.

Retirement System means the City of Jacksonville Beach Police Officers' Retirement System.

Service means personal service rendered to the City in a position included in Section 2-163.3(a), and qualifying military service pursuant to section 2-163.5.

Vested Member means a Member who: has ten (10) or more years of credited service; or had at least five (5) years of credited service on June 23, 2014; or has reached

normal retirement age as defined in Section 2-163.9. For the purposes of determining a Member's vested status and benefit eligibility (but not the amount of a Member's benefit) the Member shall receive credited service for all years with respect to which the member has earned credited service in any other retirement plan of the City.

Sec. 2-163.3. – Membership of Police Officers' Retirement System.

- (a) An individual who is employed by the City in a position of full-time Police Officer shall be a Member of the Retirement System, unless employed in an excluded position described in subsection (b) of this section.
- (b) Excluded positions are:
 - (1) Reserve Police Officers;
 - (2) Any person initially employed as or promoted to a position designated by the City Council as the police chief shall elect within ninety (90) days of initial employment or promotion, to participate or not to participate in the Retirement System. Such election may be revoked only one (1) time prior to vesting, after which no further participation changes shall be allowed. Should any such Member elect to discontinue participation in the Retirement System, the Retirement System shall return to such Member all Accumulated Member Contributions pursuant to the procedures described in Section 2-163.7. If a Member previously elected not to participate in the Retirement System and later chooses to participate, the Member shall be required to pay to the Retirement System any Accumulated Member Contributions that were withdrawn from the Retirement System, and shall pay all Member and City contributions for the time that the person did not participate in the Retirement System plus interest compounded monthly at the Retirement System's assumed rate(s) of return that was/were in effect during the period for which Service is being purchased, as calculated by the Retirement System's actuary.
 - (3) Police Officers employed temporarily during an emergency.
- (c) An individual shall continue to be a Member until the earlier of the following: the date upon which all Accumulated Member Contributions have been refunded to the Member following termination of Service in accordance with Section 2-163.7; the date upon which the entirety of the Member's accrued benefit has been paid; the date of the Member's death.

Sec. 2-163.4. - Credited service.

- (a) Service rendered by the Member shall be credited to the Member's individual credited service account in accordance with rules the board of trustees shall from time to time prescribe. Service shall be credited to the nearest day and in no case shall more than one (1) year of credited service be credited on account of all Service rendered by a Member in any one (1) Plan Year.

- (b) Except as provided in Subsection (c) below, credited service shall not include any year (and/or fraction thereof) of Service with regard to which a Member has received a refund of his Accumulated Member Contributions pursuant to Section 2-163.7.
- (c) A former Member who has received a refund of his or her Accumulated Member Contributions as provided in Subsection 2-163.7, and who subsequently recommences Service, may restore his or her previous credited service for which he or she received a refund, if the effective date of recommencement of Service is within five (5) years of the effective date of the termination of Service. Credited service shall be restored by paying to the Retirement System, within ninety (90) days following the effective date of recommencement of Service, the total amount of the refund of Accumulated Member Contributions that the Member received, plus interest compounded monthly from the date of the refund to the date of repayment at the Retirement System's assumed rate(s) of return in effect for the period to which the interest applies, as calculated by the Retirement System's actuary.

Sec. 2-163.5. - Intervening military service.

A Member whose Service is terminated for the purpose of entering any armed service of the United States shall be entitled to credited service for periods of active duty, without payment of employee contributions for such period, subject to the following conditions:

- (1) The individual becomes a Member within the time periods provided in the Uniformed Service Employment and Reemployment Rights Act (USERRA) and F.S. § 185.02.
- (2) The Member pays the Retirement System the total amount of any Accumulated Member Contributions withdrawn at the time of, or subsequent to, the termination of Service to enter armed service, in accordance with the provisions of USERRA.
- (3) No more than five (5) years of credited service shall be granted a Member under the provisions of this section. Credited service shall not be granted for periods of armed service which are or could be used for obtaining or increasing a benefit from another retirement system.

Sec. 2-163.6. - Benefit group Police.

- (a) The benefit group "Police Officer" is designated for the purpose of determining benefit conditions, benefit amounts, and Member contribution rates applicable to Members of the Retirement System.
- (b) Except as provided in Section 2-163.8, benefit eligibility conditions shall be those applicable to the Member at the time of death or retirement, whichever is earlier.
- (c) Pension amounts shall be separately determined for each retirement system for which a Member has credited service, and, except as provided in Section 2-163.8 (or its equivalent in any other retirement system), shall be calculated using Retirement System provisions in effect at the time of retirement or death, whichever is earlier.

Sec. 2-163.7 Refund of Accumulated Member Contributions.

- (a) A non-Vested Member who ceases Service for the City for any reason except retirement or death, shall, upon written request of the Member, receive a refund of his or her Accumulated Member Contributions. The Member's credited service in the plan shall be nullified as of the end of the five (5) year period beginning on the effective date of the termination of Service, or the date upon which the member receives a refund of his or her contributions, whichever is earlier.
- (b) If an individual dies and no Pension becomes or will become payable by the Retirement System on account of the death, the deceased individual's Accumulated Member Contributions shall be paid to such individual or individuals as the deceased individual shall have named by written designation duly executed and filed with the Retirement System. If there is no such named individual surviving the deceased individual, the Accumulated Member Contributions shall be paid to the deceased individual's estate.

Sec. 2-163.8. - Vested termination of membership.

The rights of a Vested Member whose Service terminated prior to November 18, 2019, shall be determined in accordance with the plan provisions in effect on the date of the termination of Service.

A Vested Member whose Service is terminated on or after November 18, 2019 and prior to the normal retirement age in effect on the date of the termination of service, shall become eligible for deferred vested benefits upon attainment of the early or normal retirement age in effect on the date of the termination of Service, and any in case upon attainment of age 50 (in which case the benefit shall be actuarially reduced). Deferred vested benefits shall be calculated and payable in accordance with the provisions for early or normal retirement, whichever applies, in effect on the date of the termination of Service, including Sections 2-163.11 and 2-163.18 relating respectively to the form and to the commencement of benefit payments. In the event that any such Vested Member shall die from any cause before the Member receives a deferred benefit in accordance with this Section and before satisfaction of the requirements for normal retirement under 2-163.9, then a pre-retirement death Pension shall be payable to the deceased Vested Member's surviving Beneficiary(ies) as provided in Section 163.12.

Sec. 2-163.9. – Early and Normal Retirement conditions.

- (a) An individual may retire upon satisfaction of each of the following requirements:
 - (1) A written application for retirement, in the form established by the board of trustees, has been filed with the Retirement System.
 - (2) Service is terminated prior to the date of retirement.
 - (3) The individual reaches his/her early or normal retirement age.
- (b) Normal retirement age means:

- (1) For any Member retiring on or after June 23, 2014, who on said date had ten (10) or more years of credited service or had attained the age and/or service requirements in Subparagraph (A), (B), or (C) below, the date upon which the Member attains or attained-
 - (A) Age fifty-five (55) or older with five (5) or more years of credited service; or
 - (B) Age fifty-two (52) or older with twenty-five or more years of credited service; or
 - (C) Thirty (30) or more years of credited service without regard to age.

- (2) For any Member retiring on or after June 23, 2014, who on said date was a Vested Member, had fewer than ten (10) years of credited service, and had not attained the age and Service requirements under Paragraph (1)(A), (1)(B), or (1)(C) above, the date upon which the Member attains-
 - (A) Age sixty-five (65) or older with five (5) or more years of credited service;
 - (B) Age fifty-five (55) or older with ten (10) or more years of credited service;
 - (C) Age fifty-two (52) or older with twenty-five or more years of credited service;
 - (D) Thirty (30) or more years of credited service without regard to age.

- (3) For all other Members retiring on or after June 23, 2014, the date upon which the Member attains-
 - (A) Age fifty-five (55) or older with ten (10) or more years of credited service;
 - (B) Age fifty-two (52) or older with twenty-five or more years of credited service;
 - (C) Thirty (30) or more years of credited service without regard to age.

- (c) Early retirement age means the date upon which the Member attains age fifty (50) with ten (10) years of credited service, or completes 20 years of credited service regardless of age, provided that only Members who met said age and/or credited service requirements on or before June 23, 2014 shall be eligible for early retirement.
- (d) The amount of a Member's retirement benefits under this Section shall be determined in accordance with Section 2-163.10. Benefits shall be payable in a form set forth in Section 2-163.11 and shall commence as set forth in Section 2-163.18.
- (e) Notwithstanding any other provision hereunder, a Member's accrued benefit under the plan shall become non-forfeitable upon his/her normal retirement age.

Sec. 2-163.10-. - Amount of a Pension.

- (a) (1) The Accumulated Member Contribution Guarantee under Section 2-163.19 shall apply to all benefits provided under this Section.
 - (2) The amount of Pension under optional form of payment I pursuant to section 2-163.11 shall be equal to the sum of separate amounts determined in accordance with the benefit formula applicable to each retirement system for which the retiring individual has credited service in force.
 - (3) The amount of Pension attributable to credited service under a particular retirement system shall be equal to a fraction of the amount of Pension determined as if the individual's total credited services were under the retirement system. The fraction shall be the individual's credited service under the retirement system over the individual's total credited service.
- (b) The benefit formula is:
- (1) For Normal Retirement:
 - a. For retirements with an effective date prior to October 1, 1990, two and one-half (2 1/2) percent of Final Average Compensation multiplied by credited service, to a maximum of seventy-five (75) percent of Final Average Compensation.
 - b. For retirements with an effective date after September 30, 1990 (except as provided in Subparagraphs c and d below), three (3) percent of Final Average Compensation multiplied by credited service, to a maximum of thirty (30) years, and two (2) percent of Final Average Compensation multiplied by all years of credited service in excess of 30, subject to the limitations of F.S. §112.65.
 - c. For retirements on or after June 23, 2014 with regard to Members who were not eligible for normal retirement on said date, three (3) percent of Final Average Compensation multiplied by credited service, for all years of credited service earned on and after June 23, 2014, subject to the maximum benefit provided in Subparagraph d below. Such individuals shall retain their accrued benefits based on credited service earned prior to June 23, 2014.
 - d. For retirements on or after June 23, 2014, the maximum benefit shall be ninety (90) percent of Final Average Compensation or ninety thousand dollars (\$90,000.00) annually, whichever is less; provided, any Member who has an accrued benefit percentage in excess of ninety (90) percent or an annual benefit of more than ninety thousand dollars (\$90,000.00) on June 23, 2014 shall retain that accrued benefit, but shall not accrue any additional benefit after that date.
 - e. A minimum monthly benefit amount shall apply to Retirees who have been retired for thirty (30) or more years or who have accumulated ten (10) or more years of credited service, as periodically established by the City. Such monthly benefit shall be reduced by the applicable survivor benefit as elected by the Retiree pursuant to section 2-163.11. The City shall make deposits into the Police Officers' Retirement System equal to the full annual cost of such increase in benefit payments to achieve said minimum monthly benefit.

(2) For Early Retirement:

A Member retiring on or after his or her early retirement age but before the Member's normal retirement age shall receive the monthly benefit level provided in Paragraph (1) above relating to normal retirement, reduced to take into account the Member's younger age and the earlier commencement of income payments. Such reduction shall not exceed (3) percent per year for the years and fractional parts of years that the early retirement date precedes the normal retirement date. The early retirement benefit shall commence in accordance with Section 2-163.18 and no sooner than the Member's early retirement age. Benefits shall be payable in a form set forth in Section 2-163.11.

Sec. 2-163.11. - Forms of payment of a Pension.

A Member may elect to have Pension payments made under any one (1) of the following forms of payment and name a survivor Beneficiary. The election and naming of a survivor Beneficiary shall be in writing and filed with the Retirement System prior to the date the first Pension payment is made. An election of form of payment may not be changed on or after the date the first Pension payment is made. A named survivor Beneficiary may be changed on or after the date the first Pension payment is made up to two (2) times as provided in § 185.341(2)(a), Florida Statutes, without the approval of the board of trustees or the current survivor beneficiary. The Member need not provide proof of the good health of the survivor Beneficiary being removed, and the joint annuitant or Beneficiary being removed need not be living. After any such change in joint survivor or Beneficiary, the Member's Pension benefit will be recalculated accordingly by the actuary and the retirement income payable to the Member shall be based on the recalculation. A named survivor Beneficiary may be more than one (1) person if Form of Payment I is elected. Payment shall be made under Form of Payment I if there is not a timely election of form of payment. The amount of Pension under Forms of Payment II, III and IV, shall be Actuarially Equivalent, computed as of the date of retirement (and, if applicable, as of the effective date of any change of Beneficiary as permitted above), to the amount of Pension under Form of Payment I.

- (1) *Form of Payment I (Life with Period Certain Guarantee).* Under Form of Payment I, the Retiree is paid a Pension for life. Upon the death of the Retiree during the guaranteed period, the named survivor Beneficiary is paid the full amount of the Form of Payment I Pension for the remainder of the guaranteed period. The guaranteed period is one hundred twenty (120) months. If both the Retiree and the named survivor Beneficiary die during the guaranteed period, the actuarial present value of the remaining guaranteed Pension payments shall be paid in lump-sum to the estate of the one who survived the other.
- (2) *Form of Payment II (Life with Full Continuation to Survivor Beneficiary).* Under Form of Payment II, the Retiree is paid a reduced Pension until the Retiree dies. Upon the death of the Retiree during the lifetime of the named survivor

Beneficiary, the named survivor Beneficiary is paid the full amount of the reduced Form of Payment II Pension over the named survivor Beneficiary's remaining life.

- (3) *Form of Payment III (Life with Reduced Continuation to Survivor Beneficiary).* Under Form of Payment III, the Retiree is paid a reduced Pension until the Retiree dies. Upon the death of the Retiree during the lifetime of the named survivor Beneficiary, the named survivor Beneficiary is paid one-half ($\frac{1}{2}$), two-thirds ($\frac{2}{3}$) or three-fourths ($\frac{3}{4}$) of the amount of the reduced Form of Payment III Pension over the named survivor Beneficiary's remaining life.
- (4) *Form of Payment IV (Straight Life or Lifetime Annuity).* A retirement income of larger monthly amount, payable to the Retiree for his or her lifetime only.
- (5) *POP-UP Protection for Forms of Payment II and III.* If a Member who retired on or after October 1, 2009 and who elected Form of Payment II or III is predeceased by his or her designated Beneficiary after benefit payments have commenced, then the Retiree's benefit shall be recalculated and automatically revert to the Form of Payment I as of the date of death of the named survivor Beneficiary. Said "pop-up" protection shall be included in determining actuarial equivalence with the Form of Payment I.
- (6) *Back-DROP.* Effective June 23, 2014, and subject to the provisions of this section, eligible Members may elect to participate in the Back-DROP in accordance with this Paragraph (6).
 - a. *Eligibility of Member to participate in the Back-DROP.* A Member who was employed and not participating in DROP on June 23, 2014, and who continues employment beyond the normal retirement age, and any Member who reaches normal retirement eligibility on or after June 23, 2014, and continues employment beyond the normal retirement age, is eligible to elect the Back-DROP. The Member shall advise the City and the Retirement System in writing of their Back-DROP election prior to separation from employment. A Member may elect the Back-DROP only once.
 - b. *Back-DROP date.* A Member's Back-DROP date shall be a date selected by the Member that is on or after the Member's normal retirement age but no more than thirty-six (36) months prior to their separation date.
 - c. *Maximum Back-DROP Period.* An eligible Member may elect the Back-DROP for a period equal to the number of months the Member has been employed beyond the normal retirement age, up to a maximum period of thirty-six (36) months.
 - d. *Benefits payable under the Back-DROP.* A Member who elects the Back-DROP shall be entitled to a monthly Pension determined as of the Member's Back-DROP date, plus a lump sum payment equal to the Pension benefits the Member would have received had he/she retired on the Back-DROP date, with interest at the annual rate of three (3) percent compounded monthly. The Member's monthly benefit will be actuarially adjusted to reflect the lump sum payment. The lump sum Back-DROP benefit, less applicable withholding taxes, shall be distributed to the Member within sixty (60) days

following separation from employment. Alternatively, a Member may elect to rollover some or all of the lump sum Back-DROP benefit into an eligible retirement plan in accordance with Sec. 2-163.36(d) hereof.

- e. *Forfeiture of retirement benefits.* Nothing in this subsection shall be construed to remove Back-DROP participants from the scope of Section 8(d), Art. II of the State Constitution, and F.S. § 112.3173. Back-DROP participants who commit a specified offense while employed will be subject to forfeiture of all retirement benefits, including Back-DROP benefits, pursuant to those provisions of law.
- f. *Administration of program.* The board of trustees shall make such rules as are necessary for the effective and efficient administration of this subsection. The Retirement System shall not be required to advise Members of the federal tax consequences of an election related to the Back-DROP, but may advise Members to seek independent advice.

