

**ORDINANCE NO. 1635**

**AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH ADDING A NEW CHAPTER 30, "PENSIONS"; ADDING A NEW ARTICLE III, "THE CITY OF PANAMA CITY BEACH GENERAL MUNICIPAL EMPLOYEES' PENSION PLAN", INCORPORATING THE CITY OF PANAMA CITY BEACH GENERAL MUNICIPAL EMPLOYEES' PENSION PLAN, ADOPTED PURSUANT TO ORDINANCE NO. 1158, AS SUBSEQUENTLY AMENDED, INTO THE CITY OF PANAMA CITY BEACH CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Panama City Beach is presently providing pension and certain other benefits under Ordinances of the City of Panama City Beach to the City's general employees,

**WHEREAS**, the City of Panama City Beach General Municipal Employees' Pension Plan, is currently set forth in the document designed CITY OF PANAMA CITY BEACH GENERAL MUNICIPAL EMPLOYEES' PENSION PLAN;

**WHEREAS**, The City Council desired to clarify, restate, and incorporate the provisions of the City's retirement plans into the City of Panama City Beach's Code of Ordinances;

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

**SECTION 1.** Chapter 30, Article III of the City of Panama City Beach City Code is hereby created as follows:

**CHAPTER 30 – PENSIONS**

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**ARTICLE III. – CITY OF PANAMA CITY BEACH GENERAL MUNICIPAL EMPLOYEES' PENSION PLAN**

**Sec. 30-100. – Definitions.**

- (a) As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated:

Accumulated Contributions means a Member's own contributions accruing interest, only during periods when a Member is accruing Credited Service, at the rate of five and one-quarter percent (5-1/4%) per annum prior to January 25, 2000. On and after January 25, 2000, no interest shall accrue. For those Members who purchase Credited Service with interest or at no cost to the System, any payment representing the amount attributable to Member contributions based on the

applicable Member contribution rate, interest, and any required actuarially calculated payments for the purchase of such Credited Service shall be included in Accumulated Contributions without the crediting of interest of five and one-quarter percent (5-1/4%) per annum.

Actuarial Equivalent means a benefit or amount of equal value, based upon the RP2000 Generational Mortality Table and an interest rate of eight percent (8%) per annum. This definition may only be amended by the City pursuant to the recommendation of the Board using assumptions adopted by the Board with the advice of the plan's actuary, such that actuarial assumptions are not subject to City Discretion.

Average Final Compensation means one-twelfth (1/12) of the average Salary of the five (5) best years of the last ten (10) years of Credited Service prior to Retirement, termination, or death, or the career average as a full-time General Employee, whichever is greater. A year shall be twelve (12) consecutive months.

Beneficiary means the person or persons entitled to receive benefits hereunder at the death of a Member who has or have been designated in writing by the Member and filed with the Board. If no such designation is in effect, or if no person so designated is living, at the time of death of the Member, the Beneficiary shall be the estate of the Member.

Board means the Board of Trustees, which shall administer and manage the System herein provided and serve as trustees of the Fund.

City means City of Panama City Beach, Florida.

Code means the Internal Revenue Code of 1986, as amended from time to time.

Credited Service means the total number of years and fractional parts of years of service as a General Employee with Member contributions, when required, omitting intervening years or fractional parts of years when such Member was not employed by the City as a General Employee. A Member may voluntarily leave his Accumulated Contributions in the Fund for a period of five (5) years after leaving the employ of the City pending the possibility of being reemployed as a General Employee, without losing credit for the time that he was a Member of the System. If a vested Member leaves the employ of the City, his Accumulated Contributions will be returned only upon his written request. If a Member who is not vested is not reemployed as a General Employee

with the City within five (5) years, his Accumulated Contributions, if one-thousand dollars (\$1,000.00) or less, shall be returned. If a Member who is not vested is not reemployed within five (5) years, his Accumulated Contributions, if more than one-thousand dollars (\$1,000.00), will be returned only upon the written request of the Member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the Board. Upon return of a Member's Accumulated Contributions, all of his rights and benefits under the System are forfeited and terminated. Upon any reemployment, a General Employee shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his Accumulated Contributions, except pursuant to Section 30-122.

The years or parts of a year that a member performs "Qualified Military Service" consisting of voluntary or involuntary "service in the uniformed services" as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L.103-353), after separation from employment as a General Employee to perform training or service, shall be added to his years of Credited Service for all purposes, including vesting, provided that:

- (1) The Member is entitled to reemployment under the provisions of USERRA.
- (2) The Member returns to his employment as a General Employee within one (1) year following the earlier of the date of his military discharge or his release from service, unless otherwise required by USERRA.
- (3) The Member deposits into the Fund the same sum that the Member would have contributed, if any, if he had remained a General Employee during his absence. The maximum credit for military service pursuant to this subsection shall be five (5) years.
- (4) This paragraph is intended to satisfy the minimum requirements of USERRA. To the extent that this paragraph does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.

In the event a Member dies on or after January 1, 2007, while performing USERRA Qualified Military Service, the beneficiaries of the Member are entitled to any benefits (other than benefit accruals relating to the period of qualified military service) as if the Member had resumed employment and then died while employed.

Beginning January 1, 2009, to the extent required by Section 414(u)(12) of the Code, an individual receiving differential wage payments (as defined under Section 3401(h)(2) of the Code) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Section 415(c) of the Code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Leave conversions of unused accrued paid time off shall not be permitted to be applied toward the accrual of Credited Service either during each Plan Year of a Member's employment with the City or in the Plan Year in which the Member terminates employment.

In the event that a Member of this System has also accumulated Credited Service in another pension system maintained by the City, then such other Credited Service shall be used in determining vesting as provided for in Section 30-108, and for determining eligibility for early or normal retirement in each system. Such other Credited Service shall not be considered in determining benefits under this System but shall be considered for determining benefits under such other system using the benefit accrual rate in effect in such other system at the time of the Member's termination or Retirement from the City of Panama City Beach. Only his Credited Service under this System on or after his date of membership in this System shall be considered for this System's benefit calculation. The benefit calculation for a Member of this System who is or becomes eligible for a benefit from this System after he has become a Member of another pension system maintained by the City, shall be based upon the Member's Average Final Compensation and benefit accrual rate in effect on the date of the Member's termination of employment or Retirement from the City.

Effective Date means the date on which this ordinance becomes effective.

Fund means the trust fund established herein as part of the System.

General Employee means any actively employed person in the regular, full-time service of the City, including those in any period of probationary employment, but not including certified police officers and certified firefighters employed by the City. "Regular full-time service" means service in an authorized permanent position requiring a full-time Employee and "Permanent position" means a position expected to be filled for more than twelve (12) consecutive months.

Member means an actively employed General Employee who fulfills the prescribed membership requirements. Benefit improvements which, in the past, have been provided for by amendments to the System adopted by City ordinance, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to Members who terminate employment or who retire prior to the effective date of any ordinance adopting such benefit improvements, unless such ordinance specifically provides to the contrary.

Plan Year means the twelve (12) month period beginning October 1 and ending September 30 of the following year.

Retiree means a Member who has entered Retirement status.

Retirement means a Member's separation from City employment with eligibility for immediate receipt of benefits under the System.

Salary means the total compensation for services rendered to the City as a General Employee reportable on the Member's W-2 form, including all tax deferred, tax sheltered or tax-exempt items of income derived from elective employee payroll deductions or salary reductions. Where applicable, the following forms of compensation are excluded from a Member's Salary: (i) accrued amounts paid at termination of employment; (ii) monthly vehicle allowance; (iii) mileage reimbursements; (iv) hiring incentive; (v) annual incentive pay; (vi) housing allowance; (vii) moving allowance; (viii) annual voluntary cash out of paid time off; and (ix) annual clothing allowance.

(1) For service earned on or after July 1, 2011, Salary shall not include more than three hundred (300) hours of overtime per fiscal year. Provided however, in any event, payments for overtime in excess of three hundred (300) hours per year accrued as of July 1, 2011, and attributable to service earned prior to the July 1, 2011, may still be included in Salary for pension purposes even if the payment is not actually made until on or after July 1, 2011.

(2) Compensation in excess of the limitations set forth in Section 401(a)(17) of the Code as of the first day of the Plan Year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining

benefits or employee contributions for any Plan Year beginning on or after January 1, 2002, may not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B).

- (3) Compensation means compensation during the fiscal year. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. If the compensation for any prior determination period is taken into account in determining a Member's contributions or benefits for the current Plan Year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. The limitation on compensation for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a Member before the first Plan Year beginning after December 31, 1995.

Spouse means the Member's or Retiree's spouse under applicable law at the time benefits become payable.

System means the City of Panama City Beach General Municipal Employees' Pension Plan as contained herein and all amendments thereto.

(b) Masculine Gender.

The masculine gender, where used herein, unless the context specifically requires otherwise, shall include both the feminine and masculine genders.

(Orig. Ord. 1158, 8-13-09; Ord. 1221, §1, 2-9-12; Ord. 1287, §1, 9-12-13; Ord. 1363, §1, 9-24-15; Ord. 1562, §1, 8-9-21 to take effect 8-19-21)

**Sec. 30-101. – Membership.**

(a) Conditions of Eligibility.

All General Employees who are Members as of the Effective Date, and all future new General Employees, shall become Members of this System as a condition of employment.

(b) Designation of Beneficiary.

Each General Employee shall complete a form prescribed by the Board designating a Beneficiary or Beneficiaries.

