



CITY OF JACKSONVILLE BEACH

FLORIDA

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 on **Monday, February 3, 2014, at 7:00 P.M. in the Council Chambers, 11 North Third Street, Jacksonville Beach, Florida.**

**Opening Ceremonies: Invocation
 Salute to the Flag**

Roll Call

1. **APPROVAL OF MINUTES:**
 - Regular City Council Meeting held January 21, 2014
2. **ANNOUNCEMENTS:**
3. **COURTESY OF THE FLOOR TO VISITORS:**
4. **MAYOR AND CITY COUNCIL:**
5. **CITY CLERK:**
6. **CITY MANAGER:**
7. **RESOLUTIONS:**
8. **ORDINANCES:**

(a) ORDINANCE NO. 2013-8037 – Second Reading

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 6, 'POLICE OFFICERS' RETIREMENT SYSTEM' OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR A MODIFICATION TO THE PARAMETERS FOR INVESTMENT OF ASSETS OF THE RETIREMENT SYSTEM; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

(b) ORDINANCE NO. 2013-8038 – Second Reading

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 7, ‘FIREFIGHTERS’ RETIREMENT SYSTEM’ OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR A MODIFICATION TO THE PARAMETERS FOR INVESTMENT OF ASSETS OF THE RETIREMENT SYSTEM; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

(c) ORDINANCE NO. 2013- 8039 – Second Reading

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 5, ‘GENERAL EMPLOYEES’ RETIREMENT SYSTEM’ OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR A MODIFICATION TO THE PARAMETERS FOR INVESTMENT OF ASSETS OF THE RETIREMENT SYSTEM; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

(d) ORDINANCE NO. 2014-8041 – Second Reading

AN ORDINANCE AMENDING CHAPTER 12, “FOOD AND FOOD PRODUCTS”, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY ADDING A SECTION 12-33, “MOBILE FOOD VENDING” ESTABLISHING DEFINITIONS; LOCATION, PERMIT, AND SEPARATION REQUIREMENTS; SIGNAGE AND NOISE, HOURS OF OPERATION, WASTE MANAGEMENT, LICENSING AND PERMITS REQUIRED, APPLICATION SUBMITTAL REQUIREMENTS, AND ENFORCEMENT PROCEDURES FOR THE OPERATION OF MOBILE FOOD VENDING BUSINESSES IN THE CITY OF JACKSONVILLE BEACH; SETTING AN EXPIRATION (“SUNSET”) DATE FOR THIS ORDINANCE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

(e) ORDINANCE NO. 2014-8042 – Second 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 ADDING NEW DEFINITIONS AND MOBILE FOOD VENDORS AS A PERMITTED USE IN THE COMMERCIAL LIMITED: C-1, COMMERCIAL GENERAL: C-2, COMMERCIAL SERVICE: CS, CENTRAL BUSINESS DISTRICT: CBD; AND CERTAIN REDEVELOPMENT DISTRICT: RD AND PLANNED UNIT DEVELOPMENT: PUD ZONING DISTRICTS; TO REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES:

(f) ORDINANCE NO. 2014-8043 – Second Reading

AN ORDINANCE AMENDING CHAPTER 2, “ADMINISTRATION”, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY ADDING A NEW PARAGRAPH (6) TO SECTION 2-173, “JURISDICTION OF SPECIAL MAGISTRATE” PLACING ENFORCEMENT OF CHAPTER 12 “FOOD AND FOOD PRODUCTS” UNDER THE JURISDICTION AND AUTHORITY OF THE SPECIAL MAGISTRATE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

(g) ORDINANCE NO. 2014-8047 – First Reading

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 5, ‘GENERAL EMPLOYEES’ RETIREMENT SYSTEM’ OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR COMPLIANCE WITH THE INTERNAL REVENUE CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

(h) ORDINANCE NO. 2014-8048 – First Reading

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 6, ‘POLICE OFFICERS’ RETIREMENT SYSTEM’ OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR COMPLIANCE WITH THE INTERNAL REVENUE CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

(i) ORDINANCE NO. 2014-8049 – First Reading

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 7, ‘FIREFIGHTERS’ RETIRMENT SYSTEM’ OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR COMPLIANCE WITH THE INTERNAL REVENUE CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

(j) ORDINANCE NO. 2014-8044 – First Reading

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING CHAPTER 2, ARTICLE V OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, “EMPLOYEE BENEFITS,” DIVISION 5, RETIREMENT PLAN FOR GENERAL EMPLOYEES OF THE CITY OF JACKSONVILLE BEACH, TO PROVIDE FOR PERMITTING DEPARTMENT HEADS THE OPTION TO RESCIND THEIR ELECTION TO PARTICIPATE IN THE PLAN ONE TIME BEFORE VESTING; TERMS GOVERNING THE BUY-IN AND BUY-OUT OF SERVICE CREDIT RELATED TO SUCH ELECTIONS; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.

(k) ORDINANCE NO. 2014-8045 – First Reading

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING CHAPTER 2, ARTICLE V OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, “EMPLOYEE BENEFITS,” DIVISION 6, RETIREMENT PLAN FOR POLICE OFFICERS OF THE CITY OF JACKSONVILLE BEACH, TO PROVIDE FOR PERMITTING THE POLICE CHIEF THE OPTION TO RESCIND THEIR ELECTION TO PARTICIPATE IN THE PLAN ONE TIME BEFORE VESTING; TERMS GOVERNING THE BUY-IN AND BUY-OUT OF SERVICE CREDIT RELATED TO SUCH ELECTIONS; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.

(l) ORDINANCE NO. 2014-8046 – First Reading

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING CHAPTER 2, ARTICLE V OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, “EMPLOYEE BENEFITS,” DIVISION 7, RETIREMENT PLAN FOR FIREFIGHTERS OF THE CITY OF JACKSONVILLE BEACH, TO PROVIDE FOR PERMITTING THE FIRE CHIEF THE OPTION TO RESCIND THEIR ELECTION TO PARTICIPATE IN THE PLAN ONE TIME BEFORE VESTING; TERMS GOVERNING THE BUY-IN AND BUY-OUT OF SERVICE CREDIT RELATED TO SUCH ELECTIONS; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.

ADJOURNMENT

Respectfully submitted,

/s/George D. Forbes
CITY MANAGER

GDF: cmm
01/30/14

If a person decides to appeal any decision made by the City Council with respect to any matter considered at any meeting, such person may need a record of the proceedings and, for such purpose, 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 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, ext. 10, no later than 12:00 PM, Friday, January 31, 2014.

**Minutes of Regular City Council Meeting
held Tuesday, January 21, 2014, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida.**



CALL TO ORDER:

Mayor Charlie Latham called the meeting to order.

OPENING CEREMONIES:

Invocation was by Council Member Wilson; followed by the Salute to the Flag.

ROLL CALL:

Mayor: Charlie Latham

Council Members: Keith Doherty Steve Hartkemeyer Christine Hoffman
Tom Taylor Phil Vogelsang Jeanell Wilson

Also present were City Manager George Forbes, City Department Directors, Judy Bullock, City Clerk, and Catherine Martinich, Staff Assistant.

APPROVAL OF MINUTES

It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, and passed, to approve the following minutes, as presented:

- Regular City Council Meeting held December 16, 2013
- City Council Workshop held December 16, 2013

ANNOUNCEMENTS

Councilmember Hartkemeyer – Attended the Awards Ceremony on January 11th, for the Elam Project with Council President Mr. Bill Guillford at Christ Episcopal Church in Ponte Vedra Beach

Councilmember Doherty – Is participating in the countywide homeless count from 2:00 until 4:00 am today.

Mayor Latham’s Announcements –

Mayor Latham thanked Curtis Loftus, Curtis Group, and Rob Nicholson, Hospitality Network for the work on 3rd Street, for the great job and assistance provided for Deck the Chairs Christmas lights.

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Mayor Latham congratulated the City Staff on the Christmas Committee for a great job at the Employee Christmas Party on December 17, 2013.

The Mayor attended a Grand opening Celebration for Always Promotions on 3rd Street, December 18, 2013.

The Beaches Watch State of the City was held on January 8, 2014. Mayor Latham said it was a very informative event.

The Mayor said the new Citizens Police Academy (CPA) class, number 32, began on January 9, 2014. He complimented the many City employees participating in the program.

Mayor Latham thanked Mayor Pro-Tem Taylor and the Council for their assistance while he was away for a week.

COURTESY OF THE FLOOR TO VISITORS

Mr. Charles Sampson, 4200 Ponte Vedra Boulevard, talked about a fire in his yard and asked for assistance with the arson matter.

MAYOR AND CITY COUNCIL

(a) Employee of the Quarter Awards

Mayor Latham presented Employee of the Quarter Awards to the following employees:

- Jennifer Howe, Fire Department
- Dallis Hunter, Fire Department
- Michael Abate, Police Department

(b) Presentation on 26.2 with DONNA Run

Donna Deegan spoke about the race schedule and briefed the Council Members about the event.

Mr. Forbes said the route was the same as in the past years. He also noted there are 10,000 or more people expected to participate in the run, bringing a large number of visitors to our community. There will also be live music this year, as many other national races have. Music can begin at 8am but must maintain appropriate noise levels.

CITY CLERK

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CITY MANAGER

(a) Monthly Financial Reports – Month of December 2013

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to accept the Financial Reports for the month of December 2013.

Roll call vote: Ayes - Doherty, Hartkemeyer, Hoffman, Taylor, Vogelsang, Wilson, and Mayor Latham; motion carried unanimously.

(b) Award of RFP for Downtown Retail Recruitment

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to approve the award of RFP 01-1314, titled Retail Feasibility, Strategic Planning, and Business Recruitment to the firm, *Retail Strategies*.

Mr. Forbes explained the downtown and major corridors of the City were studied for retail recruitment.

Council Member Wilson spoke against the motion.

Council Member Doherty spoke in favor of the project.

Council Member Vogelsang spoke in favor of the project.

Mayor Pro-Tem Taylor spoke in favor of the project.

Mayor Latham spoke in favor of the downtown project. He said it is important to have the help from Retail Strategies to bring business to the City and continue to develop the family-friendly atmosphere in Jacksonville Beach.

Roll call vote: Ayes - Hartkemeyer, Hoffman, Taylor, Vogelsang, Doherty, and Mayor Latham

Nays – Wilson

Motion carried by a vote of 6 to 1.

(c) Approve Implementation Plan to Accept Credit Card Payments from Customers for Utility and Other Governmental Services

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to authorize a two percent convenience fee for the implementation of a credit card program, and the expenditure of funds for costs associated with the program, as explained in the memorandum from the Finance Officer, dated December 26, 2013.

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Mr. Forbes said a workshop had been held in December regarding the establishment of credit card payments over the counter at Utility Billing. Customer Surveys reflect the desire for credit card payment options for services. Extensive research has been done and it is an important program to implement for Utility Billing and other City departments. Expansion to request building inspections on line and other services could happen at a later date.

Roll call vote: Ayes - Hoffman, Taylor, Vogelsang, Wilson, Doherty, Hartkemeyer, and Mayor Latham; motion carried unanimously.

(d) Authorize the Execution of the Joint Defense and Common Interest Agreement with the North Florida Utilities Coordination Group.

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to authorize the execution of the Joint Defense and Common Interest Agreement with the North Florida Utilities Coordination Group. This will allow the City to participate with other members on the Florida Department of Environmental Protection (FDEP) rulemaking on Minimum Flows and Levels for the Lower Santa Fe and Ichetucknee Rivers, and Priority Springs, and pursue any legal action if necessary.

Mr. Forbes said this item was also discussed in the December workshop. He explained that the State would be establishing minimum flow levels in various creeks, which could impact our City. He said the City has partnered with eight other utility companies to make sure the minimum flows prescribed are set on accurate and scientific criteria. He also explained this vote would allow him to sign an additional agreement with this group to work with attorneys and the utility companies to make sure our City's interests are protected.

Roll call vote: Ayes - Taylor, Vogelsang, Wilson, Doherty, Hartkemeyer, Hoffman, and Mayor Latham; motion carried unanimously.

(e) Award Unit Price Bid #1213-14, Providing Roadway, Water, Sewer and Stormwater Improvements Along 1st Street N. (6th to 9th Ave.) and 7th Avenue N. (1st to 2nd St.), to the Lowest Qualified Bidder, *G & H Underground Construction, Inc.*

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to award Unit Price Bid Number 1213-14, titled "Phase 3-B Improvements Project", to the lowest qualified bidder, *G & H Underground Construction, Incorporated*, and authorize Construction Engineering Inspection Services with the project's design firm, *GAI Consultants, Incorporated*, as described in the memorandum from the Public Works Director, dated December 17, 2013.

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Mr. Forbes said this project is on 1st Street North from 6th and 9th Street, and at 7th Avenue North, between 2nd and 1st Streets. It is for reconstructing all necessary utilities and streets. The project has been approved by and is funded by the Community Redevelopment Agency. This is a six-month contract, a continuation of the Vision Plan Project, with completion date anticipated within four and one half to five months.

Roll call vote: Ayes - Vogelsang, Wilson, Doherty, Hartkemeyer, Hoffman, Taylor, and Mayor Latham; motion carried unanimously.

RESOLUTIONS

ORDINANCES

(a) **ORDINANCE NO. 2013-8040 – SECOND READING**

Mayor Latham requested that the City Clerk read Ordinance No. 2013-8040, by title only; whereupon Ms. Bullock read the following:

“AN ORDINANCE AMENDING CHAPTER 19.5, “OUTDOOR MUSICAL ENTERTAINMENT OR FESTIVALS”, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY REPEALING IT IN ITS ENTIRETY, AND REPLACING WITH A NEW CHAPTER 19.5, “SPECIAL EVENTS AND FESTIVALS”, PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.”

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to adopt Ordinance No. 2013-8040 that requires the City to regulate *Special Events and Festivals*, through a *Special Events Policy*, adopted by the City Council.