Sec. 2-163.12. Pre-Retirement Death Pension.

- (a) In the event of the death of a Vested Member prior to retirement, a pre-retirement death Pension shall be paid, as provided below, to the surviving Beneficiary(ies) of the Vested Member, which Pension shall be equal to the Vested Member's accrued benefit on that date, and shall be subject to the Accumulated Member Contributions Guarantee under Section 2-163.19. Benefits shall commence as set forth in Section 2-163.18.
- (b) Except as otherwise provided in Subsection (e) below, the pre-retirement death Pension shall be paid to:
 - (1) the surviving spouse of the deceased Vested Member for life with period certain (Form of Benefit I); or, if none,
 - (2) each surviving child of the deceased Vested Member, who is unmarried and has not attained age eighteen (18).
- (c) For the purposes of this Section, surviving spouse means the person to whom the Member is married at the time of death.
- (d) A surviving child's Pension shall terminate at the end of the calendar month in which occurs the child's eighteenth (18th) birthday, marriage, or death. The amount of a surviving child's Pension shall be an equal share of the deceased Vested Member's accrued Pension. A child's share shall be recomputed each time there is a change in the number of surviving children eligible for payment of a Pension.
- (e) A Member may at any time designate a person to receive the pre-retirement death Pension provided herein in place of the surviving spouse, if the spouse consents to such election in writing bearing the notarized signature of the spouse. Such consent shall be valid only with regard to a benefit otherwise payable to the consenting person as a surviving spouse. Any benefit payable pursuant to this Subsection (e) shall be paid in the form of a straight life annuity.

- (f) (1) A deceased Vested Member's accrued Pension shall be computed under the following presumptions:
 - a. The deceased Vested Member shall be presumed to have retired under the normal retirement provisions of Section 2-163.9 on the day preceding the Member's death.
 - b. The deceased Member shall be presumed to have elected Form of Payment I, if the pre-retirement death Pension is to be paid to a surviving spouse or an eligible child. If the pre-retirement death Pension is to be paid to a Beneficiary designated under Subsection (e) above who is neither the spouse nor an eligible child as provided in Subsection (b) above, then the deceased Vested Member shall be presumed to have elected Form of Payment II and named the designated Beneficiary(ies) as survivor Beneficiary(ies).
- (2) The spouse may designate a beneficiary to receive any remainder benefit due in the event of his or her death before the end of the benefit certain period.
- (3) In the case of a Member who dies on or after January 1, 2007, while performing "Qualified Military Service" under Title 38, United States Code, Chapter 43, Uniformed Services Employment and Reemployment Rights Act ("USERRA") within the meaning of Section 414(u) of the Internal Revenue Code, any "additional benefits" (as defined by Section 401(a)(37) of the Internal Revenue Code) provided under the plan that are contingent upon a Member's termination of employment due to death shall be determined as though the Member had resumed employment immediately prior to his death. With respect to any such "additional benefits," for vesting purposes only, credit shall be given for the period of the Member's absence from covered employment during "Qualified Military Service".

Sec. 2-163.13. - Special conditions applicable to death in line of duty.

In the event the death of a Member is found by the board of trustees to be the natural and proximate result, independent of all other causes, of a personal injury or disease arising out of and in the course of the Member's actual performance of duty with the City, the following additional provisions shall apply to section 2-163.12:

- (1) The Member's eligibility shall be determined without regard to the vesting requirement specified in Section 2-163.12.
- (2) The amount of Pension paid a surviving spouse shall not be less than thirty-five (35) percent of the deceased Member's Final Average Compensation.
- (3) The amount of Pension paid a surviving child shall not be less than an equal share of fifty (50) percent of the deceased Member's Final Average Compensation.

Sec. 2-163.14. - Disability retirement—General conditions.

- (a) The board of trustees may retire a Member who becomes incapacitated for continued employment by the City if each of the following conditions is met:
 - (1) Application for disability retirement is filed with the Retirement System by the Member. In the event that a Member's employment with the City is administratively terminated prior to the Member's filing of a disability application, the Member must file his/her application no later than ninety (90) days following the effective date of the termination of the Member's employment.
 - (2) The Member has ten (10) or more years of credited service.
 - (3) The Member undergoes the medical examinations and tests ordered by the Retirement System.
 - (4) The medical advisor certifies to the board of trustees that the Member is incapacitated, that the incapacity is likely to be permanent, and that the Member should be retired, and, the Member is wholly incapacitated from rendering useful and efficient Service as a Police Officer.
- (b) The amount of disability Pension shall be computed in accordance with the rules for normal retirement under Section 2-163.10 based upon the Member's years of credited service on the date of separation from Service, and the disability Retiree shall have the right to elect a Form of Payment provided in Section 2-163.11. However, in no event shall such benefit be less than twenty-five (25) percent of the Member's Final Average Compensation. The disability Pension shall be subject to the Accumulated Member Contributions Guarantee under Section 2-163.19. Benefits shall commence as set forth in Section 2-163.18

Sec. 2-163.15. - Same—Special conditions applicable to duty disability.

If the board of trustees finds that the Member's disability is the natural and proximate result of a personal injury or disease arising out of and in the course of the Member's actual performance of duty in the employ of the City, the following additional provisions shall apply to section 2-163.14:

- (1) The Member's eligibility shall be determined without regard to the credited service requirement in Section 2-163.14.
- (2) A Member who is retired on account of duty disability, shall be paid a duty disability Pension during the Member's duty disability benefit period. A Member's duty disability benefit period begins on the first day of the first month after the board of trustees determines entitlement, provided that the monthly retirement income shall be effective as of the date the board of trustees determines such entitlement. A Member's duty disability benefit period ends on the first to occur of the following dates: the date the Pension is terminated as provided in section 2-163.16 or the date the Pension has been paid for the maximum disability benefit period. The maximum disability benefit period is

Member's Age When Duty Disability Benefit Period Begins	Maximum Benefit Period
Less than age 50	To age 55
Age 50 and over	60 months

- a. The amount of a duty disability Pension is the larger of the Member's accrued Pension calculated as provided in section 2-163.14 and fifty (50) percent of the Member's Final Average Compensation.
 - b. Upon termination of the Member's duty disability benefit period, the Member's credited service shall be increased by the Member's duty disability benefit period.
 - c. The duty disability Pension shall be subject to the provisions of sections 2-163.16 and 2-163.17.
- (3) A Member may elect to continue to be covered by the duty disability, in lieu of the benefit provided in subsection (2) of this section. The election shall be made in accordance with procedures established by the board. A Member who so elects shall thereby be precluded from claiming age discrimination with respect to the duty disability benefit.

Sec. 2-163.16. - Same—Effect on gainful employment.

- (a) The provisions of this section shall apply during the period, if any, between the effective date of disability retirement and the date the disability Retiree first satisfies the age and/or Service requirement for normal retirement pursuant to subsection 2-163.9. Application of the limitation shall be to the amount of Pension under Form of Payment I. The effect of an election of any other form of payment shall be taken into account after application of the provisions of this section.
- (b) The amount of Pension shall not exceed the difference between one hundred ten (110) percent of the disability Retiree's Final Average Compensation and the amount of the disability Retiree's considered income, however in no event shall such disability retirement benefit be reduced below the minimums required in F.S. §185.18. A disability Retiree's considered income is the annual amount of remuneration for personal services rendered in any gainful employment. Gainful employment existing at the time of disability retirement, other than with the City, shall not be considered to the extent of the amount of remuneration in the last calendar year preceding retirement.
- (c) The Retirement System shall periodically request substantiated income information from disability Retirees subject to the provisions of this section. Failure to provide

requested information within ninety (90) days of the request shall cause suspension of payment of the Pension until the information is received.

Sec. 2-163.17. - Same—Continuation subject to reexamination; return to employment.

- (a) The board of trustees may require a disability Retiree to undergo periodic medical examination, by or under the direction of a medical advisor selected by the board of trustees, if the disability Retiree has not satisfied the age and/or Service requirement for normal retirement pursuant to subsection 2-163.9. If a disability Retiree refuses to submit to a medical examination, payment of the Pension may be suspended by the board of trustees until withdrawal of the refusal. The terminated disability Retiree may be restored to active employment with the City. A disability Pension shall be discontinued if, following medical examination, the medical advisor certifies that the disability Retiree is mentally and physically able and capable of resuming employment as a Police Officer with the City, and the board of trustees concurs in the certification of the medical advisor. The City shall be allowed reasonable latitude in placing the terminated disability Retiree in a position commensurate with the position held at the time of disability retirement.
- (b) The membership status of a disability Retiree who has been restored to employment with the City as provided in subsection (a) of this section shall be governed by section 2-163.3. The disability Retiree's years of credited service as of the date of disability retirement shall be retained. Service shall be credited for the period the disability Retiree was being paid a disability Pension if the provisions of section 2-163.15 were applicable; otherwise, credited service shall not be given for the period of disability retirement.
- (c) A terminated disability Retiree who does not return to Service for the City, and who had ten (10) or more years of credited service at the time of disability retirement, shall be entitled to deferred retirement as provided in section 2-163.8.

Sec. 2-163.18. - Commencement and termination dates of Pensions.

Deferred vested benefits under Section 2-163.8 and early and normal retirement benefits under Section 2-163.9 (except as provided for BACK-DROP under Paragraph (6) of Section 2-163.11) shall be payable effective the later of the first day of the calendar month coincident with or next following the Member's early or normal retirement age, whichever applies, and the first day of the calendar month coincident with or next following the approval of the application by the Board of Trustees. A pre-retirement death Pension pursuant to section 2-163.12, or 2-163.13 shall be payable effective the first day of the calendar month in which occurs the death causing payment of the Pension. A post-retirement survivor Pension pursuant to section 2-163.11 shall be payable effective the first day of the calendar month next following the death causing payment of the Pension. Disability retirement benefits under Section 2-163.14 shall be payable effective the first day of the calendar month coincident with or next following the date of approval of the application by the Board of Trustees. Disability retirement benefits under Section 2-163.15 shall be payable effective as of the date of approval of the application by the Board of Trustees.

Once commenced, benefit payments shall be made on the first business day of each calendar month until termination, which shall occur at the end of the month in which occurs the event causing termination. Payment shall be made for the full month of termination. A change in the amount of a Pension shall occur on the first day of the calendar month next following the month in which occurs the event causing the change.

Sec. 2-163.19. - Accumulated Member Contribution guarantee.

In the event all Pension payments provided in Sections 2-163.10, 2-163.12, 2-163.13, 2-163.14, 2-163.15, terminate before there has been paid an aggregate amount equal to the Retiree's Accumulated Member Contributions at the date of retirement, the difference between the Retiree's Accumulated Member Contributions and the aggregate amount of Pension payments made shall be paid to such person or persons as the Retiree shall have designated in writing and filed with the Retirement System. If there be no such individual surviving the Retiree, the difference shall be paid to the estate of the last survivor among the Retiree and the designated person or persons.

Sec. 2-163.20. - Member contributions.

Member contributions to the Retirement System shall be 7.95 percent of Compensation. For the period October 2, 2000 through June 22, 2014, Member contributions were 6.45 percent of Compensation.

Sec. 2-163.21. - City pickup of Member contributions for Federal Income Tax purposes.

The City shall pick up the Member contributions required of Members on account of Compensation earned after the effective date specified in the resolution of the City Council activating the provisions of this section. The picked-up contributions shall be treated as City contributions for the purposes of determining tax treatment under the United States Internal Revenue Code. The specified effective date shall not be prior to ninety (90) days after the Retirement System has received notification from the United States Internal Revenue Service that, pursuant to Section 414(h) of the United States Internal Revenue Code, the Member contributions picked up shall not be included in gross income for income tax purposes until such time as the picked-up contributions are distributed by refund or Pension payments. The City shall pick up the Member contributions from funds established and available in the retirement deduction account, which funds would otherwise have been designated as Member contributions and paid to the Retirement System. Member contributions picked up pursuant to this section shall be treated for all other purposes, in the same manner and to the same extent, as Member contributions made prior to the specified effective date.

Sec. 2-163.22. - Procedure if claim for benefits denied.

In the event a claim for benefits is denied by the board of trustees, the claimant shall be notified of the denial, in writing, within thirty (30) days of the board's action. The notification shall set forth the reasons for the denial. The claimant may appeal the denial and request a hearing before the board. The appeal shall be in writing to the City Clerk

and filed within ninety (90) days of the board's denial. The request shall contain a written statement of the claimant's position regarding the claim. The board of trustees shall schedule a hearing within ninety (90) days of receipt of the appeal.

Sec. 2-163.23. - Board of trustees—Responsibilities and compensation.

- (a) The Retirement System is created, established, and maintained as an irrevocable trust pursuant to §§ 112.66(8), and 185.03 Florida Statutes. The board of trustees shall receive, hold, manage, control, and administer the Retirement System for the purpose of providing such benefits as now are, or hereafter may be, authorized or permitted by law, for Members and beneficiaries of the Retirement System and for paying the reasonable expenses of administering the system. No portion of the assets of the Retirement System shall revert to or be the property of the City of Jacksonville Beach, Florida.
- (b) The board of trustees shall consist of the following five (5) individuals:
 - (1) Two (2) members appointed by the City Council, who shall be residents of the City.
 - (2) Two (2) Police Officers who shall be elected by active Police Officers of the City.
 - (3) A fifth member selected by the other four (4) members and appointed, as a ministerial act, by the City Council.
- (c) Elections of member trustees shall be conducted in accordance with rules adopted by the board of trustees.
- (d) The board of trustees shall adopt its own rules of procedure and shall keep a record of its proceedings in accordance with § 185.05, Florida Statutes. Three (3) trustees shall constitute a quorum at any meeting of the board and at least three (3) concurring votes shall be necessary for a decision. Each trustee shall be entitled to one (1) vote on each question before the board.
- (e) The City, any Member, or Beneficiary, shall not have any right, title, or interest in or to the Retirement System or any part thereof other than vesting and other than a Pension or other benefit for which a Member or Beneficiary is entitled under the terms and conditions set forth herein. There shall be no pro rata or other distribution of any of the assets of the Retirement System as a result of any group of Members and/or beneficiaries, ceasing their participation in the Retirement System for any purpose or reason, except as required by law.

Sec. 2-163.24. - Same—Term of office; oath of office; vacancies.

- (a) The term of office of Member-elected trustees shall be two (2) years. The City Council trustees shall serve two-year terms at the pleasure of the City Council. The fifth member shall serve for a two-year term.
- (b) Each trustee shall, before assuming the duties of trustee, qualify by taking an oath of office to be administered by the City Clerk.

- (c) A vacancy shall occur on the board of trustees if a Member-elected trustee ceases to be employed by the City, if an appointed trustee resigns or is removed from office by the appointing body, or if the fifth trustee resigns. In the event a vacancy occurs on the board of trustees, the vacancy shall be filled within ninety (90) days, for the unexpired term, in the same manner as the position was previously filled.

Sec. 2-163.25. - Same—Officers; administrative services.

- (a) The officers of the Retirement System shall be:
 - (1) *Chairperson.* The board of trustees shall annually elect a chairperson and a chairperson pro tem from its members.
 - (2) *Secretary.* The board of trustees shall annually elect a secretary from its members.
 - (3) *Legal advisor.* The City Attorney may be legal advisor to the board of trustees. However, the board of trustees is authorized to retain independent legal counsel.
- (b) The board of trustees is authorized and empowered to employ such professional and other services as are required for the proper discharge of their responsibilities.

Sec. 2-163.26. - Same—Annual report; data and tables.

- (a) The Retirement System shall prepare an annual report for each fiscal year. The report shall contain information regarding the financial, actuarial, and other activities of the Retirement System during the fiscal year. A copy of the report shall be furnished to the mayor and City Council no later than the February 1 following the end of the fiscal year covered by the report.
- (b) The Retirement System shall prepare and distribute other reports required by applicable laws of the State of Florida or the United States, as required by such laws.

Sec. 2-163.27. - Investment of Retirement System assets.

The board of trustees shall have full power and authority to invest and reinvest such moneys and assets, subject to all terms, conditions, limitations, and restrictions imposed by the State of Florida on the investments of public employee retirement systems, by investing on a market value basis up to sixty-five (65) percent of the Retirement System's assets in equities (common stocks or capital stocks) as well as allowing for the investment of up to twenty-five (25) percent of plan assets in foreign securities on a market-value basis. The board of trustees may invest up to ten (10) percent of the Retirement System's assets, on a market value basis, in real estate. The board of trustees shall invest and reinvest such moneys in those securities or in that property, real or personal, wherever situated, as the trustee shall deem advisable, including but not limited to, stocks, common or preferred, bonds, mortgages, trusts, and other evidences of indebtedness or ownership. The board of trustees shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in F.S. § 215.473, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in such company beginning January 1, 2010 and shall thereafter be prohibited from purchasing or holding such securities. The divestiture of any such security must be

completed by September 30, 2010. In accordance with Ch. 2009-97, Laws of Florida, no person may bring any civil, criminal, or administrative action against the board or any employee, officer, director, or advisor of such board based upon the divestiture of any security pursuant to this paragraph. The board of trustees may employ investment managers to manage, invest, and reinvest the assets of the Retirement System. Such investment managers shall be a named fiduciary with respect to the Retirement System, provided the Retirement System's assets are in a separately managed account, and shall so acknowledge in writing. All moneys and assets of the Retirement System shall be held and invested for the sole purpose of meeting disbursements authorized in accordance with the provisions of this Retirement System and shall be used for no other purposes. The board of trustees may engage a custodian to hold the funds and securities of the Retirement System. Said custodian shall be a nationally chartered bank or trust company. In exercising its discretionary authority with respect to the management of the moneys and assets of the Retirement System, the board of trustees and the investment managers shall exercise care, skill, prudence, and diligence, under the circumstances then prevailing, that a person of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character with like aims.