**Sec. 30-102. – Board of Trustees.**

- (a) The sole and exclusive administration of and responsibility for the proper operation of the System and for making effective the provisions of this ordinance is hereby vested in a Board of Trustees. The Board is hereby designated as the plan administrator. The Board shall consist of five (5) Trustees, two (2) of whom, unless otherwise prohibited by law shall be appointed by the City Council, and two (2) of whom shall be Members of the System, who shall be elected by a majority of the General Employees who are Members of the System. The fifth Trustee shall be chosen by a majority of the previous four (4) Trustees as provided for herein, and such person's name shall be submitted to the City Council. Upon receipt of the fifth person's name, the City Council shall, as a ministerial duty, appoint such person to the Board as its fifth Trustee. The fifth Trustee shall have the same rights as each of the other four (4) Trustees appointed or elected as herein provided and shall serve a four (4) year term unless he sooner vacates the office. Each appointed Trustee shall serve as Trustee for a period of four (4) years, unless he sooner vacates the office or is sooner replaced by the City Council at whose pleasure he shall serve. Each Member Trustee shall serve as Trustee for a period of four (4) years, unless he sooner leaves the employment of the City as a General Employee or otherwise vacates his office as Trustee, whereupon a successor shall be chosen in the same manner as the departing Trustee. Each Trustee may succeed himself in office. The Board shall establish and administer the nominating and election procedures for each election. The Board shall meet at least quarterly each year. The Board shall be a legal entity with, in addition to other powers and responsibilities

contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

- (b) The Trustees shall, by a majority vote, elect a Chairman and a Secretary. The Secretary of the Board shall keep a complete minute book of the actions, proceedings, or hearings of the Board. The Trustees shall not receive any compensation as such but may receive expenses and per diem as provided by law.
- (c) Each Trustee shall be entitled to one (1) vote on the Board. Three (3) affirmative votes shall be necessary for any decision by the Trustees at any meeting of the Board. A Trustee shall have the right to abstain from voting as the result of a conflict of interest provided that Trustee complies with the provisions of Section 112.3143, Florida Statutes.
- (d) The Board shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the System. The compensation of all persons engaged by the Board and all other expenses of the Board necessary for the operation of the System shall be paid from the Fund at such rates and in such amounts as the Board shall agree.
- (e) The duties and responsibilities of the Board shall include, but not necessarily be limited to, the following:
  - (1) To construe the provisions of the System and determine all questions arising thereunder.
  - (2) To determine all questions relating to eligibility and membership.
  - (3) To determine and certify the amount of all retirement allowances or other benefits hereunder.
  - (4) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the System.
  - (5) To distribute to Members, at regular intervals, information concerning the System.
  - (6) To receive and process all applications for benefits.
  - (7) To authorize all payments whatsoever from the Fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the System and Fund.



(8) To have performed actuarial studies and valuations, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the System.

(9) To perform such other duties as are required to prudently administer the System.

(Orig. Ord. 1158, 8-13-09; Ord. 1447, §1, 2-8-18)

**Sec. 30-103. – Finances and Fund Management.**

Establishment and Operation of the Fund.

- (a) As part of the System, there is hereby established the Fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the System, including the assets of the prior General Municipal Employees' Pension Plan.
- (b) The actual custody and supervision of the Fund (and assets thereof) shall be vested in the Board. Payment of benefits and disbursements from the Fund shall be made by the disbursing agent but only upon written authorization from the Board.
- (c) All funds of the General Municipal Employees' Pension Plan may be deposited by the Board with the Treasurer of the City, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the City. However, any funds so deposited with the Treasurer of the City shall be kept in a separate fund by the Treasurer or clearly identified as such funds of the General Municipal Employees' Pension Plan. In lieu thereof, the Board shall deposit the funds of the General Municipal Employees' Pension Plan in a qualified public depository as defined in Section 280.02, Florida Statutes, which depository with regard to such funds shall conform to and be bound by all of the provisions of Chapter 280, Florida Statutes. In order to fulfill its investment responsibilities as set forth herein, the Board may retain the services of a custodian bank, an investment advisor registered under the Investment Advisors Act of 1940 or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment manager shall have discretion, subject to any guidelines as prescribed by the Board, in the investment of all Fund assets.

- (d) All funds and securities of the System may be commingled in the Fund, provided that accurate records are maintained at all times reflecting the financial composition of the Fund, including accurate current accounts and entries as regards the following:
- (1) Current amounts of Accumulated Contributions of Members on both an individual and aggregate account basis, and
  - (2) Receipts and disbursements, and
  - (3) Benefit payments, and
  - (4) Current amounts clearly reflecting all monies, funds, and assets whatsoever attributable to contributions and deposits from the City, and
  - (5) All interest, dividends and gains (or losses) whatsoever, and
  - (6) Such other entries as may be properly required so as to reflect a clear and complete financial report of the Fund.
- (e) An audit shall be performed annually by a certified public accountant for the most recent fiscal year of the System showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.
- (f) The Board shall have the following investment powers and authority:
- (1) The Board shall be vested with full legal title to said Fund, subject, however, and in any event to the authority and power of the Panama City Beach City Council to amend or terminate this Fund, provided that no amendment or Fund termination shall ever result in the use of any assets of this Fund except for the payment of regular expenses and benefits under this System, except as otherwise provided herein. All contributions from time to time paid into the Fund, and the income thereof, without distinction between principal and income, shall be held and administered by the Board or its agent in the Fund and the Board shall not be required to segregate or invest separately any portion of the Fund.
  - (2) All monies paid into or held in the Fund shall be invested and reinvested by the Board and the investment of all or any part of such funds shall be subject to the following:

- (i) Notwithstanding any limitation in prior City ordinances to the contrary, all monies paid into or held in the Fund may be invested and reinvested in such securities, investment vehicles or property wherever situated and of whatever kind, as shall be approved by the Board, including but not limited to common or preferred stocks, bonds, and other evidence of indebtedness or ownership.
- (ii) The Board shall develop and adopt a written investment policy statement setting forth permissible types of investments, goals and objectives of investments and setting quality and quantity limitations on investments in accordance with the recommendations of its investment consultants. The investment policy statement shall be reviewed by the Board at least annually.
- (iii) In addition, the Board may, upon recommendation by the Board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100, Revenue Ruling 2011-1, IRS Notice 2012-6 and Revenue Ruling 2014-24 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Section 401(a) of the Code, individual retirement accounts that are exempt under Section 408(e) of the Code, eligible governmental plans that meet the requirements of Section 457(b) of the Code, and governmental plans under 401(a)(24) of the Code. For this purpose, a trust includes a custodial account or separate tax favored account maintained by an insurance company that is treated as a trust under Section 401(f) or under Section 457(g)(3) of the Code. While any portion of the assets of the Fund are invested in such a group trust, such group trust is itself adopted as a part of the System or Plan.
  - a. Any collective or common group trust to which assets of the fund are transferred pursuant to subsection (iii) shall be adopted by the board as part of the plan by executing appropriate participation, adoption agreements, and/or trust agreements with the group trust's trustee.

- b. The separate account maintained by the group trust for the plan pursuant to subsection (iii) shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the members and beneficiaries of the plan.
  - c. For purposes of valuation, the value of the separate account maintained by the group trust for the plan shall be the fair market value of the portion of the group trust held for the plan, determined in accordance with generally recognized valuation procedures.
- (3) At least once every three (3) years, and more often as determined by the Board, the Board shall retain a professionally qualified independent consultant to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the Board at its next regularly scheduled meeting.
  - (4) The Board may retain in cash and keep unproductive of income such amount of the Fund as it may deem advisable, having regard for the cash requirements of the System.
  - (5) Neither the Board nor any Trustee shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the Fund, except that due to his or its own negligence, willful misconduct, or lack of good faith.
  - (6) The Board may cause any investment in securities held by it to be registered in or transferred into its name as Trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the Fund.
  - (7) The Board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the Trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from

the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the Fund which it may deem to be to the best interest of the Fund to exercise.

- (8) The Board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.
- (9) Where any action which the Board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as Trustee under this ordinance, can reasonably be taken or performed only after receipt by it from a Member, the City, or any other entity, of specific information, certification, direction or instructions, the Board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.
- (10) Any overpayments or underpayments from the Fund to a Member, Retiree or Beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the Board in such a manner that the Actuarial Equivalent of the benefit to which the Member, Retiree or Beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayments shall be made up from the Fund in a prudent manner.
- (11) The Board shall sustain no liability whatsoever for the sufficiency of the Fund to meet the payments and benefits provided for herein.
- (12) In any application to or proceeding or action in the courts, only the Board shall be a necessary party, and no Member or other person having an interest in the Fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.
- (13) Any of the foregoing powers and functions reposed in the Board may be performed or carried out by the Board through duly authorized agents, provided that the Board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said Fund shall always remain in the Board.

(Orig. Ord. 1158, 8-13-09; Ord. 1306, §1, 4-10-14; Ord. 1363, §2, 9-24-15)

**Sec. 30-104. – Contributions.**

(a) Member Contributions.

(1) Amount. Each Member of the System shall be required to make regular contributions to the Fund in the amount of five and one-tenth percent (5.1%) of his Salary prior to October 1, 2005, and eight and seven-tenths percent (8.7%) of his Salary on and after October 1, 2005. Member contributions withheld by the City on behalf of the Member shall be deposited with the Board immediately after each pay period. The contributions made by each Member to the Fund shall be designated as employer contributions pursuant to Section 414(h) of the Code. Such designation is contingent upon the contributions being excluded from the Members' gross income for Federal Income Tax purposes. For all other purposes of the System, such contributions shall be considered to be Member contributions.

(2) Method. Such contributions shall be made by payroll deduction.

(b) City Contributions.

So long as this System is in effect, the City shall make quarterly contributions to the Fund in an amount equal to the required City Contribution, as shown by the applicable actuarial valuation of the System.

(c) Other.

Private donations, gifts and contributions may be deposited to the Fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources may be used only for additional benefits for Members, as determined by the Board, and may not be used to reduce what would have otherwise been required City contributions.

**Sec. 30-105. – Benefit Amounts and Eligibility.**

(a) Normal Retirement Date.

A Member's normal retirement age is the earlier of the attainment of age fifty-five (55) and the completion of ten (10) years of Credited Service or the attainment of age fifty (50) and the completion of twenty (20) years of Credited Service. Each Member shall become one hundred percent (100%) vested in his accrued benefit at normal retirement age. A Member's normal retirement date shall be the first day of the month coincident with or next following the date the Member retires from the City after attaining normal retirement age.

(b) Normal Retirement Benefit.

A Member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his Retirement and be continued thereafter during Member's lifetime, ceasing upon death, but with one hundred twenty (120) monthly payments guaranteed in any event. The monthly retirement benefit shall equal two and five-tenths percent (2.5%) of Average Final Compensation, for each year of Credited Service prior to October 1, 2005, and three percent (3%) of Average Final Compensation for each year of Credited Service on and after October 1, 2005. Any such Member shall not receive benefits from the Fund while employed or serving in any capacity which would entitle such individual to accrue benefits under this Fund. In the event a Member begins receiving benefits under this subsection and is subsequently employed or elected to a position which would entitle the Member to accrue benefits under the fund, the benefits payable to said Member shall be suspended until such time as the Member is no longer employed or serving in a position which would entitle him to accrue benefits under the Fund. At such time, the Member's benefits shall be recalculated in accordance with the provisions herein. In the alternative, the Member may advise the Board in writing of his desire not to participate in the fund; in which case there shall be no suspension in the payment of benefits to the Member.

(c) Early Retirement Date.

A Member may retire on his early retirement date, which shall be the first day of any month coincident with or next following the attainment of age forty-eight (48) and the completion of ten (10) years of Credited Service. Early retirement under the System is Retirement from employment with the City on or after the early retirement date and prior to the normal retirement date.