Mr. Forbes advised that the Ordinance would repeal an outdated ordinance adopted in 1979 on *Outdoor Music, Entertainment, and Festivals*, which has been obsolete for the past 10 years.

Roll call vote: Ayes - Wilson, Doherty, Hartkemeyer, Hoffman, Taylor, Vogelsang, and Mayor Latham; motion carried unanimously.

(b) **ORDINANCE NO. 2013-8037 – FIRST READING**

Mayor Latham requested that the City Clerk read Ordinance No. 2013-8037, by title only; whereupon Ms. Bullock read the following:

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“AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 6, ‘POLICE OFFICERS’ RETIREMENT SYSTEM’ OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR A MODIFICATION TO THE PARAMETERS FOR INVESTMENT OF ASSETS OF THE RETIREMENT SYSTEM; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.”

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to adopt Ordinance No. 2013-8037, amending Chapter 2, Article V, Division 6, ‘Police Officers’ Retirement System’, of the Code of Ordinances of the City of Jacksonville Beach, to allow for changes in the Investment Policy for the Police Officers’ Pension Plan.

Mr. Forbes stated the ordinances pertain to all three Retirement Plans, and provide the same adjustments for the General, Police, and Fire Retirement Plans. The first change allows maximum investment equity to be increased from 50% to 65%. The second changes the measurement of investment equities from cost basis to market value, which will help maintain the investment percentages. The third item, allows a 10% Real Estate investment, which will increase diversity. These changes were recommended by the City’s Pension advisors.

Roll call vote: Ayes - Doherty, Hartkemeyer, Hoffman, Taylor, Vogelsang, Wilson, and Mayor Latham; motion carried unanimously.

(c) ORDINANCE NO. 2013-8038 – First Reading

Mayor Latham requested that the City Clerk read Ordinance No. 2013-8038, by title only; whereupon Ms. Bullock read the following:

“AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 7, ‘FIREFIGHTERS’ RETIREMENT SYSTEM’ OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR A MODIFICATION TO THE PARAMETERS FOR INVESTMENT OF ASSETS OF THE RETIREMENT SYSTEM; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.”

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to adopt Ordinance No. 2013-8038, amending Chapter 2, Article V, Division 7, ‘Firefighters’

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Retirement System’, of the Code of Ordinances of the City of Jacksonville Beach, to allow for changes in the Investment Policy for the Firefighters’ Pension Plan.

Roll call vote: Ayes - Hartkemeyer, Hoffman, Taylor, Vogelsang, Wilson, Doherty, and Mayor Latham; motion carried unanimously.

(d) ORDINANCE NO. 2013- 8039 – First Reading

Mayor Latham requested that the City Clerk read Ordinance No. 2013-8039, by title only; whereupon Ms. Bullock read the following:

“AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 5, ‘GENERAL EMPLOYEES’ RETIREMENT SYSTEM’ OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR A MODIFICATION TO THE PARAMETERS FOR INVESTMENT OF ASSETS OF THE RETIREMENT SYSTEM; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.”

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to adopt Ordinance No. 2013-8039, amending Chapter 2, Article V, Division 5, ‘General Employees’ Retirement System’, of the Code of Ordinances of the City of Jacksonville Beach, to allow for changes in the Investment Policy for the General Employees’ Pension Plan.

Roll call vote: Ayes - Hoffman, Taylor, Vogelsang, Wilson, Doherty, Hartkemeyer, and Mayor Latham; motion carried unanimously.

(e) ORDINANCE NO. 2014-8041 – First Reading

Mayor Latham requested that the City Clerk read Ordinance No. 2013-8041, by title only; whereupon Ms. Bullock read the following:

“AN ORDINANCE AMENDING CHAPTER 12, “FOOD AND FOOD PRODUCTS”, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY ADDING A SECTION 12-33, “MOBILE FOOD VENDING” ESTABLISHING DEFINITIONS; LOCATION, PERMIT, AND SEPARATION REQUIREMENTS; SIGNAGE AND NOISE, HOURS OF OPERATION, WASTE MANAGEMENT, LICENSING AND PERMITS REQUIRED, APPLICATION SUBMITTAL REQUIREMENTS, AND

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**ENFORCEMENT PROCEDURES FOR THE OPERATION OF
MOBILE FOOD VENDING BUSINESSES IN THE CITY OF
JACKSONVILLE BEACH; SETTING AN EXPIRATION (“SUNSET”)
DATE FOR THIS ORDINANCE; PROVIDING FOR THE REPEAL
OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE;
PROVIDING FOR SEVERABILITY; PROVIDING FOR
CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.”**

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to adopt Ordinance No. 2013-8041, amending Chapter 12, Food and Food Products, of the Code of Ordinances of Jacksonville Beach, by providing new definitions, regulations, and permitting requirements related to *Mobile Food Vendors* and *Mobile Food Vending Vehicles*, and by providing an expiration date.

Mayor Latham opened the Public Hearing.

The following people spoke against food trucks operating in Jacksonville Beach:

- Mr. Bill Stevens, 733 North 2nd Avenue
- Mr. Tony Hall, 122 Seabreeze Avenue
- Mr. Ed Malin, 1436 Beach Boulevard
- Mr. Robert Tilka, 3584 Trident Court

The following people spoke in favor of food trucks operating in Jacksonville Beach:

- Mr. Mike Binder, 11125 Avenue South, Unit M-21
- Mr. John Stanford, 154 Jardin De Mer Place, Unit 154
- Mr. Anthony Hashem, 110 Davis Street, Neptune Beach
- Ms. Lisa Asker, 313 Brooks Circle East, Jacksonville
- Mr. Mike Field, 48432 Palmer Circle, Jacksonville
- Mr. Javier Meranda 1961 Apulia Court, Atlantic Beach

Mr. Mike Stang, 1020 North 19th Street, said he thought the City should get an opinion from *Retail Strategies* and see what their experience has been with food trucks.

Mr. Mick DeRocher, 41 Millie Drive, said he was impartial to food trucks in Jacksonville Beach. He asked if the City really needed to hire *Retail Strategies* to tell us what direction to go.

Seeing that no one else who wished to address the Council, Mayor Latham closed the Public Hearing.

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Mr. Forbes explained the three ordinances. The first is regarding regulations of food trucks, the second is permitted zoning areas, and the third is allowing enforcements of food trucks at Special Magistrate Hearings. He reviewed the regulations of the three ordinances that the food trucks must follow, and said food truck businesses will be required to apply for a Local Business Tax Receipt. Mr. Forbes reiterated that this is a pilot project and it will end on April 30, 2015.

Mayor Pro-Tem Taylor said he has spoken to several brick and mortar businesses about the food trucks and has looked at all different aspects of both sides. He is in favor of the pilot program and reminded the audience competition is a part of doing business. He complimented City staff for the work done on the project.

Council Member Wilson spoke against food trucks. She is concerned about the parking spaces available for customers, if a food truck is parked in two or three spaces in the lot. She suggested a compromise to not allow food trucks in the downtown area.

Council Member Doherty said he was originally against food trucks in the City. He acknowledged that there is competition in any industry and now feels it is time to give food trucks an opportunity. The majority of residents and restaurant owners that he has spoken to tell him they are in favor of food trucks. He added that retail businesses might also experience increased sales due to the customers the food trucks would bring to the beach.

Council Member Hartkemeyer stated he was not in favor of food trucks. He expressed concerns about disposal of the grease and trash.

Council Member Hoffman spoke in favor of food trucks. The residents and businesses that she has spoken to are in favor of the food trucks at the beach.

Council Member Vogelsang spoke in favor of food trucks, and said it is a new opportunity for Jacksonville Beach.

Mayor Latham spoke in favor of food trucks. He complimented and thanked the City staff for the work done on the food truck ordinances. He noted that businesses are the City customers and that a great deal of money the City collects is from residential, commercial taxes and the Local Business Tax. Mayor Latham also reminded the audience that the pilot program would give the opportunity to analyze the impact food trucks would or would not have on businesses.

Roll call vote: Ayes - Taylor, Vogelsang, Doherty, Hoffman, and Mayor Latham;
Nays - Wilson, Hartkemeyer
Motion carried by a vote of 5 to 2.

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(f) ORDINANCE NO. 2014-8042 – First Reading (Public Hearing)

Mayor Latham requested that the City Clerk read Ordinance No. 2013-8042, by title only; whereupon Ms. Bullock read the following:

“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 ADDING NEW DEFINITIONS AND MOBILE FOOD VENDORS AS A PERMITTED USE IN THE COMMERCIAL LIMITED: C-1, COMMERCIAL GENERAL: C-2, COMMERCIAL SERVICE: CS, CENTRAL BUSINESS DISTRICT: CBD; AND CERTAIN REDEVELOPMENT DISTRICT: RD AND PLANNED UNIT DEVELOPMENT: PUD ZONING DISTRICTS; TO REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.”

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to adopt Ordinance No. 2013-8042, amending the text of the Land Development Code to provide definitions for *Mobile Food Vending Vehicle* and *Mobile Food Vendor*, and to add *Mobile Food Vendors* to the list of permitted uses in C-1, C-2, CS, and CBD zoning districts and to permit same in existing RD and certain existing PUD zoning districts.

Mr. Forbes explained that this is the first reading of the ordinance, and it must also pass on the second reading. This only applies to the jurisdiction of Jacksonville Beach. The ordinance is about the zoning where the food trucks will be allowed to conduct business. All the requirements must be met prior to a food truck doing business in the City.

Roll call vote: Ayes - Vogelsang, Wilson, Doherty, Hartkemeyer, Hoffman, Taylor, and Mayor Latham; motion carried unanimously.

(g) ORDINANCE NO. 2014-8043 – First Reading

Mayor Latham requested that the City Clerk read Ordinance No. 2013-8043, by title only; whereupon Ms. Bullock read the following:

“AN ORDINANCE AMENDING CHAPTER 2, “ADMINISTRATION”, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY ADDING A NEW PARAGRAPH (5) TO SECTION 2-173, “JURISDICTION OF SPECIAL MAGISTRATE” PLACING ENFORCEMENT OF CHAPTER 12

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**“FOOD AND FOOD PRODUCTS” UNDER THE JURISDICTION
AND AUTHORITY OF THE SPECIAL MAGISTRATE; PROVIDING
FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH
THIS ORDINANCE; PROVIDING FOR SEVERABILITY;
PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN
EFFECTIVE DATE.”**

It was noted that there is a Scriveners’ error in the ordinance at “paragraph (5)” which should be “paragraph (6)”.

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to adopt Ordinance No. 2013-8043, amending Section 2-173 Jurisdiction of the Special Magistrate of Chapter 2, Administration, of the Jacksonville Beach Code of Ordinances, placing the regulation of food trucks under the jurisdiction of the Special Magistrate.

Roll call vote: Ayes - Wilson, Doherty, Hartkemeyer, Hoffman, Taylor, Vogelsang, and Mayor Latham; motion carried unanimously.

ADJOURNMENT

There being no further business coming before the Council, Mayor Latham closed the meeting at 8:50 p.m.

Submitted by: Catherine Martinich
Staff Assistant

Approval:

William C. Latham, Mayor

Date: February 3, 2014

City of

Jacksonville Beach

City Hall

11 North Third Street

Jacksonville Beach

FL 32250

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www.jacksonvillebeach.org

MEMORANDUM

TO: George D. Forbes, City Manager

THROUGH: Karen Nelson, Human Resources Director

FROM: Ann Meuse, Payroll/Benefits Administrator

SUBJECT: Ordinance numbers 2013-8037, 2013-8038, and 2013-8039 Amending Chapter 2, Article V of Division 6 - Police Officers' Retirement System; Division 7 - Firefighters' Retirement System and Division 5 - General Employees' Retirement System of the Code of Ordinances.

DATE: December 18, 2013

ACTION REQUESTED

Adopt the following ordinances as recommended by the Police Officers', Firefighters' and General Employees' pension boards:

- Ordinance Number 2013-8037, amending Chapter 2, Article V, Division 6, 'Police Officers' Retirement System', of the Code of Ordinances of the City of Jacksonville Beach.
- Ordinance Number 2013-8038, amending Chapter 2, Article V, Division 7, 'Firefighters' Retirement System', of the Code of Ordinances of the City of Jacksonville Beach.
- Ordinance Number 2013-8039, amending Chapter 2, Article V, Division 5, 'General Employees' Retirement System', of the Code of Ordinances of the City of Jacksonville Beach.

The amendments will change the following:

- Allows an increase in the maximum investment in equities from 50% to 65%.
- Changes the measurement of investments in equities from a cost basis to market value.
- Allows for 10% investment in real estate.



Memorandum to George D. Forbes

December 18, 2013

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BACKGROUND

The City of Jacksonville Beach **has three retirement plans**, the General Employees' Retirement System, Police Officers' Retirement System and the Firefighters' Retirement System. Each retirement plan has its own board of trustees, consisting of 5 members. The General Employees' board includes 2 members of the City Council, selected by the City Council.

The boards of trustees are the trustees of the assets of their respective retirement systems and have authority to invest the assets of the retirement systems within the limitations and restrictions imposed by the State of Florida and the City's pension ordinances.

The boards of trustees employ the **Bogdahn Group** to act as their **investment advisor** for their respective retirement plans. The Bogdahn Group recommends investment strategies to the pension boards, which are incorporated into an investment policy that is approved by the boards. These strategies include establishment of **target market allocations** for the investment of the pension plan assets, as defined by the plans' investment policy and **investment limits** that are established by the City's pension ordinances.

At a special joint meeting of the pension boards of trustees on October 3, 2013, the Bogdahn group made a recommendation that the boards present the following amendments to the City's pension ordinances to City Council for adoption:

- **Increase the allowable investment in equities from 50% to 70% of the retirement systems assets, and change the measurement of the percentage invested from a cost basis to a market basis.**
- **Change the allowable investments to include real estate up to 10% of the retirement system assets.**

The boards of trustees authorized the pension plans' attorney to prepare draft ordinances to reflect the proposed changes and approved the draft ordinances at their regularly scheduled quarterly meeting November 12, 2013.