Sec. 2-163.28. - Method of making payments.

All payments from moneys of the Retirement System shall be made according to procedures governing the disbursement of City general fund moneys. No payment shall be made unless it shall have been previously authorized by a specific or continuing resolution of the board of trustees.

Sec. 2-163.29. - Reserve for Accumulated Member Contributions.

- (a) The reserve for Accumulated Member Contributions is the account in which is accumulated the contributions deducted from the Compensation of Members, or otherwise paid to the Retirement System by the Member or on the Member's behalf, and from which shall be made refunds and transfers of Accumulated Member Contributions.
- (b) The individual or individuals responsible for preparing the City payroll shall cause the contributions provided for in section 2-163.20 to be deducted from the Compensation of each Member on each and every payroll. The deducted contributions shall be paid to the Retirement System and shall be credited to the Members' individual accounts in the reserve for Accumulated Member Contributions. Members' contributions shall be made notwithstanding that the minimum compensation provided by law for any Member shall be changed thereby. Every Member shall be deemed to consent and agree to the deductions made and provided herein. Payment of Compensation, less the deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered by the Member during the period covered by such payment, except as to benefits provided by the Retirement System.
- (c) The accumulated contributions of a Member shall be transferred from the reserve for Accumulated Member Contributions to the reserve for Pension payments if a Pension is payable on account of a Member's retirement or death.

Sec. 2-163.30. - Reserve for Pension payments.

- (a) The reserve for Pension payments is the account to which is credited contributions made by the City to the Retirement System, all interest, dividends, and other income from the investment of Retirement System assets; all gifts and bequests received by the Retirement System; and all other moneys received by the Retirement System the disposition of which is not specifically provided for, and from which shall be paid all Pensions and refunds required by section 2.163.19.
- (b) A majority of the City's Police Officers having approved the placement of the income from Chapter 185, Florida Statutes, premium tax into the Retirement System for payments received by the City from the State of Florida pursuant to Chapter 185, Florida Statutes, such income shall therefore be paid to the Retirement System and credited to the reserve for Pension payments. All moneys received pursuant to such chapters shall be used exclusively to finance the benefits of Members who are Police Officers as provided by such chapter. However, local law plans in effect on October 1, 1998, shall be required to comply with the minimum benefits of Chapter 185, Florida Statutes, only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance. Notwithstanding the foregoing, effective June 23, 2014, the City and Fraternal Order of Police have agreed, and a majority of the City's Police Officers have approved the agreement, that all accumulated additional premium tax revenues as reflected in the October 1, 2012, actuarial valuation, shall be used to reduce the unfunded actuarial accrued liability of the Retirement System. Effective , the City and Fraternal Order of Police have agreed, and a majority of the City's Police Officers have approved the agreement, that all annual premium tax revenues received pursuant to Chapter 185, Florida Statutes, will be used to offset the City's pension contribution, and that all accumulated excess premium tax revenues as of October 1, 2016 will be used to offset the City's pension contribution.
- (c) The Retirement System shall be funded by the City in compliance with the requirements of Section 14, Art. X of the State Constitution and Chapter 112, Part VII, and Chapter 185 Florida Statutes.
- (d) City contributions to the Retirement System each fiscal year which, together with the contributions made by Members during the fiscal year and moneys received pursuant to Chapter 185, Florida Statutes, shall be sufficient to fully fund the cost of benefits likely to be paid on account of Service rendered by Members during the year and to finance unfunded costs of benefits likely to be paid on account of Service rendered by Members prior to the current year over periods established by the trustees which shall not exceed the maximum periods specified in Part VII of Chapters 112 and 185, Florida Statutes. The contributions shall be computed by actuarial valuation as level percents of Member payroll in accordance with generally recognized actuarial principles. The City shall also contribute the anticipated cost of any other benefits provided Retirees and Beneficiaries through the Retirement System. The board of trustees shall annually certify to the City Council and the City Manager the

contributions determined according to this section, and the City Council shall appropriate and pay to the Retirement System the contributions so certified.

- (e) Should a disability Pension be terminated and the Retiree be returned to the employ of the City, the excess of the Retiree's Accumulated Member Contributions at the time of retirement over the aggregate amount of Pension paid shall be transferred from the reserve for Pension payments to the reserve for Accumulated Member Contributions.

Sec. 2-163.31. – Defined Contribution Supplemental Retirement Benefit.

In accordance with section 185.35(6), Florida Statutes, a defined contribution plan component (“Share Plan”) is hereby established for police officers as part of the defined benefit pension plan, to be funded exclusively with Chapter 185 premium tax revenues. However, the City and police officers’ union have mutually agreed that no Chapter 185 premium tax revenues will be allocated to the Share Plan at this time. At such time as Chapter 185 premium tax revenues are allocated to the Share Plan, the city and union will negotiate the details of the Share Plan.

Sec. 2-163.32. - Reserved.

Sec. 2-163.33. - Reserve for administrative expenses.

The reserve for administrative expenses is the account from, which shall be paid the expenses of administering the Retirement System.

Sec. 2-163.34. - Interest credited to reserve accounts.

The board of trustees shall at least annually credit interest on the individual balances in the reserve for Accumulated Member Contributions. Interest shall accrue on the prior month's Accumulated Member Contributions ending balance at an annual rate determined by the board of trustees and compounded monthly.

Sec. 2-163.35. - Assets not segregated.

The description of the various reserves of the Retirement System shall be interpreted to refer to the accounting records of the system and not to the segregation of moneys or assets in the reserve accounts of the system.

Sec. 2-163.36. - Internal Revenue Code compliance.

(a) *Maximum amount of retirement income.*

- (1) The limitations of this subsection (a) shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein, and are intended to comply with the requirements of the Pension Protection Act of 2006 and shall be construed in accordance with said Act and guidance issued thereunder. The

provisions of this subsection (a) shall supersede any provision of the plan to the extent such provision is inconsistent with this subsection.

The annual pension as defined in paragraph (2) below otherwise payable to a Member at any time shall not exceed the dollar limitation for the Member multiplied by a fraction whose value cannot exceed one (1), the numerator of which is the Member's number of years (or part thereof, but not less than one (1) year) of Service with the City and the denominator of which is ten (10). For this purpose, no more than one (1) year of Service may be credited for any Plan Year. If the benefit the Member would otherwise accrue in a limitation year would produce an annual pension in excess of the dollar limitation, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the dollar limitation.

- (2) *"Annual pension"* means the sum of all annual benefits, payable in the form of a straight life annuity. Benefits payable in any other form shall be adjusted to the larger of:
 - (A) For limitation years beginning on or after July 1, 2007:
 - (I) The straight life annuity (if any) payable to the Member under the plan commencing at the same annuity starting date as the Member's form of benefit, or
 - (II) The Actuarially Equivalent straight life annuity commencing at the same annuity starting date, computed using a five percent (5.00%) interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).
 - (B) For limitation years beginning before July 1, 2007
 - (I) The Actuarially Equivalent straight life annuity commencing at the same annuity starting date, computed using the interest rate and mortality basis specified by the board of trustees for determining actuarial equivalence under the plan for the particular form of payment, or
 - (II) The Actuarially Equivalent straight life annuity commencing at the same annuity starting date, computed using a five percent (5.00%) interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).

No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to § 417(e)(3) of the Internal Revenue Code and would otherwise satisfy the limitations of this subsection (a), and the amount payable under the form of benefit in any limitation year shall not exceed the limits of this subsection (a) applicable at the annuity starting date, as increased in subsequent years pursuant to § 415(d) of the Code. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

(3) *"Dollar limitation"* means, effective for the first limitation year beginning after January 1, 2001, one hundred sixty thousand dollars (\$160,000.00), automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a Member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The dollar limitation shall be further adjusted based on the age of the Member when the benefit begins as follows:

(A) *For annuity starting dates in limitation years beginning on or after July 1, 2007:*

(I) If the annuity starting date for the Member's benefit is after age sixty-five (65):

(i) If the plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's annuity starting date that is the actuarial equivalent of the dollar limitation with actuarial equivalence computed using a five percent (5.00%) interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that annuity starting date (and expressing the Member's age based on completed calendar months as of the annuity starting date).

(ii) If the plan does have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the lesser of (aa) the dollar limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the Member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age sixty-five (65), both determined without applying the limitations of this subsection (a), and (bb) the limitation determined under subparagraph (3)(A)(I)(i) of this subsection (a). For this purpose, the adjusted immediately commencing straight life annuity under the plan at the Member's annuity starting date is the annual amount of such annuity payable to the Member, computed disregarding the Member's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age sixty-five (65) is the annual amount of such annuity that would be payable under

the plan to a hypothetical Member who is age sixty-five (65) and has the same accrued benefit as the Member.

(II) Except with respect to a Member who is a "qualified member" as defined in Section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code), if the annuity starting date for the Member's benefit is before age sixty-two (62):

(i) If the plan does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's annuity starting date that is the actuarial equivalent of the dollar limitation with actuarial equivalence computed using a five percent (5.00%) interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that annuity starting date (and expressing the Member's age based on completed calendar months as of the annuity starting date).

(ii) If the plan does have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the lesser of (aa) the dollar limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the Member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age sixty-two (62), both determined without applying the limitations of this subsection (a), and (bb) the limitation determined under subparagraph (3)(A)(II)(i) of this subsection (a).

(B) *For annuity starting dates in limitation years beginning before July 1, 2007.*

Age as of Annuity Starting Date:	Adjustment of Dollar Limitation:
Over 65	The smaller of: (a) The actuarial equivalent of the limitation for age 65, computed using the interest rate and mortality basis specified by the board of trustees for determining actuarial equivalence under the plan, or

	<p>(b) The actuarial equivalent of the limitation for age 65, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</p> <p>Any increase in the dollar limitation determined in accordance with this paragraph shall not reflect a mortality decrement between age 65 and the age at which benefits commence if benefits are not forfeited upon the death of the Member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.</p>
62 to 65	No adjustment.
Less than 62	<p>The smaller of:</p> <p>(a) The actuarial equivalent of the limitation for age 62, computed using the interest rate and mortality basis specified by the board of trustees for determining actuarial equivalence under the plan, or</p> <p>(b) The actuarial equivalent of the limitation for age 62, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</p> <p>This adjustment shall not apply to any "Qualified Member" as defined in Section 415(b)(2)(H), nor to survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code.</p>

- (4) With respect to clause (3)(A)(I)(i), clause (3)(A)(II)(i) and paragraph (3)(B) above, no adjustment shall be made to the dollar limitation to reflect the probability of a Member's death between the annuity starting date and age sixty-two (62), or between age sixty-five (65) and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the Member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Member's death if the plan does not charge Members for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the Member's death.
- (5) The term "limitation year" is the 12-month period which is used for application of the limitations under Code Section 415 and shall be the calendar year.
- (6) The limitations set forth in this subsection (a) shall not apply if the annual pension does not exceed ten thousand dollars (\$10,000.00) provided the Member has never participated in a defined contribution plan maintained by the City.

- (7) Cost-of-living adjustments in the dollar limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury under Section Subsection 415(d) of the Code.
- (8) In the case of a Member who has fewer than ten (10) years of participation in the plan, the dollar limitation set forth in paragraph (3) of this subsection (a) shall be multiplied by a fraction (i) the numerator of which is the number of years (or part thereof) of participation in the plan, and (ii) the denominator of which is 10.
- (9) Any portion of a Member's benefit that is attributable to mandatory Member contributions (unless picked-up by the City) or rollover contributions shall be taken into account in the manner prescribed in the regulations under Section 415 of the Code.
- (10) Should any Member participate in more than one defined benefit plan maintained by the City, in any case in which the Member's benefits under all such defined benefit plans (determined as of the same age) would exceed the dollar limitation applicable at that age, the accrual of the Member's benefit under this plan shall be reduced so that the Member's combined benefits will equal the dollar limitation.
- (11) For a Member who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to § 1.401(a)-20, Q&A 10(d), and with regard to § 1.415(b)1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.
- (12) The determination of the annual pension under paragraph (A)(1) of this subsection (a) shall take into account (in the manner prescribed by the regulations under Section 415 of the Code) social security supplements described in § 411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant § 1.411(d)-4, Q&A-3(c) of the Income Tax Regulations.
- (13) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this subsection (a) and the provisions of Section 415 of the Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code. The value of any benefits forfeited as a result of the application of this subsection (a) shall be used to decrease future employer contributions.
- (14) For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, Compensation shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code),

and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in this subsection (a), Compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Internal Revenue Code. For limitation years on or after July 1, 2007, Compensation shall include payments that otherwise qualify as Compensation and that are made by the later of: (a) two and one-half (2½) months after severance from employment with the employer, and (b) the end of the limitation year that includes the date of severance.

(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:

- April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of seventy and one-half (70½) years; or
- April 1 of the calendar year that next follows the calendar year in which the participant retires.

(c) *Required minimum distributions.*

(1) *Required beginning date.* The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date as defined in subsection (b) of this section 2-163.36.

(2) *Death of participant before distributions begin.*

(A) If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the participant's surviving spouse is the participant's sole designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age seventy and one-half (70½), if later.

(ii) If the participant's surviving spouse is not the participant's sole designated Beneficiary, then distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

(iii) If there is no designated Beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(B) The participant's entire interest shall be distributed as follows:

- (i) *Participant survived by designated Beneficiary.* If the participant dies before the date distribution of his or her interest begins and there is a designated Beneficiary, the participant's entire interest will be distributed, beginning no later than the time described in subparagraph (2)(A) above, over the life of the designated Beneficiary or over a period certain not exceeding:
 - (I) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death; or
 - (II) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the annuity starting date.
- (ii) *No designated Beneficiary.* If the participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
- (C) Death of surviving spouse before distributions to surviving spouse begin. In any case in which (i) the participant dies before the date distribution of his or her interest begins, (ii) the participant's surviving spouse is the participant's sole designated Beneficiary, and (iii) the surviving spouse dies before distributions to the surviving spouse begin, subparagraphs (2)(A) and (2)(B) above shall apply as though the surviving spouse were the participant.
- (3) *Requirements for annuity distributions that commence during participant's lifetime.*
 - (A) Joint life annuities where the Beneficiary is not the participant's spouse. If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspousal Beneficiary, annuity payments to be made on or after the participant's required beginning date to the designated Beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspousal Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.

- (B) Period certain annuities. Unless the participant's spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age seventy (70), the applicable distribution period for the participant is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of seventy (70) over the age of the participant as of the participant's birthday in the year that contains the annuity starting date. If the participant's spouse is the participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the participant's applicable distribution period, as determined under this subparagraph (3)(B), or the joint life and last survivor expectancy of the participant and the participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the calendar year that contains the annuity starting date.
- (4) *Form of distribution.* Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subparagraphs (4)(A), (4)(B) and (4)(C) below. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the participant's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.
- (A) *General annuity requirements.* If the participant's interest is paid in the form of annuity distributions under the plan, payments under the annuity will satisfy the following requirements:
- (i) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 - (ii) The distribution period will be over a life (or lives) or over a period certain, not longer than the distribution period described in paragraphs (2) or (3) above, whichever is applicable, of this subsection (c);
 - (iii) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
 - (iv) Payments will either be non-increasing or increase only as follows:

- (I) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - (II) To the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period dies or is no longer the participant's Beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;
 - (III) To provide cash refunds of employee contributions upon the participant's death; or
 - (IV) To pay increased benefits that result from a plan amendment.
- (B) *Amount required to be distributed by required beginning date.* The amount that must be distributed on or before the participant's required beginning date (or, if the participant dies before distributions begin, the date distributions are required to begin under subparagraph (2)(A)(i) or (2)(A)(ii), whichever is applicable) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the participant's required beginning date.
- (C) *Additional accruals after first distribution calendar year.* Any additional benefits accruing to the participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (5) *Beginning date.* For purposes of this subsection (c), distributions are considered to begin on the participant's required beginning date. If annuity payments irrevocably commence to the participant (or to the participant's surviving spouse) before the participant's required beginning date (or, if to the participant's surviving spouse, before the date distributions are required to begin in accordance with subparagraph (2)(A) above), the date distributions are considered to begin is the date distributions actually commence.
- (6) *Definitions.*
- (A) *Designated Beneficiary.* The individual who is designated as the Beneficiary under the plan and is the designated Beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4 of the Treasury regulations.
 - (B) *Distribution calendar year.* A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the

calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (2) of this subsection (c).