(d) Early Retirement Benefit.

A Member retiring hereunder on his early retirement date may receive either a deferred or an immediate monthly retirement benefit payable in the same form as for normal retirement as follows:

- (1) A deferred monthly retirement benefit which shall commence on what would have been his normal retirement date determined based upon his actual years of Credited Service as a General Employee and shall be continued on the first day of

each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement on his normal retirement date except that Credited Service and Average Final Compensation shall be determined as of his early retirement date; or

- (2) An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in subparagraph (1) above, reduced by one-fifteenth (1/15th) for each of the first five (5) years and one-thirtieth (1/30th) for each of the next two (2) years by which the commencement of benefits precedes the date which would have been the Member's normal retirement date determined based on his actual years of Credited Service as a General Employee. Notwithstanding any provision to the contrary, the benefit payable to a General Employee retiring on his or her early retirement date with twenty (20) years of Credited Service shall be as determined in subparagraph (1) above, reduced by one-thirtieth (1/30<sup>th</sup>) for each year by which the commencement of benefits precedes the date which would have been the Member's normal retirement date determined based on his or her actual years of Credited Service as a General Employee.

(e) Required Distribution Date.

The Member's benefit under this Section must begin to be distributed to the Member no later than April 1 of the calendar year following the later of the calendar year in which the Member attains age seventy-three (73), provided the Member had not already attained the age of seventy-two (72) by December 31, 2022, or the calendar year in which the Member terminates employment with the City. The Plan will make all required future minimum distributions in compliance with the prevailing age restrictions and additional parameters set out in the Code as amended from time to time.

(Orig. Ord. 1158, 8-13-09; Ord. 1363, §3, 99-24-15)

**Sec. 30-106. – Pre-Retirement Death.**

- (a) In the case of the death of a Member after December 1, 1981, and prior to his actual retirement date, there shall be paid to his named beneficiaries an amount equal to one hundred



(100) times his monthly retirement benefit calculated in accordance with Section 30-105, based on the Member's Average Final Compensation and Credited Service at date of death. Said death benefit shall not be reduced due to the member's age or failure to attain ten (10) years of Credited Service upon date of death.

- (b) Each Member shall have the right to name and successively name one or more beneficiaries to receive benefits in the event of his death. Members shall notify the Board of Trustees in writing of any designation of or change in designation of beneficiaries. The Board shall maintain a file of all beneficiaries designated by Members of this Plan, which shall include the date of each designation. In the event a Member does not designate a beneficiary prior to his death, or if the beneficiaries designated by the Member predecease the Member, the death benefit provided in this Section shall be paid in a lump sum to the Member's estate.
- (c) A Member may direct that payment to beneficiaries be made under one of the following settlement options:
  - (1) Unless otherwise specified by the Member, the death benefit will be paid in one lump sum. If this or no option is specified by the Member, the named beneficiary may, at the death of the Member, elect any of the other options specified hereinafter. The Member may elect to have the death proceeds paid through any of the following options and, if he does so, such election shall be binding on the named beneficiary, this Fund, and any insurer.
  - (2) The death benefit may be paid as periodic payments of a specified amount until the original death benefit together with subsequently earned interest, shall be exhausted.
  - (3) The death benefit may be paid as a monthly annuity for life, with or without period certain guarantees, in an amount equal to the actuarial equivalent of the death benefit determined in accordance with Section (c)(1), based on the beneficiary's age at the time of the Member's death, with installments of not less than ten dollars (\$10.00) per month.
- (d) Additional Regulations with Spouse as Beneficiary. This subsection (d) applies only when the Member's Spouse is the sole designated Beneficiary. The Spouse Beneficiary of any Member who dies and who, at the date of his death was vested or eligible for early or

normal retirement, shall be entitled to a benefit as follows in the event that the benefits provided for in paragraphs (a), (b), and (c) are less than those provided for in this paragraph (d):

- (1) If the Member was vested, but not eligible for normal or early retirement, the Spouse Beneficiary shall receive a benefit payable for ten (10) years, beginning on the date that the deceased Member would have been eligible for early or normal retirement, at the option of the Spouse Beneficiary. The benefit shall be calculated as for normal retirement based on the deceased Member's Credited Service and Average Final Compensation as of the date of his death and reduced as for early retirement, if applicable. The Spouse Beneficiary may also elect to receive an immediate benefit, payable for ten (10) years, which is actuarially reduced to reflect the commencement of benefits prior to the early retirement date.
  - (2) If the deceased Member was eligible for normal or early retirement, the Spouse Beneficiary shall receive a benefit payable for ten (10) years, beginning on the first day of the month following the Member's death or at the deceased Member's otherwise early or normal retirement date, at the option of the Spouse Beneficiary. The benefit shall be calculated as for normal retirement based on the deceased Member's Credited Service and Average Final Compensation as of the date of his death and reduced as for early retirement, if applicable.
  - (3) A Spouse Beneficiary may not elect an optional form of benefit; however, the Board may elect to make a lump sum payment pursuant to Section 30-109, subsection (g).
  - (4) A Spouse Beneficiary may, in lieu of any benefit provided for in (1) or (2) above, elect to receive a refund of the deceased Member's Accumulated Contributions.
- (e) Additional Regulations with Non-Spouse Beneficiary. This subsection (e) applies only when the Member's Spouse is not the Beneficiary or is not the sole designated Beneficiary, but there is a Surviving Beneficiary. Notwithstanding subsections (a), (b), and (c) above, in the event a Member or terminated vested person, with ten (10) or more years of Credited Service, dies prior to Retirement or prior to receipt of benefits, his Beneficiary shall be entitled to the accrued normal or early retirement benefit payable for ten (10) years beginning by December 31 of the calendar year immediately following the calendar year in which the Member died. The benefit will be calculated as for normal retirement based on

the deceased Member's Credited Service and Average Final Compensation and actuarially reduced to reflect the commencement of benefits prior to the normal retirement date.

- (1) If a surviving Beneficiary commences receiving a benefit under subsection (e) above, but dies before all payments are made, the actuarial value of the remaining benefit will be paid to the surviving Beneficiary's estate by December 31 of the calendar year of the Beneficiary's death in a lump sum.
- (2) If there is no surviving Beneficiary as of the Member's death, and the estate is to receive the benefits, the Actuarial Equivalent of the Member's entire interest must be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.
- (3) The Uniform Lifetime Table in Treasury Regulations Section 1.401(a)(9)-9 shall determine the payment period for the calendar year benefits commence, if necessary to satisfy the regulations.

**Sec. 30-107. – Disability.**

(a) Disability Benefits In-Line of Duty.

Any Member who shall become totally and permanently incapacitated for the performance of their duties or those of any occupation for which they may be suited by reason of education, training or experience, which disability was directly caused by the performance of his duty as a General Employee, shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to two and five-tenths percent (2.5%) of his Average Final Compensation multiplied by the total years of Credited Service prior to October 1, 2005, and three percent (3%) of Average Final Compensation for each year of Credited Service on and after October 1, 2005, but in any event, the minimum amount paid to the member shall be forty-two percent (42%) of his Average Final compensation. Terminated persons, either vested or non-vested, are not eligible for disability benefits. Notwithstanding the previous sentence, if a Member is terminated by the City for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the Board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed, and the terminated person shall be eligible to receive a disability benefit if the Board otherwise determines that he is totally and permanently disabled as provided for above.

(b) Disability Benefits Not-in-Line of Duty.

Any Member with ten (10) years or more Credited Service who shall become totally and permanently incapacitated for the performance of their duties or those of any occupation for which they may be suited by reason of education, training or experience, which disability is not directly caused by the performance of his duties as a General Employee shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to two and five-tenths percent (2.5%) of his Average Final Compensation multiplied by the total years of Credited Service prior to October 1, 2005, and three percent (3%) of Average Final Compensation for each year of Credited Service on and after October 1, 2005. Terminated persons, either vested or non-vested, are not eligible for disability benefits. Notwithstanding the previous sentence, if a Member is terminated by the City for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the Board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed, and the terminated person shall be eligible to receive a disability benefit if the Board otherwise determines that he is totally and permanently disabled as provided for above.

(c) Conditions Disqualifying Disability Benefits.

Each Member who is claiming disability benefits shall establish, to the satisfaction of the Board, that such disability was not occasioned primarily by:

- (1) Excessive or habitual use of any drugs, intoxicants, or narcotics.
- (2) Injury or disease sustained while willfully and illegally participating in fights, riots, or civil insurrections.
- (3) Injury or disease sustained while committing a crime.
- (4) Injury or disease sustained while serving in any branch of the Armed Forces.
- (5) Injury or disease sustained after his employment as a General Employee with the City of Panama City Beach shall have terminated.
- (6) Willful, wanton, or intentional misconduct or gross negligence of the Member.
- (7) Injury or disease sustained by the Member while working for anyone other than the City and arising out of such employment.

(8) A condition pre-existing the General Employee's membership in the System. No Member shall be entitled to a disability pension, whether in line of duty or not in line of duty, because of or due to the aggravation of a specific injury, impairment, or other medical condition pre-existing at the time of membership in the System, provided that such pre-existing condition and its relationship to a later injury, impairment or other medical condition be established by competent substantial evidence. Nothing herein shall be construed to preclude a disability pension to a Member who, after membership in the System, suffers an injury, impairment, or other medical condition different from some other injury, impairment, or other medical condition existing at or prior to said membership.

(d) Physical Examination Requirement.

A Member shall not become eligible for disability benefits until and unless he undergoes a physical examination by a qualified physician or physicians and/or surgeon or surgeons, who shall be selected by the Board for that purpose. The Board shall not select the Member's treating physician or surgeon for this purpose except in an unusual case where the Board determines that it would be reasonable and prudent to do so.

Any Retiree receiving disability benefits under provisions of this ordinance may be periodically re-examined by a qualified physician or physicians and/or surgeon or surgeons who shall be selected by the Board, to determine if such disability has ceased to exist. If the Board finds that the Retiree is no longer permanently and totally disabled to the extent that he is unable to render useful and efficient service as a General Employee, the Board shall recommend to the City that the Retiree be returned to performance of duty as a General Employee, and the Retiree so returned shall enjoy the same rights that he had at the time he was placed upon pension. In the event the Retiree so ordered to return shall refuse to comply with the order within thirty (30) days from the issuance thereof, he shall forfeit the right to his pension.

The cost of the physical examination and/or re-examination of the Member claiming or the Retiree receiving disability benefits shall be borne by the Fund. All other reasonable costs as determined by the Board incident to the physical examination, such as, but not limited to, transportation, meals, and hotel accommodations, shall be borne by the Fund.