Memorandum to George D. Forbes

December 18, 2013

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At the January 16, 2013 City Council workshop, the City Council directed staff to prepare pension ordinances for the General Employees, Police Officers and Firefighter retirement systems that would:

- Require the use of market value rather than cost for the measurement of the pension plans' investments.
- Increase the allowable investment in equities from 50% to 65%.
- Allow investment in real estate limited to 10% of the retirement system assets.

Attached is a summary of the recommendations made by the Bogdahn Group and pension ordinances with changes as directed by the City Council at the City Council workshop December 16, 2013.

Summary of the issues before the Council are as follows:

Amendments to Pension Ordinances	Existing Pension Ordinances	Board of Trustees Recommended Amendments	City Council Directed
Measurement of Maximum Investment in Equities	Cost	Market	Market
Maximum Investment in Equities	50%	70%	65%
Allowable investment in Real Estate	No	Yes	Yes
Maximum Investment in Real Estate	N/A	10%	10%

Memorandum to George D. Forbes

December 18, 2013

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RECOMMENDATION

1. Adopt Ordinance Number 2013-8037, amending Chapter 2, Article V, Division 6, 'Police Officers' Retirement System', of the Code of Ordinances of the City of Jacksonville Beach to allow for changes in the investment policy for the Police Officers' pension plan.
2. Adopt Ordinance Number 2013-8038, amending Chapter 2, Article V, Division 7, 'Firefighters' Retirement System', of the Code of Ordinances of the City of Jacksonville Beach to allow for changes in the investment policy for the Firefighters' pension plan.
3. Adopt Ordinance Number 2013-8039, amending Chapter 2, Article V, Division 5, 'General Employees' Retirement System', of the Code of Ordinances of the City of Jacksonville Beach to allow changes in the investment policy for the General Employees' pension plan.

MEMORANDUM

FROM: The Bogdahn Group;
Daniel Johnson and Troy Brown, CFA
TO: City of Jacksonville Beach (Pension Plan Ordinance Review)
DATE: December 16, 2013
RE: Summary of Proposed Pension Ordinance Revisions

The following is a summary of the proposed ordinance revisions for the City of Jacksonville Beach Retirement System ("the Pension Plan"). These changes encompass two distinct investment concepts as prepared by the legal counsel on behalf of the Pension Plan. We have separated these concepts into a discussion of the "Equity Basis Change" and the introduction of "Real Estate" as a permissible investment in the Pension Plan.

Equity Basis Change

We are recommending a change in the measurement of the Pension Plan's equity exposure from a "cost" to a "market" value basis. This change is consistent with current pension practices as it provides an increased level of transparency and risk control through the elimination of subjective cost basis measurement. For example, if an investment asset is purchased and held (not sold), the cost basis of the asset never changes. As a result, if this asset appreciates in value, its cost measurement as a percentage of the portfolio's overall value will actually decrease, implying less risk due to the appreciation. However, it should be clear that the increase in asset value represents an increase in risk. The use of market value basis for measurement eliminates this risk anomaly as equity exposure will be measured on a transparent, non-subjective basis.

It is also important to note that this measurement change does not, in and of itself, introduce more risk to the Pension Plan. As a result, the numerical change from "50% at cost" to "70% at market" should not be interpreted as an upward shift in risk, but rather as a change in the basis of measurement. In addition, the 70% level should not be interpreted as the Pension Plan's target exposure to equity; it represents the maximum allowable allocation. The Pension Plan's proposed target allocation to total equity exposure is 60%.

In conclusion, the change to a market-value based equity constraint in the ordinance will provide greater transparency and risk control of the Pension Plan than the current cost constraint.

Real Estate

We are recommending the allowance of professionally managed, private real estate ("real estate") as an allowable investment for the Pension Plan. While we have used real estate investments with multiple clients as a diversification tool and a reasonable proxy for bonds for a number of years, given today's low interest rate environment and the resulting prospect for lower bond returns going forward, this diversification is increasingly important.

The Pension Board of Trustees ("the Board") reviewed the landscape of real estate as an income enhancement vehicle and a viable diversification tool for the overall Pension Plan over the long-term and in today's market environment. Given this review, the Board would like to consider a strategic allocation to real estate. In order to have a measurable impact on the Pension Plan, we are proposing a target allocation of 5%. With this target recommendation, the Board would impose a maximum market value allocation to real estate of 10%. The 10% maximum allocation would allow a reasonable level of appreciation relative to the 5% target.

In conclusion, given the diversification opportunity provided by real estate coupled with the prospect of lower fixed income returns going forward, we are recommending the inclusion of real estate as an allowable investment in the Pension Plan with a maximum allocation of 10%. Allowing this diversification into real estate will provide the Pension Plan with an increased probability to prudently achieve its objectives within the guidelines of its investment policy.

Summary

The Pension Boards and their investment professionals are fiduciaries to the Pension Plan. As such, our main task is to administer the fund for participants and beneficiaries. We believe it is prudent for each Board to request the additional flexibility outlined in the ordinance changes to more efficiently administer the investments of the Pension Plan and to continue achieving its investment goals and objectives. We recommend the Council approve the proposed revisions to the ordinance.

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

ORDINANCE NO. 2013- 8037

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 6, 'POLICE OFFICERS' RETIREMENT SYSTEM' OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR A MODIFICATION TO THE PARAMETERS FOR INVESTMENT OF ASSETS OF THE RETIREMENT SYSTEM; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Board of Trustees of the City of Jacksonville Beach Police Officers' Retirement System, at its meeting on October 3, 2013, received recommendations from its Investment Consultant that the code of ordinances governing the Retirement System be amended to permit for greater exposure to equities as well as investment in alternative investment vehicles such as commingled trusts and real estate; and

WHEREAS, based on current and anticipated market conditions, such modifications are reasonably necessary to generate positive returns going forward and achieve actuarial investment assumptions maintaining the viability of the Retirement System; and

WHEREAS, The Board of Trustees, has requested and approved such amendments pursuant to said recommendations as being in the best interests of the participants and beneficiaries of the Retirement System; and

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

SECTION 1. That Section 2-163.28 of the City of Jacksonville Beach Code of Ordinances shall be hereby amended as follows:

Sec. 2-163.28. – 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 ~~at least~~ on a market value basis up to sixty five (65) ~~fifty (50)~~ 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 percent (10%) 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 Section 215.473, Florida Statutes, 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 Section 280.02, Florida Statutes. 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.

SECTION 2. All ordinances or parts of ordinances in conflict herewith be and the same are, to the extent that same may be in conflict, hereby repealed.

SECTION 3. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions are declared severable.

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

SECTION 5. This ordinance shall take effect upon enactment.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, MAYOR

Judy L. Bullock, CITY CLERK

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

ORDINANCE NO. 2013-8038

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 7, 'FIREFIGHTERS' RETIREMENT SYSTEM' OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR A MODIFICATION TO THE PARAMETERS FOR INVESTMENT OF ASSETS OF THE RETIREMENT SYSTEM; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Board of Trustees of the City of Jacksonville Beach Firefighters' Retirement System, at its meeting on October 3, 2013, received recommendations from its Investment Consultant that the code of ordinances governing the Retirement System be amended to permit for greater exposure to equities as well as investment in alternative investment vehicles such as commingled trusts and real estate; and

WHEREAS, based on current and anticipated market conditions, such modifications are reasonably necessary to generate positive returns going forward and achieve actuarial investment assumptions maintaining the viability of the Retirement System; and

WHEREAS, The Board of Trustees, has requested and approved such amendments pursuant to said recommendations as being in the best interests of the participants and beneficiaries of the Retirement System; and

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

SECTION 1. That Section 2-164.28 of the City of Jacksonville Beach Code of Ordinances shall be hereby amended as follows:

Sec. 2-164.28. – 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 ~~at least~~ on a market value basis up to sixty five (65) ~~fifty (50)~~ 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 percent (10%) 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 Section 215.473, Florida Statutes, 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 Section 280.02, Florida Statutes. 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.

SECTION 2. All ordinances or parts of ordinances in conflict herewith be and the same are, to the extent that same may be in conflict, hereby repealed.

SECTION 3. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions are declared severable.

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

SECTION 5. This ordinance shall take effect upon enactment.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, MAYOR

Judy L. Bullock, CITY CLERK

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

ORDINANCE NO. 2013-8039

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 5, 'GENERAL EMPLOYEES' RETIREMENT SYSTEM' OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR A MODIFICATION TO THE PARAMETERS FOR INVESTMENT OF ASSETS OF THE RETIREMENT SYSTEM; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Board of Trustees of the City of Jacksonville Beach General Employees' Retirement System, at its meeting on October 3, 2013, received recommendations from its Investment Consultant that the code of ordinances governing the Retirement System be amended to permit for greater exposure to equities as well as investment in alternative investment vehicles such as commingled trusts and real estate; and

WHEREAS, based on current and anticipated market conditions, such modifications are reasonably necessary to generate positive returns going forward and achieve actuarial investment assumptions maintaining the viability of the Retirement System; and

WHEREAS, The Board of Trustees, has requested and approved such amendments pursuant to said recommendations as being in the best interests of the participants and beneficiaries of the Retirement System; and

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

SECTION 1. That Section 2-162.28 of the City of Jacksonville Beach Code of Ordinances shall be hereby amended as follows:

Sec. 2-162.28. – 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 ~~at-cost~~ on a market value basis up to ~~sixty five (65) fifty (50)~~ 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 percent (10%) 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 Section 215.473, Florida Statutes, 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 Section 280.02, Florida Statutes. 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.

SECTION 2. All ordinances or parts of ordinances in conflict herewith be and the same are, to the extent that same may be in conflict, hereby repealed.

SECTION 3. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions are declared severable.

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

SECTION 5. This ordinance shall take effect upon enactment.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, MAYOR

Judy L. Bullock, CITY CLERK

MEMORANDUM

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

To: George D. Forbes, City Manager

From: Steven G. Lindorff, Planning and Development Director 

Re: Ordinance No. 2014-8041, amending Chapter 12 of the Code of Ordinances of Jacksonville Beach by establishing definitions and regulations related to mobile food vending businesses, and by providing an expiration date for same.

Date: January 7, 2014

www.jacksonvillebeach.org

ACTION REQUESTED:

Adoption of Ordinance No. 2014-8041 amending Chapter 12, Food and Food Products, of the Code of Ordinances of Jacksonville Beach, to provide new definitions, regulations, and permitting requirements related to *Mobile food vendors* and *Mobile food vending vehicles*, and to provide an expiration date for same. (Applicant – Steve Lindorff, Planning and Development Director)

BACKGROUND:

Beginning in the summer of 2011, the Planning & Development Department began studying how other cities were dealing with the burgeoning food truck business. Through the excellent work of a planning intern, the regulations from over 25 jurisdictions were collected and evaluated. From this information, a draft ordinance was developed and the e-mail-based public comment process was initiated. The Department received a total of 121 responses to our request for input on the proposed ordinance. The outcome was overwhelmingly in favor of allowing mobile food vendors to operate within the City (115 for vs. 6 against).

On June 11, 2013, a City Council workshop was held to hear the results of the e-mail survey, discuss the draft ordinance, and determine a direction to proceed. The proposed ordinance defined "mobile food vendor", established where and how many would be allowed, set location and separation requirements; and provided standards for signage, noise, hours of operation, waste management; and licensing and permit requirements.

As a result of the comments received at the June 11 workshop, the following revisions were made to the draft ordinance:



- A definition for the now-required "Commissary" was added.
- The definitions for "Mobile Food Cart", "Mobile Food Vehicle", and "Mobile Food Vendor" were revised for clarity.
- The location requirements were revised to limit the number of vendors to one on lots with 6,000–43,559 sf. of area and two for lots with over 43,560 sf. of area.
- The term of a permit is the same as the sunset date for the mobile food vending ordinance (April 30, 2015), the permit must be posted on the unit, and routine inspections may be performed by regulatory agencies.
- Vendors may have seating, but not if it reduces the number of parking spaces required for the principal use on the site.
- The unit cannot be stored overnight on the permitted site.
- The Lot Owner Permit is eliminated. The mobile food vendor must provide written authorization from the lot owner.
- The application requirements have been expanded to more clearly state what must be provided, including proof of insurance. A sunset date has been added.

A second workshop was held on November 4, 2013. As a result of the comments received at that workshop, the following revisions were made to the draft ordinance:

- The proposed definition for a "Mobile Food Cart" has been deleted and only Mobile Food Vending Vehicles are allowed.
- The definition of a "Mobile Food Vehicle" was replaced with a definition of a "Mobile Food Vending Vehicle" was substituted. The new definition closely mirrors the definition contained in the State of Florida administrative rules governing mobile food dispensing vehicle and theme park food carts [Chapter 61C-4.0161, FAC].
- A paragraph that would allow conforming vehicles to eliminate the requirement for a commissary was removed. Since the proposed amendments require the mobile food vending vehicle to be removed daily, an approved commissary is needed.
- The requirement that vendors demonstrate that any seating provided cannot reduce the number of parking spaces required for the principal use on the site has been eliminated.
- The provision of a sunset date has not been changed. The April 2015 timeframe would allow sufficient time to start-up the application process in time to give the food truck approximately one year as a trial period.

Collectively, the above revisions are represented in the attached ordinance, No. 2014-8041.

Staff has also prepared two other ordinances in conjunction with this ordinance. They are Ordinance No. 2014-8042, amending the Land Development Code to add Mobile food vendors to the list of permitted uses in certain commercial zoning districts, and Ordinance no. 2014-8043, placing Chapter 12 of the Code of Ordinances under the jurisdiction and authority of the special magistrate to provide for enforcement of the proposed Chapter 12 mobile food vending regulations. Both of these ordinances will be presented for Council consideration in conjunction with the attached ordinance.