- (C) *Life expectancy.* Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- (d) (1) Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (2) Definitions. The following definitions apply to this section:
 - (A) *Eligible rollover distribution:* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
 - (i) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten (10) years or more;
 - (ii) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Code;
 - (iii) The portion of any distribution which is made upon hardship of the Member; and
 - (iv) The portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), provided that a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
- (3) Eligible retirement plan: An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, a qualified trust described in Section 401 (a) of the Code, an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a

state and which agrees to separately account for amounts transferred into such plan from this plan, or, with respect to distributions on or after January 1, 2008, a Roth IRA (subject to the limitations of Code Section 408A(c)(3)) that accepts the distributee's eligible rollover distribution.

- (4) **Distributee:** A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. Furthermore, effective January 1, 2007, a surviving designated Beneficiary as defined in Section 401(a)(9)(E) of the Code who is not the surviving spouse and who elects a direct rollover to an individual retirement account described in Section 408(a) of the Code or an individual retirement annuity described in Section 408(b) of the Code shall be considered a distributee.
- (5) **Direct rollover:** A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.
- (e) *Maximum mandatory distribution.* Notwithstanding any other provision of this plan, the maximum amount of any mandatory distribution, as defined in Section 401(a)(31) of the Code, payable under the plan shall be one thousand dollars (\$1,000.00).
- (f) *Compensation limitations under 401(a)(17).* In addition to other applicable limitations set forth in the plan, and notwithstanding any other provision of the plan to the contrary, the annual Compensation of each participant taken into account under the plan shall not exceed the EGTRRA annual Compensation limit for limitation years beginning after December 31, 2001. The EGTRRA annual Compensation limit is two hundred thousand dollars (\$200,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the EGTRRA annual Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

Any reference in the plan to the limitation under Section 401(a)(17) of the Code shall mean the EGTRRA annual Compensation limit set forth in this provision.

- (g) At no time prior to the satisfaction of all liabilities under the plan with respect to Members and their spouses or beneficiaries, shall any part of the corpus or income of the fund be used for or diverted to any purpose other than for their exclusive benefit.

Sec. 2-163.37. - Assignments prohibited.

The right of an individual to a Pension, to the return of Accumulated Member Contributions, the Pension itself, any optional benefit, any other right accrued or accruing to any individual under the provisions of the Retirement System, and any moneys belonging to the Retirement System, shall not be subject to execution,

garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable, except as is otherwise specifically provided herein. If a Member is covered by a group insurance or prepayment plan participated in by the City, and should the Member be permitted to and elect to continue such coverage as a Retiree, the Member may authorize the board of trustees to have deducted from his or her Pension the payments, if any, required of the Retiree to continue coverage under such group insurance or prepayment plan. The City shall have the right to setoff for any claim arising from embezzlement by a fraud of a Member, Retiree, or Beneficiary as provided in the Florida Statutes.

Sec. 2-163.38. - Subrogation.

- (a) The Retirement System has a right of subrogation against any third-party tortfeasor or insurance carriers representing such third-party tortfeasor, to the extent that the Retirement System becomes obligated to make any disability benefit payments to a Member as a result of injuries caused by the third-party tortfeasor.
- (b) A Member shall execute a subrogation agreement on a form provided by the Retirement System or such other documents, which may be necessary to document the Retirement System's subrogation rights. The Member shall notify the Retirement System of any claim or legal action asserted against any party or insurance carrier for such injuries and shall notify the Retirement System of the name and address of such party and any insurance carrier. The Member shall take no action inconsistent with the requirements of this section, nor settle any claim without obtaining the prior consent of the Retirement System.
- (c) The Retirement System's subrogation rights shall not be subject to equitable distribution or to any reduction for costs or attorneys' fees incurred by the Member in pursuit of his or her claim against a third-party tortfeasor or any insurance carrier. Further, the Retirement System's subrogation rights shall not be subject to reduction regardless of whether the Member recovers the full value of his or her claim against a third-party and/or any insurance carrier.
- (d) In the event that the Member fails to execute a subrogation agreement, or otherwise fails to comply with the terms of this section, then such shall be considered a breach of this Retirement System and disability Pension benefits may be denied and/or discontinued by the board of trustees upon a uniform and nondiscriminatory basis.

Sec. 2-163.39. - Correction of errors.

The Retirement System shall correct errors in the records of the Retirement System. The Retirement System shall seek to recover any overpayments, and shall make up any underpayments, which have been made. The recovery of overpayments may be accomplished by reducing the amount of future payments so that the actuarial present value of actual payments to the recipient is equal to the actuarial present value of the payments to which the recipient was correctly entitled.

Sec. 2-163.40. - Liability

Payments made by the Retirement System to a Retiree or Beneficiary shall operate as a full discharge, release, and acquittance of the liability of the City and the Retirement System and there shall be no obligation on the part of the City or the Retirement System to assure that such payments are actually used and applied for the benefit of the Retiree or Beneficiary.

Sec. 2-163.41. - Qualified retirement system.

The City intends the Retirement System to be a qualified pension plan under Section 401 of the Internal Revenue Code of 1986, as amended, or successor provisions of law and that the trust be an exempt organization in compliance with Section 501 of said code. The board of trustees may adopt such additional provisions to the Retirement System as are necessary to fulfill the intent of being a qualified pension plan.

Sec. 2-163.42. - Severability.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Sec. 2-163.43. - Merger and termination.

- (a) *Merger.* This Retirement System shall not merge or consolidate with any other retirement system or pension plan, nor transfer any assets or liabilities to any other retirement system or pension plan, unless each Member and Beneficiary of the Retirement System will receive a benefit immediately after such merger, consolidation, or transfer which is at least equal to the benefit the Member or Beneficiary was entitled to immediately before such merger, consolidation, or transfer.
- (b) *Termination.* In the event of termination of the Retirement System, the board of trustees shall follow the procedures contained in § 185,37, Florida Statutes and the Internal Revenue Code. A Member's accrued benefit shall become one hundred (100) percent fully vested (non-forfeitable) upon the termination of this plan.

City of

Jacksonville Beach

City Hall

11 North Third Street

Jacksonville Beach

FL 32250

Phone: 904.247.6263

Fax: 904.247.6169

www.jacksonvillebeach.org

MEMORANDUM

TO: Michael J. Staffopoulos, City Manager

FROM: Ann Meuse, Human Resources Director

SUBJECT: Ordinances number 2019-8126, 2019-8127 and 2019-8128 amending Chapter 2, Article V, Division 5 - General Employees' Retirement System, Division 6 – Police Officers' Retirement System and Division 7- Firefighters' Retirement System of the City of Jacksonville Beach Code of Ordinances.

DATE: November 4, 2019

ACTION REQUESTED

Adopt ordinances number 2019-8126, 2019-8127 and 2019-8128 amending Chapter 2, Article V, Division 5 - General Employees' Retirement System, Division 6 – Police Officers' Retirement System and Division 7- Firefighters' Retirement System of the City of Jacksonville Beach; Providing for Severability; Providing for the Repeal of Ordinances in Conflict Herewith; And Providing an Effective Date.

BACKGROUND

The General Employees', Police Officers' and Firefighters' Retirement Systems' ordinances have been amended multiple times over the years. Many of these amendments were made in a manner that did not follow a logical sequence, referred to sections of the ordinances that no longer existed, and contained conflicting provisions that made the ordinances difficult to understand and administer. The Board of Trustees for the City's pension plans initiated a project to restate the City's pension ordinances to resolve these issues. Attached are the restated ordinances for the General Employees', Police Officers' and Firefighters' Retirement Systems' along with summaries of the changes made.

The ordinances have been completely re-written in order to make them easier to read, understand and to administer. Definitions and clarification language has been added, outdated provisions and extraneous language has been removed and the ordinances have been re-sequenced to follow a logical order. None of the changes made have any financial impact on the participants or the City or



Memo
November 4, 2109
Page 2

change the way in which benefits are determined, administrated and paid.

The Firefighters' Retirement System ordinance has also been amended to reflect the City's Interlocal Agreement with the City of Jacksonville to take over fire services on November 23, 2019.

RECOMMENDATION

Adopt ordinances number 2019-8126, 2019-8127 and 2019-8128 amending Chapter 2, Article V, Division 5 - General Employees' Retirement System, Division 6 – Police Officers' Retirement System and Division 7- Firefighters' Retirement System of the City of Jacksonville Beach.

SUGARMAN & SUSSKIND

PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

Robert A. Sugarman ♦
Howard S. Susskind
Kenneth R. Harrison, Sr.
D. Marcus Braswell, Jr.
Pedro A. Herrera
David E. Robinson
Ivelisse Berio LeBeau

♦ Board Certified Labor
& Employment Lawyer

100 Miracle Mile
Suite 300
Coral Gables, Florida 33134
(305) 529-2801
Broward 327-2878
Toll Free 1-800-329-2122
Facsimile (305) 447-8115

October 29, 2019

Board of Trustees
City of Jacksonville Beach Firefighters' Retirement System
c/o Duston Scott, Payroll/Benefits Administrator
11 North 3rd Street
Jacksonville Beach, FL 32250

*Re: Draft Ordinance Restatement for the City of Jacksonville Beach Firefighters'
Retirement System*

Dear Trustees:

It is with great pleasure that we present to you the enclosed draft ordinance restatement of the City of Jacksonville Beach Firefighters' Retirement System. We hope that you will find the new plan document to be clearer and easier to administer.

The restatement contains substantial changes, both as to form and to content.

As to the form of the document, you will notice that we have changed the order of many of the sections, in an effort to achieve a more logical sequence of provisions.

Concerning the wording in the document, we have made extensive changes in order to clarify the meaning of certain sections, to resolve certain conflicting provisions, and to ensure that key words are employed in a uniform manner throughout the document. This should make the document easier to use and to understand. The most noteworthy of these changes are as follows:

1. Section 2-164.2 – The current definition of “Accumulated Member Contributions” does not state that a member’s accumulated member contributions include the interest earned thereupon. We have added language to state clearly that a member’s accumulated member contributions include the interest earned on the contributions.
2. Section 2-164.2 – The current plan document does not contain a definition of the term “Actuarially Equivalent,” despite the provision in current Section 2-164.10 that optional forms of benefits shall be actuarially equivalent to the Life with Period Certain Guarantee

form. We have added a definition of the term "Actuarially Equivalent" in Section 2-164.2 in order to ensure a uniform application of Section 2-164.10.

3. Section 2-164.2 –The current plan document does not contain a definition of the term "City." We have added a definition of "City," according to which the term includes both the City of Jacksonville Beach, and, upon the effective date of the interlocal agreement, the City of Jacksonville.
4. Section 2-164.2 – As a result of several changes over the years to the types of pay included in "Compensation," the definition of that term in the current plan document is cumbersome. We have simplified the language, taking into consideration the changes that entered into effect on June 23, 2014.
5. Section 2-164.2 – The current plan document does not contain a definition of "Member," though that term is employed throughout the document. Furthermore, under the current document, an individual who is no longer employed by the City, but who still has his/her accumulated member contributions in the fund, is referred to as a "former member," which has led to significant confusion in the administration of the document. Since member is a term that is used throughout the document, we have added a definition of member in Section 2-164.2. That definition clarifies that the term member includes any individual whose contributions are still in the fund.
6. Section 2-164.2 – The current plan document does not contain a definition of "Vested Member." We have made vested member a defined term, as the right to benefits under the system is limited to vested members.
7. Subsection 2-164.3(c) –We have added a new Subsection (c) to this Section to clarify that even following termination of employment, membership in the System does not cease until the member has received a refund of his/her contributions, or has received all of his/her vested benefits. This addition is consistent with the new definition of "Member" under Section 2-164.2 (see item 5 above). In accordance with Section 2-164.4(b) (see item 9 below), a Member whose employment has been terminated may leave his/her contributions in the plan for a period of five years from the date of termination pending the possibility of being rehired in covered service.
8. Subsection 2-164.4(a) – The current subsection provides for crediting of service to the nearest 1/12th of a year. That does not accurately reflect the actual administrative practice, which is to credit service to the nearest day. We have therefore amended this subsection to provide for crediting service to the nearest day.
9. Subsection 2-164.4(b) – We have redrafted this Subsection to provide that a member is not entitled to credited service for years with respect to which he/she has received a refund of his/her member contributions, unless the contributions are repaid to the system as provided in Section 2-164.4(c). Also, we have moved to new Subsection 2-164.7 the provision of

this Subsection that allows individuals to leave their contributions in the plan for a period of 5 years following termination of service.

10. Subsection 2-164.4(c) – Consistent with current Subsection 2-164.4(b) (which allows individuals to leave their contributions in the plan for a period of 5 years following termination of service), we have added language to clarify that an individual may repurchase years for which he/she received a refund following a termination of service only if he/she returns to service within five years following the termination.
11. We have re-ordered current Sections 2-164.7 (Normal retirement conditions), 2-164.8 (Vested termination of membership), 2-164.19A (Early retirement conditions), and 2-164.22 (Refund of accumulated member contributions for non-vested employees) in order to achieve a logical progression in the document from refund of contributions for non-vested employees (new Section 2-164.7) to vested termination of employment (new Section 2-164.8) to conditions for early and normal retirement (combined in new Section 2-164.9).
12. Section 2-164.8 – Currently this section refers to individuals who have a vested interest in the system, but whose employment is terminated prior to retirement, as “vested former members.” Under the new definition of Member (see items 5 and 8 above), such individuals are still considered to be members of the plan, and also meet the new definition of “Vested Member”, which we have recommended adding to the plan (see item 6 above).
13. Section 2-164.8 – Under the current section, vested members whose employment has been terminated prior to retirement, must wait until the attainment of Normal Retirement Age to begin to receive deferred benefits. We have recommended amending this section to permit vested members whose employment terminates following the effective date of the restatement to begin to receive their deferred benefits upon the attainment of eligibility for Early Retirement.
14. New Section 2-164.9 (Current Section 2-164.7) – As a result of recent changes to the eligibility for normal retirement, the wording in the current section is cumbersome. We have simplified the wording, taking into consideration the changes that entered into effect on June 23, 2014. We have also moved the conditions for early retirement eligibility into the same section (from current Section 2-164.19A) in order to consolidate into a single section the conditions for early and normal retirement.
15. New Subsection 2-164.9(d) (Current Section 2-164.7) – The current language does not specify the effective beginning date of benefits. We have added language referencing Section 2-164.18 (current Section 2-164.19) which sets forth the benefit beginning date. We have also revised 2-164.18 (current Section 2-164.19) to clarify that the effective date shall not be earlier than the date upon which an application is filed and approved. In other words, if a member delays filing until after his/her normal retirement age, benefits **will not** be payable retroactively to normal retirement age (except as provided in BACK DROP).

16. New Section 2-164.10(a) (Current Subsection 2-164.9) – We have added language to state clearly that the accumulated member contribution guarantee (which guarantees that the total amount of benefits paid must equal or exceed the accumulated member contributions) applies to all benefits payable under this Section.
17. New Section 2-164.10 (Current Subsection 2-164.9(c)) – Current Subsection 2-164.9(c) requires the suspension of benefits if a retiree returns to employment with the City. If the Subsection were to be deleted, retirees who have attained normal retirement age could continue to receive their pension benefits while working for the City.
18. New Section 2-164.10 (Current Subsections 2-164.9(d) and 2-164.9(e)) – We have moved the current Subsection 2-164.9(d) (relating to compliance with IRC Section 415) to Section 2-164.36 (General IRC compliance). With regard to current Subsection 2-164.9(e), we have deleted all provisions relating to DROP, to reflect the fact that the DROP has been discontinued. Paragraph (6) of that Subsection, which relates to BACK DROP, has been retained and moved to new Section 2-164.11 (which sets forth the different forms of benefit payment) by adding a new paragraph (6).
19. New Subsection 2-164.11(6)d. (Current Section 2-164.9(e)(6)d.) – We have amended the language to clarify that interest on Back DROP benefits shall be compounded monthly.
20. We have combined current Sections 2-164.12 and 2-164.14 into a single section (new Section 2-164.12) regarding pre-retirement death benefits. Furthermore, under the current sections 2-164.12 and 2-164.14, survivor benefits must be paid to the member's spouse or children, if any. The new section would permit members to designate a beneficiary other than his/her spouse, upon the notarized consent of the spouse.
21. New Section 2-164.12 (Current Sections 2-164.12 and 2-164.14) – Current Sections 2-164.8, 2-164.12 and 2-164.14 create a disparity between terminated vested employees and current employees with regard to pre-retirement death benefits. Under the last sentence of current Section 2-164.8, survivors of terminated employees who are vested with 5 years of service are entitled to such benefits under current Section 2-164.12. Current employees, however, under current Sections 2-164.12 and 2-164.14, must have 10 years of service in order for their survivors to be entitled to survivor benefits. The new Section 2-164.12 eliminates the disparity by making the automatic survivor benefit available to all vested members. Also, we have added language referencing Section 2-164.18 which sets forth the benefit beginning date.
22. New Subsection 2-164.14(a)(1) (Current Subsection 2-164.15(a)(1)) – We have added language requiring that an application for disability be filed no later than 90 days following the administrative termination of a member as a result of disability.