If the Retiree recovers from disability and reenters the service of the City as a General Employee, his service will be deemed to have been continuous, but the period beginning with the first month for which he received a disability retirement income payment and ending with the date he reentered the service of the City will not be considered as Credited Service for the purposes of the System.

The Board shall have the power and authority to make the final decisions regarding all disability claims.

(e) Disability Payments.

The monthly benefit to which a Member is entitled in the event of the Member's disability retirement shall be payable on the first day of the first month after the Board determines such entitlement. However, the monthly retirement income shall be payable as of the date the Board determined such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be:

- (1) If a Retiree recovers from the disability, the payment due next preceding the date of such recovery, or
- (2) If the Retiree dies without recovering from disability, the payment due next preceding his death.

(f) Workers' Compensation.

When a Retiree is receiving a disability pension and workers' compensation benefits pursuant to Florida Statute Chapter 440, for the same disability, and the total monthly benefits received from both exceed 100% of the Member's average monthly wage, as defined in Chapter 440, Florida Statutes, the disability pension benefit shall be reduced so that the total monthly amount received by the Retiree does not exceed 100% of such average monthly wage. The amount of any lump sum workers' compensation payment shall be converted to an equivalent monthly benefit payable for ten (10) Years Certain by dividing the lump sum amount by 83.9692.

(Orig. Ord. 1158, 8-13-09; Ord. 1363, §4, 9-24-15)

**Sec. 30-108. – Vesting.**

If a Member terminates his or her employment as a General Employee, either voluntarily or by discharge, and is not eligible for any other benefits under this System, the Member shall be entitled to the following:

- (a) If the Member has less than five (5) years Credited Service upon termination, the Member shall be entitled to a refund of his or her Accumulated Contributions or the Member may leave it deposited with the Fund.
- (b) If a member has been in the service of the city for a least five (5) years, he or she shall be vested in the following percentage of his or her accrued benefit at the time he or she ceases to be an active member of the plan as follows:

Completed Years of Service	Vested Percentage of Accrued Benefit
Less than 5.....	0%
5.....	50%
6.....	60%
7.....	70%
8.....	80%
9.....	90%
10 or more .....	100%

- (c) If the Member has five (5) or more years of Credited Service upon termination, the Member shall be entitled to a monthly retirement benefit, determined in the same manner as for normal or early retirement and based upon the vesting schedule and the Member's Credited Service, Average Final Compensation and the benefit accrual rate as of the date of termination, payable to him or her commencing at Member's otherwise normal or early retirement date, determined based upon his or her actual years of Credited Service, provided he or she does not elect to withdraw his or her Accumulated Contributions and provided the Member survives to his or her otherwise normal or early retirement date. If the Member does not withdraw his or her Accumulated Contributions and does not survive to his or her otherwise normal or early retirement date, his or her designated Beneficiary shall be entitled to a benefit as provided herein for a deceased Member, vested or eligible for Retirement under Pre-Retirement Death.
- (d) Effective October 1, 2019, non-civil service employees of the City who are Members of the System and who have five (5) or more years of Credited Service upon termination, shall be entitled to the monthly retirement benefit described above.

(Orig. Ord. 1158, 8-13-09; Ord. 1523, §1, 6-25-20; Ord. 1573, §1, 11-10-21)

**Sec. 30-109. – Optional Forms of Benefits.**

(a) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified herein, a Member, upon written request to the Board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one (1) of the following options:

- (1) A retirement income of a monthly amount payable to the Retiree for his lifetime only.
- (2) A retirement income of a modified monthly amount, payable to the Retiree during the lifetime of the Retiree and following the death of the Retiree, one hundred percent (100%), seventy-five percent (75%), sixty-six and two-thirds percent (66 2/3%) or fifty percent (50%) of such monthly amount payable to a joint pensioner for his lifetime. Except where the Retiree's joint pensioner is his Spouse, the payments to the joint pensioner as a percentage of the payments to the Retiree shall not exceed the applicable percentage provided for in the applicable table in the Treasury regulations. (See Q & A-2 of 1.401(a)(9)-6)
- (3) If a Member retires prior to the time at which social security benefits are payable, he may elect to receive an increased retirement benefit until such time as social security benefits shall be assumed to commence and a reduced benefit thereafter in order to provide, to as great an extent as possible, a more level retirement allowance during the entire period of Retirement. The amounts payable shall be as recommended by the actuaries for the System, based upon the social security law in effect at the time of the Member's Retirement.
- (4) Effective retroactively on June 14, 2001, a retirement income as described under (1) or (2) above, or in the normal form of a life annuity with one hundred twenty (120) monthly payments guaranteed, but with an annual increase of three percent (3%) on each January 1. The first such increase shall be effective on the January 1 following one (1) full year of retirement. Such increases shall be exclusive of any ad hoc Cost-of-Living Adjustment but inclusive of any automatic Cost-of-Living Adjustment the System may provide, which inclusion shall be reflected in



a lesser reduction when the actuarially equivalent monthly payment for this option is determined.

- (b) The Member, upon electing any option of this Section, will designate the joint pensioner (subsection (a)(2) above) or Beneficiary (or Beneficiaries) to receive the benefit, if any, payable under the System in the event of Member's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one (1) or more primary Beneficiaries where applicable. If a Member has elected an option with a joint pensioner or Beneficiary and Member's retirement income benefits have commenced, the Member may thereafter change his designated Beneficiary at any time but may only change his joint pensioner if the designated joint pensioner and the Member were married at the time of Member's Retirement and are divorced subsequent thereto and the joint pensioner is alive at the time of the change. In the absence of proof of good health of the joint pensioner being replaced, the actuary will assume that the joint pensioner has deceased for purposes of calculating the new payment.
- (c) The consent of a Member's or Retiree's joint pensioner or Beneficiary to any such change shall not be required. The rights of all previously designated Beneficiaries to receive benefits under the System shall thereupon cease.
- (d) Upon change of a Retiree's joint pensioner in accordance with this Section, the amount of the retirement income payable to the Retiree shall be actuarially determined to take into account the age and sex of the former joint pensioner, the new joint pensioner and the Retiree. Any such Retiree shall pay the actuarial recalculation expenses. Each request for a change will be made in writing on a form prepared by the Board and on completion will be filed with the Board. In the event that no designated Beneficiary survives the Retiree, such benefits as are payable in the event of the death of the Retiree subsequent to his Retirement shall be paid as provided in Section 30-110.
- (e) Retirement income payments shall be made under the option elected in accordance with the provisions of this Section and shall be subject to the following limitations:
  - (1) If a Member dies prior to his normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under Section 30-106.

- (2) If the designated Beneficiary (or Beneficiaries) or joint pensioner dies before the Member's Retirement under the System, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the Member upon his Retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this Section or a new Beneficiary is designated by the Member prior to his Retirement.
  - (3) If both the Retiree and the Beneficiary (or Beneficiaries) designated by Member or Retiree die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subsection (a), the Board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with Section 30-110.
  - (4) If a Member continues beyond his normal retirement date pursuant to the provisions of Section 30-105, subsection (a), and dies prior to his actual retirement and while an option made pursuant to the provisions of this Section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a Beneficiary (or Beneficiaries) designated by the Member in the amount or amounts computed as if the Member had retired under the option on the date on which his death occurred.
  - (5) The Member's benefit under this Section must begin to be distributed to the Member no later than April 1 of the calendar year following the later of the calendar year in which the Member attains age seventy-three (73), provided the Member had not already attained age seventy-two (72) by December 31, 2022, or the calendar year in which the Member terminates employment with the City. The Plan will make all future required minimum distributions in compliance with the prevailing age restrictions and additional parameters set out in the Code as amended from time to time.
- (f) A Retiree may not change his retirement option after the date of cashing or depositing his first retirement check.
- (g) Notwithstanding anything herein to the contrary, the Board in its discretion, may elect to make a lump sum payment to a Member or a Member's Beneficiary in the event that

the total commuted value of the monthly income payments to be paid do not exceed one thousand dollars (\$1,000). Any such payment made to any person pursuant to the power and discretion conferred upon the Board by the preceding sentence shall operate as a complete discharge of all obligations under the System with regard to such Member and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons.

(Orig. Ord. 1158, 8-13-09; Ord. 1363, §5, 9-24-15)

**Sec. 30-110. – Beneficiaries.**

- (a) Each Member or Retiree may, on a form provided for that purpose, signed, and filed with the Board, designate a Beneficiary (or Beneficiaries) to receive the benefit, if any, which may be payable in the event of his death. Each designation may be revoked or changed by such Member or Retiree by signing and filing with the Board a new designation-of-beneficiary form. Upon such change, the rights of all previously designated Beneficiaries to receive any benefits under the System shall cease.
- (b) If a deceased Member or Retiree failed to name a Beneficiary in the manner prescribed in subsection (a), or if the Beneficiary (or Beneficiaries) named by a deceased Member or Retiree predeceases the Member or Retiree, the death benefit, if any, which may be payable under the System with respect to such deceased Member or Retiree, shall be paid to the estate of the Member or Retiree and the Board, in its discretion, may direct that the commuted value of the remaining monthly income benefits be paid in a lump sum.
- (c) Any payment made to any person pursuant to this Section shall operate as a complete discharge of all obligations under the System with regard to the deceased Member and any other persons with rights under the System and shall not be subject to review by anyone but shall be final, binding and conclusive on all persons ever interested hereunder.

**Sec. 30-111. – Claims Procedures.**

- (a) The Board shall establish administrative claims procedures to be utilized in processing written requests ("claims"), on matters which affect the substantial rights of any person ("Claimant"), including Members, Retirees, Beneficiaries, or any person affected by a decision of the Board.

(b) The Board shall have the power to subpoena and require the attendance of witnesses and the production of documents for discovery prior to and at any proceedings provided for in the Board's claims procedures. The Claimant may request in writing the issuance of subpoenas by the Board. A reasonable fee may be charged for the issuance of any subpoenas not to exceed the fees set forth in Florida Statutes.

**Sec. 30-112. – Roster of Retirees.**

The Secretary of the Board shall keep a record of all persons enjoying a pension under the provisions of this ordinance in which it shall be noted the time when the pension is allowed and when the same shall cease to be paid. Additionally, the Secretary shall keep a record of all Members in such a manner as to show the name, address, date of employment and date of termination of employment.

**Sec. 30-113. – Maximum Pension.**

(a) Basic Limitation.