RECOMMENDATION:

Adopt Ordinance No. 2014-8041, amending Chapter 12, Food and Food Products, of the Code of Ordinances of Jacksonville Beach, by providing new definitions, regulations, and permitting requirements related to *Mobile food vendors* and *Mobile food vending vehicles*, and by providing an expiration date.

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

ORDINANCE NO. 2014-8041

AN ORDINANCE AMENDING CHAPTER 12, "FOOD AND FOOD PRODUCTS", OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY ADDING A SECTION 12-33, "MOBILE FOOD VENDING" ESTABLISHING DEFINITIONS; LOCATION, PERMIT, AND SEPARATION REQUIREMENTS; SIGNAGE AND NOISE, HOURS OF OPERATION, WASTE MANAGEMENT, LICENSING AND PERMITS REQUIRED, APPLICATION SUBMITTAL REQUIREMENTS, AND ENFORCEMENT PROCEDURES FOR THE OPERATION OF MOBILE FOOD VENDING BUSINESSES IN THE CITY OF JACKSONVILLE BEACH; SETTING AN EXPIRATION ("SUNSET") DATE FOR THIS ORDINANCE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 12 of the Code of Ordinances of the City of Jacksonville Beach, Florida is amended by adding a new Section 12-33 *Mobile Food Vending* which shall read as follows:

Sec. 12-33. Mobile food vending. Where allowed under the permitted use provisions in certain zoning districts as set forth in Division 2 of Article VII of Chapter 34 of the Jacksonville Beach Code of Ordinances, mobile food vendors shall conform to the following conditions:

(1) Definitions.

- a. **Commissary** means an approved facility that provides support services for specific required functions of a mobile food vendor. Any food establishment permitted or licensed by a regulatory agency, such as a catering operation, restaurant, grocery store, or similar establishment, or any other approved facility where food, containers, or supplies are kept, handled, prepared, packaged, or stored can be considered for approval as a commissary. A private residence may not be used as a commissary.
- b. **Mobile food vending vehicle** means a vehicle-mounted public food service establishment that is either self-propelled or otherwise movable from place to place. A mobile food vending vehicle is further defined as having, as part of the vehicle, a three-compartment sink for washing, rinsing and sanitizing equipment and utensils; a separate hand wash sink; adequate refrigeration and storage capacity; full provision of power utilities including electrical, LP-gas, or a portable power generation unit; a potable water holding tank;

and a means for liquid waste containment and disposal.

- c. **Mobile food vendor** means any person or business selling food from a mobile food vending vehicle from which food items are sold to the general public.

(2) **Location, permit, and separation requirements.**

- a. Mobile food vendors may be located on a lot having 6,000 square feet or more of area, and containing a principal building or use. The maximum number of mobile food vendors per lot is limited as follows:
 - i. Maximum of one (1) mobile food vendor on lots having 6,000 to 43,559 square feet of area;
 - ii. Maximum of two (2) mobile food vendors on lots having 43,560 or more square feet of area.
- b. Mobile food vending permits, unless sooner suspended or revoked, shall be valid for an initial period that coincides with the expiration date established for this Section.
- c. Approved permits must be attached to the mobile food vending vehicle where they are readily visible and shall include the name, mailing address, and valid phone number of the mobile food vending vehicle owner and shall list the addresses and parcel identification numbers where the permit is valid.
- d. Routine inspections may be conducted by code enforcement inspectors, building code inspectors, fire inspectors, or police officers on each mobile food vending vehicle at any time and at any frequency deemed appropriate by the City.
- e. Mobile food vending vehicles must be located at least one-hundred (100) feet from the main entrance to any eating establishment or similar food service business and one-hundred (100) feet from any outdoor dining area. This separation requirement shall apply only during the normal hours of operation of the eating establishment or similar food service business or outdoor dining area.
- f. Mobile food vending vehicles are not allowed to be located within a required sight visibility triangle at the intersection of a driveway, alleyway, or public street with another public street as set forth in Chapter 34 of this Code of Ordinances; or within five (5) feet of a public sidewalk, utility box or vault, handicapped ramp, building entrance, or exit or emergency access/exit way; and must not locate within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic. Mobile food vending vehicles must be located a minimum distance of fifteen (15) feet in all directions away from a fire hydrant.
- g. Mobile food vending vehicles may not occupy or prevent access to any handicap accessible parking space.

- (3) **Signage and noise.** One (1) free-standing sandwich board or A-frame type sign is permitted on private property for each mobile food vendor. The total size of the sign may not exceed forty-two (42") inches in height or thirty-six (36") inches in width. No audio amplification is permitted as part of a mobile food vending operation.

(4) **Hours of operation.**

- a. Hours of operation are limited to the hours between 7:00 a.m. and 3:00 a.m. unless the designated location on the lot accommodating the mobile food vending vehicle is located within one-hundred and fifty (150) feet of the property line of a dwelling unit in a residential zoning district, in which case the hours of operation are limited to the hours between 7:00 a.m. and 10:00 p.m.
- b. The mobile food vending operator or his or her designee must be present at all times.
- c. The mobile food vending vehicle and any associated outdoor seating must be removed from its permitted locations during impermissible hours of operation; and must not be stored, parked, or left overnight on any public street or sidewalk.

(5) **Waste management.**

- a. The mobile food vendor is responsible for the proper disposal of waste and trash associated with the permitted operation. City trash receptacles shall not be used for this purpose. At a minimum, vendors must remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. Vendors must keep all areas within twenty-five (25) feet of the vehicles and any associated seating areas clean of grease, trash, paper, cups or cans associated with the vending operation.
- b. Liquid waste or grease shall be disposed of at an approved location (for example, an approved commissary) and shall not be placed in tree pits, storm drains, or onto any sidewalk, street, or any other public space. Under no circumstances shall grease be released or disposed of in the City's sanitary or storm sewer systems. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the responsible mobile food vending business will be required to cease operation immediately, clean up the improperly disposed material to the satisfaction of the City, and shall not resume operation until an alternate method of disposal has been approved by the Public Works Department.
- c. With the exception of allowable outdoor seating areas, all equipment required for the operation must be contained within, attached to or within three (3) feet of the mobile food vending vehicle; and all food preparation, storage, and sales/distribution shall be in compliance with all applicable sanitary regulations.

- (6) **Licenses and permits required.** For each location, a City of Jacksonville Beach business tax receipt for the mobile food vending business must be obtained; and all required State of Florida, Duval County, and City of Jacksonville Beach permits, licenses, and business tax receipt must be clearly displayed on the mobile food vending unit. Prior to the issuance of a City of Jacksonville Beach mobile food vending business tax receipt, the vendor shall provide evidence of having obtained all applicable State of Florida and Duval County licenses and permits, and obtained approval from the City of Jacksonville Beach Public Works Department for the method for the disposal of grease within an approved grease disposal facility. A mobile food vending business tax receipt shall be renewed annually.

- (7) **Application submittal requirements.** Applications for mobile food vendor permits must include the following information:
- a. Name, address, telephone number, and email address of the applicant and the owner of the vehicle if not the same as the applicant.
 - b. Description of the type of food and/or beverages to be sold.
 - c. Color photograph of the mobile food vending vehicle depicting the current condition of the unit.
 - d. Address of proposed vending site(s), including the property address, property owner's name and telephone number, and the name of the principal business located on the property where applicable.
 - e. Site plan for each proposed vending site, drawn to scale, depicting the following information:
 - i. Total square footage of the property;
 - ii. Location and square footage of the existing principal and accessory use(s), where applicable;
 - iii. Proposed location for the mobile food vending vehicle; and
 - iv. Location of ingress/egress to the site.
 - f. Address of proposed location to store the mobile food vending vehicle when not in use.
 - g. Copies of all permits and business licenses required by the State of Florida and Duval County.
 - h. Notarized commissary agreement confirming the mobile food vendor is operating in conjunction with a licensed commissary in accordance with Florida Statutes, where applicable. All commissaries must be pre-approved by the City prior to issuance of a mobile food vendor permit.
 - i. Notarized affidavit signed by each property owner indicating that the vendor has permission to vend on his or her property. The affidavit must also indicate that the property owner acknowledges the following requirements:
 - i. The property owner shall comply with all ordinances regarding solid waste disposal, and shall provide the vendor access to solid waste collection on the subject property.
 - ii. The property owner shall require that the vendors meet all applicable federal, state and local statutes, regulations, laws, ordinances, rules and codes; including but not limited to permitting requirements regarding his or her specific business:
 - iii. The property owner shall acknowledge that she/he understands the regulations governing mobile food vendors and shall be held responsible, along with the vendor, for any code violations; and,
 - iv. The property owner shall ensure that the property is continuously maintained in a neat, clean, and orderly manner.
 - j. Proof of business insurance, issued by an insurance company that is licensed to do business in the State of Florida, and which protects the applicant from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with mobile food vendor.

(8) **Enforcement procedure.**

- a. **Revocation.** If at any time, the State of Florida or Duval County revokes or suspends the issued mobile food vending permit, the City of Jacksonville Beach business tax receipt for the mobile food vending business will be simultaneously revoked or suspended. A mobile food vendor who has his or her permit declared null and void or revoked for any of the reasons set forth in this section shall not be allowed to reapply for a mobile food vending permit for a period of ninety (90) days after the effective date of such action.
- b. **Other violations.** If at any time evidence is provided that a mobile food vending business is being operated in a way that does not comply with these regulations, a notice of violation shall be issued to the lot owner and mobile food vendor and the violation shall be referred to the Special Magistrate for a hearing and disposition in accordance with the provisions of Article VI *Code Enforcement* of Chapter 2 *Administration* of this Code of Ordinances.

- (9) **Expiration (“Sunset”) date.** This Section shall expire on April 30, 2015 unless the City Council of the City of Jacksonville Beach amends this Section by extending the expiration or repealing this paragraph in its entirety.

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 its adoption in accordance with the law.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, Mayor

Judy L. Bullock, City Clerk

City of

Jacksonville Beach

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FL 32250

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MEMORANDUM

To: George D. Forbes, City Manager

From: Steven G. Lindorff, Planning and Development Director

Re: Ordinance No. 2014-8042, amending the text of the Land Development Code (LDC) by providing definitions for *Mobile food vending vehicle* and *Mobile food vendor*, by adding *Mobile Food Vendors* to the list of permitted uses in C-1, C-2, CS, CBD zoning districts, and by permitting *Mobile Food Vendors* within certain RD and PUD zoning districts.

Date: January 3, 2014

ACTION REQUESTED:

Adoption of Ordinance No. 2014-8042, amending the Land Development Code to add new definitions and to add *Mobile food vendors* as a permitted use in C-1, C-2, CS, CBD, and in existing RD and certain existing PUD zoning districts. (Applicant - Steve Lindorff, Planning and Development Director)

BACKGROUND:

Ordinance No. 2014-8041, under consideration by the City Council, amends Chapter 12, Food and Food Products, of the City's Code of Ordinances to define and regulate mobile food vending businesses. As part of the approval of any new type of business within the city, it is also necessary to address in what locations such a businesses may operate. Staff has drafted the attached ordinance, Ordinance No. 2014-8042, as a companion to Ordinance No. 2014-8041, to specify which zoning districts mobile food vendors can operate in, and to add definitions for *Mobile food vending vehicle* and *Mobile food vendor* to the overall list of definitions in the Land Development Code.

The attached ordinance adds *Mobile food vendors* to the list of permitted uses in C-1, C-2, CS, and CBD commercial zoning districts in the City. It also permits mobile food vendors within existing Redevelopment District: RD districts and



within commercially designated areas of existing Planned Unit Development District: PUD districts. Their permissibility in any future RD or PUD rezonings which may be approved would be considered on a case-by-case basis, as part of the overall review and approval of a specific rezoning application.

The Planning Commission conducted a public hearing on this proposed Land Development Code text amendment on January 13, 2014 and recommended its approval by City Council.

RECOMMENDATION:

Adopt Ordinance No. 2014-8042, amending the text of the Land Development Code to provide definitions for *Mobile food vending vehicle* and *Mobile food vendor*, and to add *Mobile Food Vendors* to the list of permitted uses in C-1, C-2, CS, and CBD zoning districts and to permit same in existing RD and certain existing PUD zoning districts.

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

ORDINANCE NO. 2014-8042

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 ADDING NEW DEFINITIONS AND MOBILE FOOD VENDORS AS A PERMITTED USE IN THE COMMERCIAL LIMITED: C-1, COMMERCIAL GENERAL: C-2, COMMERCIAL SERVICE: CS, CENTRAL BUSINESS DISTRICT: CBD; AND CERTAIN REDEVELOPMENT DISTRICT: RD AND PLANNED UNIT DEVELOPMENT: PUD ZONING DISTRICTS; TO REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES:

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

SECTION 1. That Section 34-41 *General* of Article IV *Definitions* of Chapter 34 *Jacksonville Beach Land Development Code* is amended by adding the following new definitions in their proper alphabetic order:

Mobile food vending vehicle means a vehicle-mounted public food service establishment that is either self-propelled or otherwise movable from place to place. A mobile food vending vehicle is further defined as having, as part of the vehicle, a three-compartment sink for washing, rinsing and sanitizing equipment and utensils; a separate hand wash sink; adequate refrigeration and storage capacity; full provision of power utilities including electrical, LP-gas, or a portable power generation unit; a potable water holding tank; and a liquid waste disposal tank.

Mobile food vendor means any person or business selling food from a mobile food vending vehicle from which food items are sold to the general public.

SECTION 2. That Paragraph (b) *Permitted Uses* of Section 34-342 *Commercial limited: C-1* of Division 2 *Zoning Districts, Permitted Uses, Accessory Uses, Conditional Uses, Dimensional Standards, Off-Street Parking And Loading Standards, Supplemental Standards, Landscaping Standards, Sign Standards, And Environmental Standards* of Article VII *Zoning Districts* of Chapter 34 *Jacksonville Beach Land Development Code* is amended by adding the following new subparagraph (26):

- (26) Mobile food vendors in accordance with the provisions of Section 12-33 *Mobile Food Vending* of Chapter 12 *Food and Food Products* of this Code of Ordinances.