Board of Trustees
City of Jacksonville Beach Firefighters' Retirement System
In re: Draft Restatement
October 29, 2019
Page | 5

23. New Subsection 2-164.14(b) (Current Subsection 2-164.15(b)) – The current language does not specify the effective beginning date of disability benefits. We have added language referencing Section 2-164.18 which sets forth the benefit beginning date.
24. New Section 2-164.34 (Current Section 2-164.35) – We have added language to clarify that the interest that accrues on a member's accumulated contribution account shall be compounded monthly.

It is our sincere hope that the proposed restatement will facilitate your duties as trustees, as well as those of the administrator. We look forward to responding to any questions that you might have.

Sincerely,



DAVID E. ROBINSON

DER/jd

Enclosure

Introduced By: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2019-8128

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING AND RESTATING IN ITS ENTIRETY CHAPTER 2, ARTICLE V, DIVISION 7, FIREFIGHTERS' RETIREMENT SYSTEM, OF THE CITY OF JACKSONVILLE BEACH CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 2000-7783 restated the Firefighters' Retirement System; and

WHEREAS, since its original adoption, the Retirement System has been amended by several subsequent ordinances; and

WHEREAS, the trustees of the City of Jacksonville Beach Firefighters' Retirement System have requested and approved such restatement as being in the best interests of the participants and beneficiaries as well as improving the administration of the plan; and

WHEREAS, the City Council desires to restate the provisions of the Retirement System in order to facilitate the administration thereof by the Board of Trustees; and

WHEREAS, the City Council has received, reviewed and considered an actuarial impact statement describing the actual impact of the amendments provided for herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. That Chapter 2, Administration, Article V, Employee Benefits, Division 7, Firefighters' Retirement System, of the Code of Ordinances of the City of Jacksonville Beach, Florida, restated by Ordinance No. 2000-7783, and subsequently amended by Ordinance No. 2000-7799, Ordinance No. 2000-7802, Ordinance No. 2001-7812, Ordinance No. 2002-7835, Ordinance No. 2002-7844, Ordinance No. 2004-7885, Ordinance No. 2004-7887, Ordinance No. 2006-7922, Ordinance No. 2007-7942, Ordinance No. 2007-7943, Ordinance No. 2009-7974, Ordinance No. 2009-7982, Ordinance No. 2009-7985, Ordinance No. 2012-8020, Ordinance No. 2012-8022, Ordinance No. 2013-8038, Ordinance No. 2014-8046, Ordinance No. 2014-8049,

Ordinance No. 2014-8057 is hereby amended and restated in its entirety as set forth in the attached copy.

SECTION 2. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. That this Ordinance shall become effective immediately upon adoption in accordance with the Charter of the City of Jacksonville Beach, except as otherwise specified above.

SECTION 4. That this Ordinance was passed on the first reading at a regular meeting of the City Council on the ____ day of _____, 2019, and adopted on the second/final reading at a regular meeting of the City Council on the ____ day of _____, 2019.

William C. Latham, Mayor

Laurie Scott, City Clerk

City of Jacksonville Beach Firefighters' Retirement System

Pension Ordinance Restatement

November 4, 2019

Sec. 2-164.1. - Name, establishment; effective date.

The City of Jacksonville Beach Firefighters' Retirement System established effective November 1, 1951, is continued for the purpose of providing retirement income to qualifying employees and former employees, and survivor income to their qualifying beneficiaries. The effective date of the Retirement System is November 1, 1951.

Sec. 2-164.15. – Interlocal Agreement with City of Jacksonville; member election; System Closed to new members.

(a) The City of Jacksonville Beach entered into an Interlocal Agreement with the City of Jacksonville, effective [effective date of Interlocal Agreement]. All City of Jacksonville Beach firefighters shall become employees of the City of Jacksonville on [effective date of Interlocal Agreement].

(b) All City of Jacksonville Beach firefighters who are members of this Retirement System on [effective date of Interlocal Agreement] shall be given an opportunity to individually elect to continue participating in this Retirement System, or join the City of Jacksonville defined contribution retirement plan, as follows:

1. Those firefighters who elect to continue participating in this Retirement System shall continue to participate in, make legally required contributions to, and accrue service and benefits under this Retirement System for as long as they are employed as certified firefighters by the City of Jacksonville. Firefighters who elect to continue participating in this Retirement System shall also continue to have Social Security coverage and make legally required Social Security contributions for as long as they are employed as certified firefighters by the City of Jacksonville and members of this Retirement System.

2. Those firefighters who elect to join the City of Jacksonville defined contribution retirement plan shall receive a refund of their accumulated member contributions (with interest) from this Retirement System, or may roll over such contributions and interest to an IRA or other qualified plan in accordance with federal law. Notwithstanding the preceding sentence, Jacksonville Beach Firefighters with ten (10) or more years of credited service in this Retirement System on [effective date of Interlocal Agreement] who elect to join the City of Jacksonville defined contribution retirement plan may keep their accumulated member contributions in this Retirement System, and shall be eligible to receive a deferred pension benefit, based on their credited service and average final

compensation on the day before [effective date of Interlocal Agreement], payable upon attaining the age and service requirements for normal retirement under this Retirement System and separation from employment by the City of Jacksonville. Firefighters who elect to join the City of Jacksonville defined contribution retirement plan shall not be eligible for social security coverage.

(e) This Retirement System shall be closed to new members on [effective date of Interlocal Agreement].

Sec. 2-164.2. - Definitions.

As used in this division:

Accumulated Member Contributions means the sum of all amounts credited to a Member's individual account in the reserve for Member contributions, including the interest applied thereto in accordance with Section 2-164.34.

Actuarially Equivalent means, for a specified date of reference, the equivalence of the present values of different forms of payment of a benefit, using such actuarial assumptions as shall from time to time be recommended by the Retirement System's actuary and adopted by the board of trustees.

Beneficiary means an individual who is being paid, or who may become eligible to be paid, a Pension on account of the death of a Member.

City means the City of Jacksonville Beach, Florida. City also means the City of Jacksonville, Florida, for the purpose of identifying the employer of members of this Retirement System on and after [effective date of Interlocal Agreement].

Compensation means base pay, incentive pay, and longevity pay, provided:

- (1) For Service prior to July 21, 2014, Compensation shall also include overtime pay; shift differentials; pay for periods of absence from work by reason of vacation, holiday and sickness; and deferred compensation amounts under deferred compensation programs recognized by the board of trustees;
- (3) Compensation shall not include any remuneration or reimbursement not specifically included above, such as, but not limited to, allowances for clothing, equipment, cleaning, and travel; reimbursement of expenses; bonuses; termination of pay; severance pay; payments in consideration of unused vacation or sick leave; and the value of fringe benefits.
- (4) A Member's annual Compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. However, for those Members who commenced participation in the Retirement System prior to the first Plan Year beginning after December 31, 1995, the limitation on Compensation shall not be less than the amount that was allowed to be taken into account under the Retirement System as in effect on July 1, 1993.

Final Average Compensation means one-fifth of the aggregate amount of a Member's Compensation during the five (5) years of the Member's last ten (10) years of credited service in which the aggregate amount of Compensation is greatest. For this purpose, a year of credited service shall mean each consecutive twelve-month period counting backward from the Member's last day of employment. If the Member has less than five (5) years of credited service, "Final Average Compensation" means the aggregate amount of the Member's Compensation divided by the Member's credited service.

Firefighter means any person employed solely by the City, who is certified as a firefighter as a condition of employment in accordance with the provisions of Sections 175.032(11)(a) and 633.408, Florida Statutes and whose duty it is to extinguish fires, to protect life, or to protect property.

Member means an individual who is rendering Service to the City; an individual who has separated from Service to the City, other than by death or retirement, and who has Accumulated Member Contributions in the Retirement System; a Retiree.

Pension means the death and retirement benefits provided herein. Payment may be for a temporary period or throughout the future life of a Retiree or Beneficiary.

Plan Year means the 12 month period from October 1 through September 30.

Retiree means an individual who is being paid a Pension on account of the individual's membership in the Retirement System.

Retirement System means the City of Jacksonville Beach Firefighters' Retirement System.

Service means personal service rendered to the City in a position included in Section 2-164.3(a), and qualifying military service pursuant to section 2-164.5. For firefighters who elect to continue participating in this Retirement System in accordance with section 2-164.15, Service shall include personal service in a position of full-time firefighter rendered to the City of Jacksonville on and after [effective date of Interlocal Agreement].

Vested Member means a Member who: has ten (10) or more years of credited service; or had at least five (5) years of credited service on June 23, 2014; or has reached normal retirement age as defined in Section 2-164.9. For the purposes of determining a Member's vested status and benefit eligibility (but not the amount of a Member's benefit) the Member shall receive credited service for all years with respect to which the member has earned credited service in any other retirement plan of the City.

Sec. 2-164.3. – Membership of Firefighters' Retirement System.

- (a) An individual who is employed by the City in a position of full-time Firefighter shall be a Member of the Retirement System, unless employed in an excluded position described in subsection (b) of this section.
- (b) Excluded positions are:
 - (1) Reserve Firefighters;
 - (2) Firefighters employed temporarily during an emergency.

- (3) Firefighters who elect to participate in the City of Jacksonville defined contribution retirement plan in accordance with section 2-164.15, other than those firefighters with ten (10) or more years of credited service in this Retirement System on [effective date of Interlocal Agreement] who elect to join the City of Jacksonville defined contribution retirement plan and keep their accumulated member contributions in this Retirement System.
- (c) An individual shall continue to be a Member until the earlier of the following: the date upon which all Accumulated Member Contributions have been refunded to the Member following termination of Service in accordance with Sections 2-164.15 or 2-164.7; the date upon which the entirety of the Member's accrued benefit has been paid; the date of the Member's death.

Sec. 2-164.4-- - Credited service.

- (a) Service rendered by the Member shall be credited to the Member's individual credited service account in accordance with rules the board of trustees shall from time to time prescribe. Service shall be credited to the nearest day and in no case shall more than one (1) year of credited service be credited on account of all Service rendered by a Member in any one (1) Plan Year.
- (b) Except as provided in Subsection (c) below, credited service shall not include any year (and/or fraction thereof) of Service with regard to which a Member has received a refund of his Accumulated Member Contributions pursuant to Section 2-164.7.
- (c) A former Member who has received a refund of his or her Accumulated Member Contributions as provided in Subsection 2-164.7, and who subsequently recommences Service with the City before [effective date of Interlocal Agreement], may restore his or her previous credited service for which he or she received a refund, if the effective date of commencement of Service is within five (5) years of the effective date of the termination of Service. Credited service shall be restored by paying to the Retirement System, within ninety (90) days following the effective date of commencement of Service, the total amount of the refund of Accumulated Member Contributions that the Member received, plus interest compounded monthly from the date of the refund to the date of repayment at the Retirement System's assumed rate(s) of return in effect for the period to which the interest applies, as calculated by the Retirement System's actuary. Notwithstanding any other provision of this section, a Member who becomes an employee of the City of Jacksonville as provided in section 2-164.15 and subsequently separates from employment as a City of Jacksonville firefighter shall not thereafter be eligible to participate in this Retirement System.

Sec. 2-164.5. - Intervening military service.

A Member whose Service is terminated for the purpose of entering any armed service of the United States shall be entitled to credited service for periods of active duty, without payment of employee contributions for such period, subject to the following conditions:

- (1) The individual becomes a Member within the time periods provided in the Uniformed Service Employment and Reemployment Rights Act (USERRA) and F.S. § 175.032.
- (2) The Member pays the Retirement System the total amount of any Accumulated Member Contributions withdrawn at the time of, or subsequent to, the termination of Service to enter armed service, in accordance with the provisions of USERRA.
- (3) No more than five (5) years of credited service shall be granted a Member under the provisions of this section. Credited service shall not be granted for periods of armed service which are or could be used for obtaining or increasing a benefit from another retirement system.

Sec. 2-164.6. - Benefit group Firefighter.

- (a) The benefit group "Firefighter" is designated for the purpose of determining benefit conditions, benefit amounts, and Member contribution rates applicable to Members of the Retirement System.
- (b) Except as provided in Section 2-164.8, benefit eligibility conditions shall be those applicable to the Member at the time of death or retirement, whichever is earlier.
- (c) Pension amounts shall be separately determined for each retirement system for which a Member has credited service, and, except as provided in Section 2-164.8 (or its equivalent in any other retirement system), shall be calculated using Retirement System provisions in effect at the time of retirement or death, whichever is earlier.

Sec. 2-164.7 Refund of Accumulated Member Contributions.

- (a) A non-Vested Member who ceases Service for the City for any reason except retirement or death, shall, upon written request of the Member, receive a refund of his or her Accumulated Member Contributions. The Member's credited service in the plan shall be nullified as of the end of the five (5) year period beginning on the effective date of the termination of Service, or the date upon which the member receives a refund of his or her contributions, whichever is earlier.
- (b) If an individual dies and no Pension becomes or will become payable by the Retirement System on account of the death, the deceased individual's Accumulated Member Contributions shall be paid to such individual or individuals as the deceased individual shall have named by written designation duly executed and filed with the Retirement System. If there is no such named individual surviving the deceased individual, the Accumulated Member Contributions shall be paid to the deceased individual's estate.

Sec. 2-164.8. - Vested termination of membership.

The rights of a Vested Member whose Service terminated prior to November 18, 2019, shall be determined in accordance with the plan provisions in effect on the date of the termination of Service.

A Vested Member whose Service is terminated on or after November 18, 2019 and prior to the normal retirement age in effect on the date of the termination of service, shall become eligible for deferred vested benefits upon attainment of the early or normal retirement age in effect on the date of the termination of Service, and any in case upon attainment of age 50 (in which case the benefit shall be actuarially reduced). Deferred vested benefits shall be calculated and payable in accordance with the provisions for early or normal retirement, whichever applies, in effect on the date of the termination of Service, including Sections 2-164.11 and 2-164.18 relating respectively to the form and to the commencement of benefit payments. In the event that any such Vested Member shall die from any cause before the Member receives a deferred benefit in accordance with this Section and before satisfaction of the requirements for normal retirement under 2-164.9, then a pre-retirement death pension shall be payable to the deceased Vested Member's surviving Beneficiary(ies) as provided in Section 164.12.

Sec. 2-164.9. – Early and Normal Retirement conditions.

- (a) An individual may retire upon satisfaction of each of the following requirements:
 - (1) A written application for retirement, in the form established by the board of trustees, has been filed with the Retirement System.
 - (2) Service is terminated prior to the date of retirement.
 - (3) The individual reaches his/her early or normal retirement age.
- (b) Normal retirement age means:
 - (1) For any Member retiring on or after July 21, 2014, who on said date had ten (10) or more years of credited service or had attained the age and/or service requirements in Subparagraph (A), (B), or (C) below, the date upon which the Member attains or attained-
 - (A) Age fifty-five (55) or older with five (5) or more years of credited service; or
 - (B) Age fifty-two (52) or older with twenty-five or more years of credited service; or
 - (C) Thirty (30) or more years of credited service without regard to age.
 - (2) For any Member retiring on or after July 21, 2014, who on said date was a Vested Member, had fewer than ten (10) years of credited service, and had not attained the age and Service requirements under Paragraph (1)(A), (1)(B), or (1)(C) above, the date upon which the Member attains-
 - (A) Age sixty-five (65) or older with five (5) or more years of credited service;
 - (B) Age fifty-five (55) or older with ten (10) or more years of credited service;
 - (C) Age fifty-two (52) or older with twenty-five or more years of credited service;

- (D) Thirty (30) or more years of credited service without regard to age.
- (3) For all other Members retiring on or after July 21, 2014, the date upon which the Member attains-
 - (A) Age fifty-five (55) or older with ten (10) or more years of credited service;
 - (B) Age fifty-two (52) or older with twenty-five or more years of credited service;
 - (C) Thirty (30) or more years of credited service without regard to age.
- (c) Early retirement age means the date upon which the Member attains age fifty (50) with ten (10) years of credited service, or completes 20 years of credited service regardless of age, provided that only Members who met said age and/or credited service requirements on or before July 21, 2014 shall be eligible for early retirement.
- (d) The amount of a Member's retirement benefits under this Section shall be determined in accordance with Section 2-164.10. Benefits shall be payable in a form set forth in Section 2-164.11 and shall commence as set forth in Section 2-164.18.
- (e) Notwithstanding any other provision hereunder, a Member's accrued benefit under the plan shall become non-forfeitable upon his/her normal retirement age.