Notwithstanding any other provisions of this System to the contrary, the Member contributions paid to, and retirement benefits paid from, the System shall be limited to such extent as may be necessary to conform to the requirements of Code Section 415 for a qualified retirement plan. Before January 1, 1995, a plan member may not receive an annual benefit that exceeds the limits specified in Code Section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a plan member may not receive an annual benefit that exceeds the dollar amount specified in Code Section 415(b)(1)(A) (\$160,000), subject to the applicable adjustments in Code Section 415(b) and subject to any additional limits that may be specified in this System. For purposes of this Section, "limitation year" shall be the calendar year.

For purposes of Code Section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Code Section 415(n) and to rollover contributions (as defined in Code Section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(b) Adjustments to Basic Limitation for Form of Benefit.

If the benefit under the plan is other than the annual benefit described in subsection (a), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations. If the form of the benefit without regard to any automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Code Section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefit as follows:

- (1) For a benefit paid in a form to which Section 417(e)(3) of the Code does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:
  - (i) The annual amount of the straight life annuity (if any) payable to the Member under the Plan commencing at the same annuity starting date as the form of benefit to the Member, or
  - (ii) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member, computed using a five percent (5%) interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Section 417(e)(3)(B) of the Code); or
- (2) For a benefit paid in a form to which Section 417(e)(3) of the Code applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greater of:
  - (i) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the Plan for actuarial experience;

- (ii) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a five and one half percent (5.5%) interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the Code); or
- (iii) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the Plan Year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Section 417(e)(3)(B) of the Code), divided by 1.05.

(3) The actuary may adjust the 415(b) limit at the annuity starting date in accordance with subsections (1) and (2) above.

(c) Benefits Not Taken into Account.

For purposes of this Section, the following benefits shall not be taken into account in applying these limits:

- (1) Any ancillary benefit which is not directly related to retirement income benefits;
- (2) Any other benefit not required under Section 415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of Code Section 415(b)(1); and
- (3) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity.

(d) COLA Effect.

Effective on and after January 1, 2003, for purposes of applying the limits under Code Section 415(b) (the "Limit"), the following will apply:

- (1) A Member's applicable limit will be applied to the Member's annual benefit in the Member's first calendar limitation year of benefit payments without regard to any automatic cost of living adjustments;
- (2) thereafter, in any subsequent limitation year, a Member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable benefit limit including any adjustment to the Code Section 415(b)(1)(A) dollar limit under Code Section 415(d), and the regulations thereunder; but
- (3) in no event shall a Member's benefit payable under the System in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Code Section 415(d) and the regulations thereunder.

Unless otherwise specified in the System, for purposes of applying the limits under Code Section 415(b), a Member's applicable limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Code and applicable Treasury Regulations.

(e) Other Adjustments in Limitations.

- (1) In the event the Member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this Section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Code Section 415(b) of the Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) annual benefit beginning at age sixty-two (62).

- (2) In the event the Member's benefit is based on at least fifteen (15) years of Credited Service as a full-time employee of the police or fire department of the City, the adjustments provided for in (1) above shall not apply.
- (3) The reductions provided for in (1) above shall not be applicable to disability benefits pursuant to Section 30-107, or pre-retirement death benefits paid pursuant to Section 30-106.
- (4) In the event the Member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limit set forth in subsection (a) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

(f) Less than Ten (10) Years of Participation.

The maximum retirement benefits payable under this Section to any Member who has completed less than ten (10) years of participation shall be the amount determined under subsection (a) of this Section multiplied by a fraction, the numerator of which is the number of the Member's years of participation and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to Section 30-107, or pre-retirement death benefits paid pursuant to Section 30-106.

(g) Participation in Other Defined Benefit Plans.

The limit of this Section with respect to any Member who at any time has been a member in any other defined benefit plan as defined in Code Section 414(j) maintained by the City shall apply as if the total benefits payable under all City defined benefit plans in which the Member has been a member were payable from one plan.

(h) Ten Thousand Dollars (\$10,000) Limit; Less Than Ten Years of Service.

Notwithstanding anything in this Section 30-113, the retirement benefit payable with respect to a Member shall be deemed not to exceed the limit set forth in this subsection (h) of Section 30-113 if the benefits payable, with respect to such Member under this System and under all other qualified



defined benefit pension plans to which the City contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the City has not at any time maintained a qualified defined contribution plan in which the Member participated; provided, however, that if the Member has completed less than ten (10) years of Credited Service with the City, the limit under this subsection (h) of Section 30-113 shall be a reduced limit equal to ten thousand dollars (\$10,000) multiplied by a fraction, the numerator of which is the number of the Member's years of Credited Service and the denominator of which is ten (10).

(i) Reduction of Benefits.

Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the Member's benefit under any defined benefit plans in which Member participated, such reduction to be made first with respect to the plan in which Member most recently accrued benefits and thereafter in such priority as shall be determined by the Board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the Member participated, such reduction to be made first with respect to the plan in which Member most recently accrued benefits and thereafter in such priority as shall be established by the Board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the Board and the plan administrator of all other plans covering such Member.

(j) Service Credit Purchase Limits.

(1) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a Member makes one or more contributions to purchase permissive service credit under the System, as allowed in Section 30-122 and 30-124, then the requirements of this Section will be treated as met only if:

- (i) the requirements of Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Code Section 415(b), or
- (ii) the requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).

For purposes of applying subparagraph (i), the System will not fail to meet the reduced limit under Code Section 415(b)(2)(c) solely by reason of this subparagraph, and for

purposes of applying subparagraph (ii) the System will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Code solely by reason of this subparagraph.

- (2) For purpose of this subsection the term “permissive service credit” means service credit—
- (i) recognized by the System for purposes of calculating a Member’s benefit under the plan,
  - (ii) which such Member has not received under the plan, and
  - (iii) which such Member may receive only by making a voluntary additional contribution, in an amount determined under the System, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may, if otherwise provided by the System, include service credit for periods for which there is no performance of service, and, notwithstanding clause (2)(ii), may include service credited in order to provide an increased benefit for service credit which a Member is receiving under the System.

(k) Contribution Limits.

- (1) For purposes of applying the Code Section 415(c) limits which are incorporated by reference and for purposes of this subsection (k), only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulations Section 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by Treasury Regulations Section 1.415(c)-2, or successor regulation, is specified by the System, compensation will be defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

- (i) However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Code Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years beginning after December 31, 2000, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of Code Section 132(f)(4).
  - (ii) For limitation years beginning on and after January 1, 2007, compensation for the limitation year will also include compensation paid by the later of 2<sup>1</sup>/<sub>2</sub> months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:
    - a. the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or
    - b. the payment is for unused accrued bona fide sick, vacation, or other leave that the employee would have been able to use if employment had continued.
  - (iii) Back pay, within the meaning of Treasury Regulations Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.
- (2) Notwithstanding any other provision of law to the contrary, the Board may modify a request by a Member to make a contribution to the System if the amount of the contribution would exceed the limits provided in Code Section 415 by using the following methods:
- (i) If the law requires a lump sum payment for the purchase of service credit, the Board may establish a periodic payment deduction plan for the Member to avoid a contribution in excess of the limits under Code Sections 415(c) or 415(n).
  - (ii) If payment pursuant to subparagraph (i) will not avoid a contribution in excess of the limits imposed by Code Section 415(c), the Board may either reduce the

Member's contribution to an amount within the limits of that section or refuse the Member's contribution.

- (3) If the annual additions for any Member for a limitation year exceed the limitation under Section 415(c) of the Code, the excess annual addition will be corrected as permitted under the Employee Plans Compliance Resolution System (or similar IRS correction program).
- (4) For limitation years beginning on or after January 1, 2009, a Member's compensation for purposes of this subsection (k) shall not exceed the annual limit under Section 401(a)(17) of the Code.

(l) Additional Limitation on Pension Benefits.

Notwithstanding anything herein to the contrary:

- (1) The normal retirement benefit or pension payable to a Retiree who becomes a Member of the System and who has not previously participated in such System, on or after January 1, 1980, shall not exceed one hundred percent (100%) of his Average Final Compensation. However, nothing contained in this Section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.
- (2) No Member of the System shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 1223, Title 10, U.S. Code.

(m) Effect of Direct Rollover on 415(b) Limit.

If the plan accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under Code Section 401(a) which is maintained by the employer, any annuity resulting from the rollover amount that is determined using a more favorable actuarial basis than required under Code Section 417(e) shall be included in the annual benefit for purposes of the limit under Code Section 415(b).

(Orig. Ord. 1158, 8-13-09; Ord. 1287, §2, 9-12-13; Ord. 1363, §6, 9-24-15)

**Sec. 30-114. – Minimum Distribution of Benefits.**

(a) General Rules.

- (1) Effective Date. Effective as of January 1, 1989, the Plan will pay all benefits in accordance with a good faith interpretation of the requirements of Internal Revenue Code Section 401(a)(9) and the regulations in effect under that section, as applicable to a governmental plan within the meaning of Code Section 414(d). Effective on and after January 1, 2003, the Plan is also subject to the specific provisions contained in this Section. The provisions of this Section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (2) Precedence. The requirements of this Section will take precedence over any inconsistent provisions of the Plan.
- (3) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Section other than this subsection (a)(3), distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that related to Section 242(b)(2) of TEFRA.

(b) Time and Manner of Distribution.

- (1) Required Beginning Date. The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's required beginning date which shall not be later than April 1 of the calendar year following the later of the calendar year in which the Member attains age seventy-three (73), provided the Member had not already attained the age of seventy-two (72) by December 31, 2022, or the calendar year in which the Member terminates employment with the City. The Plan will make all future required minimum distributions in compliance with the prevailing age restrictions and additional parameters set out in the Code as amended from time to time.
- (2) Death of Member Before Distributions Begin. If a Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed no later than as follows:
  - (i) If the Member's surviving spouse is the Member'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 Member died, or by a date on or before December 31 of the calendar year in which the Member would

have attained age 73 if later, as the surviving spouse elects. The Plan will make all future required minimum distributions in compliance with the prevailing age restrictions and additional parameters set out in the Code as amended from time to time.

- (ii) If the Member's surviving spouse is not the Member'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 Member died.
- (iii) If there is no designated beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.
- (iv) If the Member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this subsection (b)(2), other than subsection (b)(2)(i), will apply as if the surviving spouse were the Member.

For purposes of this subsection (b)(2) and subsection (e), distributions are considered to begin on the Member's required beginning date or, if subsection (b)(2)(iv) applies, the date that distributions are required to begin to the surviving spouse under subsection (b)(2)(i). If annuity payments irrevocably commence to the Member before the Member's required beginning date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (b)(2)(i), the date distributions are considered to begin is the date distributions actually commence.