SECTION 3. That Paragraph (b) *Permitted Uses* of Section 34-343 *Commercial general: C-2* of Division 2 *Zoning Districts, Permitted Uses, Accessory Uses, Conditional Uses, Dimensional Standards, Off-Street Parking And Loading Standards, Supplemental Standards, Landscaping Standards, Sign Standards, And Environmental Standards* of Article VII *Zoning Districts* of Chapter 34 *Jacksonville Beach Land Development Code* is amended by adding the following new subparagraph (30):

- (30) Mobile food vendors in accordance with the provisions of Section 12-33 *Mobile Food Vending* of Chapter 12 *Food and Food Products* of this Code of Ordinances.

SECTION 4. That Paragraph (b) *Permitted Uses* of Section 34-344 *Commercial service: CS* of Division 2 *Zoning Districts, Permitted Uses, Accessory Uses, Conditional Uses, Dimensional Standards, Off-Street Parking And Loading Standards, Supplemental Standards, Landscaping Standards, Sign Standards, And Environmental Standards* of Article VII *Zoning Districts* of Chapter 34 *Jacksonville Beach Land Development Code* is amended by adding the following new subparagraph (20):

- (20) Mobile food vendors in accordance with the provisions of Section 12-33 *Mobile Food Vending* of Chapter 12 *Food and Food Products* of this Code of Ordinances.

SECTION 5. That Paragraph (b) *Permitted Uses* of Section 34-345 *Central business district: CBD* of Division 2 *Zoning Districts, Permitted Uses, Accessory Uses, Conditional Uses, Dimensional Standards, Off-Street Parking And Loading Standards, Supplemental Standards, Landscaping Standards, Sign Standards, And Environmental Standards* of Article VII *Zoning Districts* of Chapter 34 *Jacksonville Beach Land Development Code* is amended by adding the following new subparagraph (25):

- (25) Mobile food vendors in accordance with the provisions of Section 12-33 *Mobile Food Vending* of Chapter 12 *Food and Food Products* of this Code of Ordinances.

SECTION 6. That Subsubparagraph (i) of Subparagraph (2) *Permitted Uses* of Paragraph (i) *Standards* of Section 34-347 *Redevelopment district: RD* of Division 2 *Zoning Districts, Permitted Uses, Accessory Uses, Conditional Uses, Dimensional Standards, Off-Street Parking And Loading Standards, Supplemental Standards, Landscaping Standards, Sign Standards, And Environmental Standards* of Article VII *Zoning Districts* of Chapter 34 *Jacksonville Beach Land Development Code* is amended and shall read as follows:

- (i) Uses shall be governed by the provisions of the Jacksonville Beach Community Redevelopment Plan and shall be appropriate for the location re-

quested, compatible with other existing or proposed uses in the general vicinity, and consistent with the adopted Jacksonville Beach Community Redevelopment Plan, provided that mobile food vendors operating in accordance with the provisions of Section 12-33 *Mobile Food Vending* of Chapter 12 *Food and Food Products* of this Code of Ordinances are permitted in Redevelopment District: RD zones that existed on January 1, 2014.

SECTION 7. That mobile food vendors operating in accordance with the provisions of Section 12-33 *Mobile Food Vending* of Chapter 12 *Food and Food Products* of this Code of Ordinances are permitted in commercially-designated areas of a Planned Unit Development that existed on January 1, 2014.

SECTION 8. 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 9. 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 10. Codification of this ordinance in the Code of Ordinances of the City of Jacksonville Beach is hereby authorized and directed.

SECTION 11. This ordinance shall take effect upon its adoption in accordance with the law.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, Mayor

Judy L. Bullock, City Clerk

MEMORANDUM

City of
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TO: George D. Forbes, City Manager

FROM: Steven G. Lindorff, Director of Planning & Development 

SUBJECT: ORDINANCE NO. 2014-8043 – Adding Chapter 12 *Food and Food Products* to list of City Code Provisions under the Jurisdiction and Authority of the Special Magistrate in Section 2-173 *Jurisdiction of the Special Magistrate* of Chapter 2 *Administration of the Jacksonville Beach Code of Ordinances*

DATE: January 7, 2014

ACTION REQUESTED: Approval of Ordinance No. 2014-8043 adding Chapter 12 *Food and Food Products* to the listing of City Code provisions that are subject to a hearing on alleged violations and imposition of punishment by the Special Magistrate.

BACKGROUND:

This ordinance is a companion to Ordinance No. 2014-8041 amending Chapter 12 *Food and Food Products* which provides standards for the operation of mobile food vending units in the City, and Ordinance No. 2014-8042 amending Chapter 34 *Land Development Code* which makes mobile food vending a permitted use on private property in various zoning districts within the City.

Approval of this ordinance is needed to provide a mechanism for conducting hearings and imposing penalties for violations of the provisions relating to mobile food vending under Chapter 12. The Special Magistrate already has the authority to hear cases of violations of the Land Development Code.

RECOMMENDATION:

Adopt Ordinance No. 2014-8043 amending Section 2-173 *Jurisdiction of the Special Magistrate* of Chapter 2 *Administration of the Jacksonville Beach Code of Ordinances* placing the regulation of food trucks under the jurisdiction of the Special Magistrate.



Introduced By: _____

1st Reading: _____

2nd Reading: _____

ORDINANCE NO. 2014-8043

AN ORDINANCE AMENDING CHAPTER 2, “ADMINISTRATION”, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY ADDING A NEW PARAGRAPH (6) TO SECTION 2-173, “JURISDICTION OF SPECIAL MAGISTRATE” PLACING ENFORCEMENT OF CHAPTER 12 “FOOD AND FOOD PRODUCTS” UNDER THE JURISDICTION AND AUTHORITY OF THE SPECIAL MAGISTRATE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. That Section 2-173 of Chapter 2 of the Code of Ordinances of the City of Jacksonville Beach, Florida is amended and shall read as follows:

Sec. 2-173. Jurisdiction of special magistrate.

(a) Except as otherwise provided in this Code of Ordinances, the special magistrate shall have the jurisdiction and authority to hear and decide alleged violations of the codes of the city, including, but not limited to the following:

- (1) Chapter 3. Advertising.
- (2) Chapter 4. Alcoholic Beverages. Section 4-2 Prohibited Hours of Sale, Consumption, and Service
- (3) Chapter 5. Animals and Fowl, Article I. In General.
- (4) Chapter 6. Beaches and Bulkheads, Article I. In General.
- (5) Chapter 7. Buildings and Building Regulations.
- (6) Chapter 12. Food and Food Products.
- (7) Chapter 14. Junked, Abandoned Property.

- (8) Chapter 19. Nuisances.
- (9) Chapter 27. Residential and Commercial Solid Waste Collection, Disposal, and Assessment.
- (10) Chapter 28. Streets, Sidewalks, and Other Public Places.
- (11) Chapter 32. Utilities.
- (12) Chapter 34. Land Development Code.

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 its adoption in accordance with the law.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, Mayor

Judy Bullock, City Clerk

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MEMORANDUM

TO: George D. Forbes, City Manager

FROM: Robert A. Sugarman, attorney for the City of Jacksonville Beach Retirement Systems

SUBJECT: Ordinance Numbers:

- 2014-8047 amending Chapter 2, Article V, Division 5 - General Employees' Retirement System
- 2014-8048 amending Chapter 2, Article V, Division 6 - Police Officers' Retirement System
- 2014-8049 amending Chapter 2, Article V, Division 7 - Firefighters' Retirement System

DATE: January 24, 2014

ACTION REQUESTED

Adopt Ordinance Numbers 2014-8047, 2014-8048 and 2014-8049 amending Chapter 2, Article V of the Code of Ordinances of the City of Jacksonville Beach as recommended by the Police Officers', Firefighters' and General Employees' pension boards.

BACKGROUND

We write to explain the various amendments contained within the IRS compliance ordinances that we prepared for you.

The favorable determination letter that each pension plan received is subject to the adoption of the amendments contained within the proposed ordinances. In other words, the amendments are required in order for the letters to remain valid.

None of the amendments should have any effect on the funding or operation of the plans or on the contributions to the plans or the benefits paid by the plans. This is because the plans have already been operating in accordance with the requirements of the Internal Revenue Code (for instance, the plans do not pay benefits in excess of the Section 415 limits). The Code requires, however, not only that the plans operate in accordance with the Code, but also that the plan documents contain certain Code requirements in writing.



Memorandum to George D. Forbes

January 24, 2014

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The amendments will change the following:

- **100% vesting upon reaching normal retirement age:**

The code requires that a participant's benefit become 100% vested upon the attainment of Normal Retirement Age under the plan. Although these plans have been operating in accordance with that requirement, the plan documents must also provide for that requirement in writing.

- **Replacement of 415 language to IRS compliance section:**

We have removed from the above-referenced ordinance sections the former language relating to Section 415, and have created, as set forth below, a new IRS compliance section including all required 415 language.

- **Amendment for HEART Act:**

The HEART Act provided for certain benefits for survivors of participants who die while in USERRA-qualified military service. Under HEART, survivor benefits are determined as though the person returned to work and died immediately thereafter. Also, for vesting purposes with respect to survivor benefits, credit is given for the time during which the person was in USERRA-qualified service.

- **IRS compliance:**

- 415 Limitations

This is the most voluminous of the amendments contained within the proposed ordinances. In April 2007, the IRS issued new, final regulations to Section 415 of the Code. Section 415 limits the amount of benefits that a participant can receive each year under the plan (the current amount of the limitation is \$205,000). The new provision contains all required 415 language.

Memorandum to George D. Forbes

January 24, 2014

Page 3 of 4

- Amendments to the minimum distribution requirements under 401(a)(9) of the Code
Section 401(a)(9) of the Code provides for certain rules relating to the time frame and manner in which benefits must be paid under the plans. Recent changes in the law amended some of those requirements. The amendments provide for full compliance with Section 401(a)(9).
- Amendments to provisions relating to Rollover Distributions
We have amended the language relating to Rollover Distributions to reflect all current regulations relating to distributions that are eligible for rollover.
- Amendments relating to Mandatory Distributions
The language limits the amount of Mandatory Distributions in accordance with 401(a)(31).
- Amendments relating to 401(a)(17)
The language limits the amount of compensation that can be taken into consideration for pension purposes in accordance with Section 401(a)(17) of the Code.
- 100% Vesting Upon Termination of the Plan (General Employees Only)
As with vesting upon the attainment of Normal Retirement Age, the Code provides that all accrued benefits shall become 100% vested upon termination of the plan. We have added provisions to comply with that requirement.

RECOMMENDATION

1. Adopt Ordinance Number 2014-8047, amending Chapter 2, Article V, Division 5, 'General Employees' Retirement System', of the Code of Ordinances of the City of Jacksonville Beach to comply with IRS requirements and the favorable determination letter.

Memorandum to George D. Forbes

January 24, 2014

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RECOMMENDATION (continued)

2. Adopt Ordinance Number 2014-8048, amending Chapter 2, Article V, Division 6, 'Police Officers' Retirement System', of the Code of Ordinances of the City of Jacksonville Beach to comply with IRS requirements and the favorable determination letter.

3. Adopt Ordinance Number 2014-8049, amending Chapter 2, Article V, Division 7, 'Firefighters' Retirement System', of the Code of Ordinances of the City of Jacksonville Beach to comply with IRS requirements and the favorable determination letter.

Underlined are Additions

~~Strikethrough are Deletions~~

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

ORDINANCE NO. 2014- 8047

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 5, 'GENERAL EMPLOYEES' RETIREMENT SYSTEM' OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR COMPLIANCE WITH THE INTERNAL REVENUE CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 26, 2011, an application was filed with the Internal Revenue Service for a Favorable Determination Letter regarding the qualified status of the Plan under Section 401(a) of the Internal Revenue Code; and

WHEREAS, on January 24, 2013, the Internal Revenue Service issued a Favorable Determination Letter, finding that the Plan complies with all qualification requirements; and

WHEREAS, the Favorable Determination Letter is subject to the timely adoption of the amendments provided herein, and

WHEREAS, the trustees of the City of Jacksonville Beach General Employees' Retirement System have requested and approved such amendments 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 has received, reviewed and considered an actuarial impact statement describing the actual impact of the amendments provided for herein

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

SECTION 1. That Section 2-162.7 of the City of Jacksonville Beach Code of Ordinances shall be amended by adding a Subsection (d) as follows:

Sec. 2-162.7. - Normal Retirement Conditions.

...

(e) Notwithstanding any other provision hereunder, a Member's accrued benefit under the Plan shall become non-forfeitable upon the attainment of Normal Retirement Age.

SECTION 2. That Section 2-162.9(d) of the City of Jacksonville Beach Code of Ordinances shall be repealed/deleted in its entirety and all following subsections renumbered/relettered accordingly:

Sec. 2-162.9. - Amount of a pension.

...

~~(d) Notwithstanding the provisions of this act, a member may not receive a benefit, which exceeds the maximum amount allowed under Section 415 of the Internal Revenue Code, which is incorporated herein by reference.~~

(de) Deferred Retirement Option Program. In general, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is a program under which an eligible member of the retirement system may elect to participate, deferring receipt of retirement benefits while continuing employment with the city. The deferred monthly benefits shall accrue in the reserve for pension payments fund on behalf of the participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in subsection (e)(3) of this section. Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the

previously determined normal retirement benefits. Employment in the DROP does not guarantee employment for the specified period of DROP.

(1) *Eligibility of member to participate in the DROP.* All retirement system members are eligible to elect participation in the DROP provided that election to participate is made on or after the member first reaches normal retirement date or age and prior to November 25, 2013. The member shall advise the city and the retirement system in writing of the date on which the DROP shall begin. The DROP shall be closed to new members on November 25, 2013.