Sec. 2-164.10-. - Amount of a Pension.

- (a) (1) The Accumulated Member Contribution Guarantee under Section 2-164.19 shall apply to all benefits provided under this Section.
- (2) The amount of Pension under optional form of payment I pursuant to section 2-164.11 shall be equal to the sum of separate amounts determined in accordance with the benefit formula applicable to each retirement system for which the retiring individual has credited service in force.
- (3) The amount of Pension attributable to credited service under a particular retirement system shall be equal to a fraction of the amount of Pension determined as if the individual's total credited services were under the retirement system. The fraction shall be the individual's credited service under the retirement system over the individual's total credited service.
- (b) The benefit formula is:
 - (1) For Normal Retirement:
 - a. For retirements with an effective date prior to October 1, 1990, two and one-half (2 1/2) percent of Final Average Compensation multiplied by credited service, to a maximum of seventy-five (75) percent of Final Average Compensation.
 - b. For retirements with an effective date after September 30, 1990 (except as provided in Subparagraphs c and d below), three (3) percent of Final Average Compensation multiplied by credited service, to a maximum of thirty (30) years,

and two (2) percent of Final Average Compensation multiplied by all years of credited service in excess of 30, subject to the limitations of F.S. §112.65.

- c. For retirements on or after July 21, 2014 with regard to Members who were not eligible for normal retirement on said date, three (3) percent of Final Average Compensation multiplied by credited service, for all years of credited service earned on and after July 21, 2014, subject to the maximum benefit provided in Subparagraph d below. Such individuals shall retain their accrued benefits based on credited service earned prior to July 21, 2014.
- d. For retirements on or after July 21, 2014, the maximum benefit shall be ninety (90) percent of Final Average Compensation or ninety thousand dollars (\$90,000.00) annually, whichever is less; provided, any Member who has an accrued benefit percentage in excess of ninety (90) percent or an annual benefit of more than ninety thousand dollars (\$90,000.00) on July 21, 2014 shall retain that accrued benefit, but shall not accrue any additional benefit after that date.
- e. A minimum monthly benefit amount shall apply to Retirees who have been retired for thirty (30) or more years or who have accumulated ten (10) or more years of credited service, as periodically established by the City. Such monthly benefit shall be reduced by the applicable survivor benefit as elected by the Retiree pursuant to section 2-164.11. The City shall make deposits into the Firefighters' Retirement System equal to the full annual cost of such increase in benefit payments to achieve said minimum monthly benefit.

(2) For Early Retirement:

A Member retiring on or after his or her early retirement age but before the Member's normal retirement age shall receive the monthly benefit level provided in Paragraph (1) above relating to normal retirement, reduced to take into account the Member's younger age and the earlier commencement of income payments. Such reduction shall not exceed (3) percent per year for the years and fractional parts of years that the early retirement date precedes the normal retirement date. The early retirement benefit shall commence in accordance with Section 2-164.18 and no sooner than the Member's early retirement age. Benefits shall be payable in a form set forth in Section 2-164.11.

- (c) Cost of living adjustment. There shall be a cost of living adjustment (COLA) to the monthly benefit of each member employed on July 21, 2014 and who was employed by the city on the day prior to retirement from the city and is receiving benefits under this plan as follows:

(1) Effective October 1, 2009, the monthly benefit of each individual who retired prior to January 1, 2009, shall be increased by two (2) percent as a one-time benefit adjustment.

(2) The monthly benefit of all individuals who retire on or after January 1, 2009, shall be increased by two (2) percent on the second anniversary date of their retirement and each anniversary date thereafter. This annual benefit increase shall also be paid to annuitants and beneficiaries of deceased firefighters or deceased retired firefighters, based on the date of the deceased firefighter's or deceased retired firefighter's retirement.

(3) Except as provided herein, for all individuals who are employed on July 21, 2014 and who retire on or after that date, the monthly benefit based on credited service earned prior to July 21, 2014, shall be increased by two (2) percent on the second anniversary date of their retirement and each anniversary date thereafter. The monthly benefit based on credited service earned on or after July 21, 2014, shall be increased by one (1) percent on the second anniversary date of their retirement and each anniversary date thereafter. The provisions of this paragraph (3) shall not apply to members who, as of July 21, 2014, had attained age fifty-two (52) with twenty-five (25) years of credited service, age fifty-five (55) with five (5) years of credited service, or thirty (30) years of credited service regardless of age.

(4) Members hired on or after July 21, 2014, shall not be eligible for a cost of living adjustment.

Sec. 2-164.11. - Forms of payment of a Pension.

A Member may elect to have Pension payments made under any one (1) of the following forms of payment and name a survivor Beneficiary. The election and naming of a survivor Beneficiary shall be in writing and filed with the Retirement System prior to the date the first Pension payment is made. An election of form of payment may not be changed on or after the date the first Pension payment is made. A named survivor Beneficiary may be changed on or after the date the first Pension payment is made up to two (2) times as provided in § 175.333, Florida Statutes, without the approval of the board of trustees or the current survivor beneficiary. The Member need not provide proof of the good health of the survivor Beneficiary being removed, and the joint annuitant or Beneficiary being removed need not be living. After any such change in joint survivor or Beneficiary, the Member's Pension benefit will be recalculated accordingly by the actuary and the retirement income payable to the Member shall be based on the recalculation. If the Member chooses not to provide proof of good health of the survivor Beneficiary being removed, the actuarial calculation shall assume that the Retiree and new survivor Beneficiary are five (5) years older than their actual age. A named survivor Beneficiary may be more than one (1) person if Form of Payment I is elected. Payment shall be made under Form of Payment I if there is not a timely election of form of payment. The amount of Pension under Forms of Payment II, III and IV, shall be Actuarially Equivalent, computed as of the date of retirement (and, if applicable, as of the effective date of any change of Beneficiary as permitted above), to the amount of Pension under Form of Payment I.

- (1) *Form of Payment I (Life with Period Certain Guarantee).* Under Form of Payment I, the Retiree is paid a Pension for life. Upon the death of the Retiree during the guaranteed period, the named survivor Beneficiary is paid the full amount of the Form of Payment I Pension for the remainder of the guaranteed period. The guaranteed period is one hundred twenty (120) months. If both the Retiree and the named survivor Beneficiary die during the guaranteed period, the actuarial present value of the remaining guaranteed Pension payments shall be paid in lump-sum to the estate of the one who survived the other.
- (2) *Form of Payment II (Life with Full Continuation to Survivor Beneficiary).* Under Form of Payment II, the Retiree is paid a reduced Pension until the Retiree dies. Upon the death of the Retiree during the lifetime of the named survivor Beneficiary, the named survivor Beneficiary is paid the full amount of the reduced Form of Payment II Pension over the named survivor Beneficiary's remaining life.
- (3) *Form of Payment III (Life with Reduced Continuation to Survivor Beneficiary).* Under Form of Payment III, the Retiree is paid a reduced Pension until the Retiree dies. Upon the death of the Retiree during the lifetime of the named survivor Beneficiary, the named survivor Beneficiary is paid one-half ($\frac{1}{2}$), two-thirds ($\frac{2}{3}$) or three-fourths ($\frac{3}{4}$) of the amount of the reduced Form of Payment III Pension over the named survivor Beneficiary's remaining life.
- (4) *Form of Payment IV (Straight Life or Lifetime Annuity).* A retirement income of larger monthly amount, payable to the Retiree for his or her lifetime only.
- (5) POP-UP Protection for Forms of Payment II and III. If a Member who retired on or after October 1, 2009 and who elected Form of Payment II or III is predeceased by his or her designated Beneficiary after benefit payments have commenced, then the Retiree's benefit shall be recalculated and automatically revert to the Form of Payment I as of the date of death of the named survivor Beneficiary. Said "pop-up" protection shall be included in determining actuarial equivalence with the Form of Payment I.
- (6) *Back-DROP.* Effective July 21, 2014, and subject to the provisions of this section, eligible Members may elect to participate in the Back-DROP in accordance with this Paragraph (6).
 - a. *Eligibility of Member to participate in the Back-DROP.* A Member who was employed and not participating in DROP on July 21, 2014, and who continues employment beyond the normal retirement age, and any Member who reaches normal retirement eligibility on or after July 21, 2014, and continues employment beyond the normal retirement age, is eligible to elect the Back-DROP. The Member shall advise the City and the Retirement System in writing of their Back-DROP election prior to separation from employment. A Member may elect the Back-DROP only once.
 - b. *Back-DROP date.* A Member's Back-DROP date shall be a date selected by the Member that is on or after the Member's normal retirement age but no more than thirty-six (36) months prior to their separation date.

- c. *Maximum Back-DROP Period.* An eligible Member may elect the Back-DROP for a period equal to the number of months the Member has been employed beyond the normal retirement age, up to a maximum period of thirty-six (36) months.
- d. *Benefits payable under the Back-DROP.* A Member who elects the Back-DROP shall be entitled to a monthly Pension determined as of the Member's Back-DROP date, plus a lump sum payment equal to the Pension benefits the Member would have received had he/she retired on the Back-DROP date, with interest at the annual rate of three (3) percent compounded monthly. The Member's monthly benefit will be actuarially adjusted to reflect the lump sum payment. The lump sum Back-DROP benefit, less applicable withholding taxes, shall be distributed to the Member within sixty (60) days following separation from employment. Alternatively, a Member may elect to rollover some or all of the lump sum Back-DROP benefit into an eligible retirement plan in accordance with Sec. 2-164.36(d) hereof.
- e. *Forfeiture of retirement benefits.* Nothing in this subsection shall be construed to remove Back-DROP participants from the scope of Section 8(d), Art. II of the State Constitution, and F.S. § 112.3173. Back-DROP participants who commit a specified offense while employed will be subject to forfeiture of all retirement benefits, including Back-DROP benefits, pursuant to those provisions of law.
- f. *Administration of program.* The board of trustees shall make such rules as are necessary for the effective and efficient administration of this subsection. The Retirement System shall not be required to advise Members of the federal tax consequences of an election related to the Back-DROP, but may advise Members to seek independent advice.

Sec. 2-164.12. Pre-Retirement Death Pension.

- (a) In the event of the death of a Vested Member prior to retirement, a pre-retirement death pension shall be paid, as provided below, to the surviving Beneficiary(ies) of the Vested Member, which Pension shall be equal to the Vested Member's accrued benefit on that date, and shall be subject to the Accumulated Member Contributions Guarantee under Section 2-164.19. Benefits shall commence as set forth in Section 2-164.18.
- (b) Except as otherwise provided in Subsection (e) below, the pre-retirement death pension shall be paid to:
 - (1) the surviving spouse of the deceased Vested Member for life; or, if none,
 - (2) each surviving child of the deceased Vested Member, who is unmarried and has not attained age eighteen (18).
- (c) For the purposes of this Section, surviving spouse means the person to whom the Member is married at the time of death.

- (d) A surviving child's Pension shall terminate at the end of the calendar month in which occurs the child's eighteenth (18th) birthday, marriage, or death. The amount of a surviving child's Pension shall be an equal share of the deceased Vested Member's accrued Pension. A child's share shall be recomputed each time there is a change in the number of surviving children eligible for payment of a Pension.
- (e) A Member may at any time designate a person(s) to receive the pre-retirement death pension provided herein in place of the surviving spouse, if the spouse consents to such election in writing bearing the notarized signature of the spouse. Such consent shall be valid only with regard to a benefit otherwise payable to the consenting person as the surviving spouse.
- (f) (1) A deceased Vested Member's accrued Pension shall be computed under the following presumptions:
 - a. The deceased Vested Member shall be presumed to have retired under the normal retirement provisions of Section 2-164.9 on the day preceding the Member's death.
 - b. The deceased Member shall be presumed to have elected Form of Payment I, if the pre-retirement death pension is to be paid to a surviving spouse or an eligible child. If there is no surviving spouse or eligible child, or if the surviving spouse has consented to the payment of the benefit to a Beneficiary designated under Subsection (e) above, then the deceased Vested Member shall be presumed to have elected Form of Payment II and named the designated Beneficiary(ies) as survivor Beneficiary(ies).
- (2) The spouse may designate a beneficiary to receive any remainder benefit due in the event of his or her death before the end of the benefit certain period.
- (3) In the case of a Member who dies on or after January 1, 2007, while performing "Qualified Military Service" under Title 38, United States Code, Chapter 43, Uniformed Services Employment and Reemployment Rights Act ("USERRA") within the meaning of Section 414(u) of the Internal Revenue Code, any "additional benefits" (as defined by Section 401(a)(37) of the Internal Revenue Code) provided under the plan that are contingent upon a Member's termination of employment due to death shall be determined as though the Member had resumed employment immediately prior to his death. With respect to any such "additional benefits," for vesting purposes only, credit shall be given for the period of the Member's absence from covered employment during "Qualified Military Service".

Sec. 2-164.13. - Special conditions applicable to death in line of duty.

In the event the death of a Member is found by the board of trustees to be the natural and proximate result, independent of all other causes, of a personal injury or disease arising out of and in the course of the Member's actual performance of duty with the City, the following additional provisions shall apply to section 2-164.12:

- (1) The Member's eligibility shall be determined without regard to the vesting requirement specified in Section 2-164.12.

- (2) The amount of Pension paid a surviving spouse shall not be less than thirty-five (35) percent of the deceased Member's Final Average Compensation.
- (3) The amount of Pension paid a surviving child shall not be less than an equal share of fifty (50) percent of the deceased Member's Final Average Compensation.

Sec. 2-164.14. - Disability retirement—General conditions.

- (a) The board of trustees may retire a Member who becomes incapacitated for continued employment by the City if each of the following conditions is met:
 - (1) Application for disability retirement is filed with the Retirement System by the Member. In the event that a Member's employment with the City is administratively terminated prior to the Member's filing of a disability application, the Member must file his/her application no later than ninety (90) days following the effective date of the termination of the Member's employment.
 - (2) The Member has ten (10) or more years of credited service.
 - (3) The Member undergoes the medical examinations and tests ordered by the Retirement System.
 - (4) The medical advisor certifies to the board of trustees that the Member is incapacitated, that the incapacity is likely to be permanent, and that the Member should be retired, and, the Member is wholly incapacitated from rendering useful and efficient Service as a Firefighter.
- (b) The amount of disability Pension shall be computed in accordance with the rules for normal retirement under Section 2-164.10 based upon the Member's years of credited service on the date of separation from Service, and the disability Retiree shall have the right to elect a Form of Payment provided in Section 2-164.11. However, in no event shall such benefit be less than twenty-five (25) percent of the Member's Final Average Compensation. The disability Pension shall be subject to the Accumulated Member Contributions Guarantee under Section 2-164.19. Benefits shall commence as set forth in Section 2-164.18

Sec. 2-164.15. - Same—Special conditions applicable to duty disability.

If the board of trustees finds that the Member's disability is the natural and proximate result of a personal injury or disease arising out of and in the course of the Member's actual performance of duty in the employ of the City, the following additional provisions shall apply to section 2-164.14:

- (1) The Member's eligibility shall be determined without regard to the credited service requirement in Section 2-164.14.
- (2) A Member who is retired on account of duty disability, shall be paid a duty disability Pension during the Member's duty disability benefit period. A Member's duty disability benefit period begins on the first day of the first month after the board of trustees determines entitlement, provided that the monthly retirement

income shall be effective as of the date the board of trustees determines such entitlement. A Member's duty disability benefit period ends on the first to occur of the following dates: the date the Pension is terminated as provided in section 2-164.16 or the date the Pension has been paid for the maximum disability benefit period. The maximum disability benefit period is

Member's Age When Duty Disability Benefit Period Begins	Maximum Benefit Period
Less than age 50	To age 55
Age 50 and over	60 months

- a. The amount of a duty disability Pension is the larger of the Member's accrued Pension calculated as provided in section 2-164.14 and fifty (50) percent of the Member's Final Average Compensation.
 - b. Upon termination of the Member's duty disability benefit period, the Member's credited service shall be increased by the Member's duty disability benefit period.
 - c. The duty disability Pension shall be subject to the provisions of sections 2-164.16 and 2-164.17.
- (3) A Member may elect to continue to be covered by the duty disability, in lieu of the benefit provided in subsection (2) of this section. The election shall be made in accordance with procedures established by the board. A Member who so elects shall thereby be precluded from claiming age discrimination with respect to the duty disability benefit.

Sec. 2-164.16. - Same—Effect on gainful employment.