- (3) Death After Distributions Begin. If the Member dies after the required distribution of benefits has begun, the remaining portion of the Member's interest must be distributed at least as rapidly as under the method of distribution before the Member's death.
- (4) Form of Distribution. Unless the Member'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 this Section. If the Member'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 Treasury regulations. Any part of the Member'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 Treasury regulations that apply to individual accounts.

(c) Determination of Amount to be Distributed Each Year.

(1) General Requirements. If the Member'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 Member's entire interest must be distributed pursuant to Section 30-105, Section 30-106, Section 30-108, or Section 30-109 (as applicable) and in any event over a period equal to or less than the Member's life or the lives of the Member and a designated beneficiary, or over a period not extending beyond the life expectancy of the Member or of the Member and a designated beneficiary. The life expectancy of the Member, the Member's spouse, or the Member's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.

(2) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Member's required beginning date (or, if the Member dies before distributions begin, the date distributions are required to begin under Section 30-106) 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., monthly. All of the Member'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 Member's required beginning date.

(3) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Member 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.

(d) General Distribution Rules.

(1) The amount of an annuity paid to a Member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Code Section 401(a)(9)(G), and effective for any annuity commencing on or after January 1, 2008, the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q&A-2.

(2) The death and disability benefits provided by the Plan are limited by the incidental benefit rule set forth in Code Section 401(a)(9)(G) and Treasury Regulation Section 1.401-1(b)(1)(I) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed 25% of the cost for all of the Members' benefits received from the retirement system.

(e) Definitions.

(1) 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)-1, Q&A-4, of the Treasury regulations.

(2) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Member's required beginning date. For distributions beginning after the Member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 30-106.

**Sec. 30-115. – Miscellaneous Provisions.**

(a) Interest of Members in System.

All assets of the Fund are held in trust, and at no time prior to the satisfaction of all liabilities under the System with respect to Retirees and 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.

(b) No Reduction of Accrued Benefits.

No amendment or ordinance shall be adopted by the City Council of the City of Panama City Beach which shall have the effect of reducing the then vested accrued benefits of Members or a Member's Beneficiaries.

(c) Qualification of System.

It is intended that the System will constitute a qualified public pension plan under the applicable provisions of the Code for a qualified plan under Code Section 401(a) and a governmental plan under Code Section 414(d), as now in effect or hereafter amended. Any modification or amendment of the System may be made retroactively, if necessary or appropriate, to qualify or maintain the System as a Plan meeting the requirements of the applicable provisions of the Code as now in effect or hereafter amended, or any other applicable provisions of the U.S. federal tax laws, as now in effect or hereafter amended or adopted, and the regulations issued thereunder.

(d) Use of Forfeitures.

Forfeitures arising from terminations of service of Members shall serve only to reduce future City contributions.

(e) Prohibited Transactions.

Effective as of January 1, 1989, a Board may not engage in a transaction prohibited by Code Section 503(b).

(f) USERRA.

Effective December 12, 1994, notwithstanding any other provision of this System, contributions, benefits, and service credit with respect to qualified military service are governed by Code Section 414(u) and the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended. To the extent that the definition of "Credited Service" sets forth contribution requirements that are more favorable to the Member than the minimum compliance requirements, the more favorable provisions shall apply.

(g) Vesting.

- (1) Member will be 100% vested in all benefits upon attainment of the Plan's age and service requirements for the Plan's normal retirement benefit; and

(2) Member will be 100% vested in all accrued benefits, to the extent funded, if the Plan is terminated or experiences a complete discontinuance of employer contributions.

(h) Electronic Forms.

In those circumstances where a written election or consent is not required by the Plan or the Code, an oral, electronic, or telephonic form in lieu of or in addition to a written form may be prescribed by the Board. However, where applicable, the Board shall comply with Treas. Reg. Section 1.401(a)-21.

**Sec. 30-116. – Repeal or Termination of System.**

- (a) This ordinance establishing the System and Fund, and subsequent ordinances pertaining to said System and Fund, may be modified, terminated, or amended, in whole or in part; provided that if this or any subsequent ordinance shall be amended or repealed in its application to any person benefitting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the Member or Beneficiary shall not be affected thereby.
- (b) If this ordinance shall be repealed, or if contributions to the System are discontinued or if there is a transfer, merger or consolidation of government units, services or functions as provided in Chapter 121, Florida Statutes, the Board shall continue to administer the System in accordance with the provisions of this ordinance, for the sole benefit of the then Members, any Beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one (1) of the options provided for in this ordinance who are designated by any of said Members. In the event of repeal, discontinuance of contributions, or transfer merger or consolidation of government units, services or functions, there shall be full vesting (100%) of benefits accrued to date of repeal and such benefits shall be nonforfeitable.
- (c) The fund shall be distributed in accordance with the following procedures:
  - (1) The Board shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits after taking into account the expenses of such distribution. The Board shall inform the City if additional assets are required, in which event the City shall continue to financially support the Plan until all nonforfeitable benefits have been funded.

- (2) The Board shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each General Employee entitled to benefits under the plan as specified in subsection (3).
- (3) The Board shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial single-sum value may not be less than the General Employee's Accumulated Contributions to the Plan, with interest if provided by the Plan, less the value of any plan benefits previously paid to the General Employee.
- (4) If there is asset value remaining after the full distribution specified in subsection (3), and after the payment of any expenses incurred with such distribution, such excess shall be returned to the City.
- (5) The Board shall distribute, in accordance with subsection (2), the amounts determined under subsection (3).

**Sec. 30-117. – Domestic Relations Orders; Retiree Directed Payments; Exemption from Execution, Non-Assignability.**

(a) Domestic Relations Orders.

- (1) Prior to the entry of any domestic relations order which affects or purports to affect the System's responsibility in connection with the payment of benefits of a Retiree, the Member or Retiree shall submit the proposed order to the Board for review to determine whether the System may legally honor the order.
- (2) If a domestic relations order is not submitted to the Board for review prior to entry of the order, and the System is ordered to take action that it may not legally take, and the System expends administrative or legal fees in resolving the matter, the Member or Retiree who submits such an order will be required to reimburse the System for its expenses in connection with the order.

(b) Retiree Directed Payments.

The Board may, upon written request by a Retiree or by a dependent, when authorized by a Retiree or the Retiree's Beneficiary, authorize the System to withhold from the monthly retirement payment those funds that are necessary to pay for the benefits being received through the City, to pay the certified bargaining agent of the City, to make payment to insurance companies for insurance premiums and to make any payments for child support or alimony.

(c) Exemption from Execution, Non-Assignability.

Except as otherwise provided by law, the pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of this ordinance and the Accumulated Contributions and the cash securities in the Fund created under this ordinance are hereby exempted from any state, county or municipal tax and shall not be subject to execution, attachment, garnishment or any legal process whatsoever and shall be unassignable.

**Sec. 30-118. – Pension Validity.**

The Board shall have the power to examine into the facts upon which any pension shall heretofore have been granted under any prior or existing law, or shall hereafter be granted or obtained erroneously, fraudulently, or illegally for any reason. The Board is empowered to purge the pension rolls or correct the pension amount of any person heretofore granted a pension under prior or existing law or any person hereafter granted a pension under this ordinance if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any person who has heretofore under any prior or existing law been or who shall hereafter under this ordinance be erroneously, improperly or illegally classified. Any overpayments or underpayments shall be corrected and paid or repaid in a reasonable manner determined by the Board.

**Sec. 30-119. – Forfeiture of Pension.**

(a) Any Member who is convicted of the following offenses committed prior to Retirement, or whose employment is terminated by reason of his admitted commission, aid or abetment of the following specified offenses, shall forfeit all rights and benefits under this System, except for the return of his Accumulated Contributions, but without interest, as of the date of termination. Specified offenses are as follows:

- (1) The committing, aiding or abetting of an embezzlement of public funds;
- (2) The committing, aiding or abetting of any theft by a public officer or employee from employer;

- (3) Bribery in connection with the employment of a public officer or employee;
  - (4) Any felony specified in Chapter 838, Florida Statutes;
  - (5) The committing of an impeachable offense;
  - (6) The committing of any felony by a public officer or employee who willfully and with intent to defraud the public or the public agency, for which he acts or in which he is employed, of the right to receive the faithful performance of his duty as a public officer or employee, realizes or obtains or attempts to obtain a profit, gain, or advantage for himself or for some other person through the use or attempted use of the power, rights, privileges, duties or position of his public office or employment position; or
  - (7) The committing on or after October 1, 2008, of any felony defined in Section 800.04, Florida Statutes, against a victim younger than sixteen (16) years of age, or any felony defined in Chapter 794, Florida Statutes, against a victim younger than eighteen (18) years of age, by a public officer or employee through the use or attempted use of power, rights, privileges, duties, or position of his or her public office or employment position.
- (b) Conviction shall be defined as an adjudication of guilt by a court of competent jurisdiction; a plea of guilty or a nolo contendere; a jury verdict of guilty when adjudication of guilt is withheld, and the accused is placed on probation; or a conviction by the Senate of an impeachable offense.
- (c) Court shall be defined as any state or federal court of competent jurisdiction which is exercising its jurisdiction to consider a proceeding involving the alleged commission of a specified offense. Prior to forfeiture, the Board shall hold a hearing on which notice shall be given to the Member whose benefits are being considered for forfeiture. Said Member shall be afforded the right to have an attorney present. No formal rules of evidence shall apply, but the Member shall be afforded a full opportunity to present his case against forfeiture.
- (d) Any Member who has received benefits from the System in excess of his Accumulated Contributions after Member's rights were forfeited shall be required to pay back to the Fund the amount of the benefits received in excess of his Accumulated Contributions, but

without interest. The Board may implement all legal action necessary to recover such funds.

**Sec. 30-120. – Indemnification.**

- (a) To the extent not covered by insurance contracts in force from time to time, the City shall indemnify, defend and hold harmless members of the Board from all personal liability for damages and costs, including court costs and attorneys' fees, arising out of claims, suits, litigation, or threat of same, herein referred to as "claims", against these individuals because of acts or circumstances connected with or arising out of their official duty as members of the Board. The City reserves the right, in its sole discretion, to settle or not settle the claim at any time, and to appeal or to not appeal from any adverse judgment or ruling, and in either event will indemnify, defend, and hold harmless any members of the Board from the judgment, execution, or levy thereon.
- (b) This Section shall not be construed so as to relieve any insurance company or other entity liable to defend the claim or liable for payment of the judgment or claim, from any liability, nor does this Section waive any provision of law affording the City immunity from any suit in whole or part, or waive any other substantive or procedural rights the City may have.
- (c) This Section shall not apply, nor shall the City be responsible in any manner to defend or pay for claims arising out of acts or omissions of members of the Board which constitute felonies or gross malfeasance or gross misfeasance in office.