(2) *Participation in the DROP.*

a. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of thirty-six (36) consecutive months. Any member who has exceeded the 36-month limitation shall not be eligible to participate in the DROP.

b. Upon deciding to participate in the DROP, the member shall submit on forms required by the retirement system:

1. A written election to participate in the DROP.

2. Selection of the DROP participation and termination dates, which satisfy the limitations stated in subsections (e)(1) and (e)(2)a. of this section. Such termination date shall be in a binding letter of resignation with the city, establishing a deferred termination date. The member may terminate before the termination date within the limitations of subsection (e)(2)a., but only with advance written notice to the city.

3. A properly completed DROP application for service retirement as provided in this section.

4. A written election of form of pension payment, pursuant to section 2-162.10

5. Any other information required by the retirement system.

c. The DROP participant shall be a retirant under the retirement system for all purposes except that payment of benefits to the retirant shall be deferred until separation from city employment.

d. A re-employed retirant with renewed membership is not eligible for DROP participation.

(3) *Benefits payable under the DROP.*

a. Effective with the date of DROP participation, the member's initial normal monthly benefit, including credited service and final average compensation, shall be fixed. Such retirement benefit, any annual cost-of-living adjustments which may be provided, and interest shall accrue monthly in the retirement system's reserve for pension payments. Such interest shall accrue at an annual rate set quarterly by the board of trustees, which shall not be less than three and one-half (3.5) percent compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death. An annual administration fee of three-quarters of one (0.75) percent shall be deducted from each DROP participant's accrued benefits, prorated monthly.

b. The effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in the DROP.

c. Normal retirement benefits and interest thereon shall continue to accrue in the DROP until the established termination date of the DROP, or until the participant terminates employment or dies prior to such date. Although individual DROP accounts shall not be established, a separate accounting of each participant's accrued benefits under the DROP shall be calculated and provided to participants annually.

d. At the conclusion of the participant's DROP, the retirement system shall distribute the participant's total accumulated DROP benefits, subject to the following provisions:

1. The retirement system shall receive verification from the city that the participant has terminated employment.

2. The terminated DROP participant or if deceased, such participant's named beneficiary, shall elect on forms provided by the retirement system to receive payment of the DROP benefits in accordance with one (1) of the options listed below. For a participant or beneficiary who fails to elect a method of payment within sixty (60) days of termination of the DROP, the retirement system will pay a lump sum as provided in (I).

(I) *Lump sum.* All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.

(II) *Direct rollover.* All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code.

(III) *Partial lump sum.* A portion of the accrued DROP benefits shall be paid to the DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or surviving beneficiary.

3. Regardless of the form of payout, a participant's DROP account continues until the account balance is exhausted.

4. For a DROP participant who fails to terminate city employment at the expiration of the 36-month maximum DROP participation period, the member shall be deemed not to be retired, the DROP election shall be null and void, and the member shall have no accumulated DROP benefits. Retirement system membership shall be reestablished retroactively to the date of the commencement of the DROP, and the member shall be required to pay to the retirement system the member contributions at the rate set forth in section 2-162.20, and the city contributions, as established pursuant to section 2-162.32, required during the period the member participated in the DROP, plus six and one-half (6.5) percent interest compounded annually.

e. The accrued benefits of any DROP participant, and any contributions accumulated under such program, shall not be subject to assignment or attachment.

f. DROP participants shall not be eligible for disability retirement benefits as provided in sections 2-162.15, 2-162.16, 2-162.17, and 2-162.18, and the participant's beneficiaries and survivors shall not be eligible for the automatic survivor pension, death in the line of duty pension, or survivor pension as provided respectively in sections 2-162.12, 2-162.13, and 2-162.14.

(4) *Death benefits under the DROP.*

a. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in subsection (e)(3)d.2. of this section.

b. The normal retirement benefit accrued to the DROP during the month of a participant's death shall be the final monthly benefit credited for such DROP participant.

c. Eligibility to participate in the DROP terminates upon death of the participant. If the participant dies on or after the

effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, retirement system benefits shall be paid as though the DROP election had not been made.

(5) *Contributions.*

a. Member contributions shall not be made, due, or payable during a participant's DROP participation, section 2-162.20 hereof notwithstanding.

b. The city shall not pick up member contributions of a DROP participant during a participant's DROP participation; section 2-162.21 hereof notwithstanding, but instead shall be paid to the DROP participant as wages or salary.

(6) *Forfeiture of retirement benefits.* Nothing in this section shall be construed to remove DROP participants from the scope of Section 8(d), Art. II of the State Constitution, and Section 112.3173, Florida Statutes, DROP participants who commit a specified felony offense while employed will be subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.

(7) *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 DROP but may advise members to seek independent advice.

(f e) *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 subsection (f e)

(1) *Eligibility of member to participate in the Back-DROP.* A member who is not participating in DROP and who reaches normal retirement eligibility on or after November 25, 2013 and continues employment beyond the normal retirement date is eligible to elect the Back-DROP. The member shall advise the city and the retirement system in writing of their back-DROP election. A member may elect the Back-DROP only once.

(2) *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 date, up to a maximum period of thirty-six (36) months.

- (3) 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 normal retirement date, plus a lump sum payment equal to the pension benefits the member would have received had he/she retired on the normal retirement date, with interest at a rate of 3% per annum. The lump sum Back-DROP benefit, less applicable withholding taxes, shall be distributed to the member within 60 days following separation from employment. Alternatively, a member may elect to roll some or all of the lump sum Back-DROP benefit into an IRA or other qualified retirement plan, in accordance with applicable law.
- (4) 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 Section 112.3173, Florida Statutes. 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.
- (5) 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.

SECTION 3. That Section 2-162.12(c) of the City of Jacksonville Beach Code of Ordinances shall be amended as follows:

Sec. 2-162.12. - Automatic survivor pension to spouse or children.

...

- (c) (1) A deceased member's accrued pension shall be computed under the following presumptions:
 - a. The deceased member shall be presumed to have retired under the provisions of section 2-162.7 on the day preceding the member's death.

b. The deceased member shall be presumed to have elected Form of Payment SL.

(2) The presumptions of retiring and election of Form of Payment shall be effective notwithstanding the failure to satisfy the specific requirements of sections 2-162.13 and 2-162.14 with regard to these activities.

(3) Death while performing USERRA-qualified active military service –

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".

...

SECTION 4. That Section 2-162.14(c) of the City of Jacksonville Beach Code of Ordinances shall be amended as follows:

Sec. 2-162.14. - Survivor pension to named beneficiary.

...

(c) (1) The amount of pension shall be computed under the following presumptions:

a. The deceased member shall be presumed to have retired under the provisions of section 2-162.7 on the day preceding the member's death.

b. The deceased member shall be presumed to have elected Form of Payment II and named the contingent survivor beneficiary as survivor beneficiary.

(2) The presumptions of retiring, election of Form of Payment, and naming of survivor beneficiary shall be effective notwithstanding the failure to satisfy the specific requirements of sections 2-162.7 and 2-162.10 with regard to these activities.

(3) Death while performing USERRA-qualified active military service –

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".

SECTION 5. That Section 2-162.36A of the City of Jacksonville Beach Code of Ordinances shall be amended as follows:

Sec. 2-162.36A. - Eligible rollover distributions Internal Revenue Code Compliance.

~~If the recipient of any eligible rollover distribution, as that term is defined in Section 402(f)(2)(A) of the Internal Revenue Code, including any lump sum payments of retirement benefits, lump sum refunds of member contributions, and lump sum returns of member contributions which were picked up by the city, elects to have such distribution paid directly to an eligible retirement plan or Individual Retirement Account (IRA), and specifies the eligible retirement plan or IRA to which such distribution is to be paid, in such form and at such time as the board of trustees may prescribe, then the distribution will be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan or IRA.~~

(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, the numerator of which is the Member's number of years (or part thereof, but not less than one year) of service with the City and the denominator of which is 10. For this purpose, no more than one 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 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 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, \$160,000, 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 65

(i) If the Plan does not have an immediately commencing straight life annuity payable at both age 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 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 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 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 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 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical Member who is age 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 62

(i) If the Plan does not have an immediately commencing straight life annuity payable at both age 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 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 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 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.

<u>Age as of Annuity Starting Date:</u>	<u>Adjustment of Dollar Limitation:</u>
<u>Over 65</u>	<p>The smaller of: (a) <u>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</u></p> <p>(b) <u>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).</u></p> <p><u>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.</u></p>
<u>62 to 65</u>	<u>No adjustment.</u>
<u>Less than 62</u>	<p>The smaller of: (a) <u>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</u></p> <p>(b) <u>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).</u></p> <p><u>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.</u></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 62, or between age 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 \$10,000 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 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) 2 and ½ (two and one-half) 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 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 2-162.36A.

(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 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 70, the applicable distribution period for the participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 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:

(l) 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) 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 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) 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 \$1000.

(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 \$200,000, 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 12 months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 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 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.

SECTION 6. That Section 2-162.43(b) of the City of Jacksonville Beach Code of Ordinances shall be amended as follows:

Section 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 100% fully vested (non-forfeitable) upon the termination of this plan.

SECTION 7. All ordinances or parts of ordinances in conflict herewith be and the same are, to the extent that same may be in conflict, hereby repealed.

SECTION 8. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions are declared severable.

SECTION 9. Codification of this ordinance in the City Code of Ordinances is hereby authorized and directed.

SECTION 10. This ordinance shall take effect upon enactment.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, Mayor

Judy L. Bullock, City Clerk

Underlined are Additions

Introduced by: _____

~~Strikethrough are Deletions~~

1st Reading: _____

2nd Reading: _____

ORDINANCE NO. 2014-8048

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 6, 'POLICE OFFICERS' RETIREMENT SYSTEM' OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR COMPLIANCE WITH THE INTERNAL REVENUE CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 26, 2011, an application was filed with the Internal Revenue Service for a Favorable Determination Letter regarding the qualified status of the Plan under Section 401(a) of the Internal Revenue Code; and

WHEREAS, on January 24, 2013, the Internal Revenue Service issued a Favorable Determination Letter, finding that the Plan complies with all qualification requirements; and

WHEREAS, the Favorable Determination Letter is subject to the timely adoption of the amendments provided herein, and

WHEREAS, the trustees of the City of Jacksonville Beach Police Officers' Retirement System have requested and approved such amendments 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 has received, reviewed and considered an actuarial impact statement describing the actual impact of the amendments provided for herein

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

SECTION 1. That Section 2-163.7 of the City of Jacksonville Beach Code of Ordinances shall be amended by adding a Subsection (d) as follows:

Sec. 2-163.7. - Normal Retirement Conditions.

...

- (d) Notwithstanding any other provision hereunder, a Member's accrued benefit under the Plan shall become non-forfeitable upon the attainment of Normal Retirement Age.

SECTION 2. That Section 2-163.9(d) of the City of Jacksonville Beach Code of Ordinances shall be repealed/deleted in its entirety and all following subsections renumbered/relettered accordingly:

Sec. 2-163.9. - Amount of a pension.

...
~~(d) Notwithstanding the provisions of this act, a member may not receive a benefit, which exceeds the maximum amount allowed under Section 415 of the Internal Revenue Code, which is incorporated herein by reference.~~

~~(de)~~ **Deferred Retirement Option Program.** In general, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is a program under which an eligible member of the retirement system may elect to participate, deferring receipt of retirement benefits while continuing employment with the city. The deferred monthly benefits shall accrue in the reserve for pension payments fund on behalf of the participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in subsection (e)(3) of this section. Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Employment in the DROP does not guarantee employment for the specified period of DROP.

(1) *Eligibility of member to participate in the DROP.* All retirement system members are eligible to elect participation in the DROP provided that election to participate is made on or after the member first reaches normal retirement date or age. The member shall advise the city and the retirement system in writing of the date on which the DROP shall begin.

(2) *Participation in the DROP.*

a. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of thirty-six (36) consecutive months. Any member who has exceeded the thirty-six-month limitation shall not be eligible to participate in the DROP.

b. Upon deciding to participate in the DROP, the member shall submit on forms required by the retirement system:

1. A written election to participate in the DROP.

2. Selection of the DROP participation and termination dates, which satisfy the limitations stated in subsections (e)(1) and (e)(2)a of this section. Such termination date shall be in a binding letter of resignation with the city, establishing a deferred

termination date. The member may terminate before the termination date within the limitations of subsection (e)(2) a. of this section, but only with advance written notice to the city.

3. A properly completed DROP application for service retirement as provided in this section.

4. A written election of form of pension payment, pursuant to section 2-163.10.

5. Any other information required by the retirement system.

c. The DROP participant shall be a retirant under the retirement system for all purposes except that payment of benefits to the retirant shall be deferred until separation from city employment.

d. A re-employed retirant with renewed membership is not eligible for DROP participation.

(3) *Benefits payable under the DROP.*

a. Effective with the date of DROP participation, the member's initial normal monthly benefit, including credited service and final average compensation, shall be fixed. Such retirement benefit, any annual cost-of-living adjustments which may be provided, and interest shall accrue monthly in the retirement system's reserve for pension payments. Such interest shall accrue at an annual rate set quarterly by the board of trustees, which shall not be less than 3.5 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death. An annual administration fee of 0.75 percent shall be deducted from each DROP participant's accrued benefits, prorated monthly.

b. The effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in the DROP.

c. Normal retirement benefits and interest thereon shall continue to accrue in the DROP until the established termination date of the DROP, or until the participant terminates employment or dies prior to such date. Although individual DROP accounts shall not be established, a separate accounting of each participant's accrued benefits under the DROP shall be calculated and provided to participants annually.

d. At the conclusion of the participant's DROP, the retirement system shall distribute the participant's total accumulated DROP benefits, subject to the following provisions:

1. The retirement system shall receive verification from the city that the participant has terminated employment.

2. The terminated DROP participant or if deceased, such participant's named beneficiary, shall elect on forms provided by the retirement system to receive payment of the DROP benefits in accordance with one of the options listed below. For a participant or beneficiary who fails to elect a method of payment within sixty (60) days of termination of the DROP, the retirement system will pay a lump sum as provided in (I).