- (a) The provisions of this section shall apply during the period, if any, between the effective date of disability retirement and the date the disability Retiree first satisfies the age and/or Service requirement for normal retirement pursuant to subsection 2-164.9. Application of the limitation shall be to the amount of Pension under Form of Payment I. The effect of an election of any other form of payment shall be taken into account after application of the provisions of this section.
- (b) The amount of Pension shall not exceed the difference between one hundred ten (110) percent of the disability Retiree's Final Average Compensation and the amount of the disability Retiree's considered income, however in no event shall such disability retirement benefit be reduced below the minimums required in F.S. §175.191. A disability Retiree's considered income is the annual amount of remuneration for personal services rendered in any gainful employment. Gainful employment existing

at the time of disability retirement, other than with the City, shall not be considered to the extent of the amount of remuneration in the last calendar year preceding retirement.

- (c) The Retirement System shall periodically request substantiated income information from disability Retirees subject to the provisions of this section. Failure to provide requested information within ninety (90) days of the request shall cause suspension of payment of the Pension until the information is received.

Sec. 2-164.17. - Same—Continuation subject to reexamination; return to employment.

- (a) The board of trustees may require a disability Retiree to undergo periodic medical examination, by or under the direction of a medical advisor selected by the board of trustees, if the disability Retiree has not satisfied the age and/or Service requirement for normal retirement pursuant to subsection 2-164.9. If a disability Retiree refuses to submit to a medical examination, payment of the Pension may be suspended by the board of trustees until withdrawal of the refusal. The terminated disability Retiree may be restored to active employment with the City. A disability Pension shall be discontinued if, following medical examination, the medical advisor certifies that the disability Retiree is mentally and physically able and capable of resuming employment as a Firefighter with the City, and the board of trustees concurs in the certification of the medical advisor. The City shall be allowed reasonable latitude in placing the terminated disability Retiree in a position commensurate with the position held at the time of disability retirement.
- (b) The membership status of a disability Retiree who has been restored to employment with the City as provided in subsection (a) of this section shall be governed by section 2-164.3. The disability Retiree's years of credited service as of the date of disability retirement shall be retained. Service shall be credited for the period the disability Retiree was being paid a disability Pension if the provisions of section 2-164.15 were applicable; otherwise, credited service shall not be given for the period of disability retirement.
- (c) A terminated disability Retiree who does not return to Service for the City, and who had ten (10) or more years of credited service at the time of disability retirement, shall be entitled to deferred retirement as provided in section 2-164.8.

Sec. 2-164.18. - Commencement and termination dates of Pensions.

Deferred vested benefits under Section 2-164.8 and early and normal retirement benefits under Section 2-164.9 (except as provided for BACK-DROP under Paragraph (6) of Section 2-164.11) shall be payable effective the later of the first day of the calendar month coincident with or next following the Member's early or normal retirement age, whichever applies, and the first day of the calendar month coincident with or next following the approval of the application by the Board of Trustees. A pre-retirement death Pension pursuant to section 2-164.12, or 2-164.13 shall be payable effective the first day of the calendar month in which occurs the death causing payment of the Pension. A post-retirement survivor Pension pursuant to section 2-164.11 shall be payable effective the

first day of the calendar month next following the death causing payment of the Pension. Disability retirement benefits under Section 2-164.14 shall be payable effective the first day of the calendar month coincident with or next following the date of approval of the application by the Board of Trustees. Disability retirement benefits under Section 2-164.15 shall be payable effective as of the date of approval of the application by the Board of Trustees.

Once commenced, benefit payments shall be made on the first business day of each calendar month until termination, which shall occur at the end of the month in which occurs the event causing termination. Payment shall be made for the full month of termination. A change in the amount of a Pension shall occur on the first day of the calendar month next following the month in which occurs the event causing the change.

Sec. 2-164.19. - Accumulated Member Contribution guarantee.

In the event all Pension payments provided in Sections 2-164.10, 2-164.12, 2-164.13, 2-164.14, 2-164.15, terminate before there has been paid an aggregate amount equal to the Retiree's Accumulated Member Contributions at the date of retirement, the difference between the Retiree's Accumulated Member Contributions and the aggregate amount of Pension payments made shall be paid to such person or persons as the Retiree shall have designated in writing and filed with the Retirement System. If there be no such individual surviving the Retiree, the difference shall be paid to the estate of the last survivor among the Retiree and the designated person or persons.

Sec. 2-164.20. - Member contributions.

Member contributions to the Retirement System shall be 7.95 percent of Compensation. For the period February 5, 2001 through July 20, 2014, Member contributions were 6.45 percent of Compensation.

Sec. 2-164.21. - City pickup of Member contributions for Federal Income Tax purposes.

The City shall pick up the Member contributions required of Members on account of Compensation earned after the effective date specified in the resolution of the City Council activating the provisions of this section. The picked-up contributions shall be treated as City contributions for the purposes of determining tax treatment under the United States Internal Revenue Code. The specified effective date shall not be prior to ninety (90) days after the Retirement System has received notification from the United States Internal Revenue Service that, pursuant to Section 414(h) of the United States Internal Revenue Code, the Member contributions picked up shall not be included in gross income for income tax purposes until such time as the picked-up contributions are distributed by refund or Pension payments. The City shall pick up the Member contributions from funds designated as Member contributions and paid to the Retirement System. Member contributions picked up pursuant to this section shall be treated for all other purposes, in the same manner and to the same extent, as Member contributions made prior to the specified effective date.

Sec. 2-164.22. - Procedure if claim for benefits denied.

In the event a claim for benefits is denied by the board of trustees, the claimant shall be notified of the denial, in writing, within thirty (30) days of the board's action. The notification shall set forth the reasons for the denial. The claimant may appeal the denial and request a hearing before the board. The appeal shall be in writing to the City Clerk and filed within ninety (90) days of the board's denial. The request shall contain a written statement of the claimant's position regarding the claim. The board of trustees shall schedule a hearing within ninety (90) days of receipt of the appeal.

Sec. 2-164.23. - Board of trustees—Responsibilities and compensation.

- (a) The Retirement System is created, established, and maintained as an irrevocable trust pursuant to §§ 112.66(8), and 175.041 Florida Statutes. The board of trustees shall receive, hold, manage, control, and administer the Retirement System for the purpose of providing such benefits as now are, or hereafter may be, authorized or permitted by law, for Members and beneficiaries of the Retirement System and for paying the reasonable expenses of administering the system. No portion of the assets of the Retirement System shall revert to or be the property of the City of Jacksonville Beach, Florida.
- (b) The board of trustees shall consist of the following five (5) individuals:
 - (1) Two (2) members appointed by the City Council, who shall be residents of the City.
 - (2) Two (2) Firefighters who shall be elected by active Firefighters of the City.
 - (3) A fifth member selected by the other four (4) members and appointed, as a ministerial act, by the City Council.
- (c) Elections of member trustees shall be conducted in accordance with rules adopted by the board of trustees.
- (d) The board of trustees shall adopt its own rules of procedure and shall keep a record of its proceedings in accordance with § 175.061, Florida Statutes. Three (3) trustees shall constitute a quorum at any meeting of the board and at least three (3) concurring votes shall be necessary for a decision. Each trustee shall be entitled to one (1) vote on each question before the board.
- (e) The City, any Member, or Beneficiary, shall not have any right, title, or interest in or to the Retirement System or any part thereof other than vesting and other than a Pension or other benefit for which a Member or Beneficiary is entitled under the terms and conditions set forth herein. There shall be no pro rata or other distribution of any of the assets of the Retirement System as a result of any group of Members and/or beneficiaries, ceasing their participation in the Retirement System for any purpose or reason, except as required by law.

Sec. 2-164.24. - Same—Term of office; oath of office; vacancies.

- (a) The term of office of Member-elected trustees shall be two (2) years. The City Council trustees shall serve two-year terms at the pleasure of the City Council. The fifth member shall serve for a two-year term.
- (b) Each trustee shall, before assuming the duties of trustee, qualify by taking an oath of office to be administered by the City Clerk.
- (c) A vacancy shall occur on the board of trustees if a Member-elected trustee ceases to be employed by the City, if an appointed trustee resigns or is removed from office by the appointing body, or if the fifth trustee resigns. In the event a vacancy occurs on the board of trustees, the vacancy shall be filled within ninety (90) days, for the unexpired term, in the same manner as the position was previously filled.

Sec. 2-164.25. - Same—Officers; administrative services.

- (a) The officers of the Retirement System shall be:
 - (1) *Chairperson.* The board of trustees shall annually elect a chairperson and a chairperson pro tem from its members.
 - (2) *Secretary.* The board of trustees shall annually elect a secretary from its members.
 - (3) *Legal advisor.* The City Attorney may be legal advisor to the board of trustees. However, the board of trustees is authorized to retain independent legal counsel.
- (b) The board of trustees is authorized and empowered to employ such professional and other services as are required for the proper discharge of their responsibilities.

Sec. 2-164.26. - Same—Annual report; data and tables.

- (a) The Retirement System shall prepare an annual report for each fiscal year. The report shall contain information regarding the financial, actuarial, and other activities of the Retirement System during the fiscal year. A copy of the report shall be furnished to the mayor and City Council no later than the February 1 following the end of the fiscal year covered by the report.
- (b) The Retirement System shall prepare and distribute other reports required by applicable laws of the State of Florida or the United States, as required by such laws.
- (c) The board of trustees shall adopt the experience tables, which are necessary for the operation of the retirement system on the actuarial basis specified in this act. Sufficient data and information shall be kept by the retirement system to facilitate the actuarial operation of the retirement system.

Sec. 2-164.27. - Investment of Retirement System assets.

The board of trustees shall have full power and authority to invest and reinvest such moneys and assets, subject to all terms, conditions, limitations, and restrictions imposed by the State of Florida on the investments of public employee retirement systems, by investing on a market value basis up to sixty-five (65) percent of the Retirement System's assets in equities (common stocks or capital stocks) as well as allowing for the investment

of up to twenty-five (25) percent of plan assets in foreign securities on a market-value basis. The board of trustees may invest up to ten (10) percent of the Retirement System's assets, on a market value basis, in real estate. The board of trustees shall invest and reinvest such moneys in those securities or in that property, real or personal, wherever situated, as the trustee shall deem advisable, including but not limited to, stocks, common or preferred, bonds, mortgages, trusts, and other evidences of indebtedness or ownership. The board of trustees shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in F.S. § 215.473, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in such company beginning January 1, 2010 and shall thereafter be prohibited from purchasing or holding such securities. The divestiture of any such security must be completed by September 30, 2010. In accordance with Ch. 2009-97, Laws of Florida, no person may bring any civil, criminal, or administrative action against the board or any employee, officer, director, or advisor of such board based upon the divestiture of any security pursuant to this paragraph. The board of trustees may employ investment managers to manage, invest, and reinvest the assets of the Retirement System. Such investment managers shall be a named fiduciary with respect to the Retirement System, provided the Retirement System's assets are in a separately managed account, and shall so acknowledge in writing. All moneys and assets of the Retirement System shall be held and invested for the sole purpose of meeting disbursements authorized in accordance with the provisions of this Retirement System and shall be used for no other purposes. The board of trustees may engage a custodian to hold the funds and securities of the Retirement System. Said custodian shall be a qualified public depository as defined in F.S. §280.02. In exercising its discretionary authority with respect to the management of the moneys and assets of the Retirement System, the board of trustees and the investment managers shall exercise care, skill, prudence, and diligence, under the circumstances then prevailing, that a person of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character with like aims.

Sec. 2-164.28. - Method of making payments.

All payments from moneys of the Retirement System shall be made according to procedures governing the disbursement of City general fund moneys. No payment shall be made unless it shall have been previously authorized by a specific or continuing resolution of the board of trustees.

Sec. 2-164.29. - Reserve for Accumulated Member Contributions.

- (a) The reserve for Accumulated Member Contributions is the account in which is accumulated the contributions deducted from the Compensation of Members, or otherwise paid to the Retirement System by the Member or on the Member's behalf, and from which shall be made refunds and transfers of Accumulated Member Contributions.
- (b) The individual or individuals responsible for preparing the City payroll shall cause the contributions provided for in section 2-164.20 to be deducted from the Compensation

of each Member on each and every payroll. The deducted contributions shall be paid to the Retirement System and shall be credited to the Members' individual accounts in the reserve for Accumulated Member Contributions. Members' contributions shall be made notwithstanding that the minimum compensation provided by law for any Member shall be changed thereby. Every Member shall be deemed to consent and agree to the deductions made and provided herein. Payment of Compensation, less the deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered by the Member during the period covered by such payment, except as to benefits provided by the Retirement System.

- (c) The accumulated contributions of a Member shall be transferred from the reserve for Accumulated Member Contributions to the reserve for Pension payments if a Pension is payable on account of a Member's retirement or death.

Sec. 2-164.30. - Reserve for Pension payments.

- (a) The reserve for Pension payments is the account to which is credited contributions made by the City to the Retirement System, all interest, dividends, and other income from the investment of Retirement System assets; all gifts and bequests received by the Retirement System; and all other moneys received by the Retirement System the disposition of which is not specifically provided for, and from which shall be paid all Pensions and refunds required by section 2.164.19.
- (b) A majority of the Firefighters having approved the placement of the income from Chapter 175, Florida Statutes, premium tax into the Retirement System for payments received by the City from the State of Florida pursuant to Chapter 175, Florida Statutes, such income shall therefore be paid to the Retirement System and credited to the reserve for pension payments. All moneys received pursuant to such chapter shall be used exclusively to finance the benefits of Members who are Firefighters as provided by such chapters. However, a local law plan in effect on October 1, 1998, shall be required to comply with the minimum benefits of Chapter 175, Florida Statutes, only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance. Notwithstanding the foregoing, effective July 21, 2014, the City and International Association of Firefighters have agreed, and a majority of the Firefighters have approved the agreement, that all accumulated additional premium tax revenues as reflected in the October 1, 2012 actuarial valuation, shall be used to reduce the unfunded actuarial accrued liability of the Retirement System.
- (c) The Retirement System shall be funded by the City in compliance with the requirements of Section 14, Art. X of the State Constitution, ~~and~~ Chapter 112, Part VII, and Chapter 175, Florida Statutes, and effective [effective date of Interlocal Agreement], by the City and City of Jacksonville in accordance the 2019 Interlocal Agreement between the City of Jacksonville Beach and the City of Jacksonville, for Advanced Life Support and Fire Services.

- (d) City contributions to the Retirement System each fiscal year which, together with the contributions made by Members during the fiscal year and moneys received pursuant to Chapter 185, Florida Statutes, shall be sufficient to fully fund the cost of benefits likely to be paid on account of Service rendered by Members during the year and to finance unfunded costs of benefits likely to be paid on account of Service rendered by Members prior to the current year over periods established by the trustees which shall not exceed the maximum periods specified in Part VII of Chapters 112 and 175, Florida Statutes. The contributions shall be computed by actuarial valuation as level percents of Member payroll in accordance with generally recognized actuarial principles. The City shall also contribute the anticipated cost of any other benefits provided Retirees and Beneficiaries through the Retirement System. The board of trustees shall annually certify to the City Council and the City Manager the contributions determined according to this section, and the City Council shall appropriate and pay to the Retirement System the contributions so certified, except as otherwise provided in the 2019 Interlocal Agreement between the City of Jacksonville Beach and the City of Jacksonville, for Advanced Life Support and Fire Services.
- (e) Should a disability Pension be terminated and the Retiree be returned to the employ of the City, the excess of the Retiree's Accumulated Member Contributions at the time of retirement over the aggregate amount of Pension paid shall be transferred from the reserve for Pension payments to the reserve for Accumulated Member Contributions.

Sec. 2-164.31. – Defined Contribution Supplemental Retirement Benefit.

In accordance with section 175.351(6), Florida Statutes, a defined contribution supplemental retirement benefit is hereby established as part of the defined benefit pension plan, to be funded exclusively with Chapter 175 premium tax revenues. However, the City and firefighters' union have mutually agreed that no Chapter 175 premium tax revenues will be allocated to the defined contribution supplemental retirement benefit at this time. The defined contribution supplemental retirement benefit shall not be activated until Chapter 175 premium tax revenues are allocated to the share plan.

Sec. 2-164.32. - Reserved.

Sec. 2-164.33. - Reserve for administrative expenses.

The reserve for administrative expenses is the account from, which shall be paid the expenses of administering the Retirement System.

Sec. 2-164.34. - Interest credited to reserve accounts.

The board of trustees shall at least annually credit interest on the individual balances in the reserve for Accumulated Member Contributions. Interest shall accrue on the prior

month's Accumulated Member Contributions ending balance at an annual rate determined by the board of trustees and compounded monthly.

Sec. 2-164.35. - Assets not segregated.

The description of the various reserves of the Retirement System shall be interpreted to refer to the accounting records of the system and not to the segregation of moneys or assets in the reserve accounts of the system.

Sec. 2-164.36. - Internal Revenue Code compliance.

(a) *Maximum amount of retirement income.*

- (1) The limitations of this subsection (a) shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein, and are intended to comply with the requirements of the Pension Protection Act of 2006 and shall be construed in accordance with said Act and guidance issued thereunder. The provisions of this subsection (a) shall supersede any provision of the plan to the extent such provision is inconsistent with this subsection.