**Sec. 30-121. – Direct Transfers of Eligible Rollover Distributions; Elimination of Mandatory Distributions.**

(a) Rollover Distributions.

(1) General.

This Section applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the System 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 Board, 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.

- (i) 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 any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income. Effective January 1, 2002, any portion of any distribution which would be includible in gross income as after-tax employee contributions will be an eligible rollover distribution if the distribution is made to an individual retirement account described in section 408(a); to an individual retirement annuity described in section 408(b); or to a qualified defined contribution plan described in section 401(a) or 403(a) that agrees to separately account for amounts so transferred (and earnings thereon), 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; or on or after January 1, 2007, to a qualified defined benefit plan described in Code Section 401(a) or to an annuity contract described in Code Section 403(b), that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible.

- (ii) 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; effective January 1, 2002, an eligible deferred compensation plan described in section 457(b) of the Code which is maintained by an eligible employer described in section 457(e)(1)(A) of the Code and which agrees to separately account for amounts transferred into such plan from this plan; effective January 1, 2002 an annuity contract described in section 403(b) of the Code; a qualified trust described in Section 401(a) of the Code; or effective January 1, 2008, a Roth IRA described in Section 408A of the Code, that accepts the

distributee's eligible rollover distribution. This definition shall also apply in the case of an eligible rollover distribution to the surviving Spouse.

- (iii) Distributee: A distributee includes an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse. Effective January 1, 2007, it further includes a non-spouse beneficiary who is a designated beneficiary as defined by Code Section 401(a)(9)(E). However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution and the account or annuity will be treated as an "inherited" individual retirement account or annuity.
- (iv) Direct Rollover: A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(b) Rollovers of Transfers into the Fund.

On or after January 1, 2002, the System will accept, solely for the purpose of purchasing Credited Service as provided herein, permissible Member requested transfers of funds from other retirement or pension plans, Member rollover cash contributions and/or direct cash rollovers of distributions made on or after January 1, 2002, as follows:

(1) Transfers and Direct Rollovers or Member Rollover Contributions from Other Plans.

The System will accept either a direct rollover of an eligible rollover distribution or a Member contribution of an eligible rollover distribution from a qualified plan described in section 401(a) or 403(a) of the Code, from an annuity contract described in section 403(b) of the Code or from 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. The System will also accept legally permissible Member requested transfers of funds from other retirement or pension plans.

(2) Member Rollover Contributions from IRAs. The system will accept a Member rollover contribution of the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code that is eligible to be rolled over.

(c) Elimination of Mandatory Distributions.



Notwithstanding any other provision herein to the contrary, in the event this Plan provides for a mandatory (involuntary) cash distribution from the Plan not otherwise required by law, for an amount in excess of one-thousand dollars (\$1,000.00), such distribution shall be made from the Plan only upon written request of the Member and completion by the Member of a written election on forms designated by the Board, to either receive a cash lump sum or to rollover the lump sum amount.

**Sec. 30-122. – Prior Government Service.**

Unless otherwise prohibited by law, the time that a General Employee who was previously a Member, but who terminated employment and received a refund of his contributions or who terminated employment and is not otherwise entitled to Credited Service for such previous period of employment as a General Employee, or the time that a Member previously served as an employee for any governmental agency in the State of Florida, including but not limited to federal, state or local government service, and for which he does not otherwise qualify for and receive credit under this System, shall be added to his years of Credited Service provided that:

- (a) The Member contributes to the Fund the sum that he would have contributed, based on his Salary and the Member contribution rate in effect at the time that the Credited Service is requested, had he been a Member of this System for the time for which he is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the Fund plus payment of costs for all professional services rendered to the Board in connection with the purchase of years of Credited Service
- (b) The request shall be made only once at any time prior to Retirement.
- (c) Payment by the Member of the required amount shall be made within six (6) months of his request for credit, but not later than his Retirement Date in any event and shall be made in one lump sum payment upon receipt of which Credited Service shall be given.
- (d) The maximum credit under this Section for service other than with the City of Panama City Beach when combined with Credited Service purchased for military service prior to employment, shall be five (5) years of Credited Service and shall count for all purposes, except vesting and eligibility for not-in-line of duty disability benefits. There shall be no maximum credit under this Section for prior service with the City of Panama City Beach and Credited Service purchased shall count for all purposes, including vesting.

**Sec. 30-123. – Deferred Retirement Option Plan.**

(a) Definitions.

As used in this Section 30-123, the following definitions apply:

- (1) "DROP" -- The City of Panama City Beach General Municipal Employees' Pension Plan Deferred Retirement Option Plan.
- (2) "DROP Account" -- The account established for each DROP participant under subsection (c).
- (3) "Total Return of the Assets" – For purposes of calculating earnings on a Member's DROP Account pursuant to subsection (c)(2)(ii)b, for each fiscal year quarter. The percentage increase (or decrease) in the interest and dividends earned on investments, including realized and unrealized gains (or losses), of the total Plan assets.

(b) Participation.

(1) Eligibility to Participate.

In lieu of terminating his employment as a General Employee, any Member who is eligible for normal retirement under the System may elect to defer receipt of such service retirement pension and to participate in the DROP.

(2) Election to Participate.

A Member's election to participate in the DROP must be made in writing in a time and manner determined by the Board and shall be effective on the first day of the first calendar month subsequent to the election date after it is received by the Board.

(3) Period of Participation.

A Member who elects to participate in the DROP under subsection (b)(2), shall participate in the DROP for a period not to exceed sixty (60) months beginning at the time his or her election to participate in the DROP first becomes effective. Notwithstanding the foregoing, effective October 1, 2022, members who elect to participate in the DROP shall participate in the DROP for a period not to exceed ninety-six (96) months beginning at the time his or her election to participate in the DROP first becomes effective. Effective October 1, 2022, a member who is a DROP participant on or after October 1, 2022, may participate in the DROP for up to thirty-six (36) months beyond the sixty (60) month period by making an irrevocable election on or before January

1, 2023. An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the City not later than the date provided for in the previous sentence. A Member may participate only once.

(4) Termination of Participation.

- (i) A Member's participation in the DROP shall cease the earlier of:
  - a. The end of his permissible period of participation in the DROP as determined under subsection (b)(3); or
  - b. Termination of his employment as a General Employee.
- (ii) Upon the Member's termination of participation in the DROP, pursuant to subsection (i) above, all amounts provided for in subsection (c)(2), including monthly benefits and investment earnings and losses or interest, shall cease to be transferred from the System to his DROP Account. Any amounts remaining in his DROP Account shall be paid to him in accordance with the provisions of subsection (d) when he terminates his employment as a General Employee.,
- (iii) A Member who terminates his participation in the DROP under subsection (b)(4) shall not be permitted to again become a participant in the DROP.

(5) Effect of DROP Participation on the System.

- (i) A Member's Credited Service and his accrued benefit under the System shall be determined on the date his election to participate in the DROP first becomes effective. The Member shall not accrue any additional Credited Service or any additional benefits under the System (except for any supplemental benefit payable to DROP participants or any additional benefits provided under any cost-of-living adjustment in the System) while he is a participant in the DROP. After a Member commences participation, he shall not be permitted to again contribute to the System, nor shall he be eligible for disability or pre-retirement death benefits. For purposes of determining the accrued benefit, the Member's Salary for the purposes of calculating his Average Final Compensation shall include an amount equal to any lump sum payments which would have been paid to the Member and included as Salary as defined herein, had the Member retired under normal retirement and not elected DROP participation. Member contributions

attributable to any lump sums used in the benefit calculation and not actually received by the Member shall be deducted from the first payments to the Member's DROP Account.

- (ii) No amounts shall be paid to a Member from the System while the Member is a participant in the DROP. Unless otherwise specified in the System, if a Member's participation in the DROP is terminated other than by terminating his employment as a General Employee, no amounts shall be paid to him from the System until he terminates his employment as a General Employee. Unless otherwise specified in the System, amounts transferred from the System to the Member's DROP Account shall be paid directly to the Member only on the termination of his employment as a General Employee.

(c) Funding.

(1) Establishment of DROP Account.

A DROP Account shall be established for each Member participating in the DROP. A Member's DROP Account shall consist of amounts transferred to the DROP under subsection (c)(2), and earnings or interest on those amounts.

(2) Transfers From Retirement System.

- (i) As of the first day of each month of a Member's period of participation in the DROP, the monthly retirement benefit he would have received under the System had he terminated his employment as a General Employee and elected to receive monthly benefit payments thereunder shall be transferred to his DROP Account, except as otherwise provided for in subsection (b)(4)(ii). A Member's period of participation in the DROP shall be determined in accordance with the provisions of subsections (b)(3) and (b)(4), but in no event shall it continue past the date he terminates his employment as a General Employee.

- (ii) Except as otherwise provided in subsection (b)(4)(ii), a Member's DROP Account under this subsection (c)(2) shall be debited or credited with either:

- a. Interest at an effective rate of 5% per annum compounded monthly determined on the last business day of the prior month's ending balance and credited to the Member's DROP Account as of such date (to be applicable to all current and future DROP participants); or

- b. Earnings, to be credited or debited to the Member's DROP Account, determined as of the last business day of each fiscal year quarter and debited or credited as of such date, determined as follows:

The average daily balance in a Member's DROP Account shall be credited or debited at a rate equal to the actual net rate of investment return realized by the System for that quarter. "Net investment return" for the purpose of this paragraph is the total return of the assets in which the Member's DROP Account is invested by the Board net of brokerage commissions, transaction costs and management fees.

For purposes of calculating earnings on a Member's DROP Account pursuant to this subsection (c)(2)(ii)b, brokerage commissions, transaction costs, and management fees shall be determined for each quarter by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these quarterly contractual fees to the Board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total Plan assets.

Upon electing participation in the DROP, the Member shall elect to receive either interest or earnings on his account to be determined as provided above. The Member may, in writing, elect to change his election only once during his DROP participation. An election to change must be made prior to the end of a quarter and shall be effective beginning the following quarter.

- c. A Member's DROP Account shall only be credited or debited with earnings or interest and monthly benefits while the Member is a participant in the DROP. If a Member is employed by the City after participating in the DROP for the permissible period of DROP participation, then beginning with the Member's 1st month of employment following the last month of the permissible period of DROP participation, the Member's DROP Account will no longer be credited or debited with earnings or interest, nor will monthly benefits be transferred to the DROP account. All such non-transferred amounts shall be forfeited and continue

to be forfeited while the Member is employed by the City. A Member employed by the City after the permissible period of DROP participation will still not be eligible for pre-retirement death or disability benefits, nor will he accrue additional Credited Service.