(I) *Lump sum.* All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.

(II) *Direct rollover.* All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code.

(III) *Partial lump sum.* A portion of the accrued DROP benefits shall be paid to the DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or surviving beneficiary.

3. Regardless of the form of payout, a participant's DROP account continues until the account balance is exhausted.

4. For a DROP participant who fails to terminate city employment at the expiration of the 36-month maximum DROP participation period, the member shall be deemed not to be retired, the DROP election shall be null and void, and the member shall have no accumulated DROP benefits. Retirement system

membership shall be reestablished retroactively to the date of the commencement of the DROP, and the member shall be required to pay to the retirement system the member contributions at the rate set forth in section 2.163.20, and the city contributions, as established pursuant to section 2-163.32, required during the period the member participated in the DROP, plus 6.5 percent interest compounded annually.

e. The accrued benefits of any DROP participant, and any contributions accumulated under such program, shall not be subject to assignment or attachment.

f. DROP participants shall not be eligible for disability retirement benefits as provided in sections 2-163.15, 2-163.16, 2-163.17, and 2-163.18, and the participant's beneficiaries and survivors shall not be eligible for the automatic survivor pension, death in the line of duty pension, or survivor pension as provided respectively in sections 2-163.12, 2-163.13, and 2-163.14.

(4) *Death benefits under the DROP.*

a. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in subparagraph (e)(3)d.2 of this section.

b. The normal retirement benefit accrued to the DROP during the month of a participant's death shall be the final monthly benefit credited for such DROP participant.

c. Eligibility to participate in the DROP terminates upon death of the participant. If the participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, retirement system benefits shall be paid as though the DROP election had not been made.

(5) *Contributions.*

a. Member contributions shall not be made, due, or payable during a participant's DROP participation, section 2-163.20 hereof notwithstanding.

b. The city shall not pick up member contributions of a DROP participant during a participant's DROP participation; section 2-163.21 hereof notwithstanding, but instead shall be paid to the DROP participant as wages or salary.

(6) *Forfeiture of retirement benefits.* Nothing in this section shall be construed to remove DROP participants from the scope of Section 8(d), Art. II of the State Constitution, and Section 112.3173, Florida Statutes. DROP

participants who commit a specified felony offense while employed will be subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.

(7) *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 DROP but may advise members to seek independent advice.

SECTION 3. That Section 2-163.12(c) of the City of Jacksonville Beach Code of Ordinances shall be amended as follows:

Sec. 2-163.12. - Automatic survivor pension to spouse or children.

...

(c) (1) A deceased member's accrued pension shall be computed under the following presumptions:

a. The deceased member shall be presumed to have retired under the provisions of section 2-163.7 on the day preceding the member's death.

b. The deceased member shall be presumed to have elected Form of Payment I.

(2) The presumptions of retiring and election of Form of Payment shall be effective notwithstanding the failure to satisfy the specific requirements of sections 2-163.7 and 2-163.10 with regard to these activities.

(3) Death while performing USERRA-qualified active military service –

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".

...

SECTION 4. That Section 2-163.14(c) of the City of Jacksonville Beach Code of Ordinances shall be amended as follows:

Sec. 2-163.14. - Survivor pension to named beneficiary.

...

(c) (1) The amount of pension shall be computed under the following presumptions:

a. The deceased member shall be presumed to have retired under the provisions of section 2-163.7 on the day preceding the member's death.

b. The deceased member shall be presumed to have elected Form of Payment II and named the contingent survivor beneficiary as survivor beneficiary.

(2) The presumptions of retiring, election of Form of Payment, and naming of survivor beneficiary shall be effective notwithstanding the failure to satisfy the specific requirements of sections 2-163.7 and 2-163.10 with regard to these activities.

(3) Death while performing USERRA-qualified active military service –

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".

SECTION 5. That Section 2-163.36A of the City of Jacksonville Beach Code of Ordinances shall be amended as follows:

Sec. 2-163.36A. - Eligible rollover distributions Internal Revenue Code Compliance.

~~If the recipient of any eligible rollover distribution, as that term is defined in Section 402(f)(2)(A) of the Internal Revenue Code, including any lump sum payments of retirement benefits, lump sum refunds of member contributions, and lump sum returns of member contributions which were picked up by the city, elects to have such distribution paid directly to an eligible retirement plan or Individual Retirement Account (IRA), and specifies the eligible retirement plan or IRA to which such distribution is to be paid, in such form and at such time as the board of trustees may prescribe, then the distribution will be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan or IRA.~~

(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, the numerator of which is the Member's number of years (or part thereof, but not less than one year) of service with the City and the denominator of which is 10. For this purpose, no more than one 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 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 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, \$160,000, 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 65

(i) If the Plan does not have an immediately commencing straight life annuity payable at both age 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 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 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 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 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 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical Member who is age 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 62

(i) If the Plan does not have an immediately commencing straight life annuity payable at both age 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 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 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 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

<u>Age as of Annuity Starting Date:</u>	<u>Adjustment of Dollar Limitation:</u>
<u>Over 65</u>	<p>The smaller of: (a) <u>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</u></p> <p>(b) <u>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).</u></p> <p><u>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.</u></p>
<u>62 to 65</u>	<u>No adjustment.</u>
<u>Less than 62</u>	<p>The smaller of: (a) <u>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</u></p> <p>(b) <u>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).</u></p> <p><u>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.</u></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 62, or between age 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 \$10,000 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 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) 2 and ½ (two and one-half) 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 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 2-163.36A.

(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 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:

(l) 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 70, the applicable distribution period for the participant is

the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 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) 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 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) 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 \$1000.

(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 \$200,000, 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 12 months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 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 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.

SECTION 6. All ordinances or parts of ordinances in conflict herewith be and the same are, to the extent that same may be in conflict, hereby repealed.

SECTION 7. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions are declared severable.

SECTION 8. Codification of this ordinance in the City Code of Ordinances is hereby authorized and directed.

SECTION 9. This ordinance shall take effect upon enactment.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, MAYOR

Judy L. Bullock, CITY CLERK

Underlined are Additions

Introduced by: _____

~~Strikethrough are Deletions~~

1st Reading: _____

2nd Reading: _____

ORDINANCE NO. 2014-8049

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 7, 'FIREFIGHTERS' RETIREMENT SYSTEM' OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; TO PROVIDE FOR COMPLIANCE WITH THE INTERNAL REVENUE CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 26, 2011, an application was filed with the Internal Revenue Service for a Favorable Determination Letter regarding the qualified status of the Plan under Section 401(a) of the Internal Revenue Code; and

WHEREAS, on January 24, 2013, the Internal Revenue Service issued a Favorable Determination Letter, finding that the Plan complies with all qualification requirements; and

WHEREAS, the Favorable Determination Letter is subject to the timely adoption of the amendments provided herein, and

WHEREAS, the trustees of the City of Jacksonville Beach Firefighters' Retirement System have requested and approved such amendments 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 has received, reviewed and considered an actuarial impact statement describing the actual impact of the amendments provided for herein

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

SECTION 1. That Section 2-164.7 of the City of Jacksonville Beach Code of Ordinances shall be amended by adding a Subsection (d) as follows:

Sec. 2-164.7 Normal Retirement Conditions.

... (d) Notwithstanding any other provision hereunder, a Member's accrued benefit under the Plan shall become non-forfeitable upon the attainment of Normal Retirement Age.

SECTION 2. That Section 2-164.9(d) of the City of Jacksonville Beach Code of Ordinances shall be repealed/deleted in its entirety and all following subsections renumbered/relettered accordingly:

Sec. 2-164.9. **Amount of a pension.**

...

~~(d) Notwithstanding the provisions of this act, a member may not receive a benefit, which exceeds the maximum amount allowed under Section 415 of the Internal Revenue Code, which is incorporated herein by reference.~~

(de) Deferred Retirement Option Program. In general, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is a program under which an eligible member of the retirement system may elect to participate, deferring receipt of retirement benefits while continuing employment with the city. The deferred monthly benefits shall accrue in the reserve for pension payments fund on behalf of the participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in subsection (e)(3) of this section. Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Employment in the DROP does not guarantee employment for the specified period of DROP.

(1) *Eligibility of member to participate in the DROP.* All retirement system members are eligible to elect participation in the DROP provided that election to participate is made on or after the member first reaches normal retirement date or age. The member shall advise the city and the retirement system in writing of the date on which the DROP shall begin.

(2) *Participation in the DROP.*

a. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of thirty-six (36) consecutive months. Any member who has exceeded the 36-month limitation shall not be eligible to participate in the DROP.

b. Upon deciding to participate in the DROP, the member shall submit on forms required by the retirement system:

1. A written election to participate in the DROP.

2. Selection of the DROP participation and termination dates, which satisfy the limitations stated in subsections (e)(1) and (e)(2)a of this section. Such termination date shall be in a binding letter of resignation with the city, establishing a deferred termination date. The member may terminate before the termination date within the limitations of subsection (e)(2)a. of this section, but only with advance written notice to the city.

3. A properly completed DROP application for service retirement as provided in this section.
 4. A written election of form of pension payment, pursuant to section 2-164.10.
 5. Any other information required by the retirement system.
- c. The DROP participant shall be a retirant under the retirement system for all purposes except that payment of benefits to the retirant shall be deferred until separation from city employment.
 - d. A re-employed retirant with renewed membership is not eligible for DROP participation.
- (3) *Benefits payable under the DROP.*
- a. Effective with the date of DROP participation, the member's initial normal monthly benefit, including credited service and final average compensation, shall be fixed. Such retirement benefit, any annual cost-of-living adjustments which may be provided, and interest shall accrue monthly in the retirement system's reserve for pension payments. Such interest shall accrue at an annual rate set quarterly by the board of trustees, which shall not be less than 3.5 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death. An annual administration fee of 0.75 percent shall be deducted from each DROP participant's accrued benefits, prorated monthly.
 - b. The effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in the DROP.
 - c. Normal retirement benefits and interest thereon shall continue to accrue in the DROP until the established termination date of the DROP or until the participant terminates employment or dies prior to such date. Although individual DROP accounts shall not be established, a separate accounting of each participant's accrued benefits under the DROP shall be calculated and provided to participants annually.
 - d. At the conclusion of the participant's DROP, the retirement system shall distribute the participant's total accumulated DROP benefits, subject to the following provisions:
 1. The retirement system shall receive verification from the city that the participant has terminated employment.

2. The terminated DROP participant or if deceased, such participant's named beneficiary, shall elect on forms provided by the retirement system to receive payment of the DROP benefits in accordance with one of the options listed below. For a participant or beneficiary who fails to elect a method of payment within sixty (60) days of termination of the DROP, the retirement system will pay a lump sum as provided in (I).

(I) Lump sum. All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.

(II) Direct rollover. All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code.

(III) Partial lump sum. A portion of the accrued DROP benefits shall be paid to the DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or surviving beneficiary.

3. Regardless of the form of payout, a participant's DROP account continues until the account balance is exhausted.

4. For a DROP participant who fails to terminate city employment at the expiration of the 36-month maximum DROP participation period, the member shall be deemed not to be retired, the DROP election shall be null and void, and the member shall have no accumulated DROP benefits. Retirement system membership shall be reestablished retroactively to the date of the commencement of the DROP, and the member shall be required to pay to the retirement system the member contributions at the

rate set forth in section 2-164.20, and the city contributions, as established pursuant to section 2-164.32, required during the period the member participated in the DROP, plus 6.5 percent interest compounded annually.

e. The accrued benefits of any DROP participant, and any contributions accumulated under such program, shall not be subject to assignment or attachment.

f. DROP participants shall not be eligible for disability retirement benefits as provided in sections 2-164.15, 2-164.16, 2-164.17, and 2-164.18, and the participant's beneficiaries and survivors shall not be eligible for the automatic survivor pension, death in the line of duty pension, or survivor pension as provided respectively in sections 2-164.12, 2-164.13, and 2-164.14.

(4) *Death benefits under the DROP.*

a. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in subsection (e)(3)d.2. of this section.

b. The normal retirement benefit accrued to the DROP during the month of a participant's death shall be the final monthly benefit credited for such DROP participant.

c. Eligibility to participate in the DROP terminates upon death of the participant. If the participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, retirement system benefits shall be paid as though the DROP election had not been made.

(5) *Contributions.*

a. Member contributions shall not be made, due, or payable during a participant's DROP participation, section 2-164.20 hereof notwithstanding.

b. The city shall not pick up member contributions of a DROP participant during a participant's DROP participation; section 2-164.21 hereof notwithstanding, but instead shall be paid to the DROP participant as wages or salary.

(6) *Forfeiture of retirement benefits.* Nothing in this section shall be construed to remove DROP participants from the scope of Section 8(d). Art. II of the State Constitution, and Section 112.3173, Florida Statutes. DROP participants who commit a specified felony offense while employed will be

subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.

(7) *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 DROP but may advise members to seek independent advice.

(f) *Cost of living adjustment.* There shall be cost of living adjustment (COLA) to the monthly benefit of each member 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.

SECTION 3. That Section 2-164.12(c) of the City of Jacksonville Beach Code of Ordinances shall be amended as follows:

2-164.12 Automatic survivor pension to spouse or children

...

(c) (1) A deceased member's accrued pension shall be computed under the following presumptions:

a. The deceased member shall be presumed to have retired under the provisions of section 2-164.7 on the day preceding the member's death.

b. The deceased member shall be presumed to have elected Form of Payment I.

(2) The presumptions of retiring and election of Form of Payment shall be effective notwithstanding the failure to satisfy the specific requirements of sections 2-164.7 and 2-164.10 with regard to these activities.