The annual pension as defined in paragraph (2) below otherwise payable to a Member at any time shall not exceed the dollar limitation for the Member multiplied by a fraction whose value cannot exceed one (1), the numerator of which is the Member's number of years (or part thereof, but not less than one (1) year) of Service with the City and the denominator of which is ten (10). For this purpose, no more than one (1) year of Service may be credited for any Plan Year. If the benefit the Member would otherwise accrue in a limitation year would produce an annual pension in excess of the dollar limitation, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the dollar limitation.

- (2) "*Annual pension*" means the sum of all annual benefits, payable in the form of a straight life annuity. Benefits payable in any other form shall be adjusted to the larger of:
- (A) For limitation years beginning on or after July 1, 2007:
- (I) The straight life annuity (if any) payable to the Member under the plan commencing at the same annuity starting date as the Member's form of benefit, or
- (II) The Actuarially Equivalent straight life annuity commencing at the same annuity starting date, computed using a five percent (5.00%) interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).
- (B) For limitation years beginning before July 1, 2007
- (I) The Actuarially Equivalent straight life annuity commencing at the same annuity starting date, computed using the interest rate and mortality basis specified by the board of trustees for determining actuarial equivalence under the plan for the particular form of payment, or

- (II) The Actuarially Equivalent straight life annuity commencing at the same annuity starting date, computed using a five percent (5.00%) interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).

No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to § 417(e)(3) of the Internal Revenue Code and would otherwise satisfy the limitations of this subsection (a), and the amount payable under the form of benefit in any limitation year shall not exceed the limits of this subsection (a) applicable at the annuity starting date, as increased in subsequent years pursuant to § 415(d) of the Code. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

- (3) "*Dollar limitation*" means, effective for the first limitation year beginning after January 1, 2001, one hundred sixty thousand dollars (\$160,000.00), automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a Member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The dollar limitation shall be further adjusted based on the age of the Member when the benefit begins as follows:

- (A) *For annuity starting dates in limitation years beginning on or after July 1, 2007:*

- (I) If the annuity starting date for the Member's benefit is after age sixty-five (65):

- (i) If the plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's annuity starting date that is the actuarial equivalent of the dollar limitation with actuarial equivalence computed using a five percent (5.00%) interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that annuity starting date (and expressing the Member's age based on completed calendar months as of the annuity starting date).

- (ii) If the plan does have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the lesser of (aa) the dollar limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the Member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age sixty-five (65), both determined without applying the limitations of this subsection (a), and (bb) the limitation determined under subparagraph (3)(A)(I)(i) of this subsection (a). For this purpose, the adjusted immediately commencing straight life annuity under the plan at the Member's annuity starting date is the annual amount of such annuity payable to the Member, computed disregarding the Member's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age sixty-five (65) is the annual amount of such annuity that would be payable under the plan to a hypothetical Member who is age sixty-five (65) and has the same accrued benefit as the Member.

(II) Except with respect to a Member who is a "qualified member" as defined in Section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code), if the annuity starting date for the Member's benefit is before age sixty-two (62):

(i) If the plan does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's annuity starting date that is the actuarial equivalent of the dollar limitation with actuarial equivalence computed using a five percent (5.00%) interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that annuity starting date (and expressing the Member's age based on completed calendar months as of the annuity starting date).

(ii) If the plan does have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement

The dollar limitation at the Member's annuity starting date is the lesser of (aa) the dollar limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the Member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age sixty-two (62), both determined without

applying the limitations of this subsection (a), and (bb) the limitation determined under subparagraph (3)(A)(II)(i) of this subsection (a).

(B) *For annuity starting dates in limitation years beginning before July 1, 2007.*

Age as of Annuity Starting Date:	Adjustment of Dollar Limitation:
Over 65	<p>The smaller of:</p> <p>(a) The actuarial equivalent of the limitation for age 65, computed using the interest rate and mortality basis specified by the board of trustees for determining actuarial equivalence under the plan, or</p> <p>(b) The actuarial equivalent of the limitation for age 65, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</p> <p>Any increase in the dollar limitation determined in accordance with this paragraph shall not reflect a mortality decrement between age 65 and the age at which benefits commence if benefits are not forfeited upon the death of the Member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.</p>
62 to 65	No adjustment.
Less than 62	<p>The smaller of:</p> <p>(a) The actuarial equivalent of the limitation for age 62, computed using the interest rate and mortality basis specified by the board of trustees for determining actuarial equivalence under the plan, or</p> <p>(b) The actuarial equivalent of the limitation for age 62, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</p> <p>This adjustment shall not apply to any "Qualified Member" as defined in Section 415(b)(2)(H), nor to survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code.</p>

- (4) With respect to clause (3)(A)(I)(i), clause (3)(A)(II)(i) and paragraph (3)(B) above, no adjustment shall be made to the dollar limitation to reflect the probability of a Member's death between the annuity starting date and age sixty-two (62), or between age sixty-five (65) and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the Member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Member's death if the plan does not charge Members for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the Member's death.
- (5) The term "limitation year" is the 12-month period which is used for application of the limitations under Code Section 415 and shall be the calendar year.
- (6) The limitations set forth in this subsection (a) shall not apply if the annual pension does not exceed ten thousand dollars (\$10,000.00) provided the Member has never participated in a defined contribution plan maintained by the City.
- (7) Cost-of-living adjustments in the dollar limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury under Section Subsection 415(d) of the Code.
- (8) In the case of a Member who has fewer than ten (10) years of participation in the plan, the dollar limitation set forth in paragraph (3) of this subsection (a) shall be multiplied by a fraction (i) the numerator of which is the number of years (or part thereof) of participation in the plan, and (ii) the denominator of which is 10.
- (9) Any portion of a Member's benefit that is attributable to mandatory Member contributions (unless picked-up by the City) or rollover contributions shall be taken into account in the manner prescribed in the regulations under Section 415 of the Code.
- (10) Should any Member participate in more than one defined benefit plan maintained by the City, in any case in which the Member's benefits under all such defined benefit plans (determined as of the same age) would exceed the dollar limitation applicable at that age, the accrual of the Member's benefit under this plan shall be reduced so that the Member's combined benefits will equal the dollar limitation.
- (11) For a Member who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to § 1.401(a)-20, Q&A 10(d), and with regard to § 1.415(b)1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.
- (12) The determination of the annual pension under paragraph (A)(1) of this subsection (a) shall take into account (in the manner prescribed by the regulations under Section 415 of the Code) social security supplements

described in § 411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant § 1.411(d)-4, Q&A-3(c) of the Income Tax Regulations.

- (13) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this subsection (a) and the provisions of Section 415 of the Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code. The value of any benefits forfeited as a result of the application of this subsection (a) shall be used to decrease future employer contributions.
- (14) For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, Compensation shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in this subsection (a), Compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Internal Revenue Code. For limitation years on or after July 1, 2007, Compensation shall include payments that otherwise qualify as Compensation and that are made by the later of: (a) two and one-half (2½) months after severance from employment with the employer, and (b) the end of the limitation year that includes the date of severance.
- (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:
- April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of seventy and one-half (70½) years; or
 - April 1 of the calendar year that next follows the calendar year in which the participant retires.
- (c) *Required minimum distributions.*
- (1) *Required beginning date.* The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date as defined in subsection (b) of this section 2-164.36.
- (2) *Death of participant before distributions begin.*
- (A) If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- (i) If the participant's surviving spouse is the participant's sole designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age seventy and one-half (70½), if later.
 - (ii) If the participant's surviving spouse is not the participant's sole designated Beneficiary, then distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.
 - (iii) If there is no designated Beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
- (B) The participant's entire interest shall be distributed as follows:
- (i) *Participant survived by designated Beneficiary.* If the participant dies before the date distribution of his or her interest begins and there is a designated Beneficiary, the participant's entire interest will be distributed, beginning no later than the time described in subparagraph (2)(A) above, over the life of the designated Beneficiary or over a period certain not exceeding:
 - (I) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death; or
 - (II) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the annuity starting date.
 - (ii) *No designated Beneficiary.* If the participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
- (C) Death of surviving spouse before distributions to surviving spouse begin. In any case in which (i) the participant dies before the date distribution of his or her interest begins, (ii) the participant's surviving spouse is the participant's sole designated Beneficiary, and (iii) the surviving spouse dies before distributions to the surviving spouse begin, subparagraphs (2)(A) and (2)(B) above shall apply as though the surviving spouse were the participant.

- (3) *Requirements for annuity distributions that commence during participant's lifetime.*
- (A) Joint life annuities where the Beneficiary is not the participant's spouse. If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspousal Beneficiary, annuity payments to be made on or after the participant's required beginning date to the designated Beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspousal Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.
- (B) Period certain annuities. Unless the participant's spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age seventy (70), the applicable distribution period for the participant is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of seventy (70) over the age of the participant as of the participant's birthday in the year that contains the annuity starting date. If the participant's spouse is the participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the participant's applicable distribution period, as determined under this subparagraph (3)(B), or the joint life and last survivor expectancy of the participant and the participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the calendar year that contains the annuity starting date.
- (4) *Form of distribution.* Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subparagraphs (4)(A), (4)(B) and (4)(C) below. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the participant's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying

the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

- (A) *General annuity requirements.* If the participant's interest is paid in the form of annuity distributions under the plan, payments under the annuity will satisfy the following requirements:
 - (i) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 - (ii) The distribution period will be over a life (or lives) or over a period certain, not longer than the distribution period described in paragraphs (2) or (3) above, whichever is applicable, of this subsection (c);
 - (iii) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
 - (iv) Payments will either be non-increasing or increase only as follows:
 - (I) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - (II) To the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period dies or is no longer the participant's Beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;
 - (III) To provide cash refunds of employee contributions upon the participant's death; or
 - (IV) To pay increased benefits that result from a plan amendment.
- (B) *Amount required to be distributed by required beginning date.* The amount that must be distributed on or before the participant's required beginning date (or, if the participant dies before distributions begin, the date distributions are required to begin under subparagraph (2)(A)(i) or (2)(A)(ii), whichever is applicable) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the participant's required beginning date.
- (C) *Additional accruals after first distribution calendar year.* Any additional benefits accruing to the participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval

ending in the calendar year immediately following the calendar year in which such amount accrues.

- (5) *Beginning date.* For purposes of this subsection (c), distributions are considered to begin on the participant's required beginning date. If annuity payments irrevocably commence to the participant (or to the participant's surviving spouse) before the participant's required beginning date (or, if to the participant's surviving spouse, before the date distributions are required to begin in accordance with subparagraph (2)(A) above), the date distributions are considered to begin is the date distributions actually commence.
- (6) *Definitions.*
 - (A) *Designated Beneficiary.* The individual who is designated as the Beneficiary under the plan and is the designated Beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4 of the Treasury regulations.
 - (B) *Distribution calendar year.* A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (2) of this subsection (c).
 - (C) *Life expectancy.* Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- (d) (1) Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (2) *Definitions.* The following definitions apply to this section:
 - (A) *Eligible rollover distribution:* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
 - (i) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten (10) years or more;
 - (ii) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Code;
 - (iii) The portion of any distribution which is made upon hardship of the Member; and

- (iv) The portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), provided that a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
- (3) Eligible retirement plan: An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, a qualified trust described in Section 401 (a) of the Code, an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, or, with respect to distributions on or after January 1, 2008, a Roth IRA (subject to the limitations of Code Section 408A(c)(3)) that accepts the distributee's eligible rollover distribution.
- (4) Distributee: A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. Furthermore, effective January 1, 2007, a surviving designated Beneficiary as defined in Section 401(a)(9)(E) of the Code who is not the surviving spouse and who elects a direct rollover to an individual retirement account described in Section 408(a) of the Code or an individual retirement annuity described in Section 408(b) of the Code shall be considered a distributee.
- (5) Direct rollover: A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.
- (e) *Maximum mandatory distribution* Notwithstanding any other provision of this plan, the maximum amount of any mandatory distribution, as defined in Section 401(a)(31) of the Code, payable under the plan shall be one thousand dollars (\$1,000.00).
- (f) *Compensation limitations under 401(a)(17)*. In addition to other applicable limitations set forth in the plan, and notwithstanding any other provision of the plan to the contrary, the annual Compensation of each participant taken into account under the plan shall not exceed the EGTRRA annual Compensation limit for limitation years beginning after December 31, 2001. The EGTRRA annual Compensation limit is two hundred thousand dollars (\$200,000.00), as adjusted by the Commissioner for

increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the EGTRRA annual Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

Any reference in the plan to the limitation under Section 401(a)(17) of the Code shall mean the EGTRRA annual Compensation limit set forth in this provision.

- (g) At no time prior to the satisfaction of all liabilities under the plan with respect to Members and their spouses or beneficiaries, shall any part of the corpus or income of the fund be used for or diverted to any purpose other than for their exclusive benefit.

Sec. 2-164.37. - Assignments prohibited.

The right of an individual to a Pension, to the return of Accumulated Member Contributions, the Pension itself, any optional benefit, any other right accrued or accruing to any individual under the provisions of the Retirement System, and any moneys belonging to the Retirement System, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable, except as is otherwise specifically provided herein, except the recipient of any monthly benefit may authorize the board of trustees to withhold from the monthly benefit those funds necessary to pay for the benefits being received through the City, to pay the certified bargaining agent, and to make any payments for child support or alimony. The board of trustees may, upon the written request of the Retiree of the pension plan, authorize the plan administrator to withhold from the retirement payment those funds that are necessary to pay for premiums for accident, health, and long-term care insurance for the Retiree and the Retiree's spouse and dependents. The Retirement System, and its board of trustees, shall not incur any liability for participation in this permissive program should its actions be taken in good faith. The City shall have the right to setoff for any claim arising from embezzlement by a fraud of a Member, Retiree, or Beneficiary as provided in F.S. § 175.195.

Sec. 2-164.38. - Subrogation.

- (a) The Retirement System has a right of subrogation against any third-party tortfeasor or insurance carriers representing such third-party tortfeasor, to the extent that the Retirement System becomes obligated to make any disability benefit payments to a Member as a result of injuries caused by the third-party tortfeasor.
- (b) A Member shall execute a subrogation agreement on a form provided by the Retirement System or such other documents, which may be necessary to document the Retirement System's subrogation rights. The Member shall notify the Retirement System of any claim or legal action asserted against any party or insurance carrier for such injuries and shall notify the Retirement System of the name and address of such party and any insurance carrier. The Member shall take no action inconsistent

with the requirements of this section, nor settle any claim without obtaining the prior consent of the Retirement System.

- (c) The Retirement System's subrogation rights shall not be subject to equitable distribution or to any reduction for costs or attorneys' fees incurred by the Member in pursuit of his or her claim against a third-party tortfeasor or any insurance carrier. Further, the Retirement System's subrogation rights shall not be subject to reduction regardless of whether the Member recovers the full value of his or her claim against a third-party and/or any insurance carrier.
- (d) In the event that the Member fails to execute a subrogation agreement, or otherwise fails to comply with the terms of this section, then such shall be considered a breach of this Retirement System and disability Pension benefits may be denied and/or discontinued by the board of trustees upon a uniform and nondiscriminatory basis.

Sec. 2-164.39. - Correction of errors.

The Retirement System shall correct errors in the records of the Retirement System. The Retirement System shall seek to recover any overpayments, and shall make up any underpayments, which have been made. The recovery of overpayments may be accomplished by reducing the amount of future payments so that the actuarial present value of actual payments to the recipient is equal to the actuarial present value of the payments to which the recipient was correctly entitled.

Sec. 2-164.40. - Liability.

Payments made by the Retirement System to a Retiree or Beneficiary shall operate as a full discharge, release, and acquittance of the liability of the City and the Retirement System and there shall be no obligation on the part of the City or the Retirement System to assure that such payments are actually used and applied for the benefit of the Retiree or Beneficiary.

Sec. 2-164.41. - Qualified retirement system.

The City intends the Retirement System to be a qualified pension plan under Section 401 of the Internal Revenue Code of 1986, as amended, or successor provisions of law and that the trust be an exempt organization in compliance with Section 501 of said code. The board of trustees may adopt such additional provisions to the Retirement System as are necessary to fulfill the intent of being a qualified pension plan.

Sec. 2-164.42. - Severability.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Sec. 2-164.43. - Merger and termination.

- (a) *Merger.* This Retirement System shall not merge or consolidate with any other retirement system or pension plan, nor transfer any assets or liabilities to any other retirement system or pension plan, unless each Member and Beneficiary of the Retirement System will receive a benefit immediately after such merger, consolidation, or transfer which is at least equal to the benefit the Member or Beneficiary was entitled to immediately before such merger, consolidation, or transfer.
- (b) *Termination.* In the event of termination of the Retirement System, the board of trustees shall follow the procedures contained in § 175.361, Florida Statutes and the Internal Revenue Code. A Member's accrued benefit shall become one hundred (100) percent fully vested (non-forfeitable) upon the termination of this plan.