(3) Death while performing USERRA-qualified active military service –

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".

(d) No pension shall be paid under the provisions of this section if any pension is paid under the provisions of section 2-164.10.

SECTION 4. That Section 2-164.14 of the City of Jacksonville Beach Code of Ordinances shall be amended as follows:

Sec. 2-164.14. - Survivor pension to named beneficiary.

(a) A member may name a contingent survivor beneficiary for the exclusive purpose of being paid a pension that may become payable under the provisions of this section. The naming of a contingent survivor beneficiary shall be in writing and filed with the retirement system. The contingent survivor beneficiary may be changed at any time prior to termination of membership. The contingent survivor beneficiary shall be a person other than the spouse or child of the member.

(b) A pension shall be paid to the contingent survivor beneficiary, for life, if each of the following conditions is met:

(1) The member dies while employed by the city.

(2) The member, at time of death, has ten (10) or more years of credited service.

(3) No pension is payable under the provisions of section 2-164.13 to the member's spouse or children.

(c) (1) The amount of pension shall be computed under the following presumptions:

a. The deceased member shall be presumed to have retired under the provisions of section 2-164.7 on the day preceding the member's death.

b. The deceased member shall be presumed to have elected Form of Payment II and named the contingent survivor beneficiary as survivor beneficiary.

(2) The presumptions of retiring, election of Form of Payment, and naming of survivor beneficiary shall be effective notwithstanding the failure to satisfy the

specific requirements of sections 2-164.7 and 2-164.10 with regard to these activities.

(3) Death while performing USERRA-qualified active military service –

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”.

SECTION 5. That Section 2-164.36A of the City of Jacksonville Beach Code of Ordinances shall be amended as follows:

Sec. 2-164.36A Eligible rollover distributions Internal Revenue Code Compliance.

~~If the recipient of any eligible rollover distribution, as that term is defined in Section 402(f)(2)(A) of the Internal Revenue Code, including any lump sum payments of retirement benefits, lump sum refunds of member contributions, and lump sum returns of member contributions which were picked up by the city, elects to have such distribution paid directly to an eligible retirement plan or Individual Retirement Account (IRA), and specifies the eligible retirement plan or IRA to which such distribution is to be paid, in such form and at such time as the board of trustees may prescribe, then the distribution will be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan or IRA.~~

(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, the numerator of which is the Member’s number of years (or part thereof, but not less than one year) of service with the City and the denominator of which is 10. For this purpose, no

more than one 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 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 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, \$160,000, 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 65

(i) If the Plan does not have an immediately commencing straight life annuity payable at both age 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 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 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 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 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 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical Member who is age 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 62.

(i) If the Plan does not have an immediately commencing straight life annuity payable at both age 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 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 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 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

<u>Age as of Annuity Starting Date:</u>	<u>Adjustment of Dollar Limitation:</u>
<u>Over 65</u>	<p data-bbox="586 304 1453 612"><u>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).</u></p> <p data-bbox="683 646 1453 853"><u>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.</u></p>
<u>62 to 65</u>	<u>No adjustment.</u>
<u>Less than 62</u>	<p data-bbox="586 963 1453 1272"><u>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).</u></p> <p data-bbox="683 1272 1453 1406"><u>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.</u></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 62, or between age 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 \$10,000 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 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) 2 and ½ (two and one-half) 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 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 2-164.36A.

(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 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, 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 70, the applicable distribution period for the participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 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) 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 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 distributee's 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) 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 \$1000.

(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 \$200,000, 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 12 months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 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 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.

SECTION 6. All ordinances or parts of ordinances in conflict herewith be and the same are, to the extent that same may be in conflict, hereby repealed.

SECTION 7. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions are declared severable.

SECTION 8. Codification of this ordinance in the City Code of Ordinances is hereby authorized and directed.

SECTION 9. This ordinance shall take effect upon enactment.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, MAYOR

Judy L. Bullock, CITY CLERK

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MEMORANDUM

TO: George D. Forbes, City Manager

FROM: Karen Nelson, Human Resources Director

SUBJECT: Ordinance Numbers:

- 2014-8044 amending Chapter 2, Article V, Division 5 - General Employees' Retirement System
- 2014-8045 amending Chapter 2, Article V, Division 6 - Police Officers' Retirement System
- 2014-8046 amending Chapter 2, Article V, Division 7 - Firefighters' Retirement System

DATE: January 24, 2014

ACTION REQUESTED

Adopt Ordinance Numbers 2014-8044, 2014-8045 and 2014-8046 amending Chapter 2, Article V, "Employee Benefits," of the Code of Ordinances of the City of Jacksonville Beach, for the General Employees' Retirement System, the Police Officers' Retirement System and the Firefighters' Retirement System.

BACKGROUND

Currently, employees designated as Executive or Department Heads are not required to be in the City's pension plans. This is because these positions are more mobile and candidates may not have the expectation of meeting the required vesting periods in order to become eligible for the City's retirement plans. The City's General Employees', Police Officers' and Firefighters' Retirement Plans currently require that Executive or Department Head employees make an election within 90 days of employment or promotion as to whether they would like to participate, or not participate in their retirement plan. The plans also allow these employees a one-time option to rescind this decision, although the language in our ordinances is somewhat contradictory and confusing. In order to clarify these provisions we have requested that our pension attorneys rewrite the ordinances to include the following changes:

- Permit employees designated as Executive or Department Heads the option to rescind their election to participate or not to participate in their pension plan one time prior to vesting.



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- If the Executive or Department Head elects to discontinue their participation in their retirement plan, the retirement plan will reimburse them all of their accumulated member contributions pursuant to sections 2-162.22, 2-163.22 or 2-164.22 of each respective pension plan. The plan will not reimburse the employee for any contributions made by the City.
- If the Executive or Department Head previously elected not to participate in their pension plan and later chooses to participate, they will be required to make their pension plans whole. They will reimburse their plan for any accumulated member contributions withdrawn, pay all member and employer contributions from the time they did not participate plus a rate of interest equal to the plan's assumed rate of return for the service purchased, as determined by the pension plans' actuary.

If the Executive or Department Head elects not to participate in their retirement plan, the City will make bi-weekly contributions into the ICMA 457 Deferred Compensation Plan, a private savings or checking account or any other individual retirement plan designated by the employee, in an amount not to exceed the current rate of the City's contribution to the General Employees' Pension Plan.

Brad Armstrong, actuary for Gabriel Roeder Smith & Company (actuaries for the City's pension plans) tentatively reviewed the proposed ordinances and has indicated that he does not anticipate any financial impact to the retirement plans should these ordinances be adopted. Impact statements regarding the proposed changes to the ordinances are currently being prepared and will be available prior to the second reading of the ordinance.

RECOMMENDATION

- Adopt Ordinance Number 2014-8044 amending Chapter 2, Article V, Division 5, "General Employees" Retirement System", of the Code of Ordinances of the City of Jacksonville Beach.
- Adopt Ordinance Number 2014-8045 amending Chapter 2, Article V, Division 6, "Police Officers' Retirement System", of the Code of Ordinances of the City of Jacksonville Beach.

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RECOMMENDATION (continued)

- Adopt Ordinance Number 2014-8046 amending Chapter 2, Article V, Division 7, "Firefighters' Retirement System", of the Code of Ordinances of the City of Jacksonville Beach.

Introduced By: _____

1st Reading: _____

2nd Reading: _____

ORDINANCE NO. 2014-8044

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING CHAPTER 2, ARTICLE V OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, "EMPLOYEE BENEFITS," DIVISION 5, RETIREMENT PLAN FOR GENERAL EMPLOYEES OF THE CITY OF JACKSONVILLE BEACH, TO PROVIDE FOR PERMITTING DEPARTMENT HEADS THE OPTION TO RESCIND THEIR ELECTION TO PARTICIPATE IN THE PLAN ONE TIME BEFORE VESTING; TERMS GOVERNING THE BUY-IN AND BUY-OUT OF SERVICE CREDIT RELATED TO SUCH ELECTIONS; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section 1. Chapter 2, Section 2-162.3(b) of the Code of Ordinances of the City of Jacksonville Beach (the "Code") is hereby amended by adding the underlined language and deleting the ~~stricken language~~ as follows:

Sec. 2-162.3. – Membership of the general employees' retirement system.

(b) Excluded positions are:

(1) Mayor and city council members.

(2) Positions which are compensated on a basis not subject to the withholding of federal income taxes or FICA taxes by the city.

(3) Any person initially employed as or promoted to a position designated by the city council, as executive or department head shall elect, within ninety (90) days of initial employment or promotion, to participate or not participate in the retirement system. Such election ~~shall be irrevocable for as long as the employee holds such executive or department head position~~ may be revoked only one 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 member's entitlement to benefits hereunder shall be governed by the system's provisions in effect at the time of such discontinuance.~~ the retirement system shall return to such member all accumulated member contributions

~~pursuant to the procedures described in section 2-162.22. Notwithstanding the above, any person who elected not to participate in the retirement system shall be afforded an irrevocable opportunity to re-enter the retirement system within five (5) years of the election not to participate in the retirement system. For such person who is currently employed and elected such option in excess of the five (5) year period an irrevocable opportunity to re-enter the retirement system shall be afforded to be exercised within ninety (90) days of adoption of this ordinance. On such election to re-enter the retirement system~~ If a member previously elected not to participate in the retirement system and later chooses to participate, the individual shall be required to pay to the retirement system any accumulated member contributions that were withdrawn from the retirement system, if any, and shall pay all member and employer contributions for the time that the person did not participate in the retirement system plus a rate of interest ~~to~~ equal to the plan's assumed rate of return for the service purchased, as determined by the fund actuary.

(4) Temporary employees.

(5) Police officers and reserve police officers.

(6) Firefighters.

(7) Part-time employees who are retirants of a City of Jacksonville Beach retirement system receiving normal retirement pensions from this retirement system.

Section 2. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. All ordinances or parts of ordinances, in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 4. This Ordinance shall be effective on adoption.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, MAYOR

Judy L. Bullock, CITY CLERK

Introduced By: _____

1st Reading: _____

2nd Reading: _____

ORDINANCE NO. 2014-8045

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING CHAPTER 2, ARTICLE V OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, "EMPLOYEE BENEFITS," DIVISION 6, RETIREMENT PLAN FOR POLICE OFFICERS OF THE CITY OF JACKSONVILLE BEACH, TO PROVIDE FOR PERMITTING POLICE CHIEFS THE OPTION TO RESCIND THEIR ELECTION TO PARTICIPATE IN THE PLAN ONE TIME BEFORE VESTING; TERMS GOVERNING THE BUY-IN AND BUY-OUT OF SERVICE CREDIT RELATED TO SUCH ELECTIONS; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section 1. Chapter 2, Section 2-163.3(b) of the Code of Ordinances of the City of Jacksonville Beach (the "Code") is hereby amended by adding the underlined language and deleting the ~~stricken language~~ as follows:

Sec. 2-163.3. – Membership of retirement system.

(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 police chief shall elect, within ninety (90) days of initial employment or promotion, to participate or not participate in the retirement system. Such election ~~shall be irrevocable for as long as the employee holds such executive or department head position~~ may be revoked only one 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 member's entitlement to benefits hereunder shall be governed by the system's provisions in effect at the time of such discontinuance~~ the retirement system shall return to such member all accumulated member contributions pursuant to the procedures described in section 2-163.22. If a member previously elected not to participate in the retirement system and later chooses to participate, the

individual shall be required to pay to the retirement system any accumulated member contributions that were withdrawn from the retirement system, if any, and shall pay all member and employer contributions for the time that the person did not participate in the retirement system plus a rate of interest equal to the plan's assumed rate of return for the service purchased, as determined by the fund actuary.

Section 2. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. All ordinances or parts of ordinances, in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 4. This Ordinance shall be effective on adoption.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, MAYOR

Judy L. Bullock, CITY CLERK

Introduced By: _____

1st Reading: _____

2nd Reading: _____

ORDINANCE NO. 2014-8046

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING CHAPTER 2, ARTICLE V OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, "EMPLOYEE BENEFITS," DIVISION 7, RETIREMENT PLAN FOR FIREFIGHTERS OF THE CITY OF JACKSONVILLE BEACH, TO PROVIDE FOR PERMITTING FIRE CHIEFS THE OPTION TO RESCIND THEIR ELECTION TO PARTICIPATE IN THE PLAN ONE TIME BEFORE VESTING; TERMS GOVERNING THE BUY-IN AND BUY-OUT OF SERVICE CREDIT RELATED TO SUCH ELECTIONS; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section 1. Chapter 2, Section 2-164.3(b) of the Code of Ordinances of the City of Jacksonville Beach (the "Code") is hereby amended by adding the underlined language and deleting the ~~stricken language~~ as follows:

Sec. 2-164.3. – Membership of the firefighters' retirement system.

- (b) Any person initially employed as or promoted to a position designated by the city council, as fire chief shall elect, within ninety (90) days of initial employment or promotion, to participate or not participate in the retirement system. Such election shall be ~~irrevocable for as long as the employee holds such executive or department head position~~ may be revoked only one 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 member's entitlement to benefits hereunder shall be governed by the system's provisions in effect at the time of such discontinuance~~ the retirement system shall return to such member all accumulated member contributions pursuant to the procedures described in section 2-164.22. If a member previously elected not to participate in the retirement system and later chooses to participate, the individual shall be required to pay to the retirement system any accumulated member

contributions that were withdrawn from the retirement system, if any, and shall pay all member and employer contributions for the time that the person did not participate in the retirement system plus a rate of interest equal to the plan's assumed rate of return for the service purchased, as determined by the fund actuary.

Section 2. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. All ordinances or parts of ordinances, in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 4. This Ordinance shall be effective on adoption.

AUTHENTICATED THIS _____ DAY OF _____, 2014.

William C. Latham, MAYOR

Judy L. Bullock, CITY CLERK