(d) Distribution of DROP Accounts on Termination of Employment.

(1) Eligibility of Benefits.

A Member shall receive the balance in his DROP Account in accordance with the provisions of this subsection (d) upon his termination of employment as a General Employee. Except as provided in subsection (d)(5), no amounts shall be paid to a Member from the DROP prior to his termination of employment as a General Employee.

(2) Form of Distribution.

- (i) Unless the Member elects otherwise, distribution of his DROP Account shall be made in a cash lump sum, subject to the direct rollover provisions set forth in subsection (d)(6). Elections under this paragraph shall be in writing and shall be made in such time or manner as the Board shall determine.
- (ii) If a Member dies before his benefit is paid, his DROP Account shall be paid to his Beneficiary in such optional form as his Beneficiary may select. If no Beneficiary designation is made, the DROP Account shall be distributed to the Member's estate.

(3) Date of Payment of Distribution.

Except as otherwise provided in this subsection (d), distribution of a Member's DROP Account shall be made as soon as administratively practicable following the Member's termination of employment. Distribution of the amount in a Member's DROP account will not be made unless the Member completes a written request for distribution and a written election, on forms designated by the Board, to either receive a cash lump sum or a rollover of the lump sum amount.

(4) Proof of Death and Right of Beneficiary or Other Person.

The Board may require and rely upon such proof of death and such evidence of the right of any Beneficiary or other person to receive the value of a deceased Member's DROP Account as the Board may deem proper and its determination of the right of that Beneficiary or other person to receive payment shall be conclusive.

(5) Distribution Limitation.

Notwithstanding any other provision of subsection (d), all distributions from the DROP shall conform to the “Minimum Distribution Of Benefits” provisions as provided for herein.

(6) Direct Rollover of Certain Distributions.

This subsection applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the DROP to the contrary a distributee may elect to have any portion of an eligible rollover distribution paid in a direct rollover as otherwise provided under the System in Section 30-121.

(e) Administration of DROP.

(1) Board Administers the DROP.

The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility of overseeing the investment of the DROP's assets shall be placed in the Board. The members of the Board may appoint from their number such subcommittees with such powers as they shall determine; may adopt such administrative procedures and regulations as they deem desirable for the conduct of their affairs; may authorize one (1) or more of their number or any agent to execute or deliver any instrument or make any payment on their behalf; may retain counsel, employ agents and provide for such clerical, accounting, actuarial and consulting services as they may require in carrying out the provisions of the DROP; and may allocate among themselves or delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as Trustee under any trust agreement adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A Trustee shall not vote on any question relating exclusively to himself.

(2) Individual Accounts, Records and Reports.

The Board shall maintain, or cause to be maintained, records showing the operation and condition of the DROP, including records showing the individual balances in each Member's DROP Account, and the Board shall keep, or cause to be kept, in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The Board shall prepare or cause to be prepared and distributed to Members

participating in the DROP and other individuals or filed with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Code, the applicable portions of the Act and any other applicable laws.

(3) Establishment of Rules.

Subject to the limitations of the DROP, the Board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The Board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a participant in the DROP). The determination of the Board as to the interpretation of the DROP or its determination of any disputed questions shall be conclusive and final to the extent permitted by applicable law. The Board shall also oversee the investment of the DROP'S assets.

(4) Limitation of Liability.

- (i) The Trustees shall not incur any liability individually or on behalf of any other individuals for any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.
- (ii) Neither the Board nor any Trustee of the Board shall be responsible for any reports furnished by any expert retained or employed by the Board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The Board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.

(f) General Provisions.

(1) The DROP is Not a Separate Retirement Plan.

Instead, it is a program under which a Member who is eligible for normal retirement under the System may elect to accrue future retirement benefits in the manner provided in this section 30-123 for the remainder of his employment, rather than in the normal manner provided under the plan. Upon termination of employment, a Member is



entitled to a lump sum distribution of his or her DROP account balance or may elect a rollover. The DROP Account distribution is in addition to the Member's monthly benefit.

(2) Notional Account.

The DROP Account established for such a Member is a notional account, used only for the purpose of calculation of the DROP distribution amount. It is not a separate account in the System. There is no change in the System's assets, and there is no distribution available to the Member until the Member's termination from the DROP. The Member has no control over the investment of the DROP Account.

(3) No Employer Discretion.

The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.

(4) IRC Limit.

The DROP Account distribution, along with other benefits payable from the System, is subject to limitation under Code Section 415(b).

(5) Amendment of DROP.

The DROP may be amended by an ordinance of the City at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, except as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP Account of any Member.

(6) Facility of Payment.

If the Board shall find that a Member or other person entitled to a benefit under the DROP is unable to care for his affairs because of illness or accident or is a minor, the Board may direct that any benefit due him, unless claim shall have been made for the benefit by a duly appointed legal representative, be paid to his Spouse, a child, a parent or other blood relative, or to a person with whom he resides. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.

(7) Information.

Each Member, Beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the DROP, shall file with the Board the information that it shall require to establish his rights and benefits under the DROP.

(8) Prevention of Escheat.

If the Board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the Board may, no earlier than three (3) years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the Board or the City. If such person has not made written claim therefor within three (3) months of the date of the mailing, the Board may, if it so elects and upon receiving advice from counsel to the DROP, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the DROP. Upon such cancellation, the DROP shall have no further liability therefor except that, in the event such person or his Beneficiary later notifies the Board of his whereabouts and requests the payment or payments due to him under the DROP, the amount so applied shall be paid to him in accordance with the provisions of the DROP.

(9) Written Elections, Notification.

- (i) Any elections, notifications or designations made by a Member pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules uniformly applicable to all employees similarly situated. The Board reserves the right to change from the time and manner for making notifications, elections, or designations by Members under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.
- (ii) Each Member or Retiree who has a DROP Account shall be responsible for furnishing the Board with his current address and any subsequent changes in his address. Any notice required to be given to a Member or Retiree hereunder shall be deemed given if directed to him at the last such address given to the Board and mailed by registered or certified United States mail. If any check

mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the Member or Retiree notifies the Board of his address.

(10) Benefits Not Guaranteed.

All benefits payable to a Member from the DROP shall be paid only from the assets of the Member's DROP Account and neither the City nor the Board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.

(11) Construction.

- (i) The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls.
- (ii) The titles and headings of the subsections in this Section 30-123 are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

(12) Forfeiture of Retirement Benefits.

Nothing in this Section shall be construed to remove DROP participants from the application of any forfeiture provisions applicable to the System. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.

(13) Effect of DROP Participation on Employment.

Participation in the DROP is not a guarantee of employment and DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

(Orig. Ord. 1158, 8-13-09; Ord. 1363, §7, 9-24-15; Ord. 1594, §1, 9-22-22)

**Sec. 30-124. – Military Service Prior to Employment.**

The time that a General Employee serves or has served on active duty in the military service of the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily and honorably or under honorable conditions, prior to first and initial employment with the City shall be added to his years of Credited Service provided that:

- (a) The Member contributes to the Fund the sum that he would have contributed, based on his Salary and the Member contribution rate in effect at the time that the Credited Service is requested, had he been a Member of this System for the time for which he is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the Fund plus payment of costs for all professional services rendered to the Board in connection with the purchase of years of Credited Service.
- (b) The request shall be made only once at any time prior to Retirement.
- (c) Payment by the Member of the required amount shall be made within six (6) months of his request for credit, but not later than his retirement date in any event, and shall be made in one (1) lump sum payment upon receipt of which Credited Service shall be given.
- (d) The maximum credit under this Section, when combined with Credited Service for prior government service with an employer other than the City of Panama City beach, shall be five (5) years.
- (e) Credited Service purchased pursuant to this Section shall count for all purposes, except vesting and eligibility for not-in-line of duty disability benefits.

**Sec. 30-125. – Reemployment After Retirement.**

(a) Any Retiree who is retired under this System, except for disability retirement as previously provided for, may be reemployed by any public or private employer, except the City, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this System. Reemployment by the City shall be subject to the limitations set forth in this Section.

(b) After Normal Retirement. Any Retiree who is retired under normal retirement pursuant to this System and who is reemployed by the City in any capacity, shall upon being reemployed, continue receipt of retirement benefits during any such employment period if he is at least age sixty-two (62), otherwise the System shall discontinue payment of benefits until he reaches age sixty-two (62). A Retiree who returns to work under the provisions of this Section shall not be eligible for membership in this System and, therefore, shall not accumulate additional Credited Service for subsequent periods of employment described in this Section, shall not be required to make contributions to the System, nor shall he be eligible for any other benefit other than the Retiree's normal retirement benefit.

(c) Any Retiree who is retired under normal retirement pursuant to this System and who is reemployed by the City after that Retirement and, by virtue of that reemployment is ineligible to participate in this System, shall, during the period of such reemployment, continue to receive retirement benefits previously earned if he is at least age sixty-two (62), otherwise the System shall discontinue receipt of benefits until he reaches age sixty-two (62). Former DROP participants shall begin receipt of benefits under these circumstances.

(d) After Early Retirement. Any Retiree who is retired under early retirement pursuant to this System and who subsequently becomes an employee of the City in any capacity, shall discontinue receipt of benefits from the System until the earlier of termination of employment or such time as the reemployed Retiree reaches age sixty-two. A Retiree who returns to work under the provisions of this Section shall not be eligible for membership in the System, and, therefore, shall not accumulate additional Credited Service for subsequent periods of employment described in this Section, shall not be required to make contributions to the System, nor shall he be eligible for any other benefit other than the Retiree's early retirement benefit when he again becomes eligible as provided herein. Retirement pursuant to an early retirement incentive program shall be deemed early retirement for purposes of this Section if the Member was permitted to retire prior to the customary retirement date provided for in the System at the time of retirement.

(e) Reemployment of Terminated Vested Persons. Reemployed terminated vested persons shall not be subject to the provisions of this Section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early Retirees for purposes of applying the provisions of this Section and their status as an early or normal Retiree shall be determined by the date they elect to begin to receive their benefit.

(f) DROP participants. Retirees who are or were in the deferred retirement option plan shall, following termination of employment after DROP participation, have the options provided for in this section for reemployment.

(g) Any Retiree who is retired under normal retirement pursuant to this System and who is reemployed by the City as a part time or seasonal employee shall be eligible to receive retirement benefits from this System during the period of reemployment. In order to receive these in-service distributions, the Retiree must have reached his or her "normal retirement age" specified in 26 CFR Section 1.401(a)-1(b)(2) (in consideration of safe harbor regulations as may be effective and

applicable or which may become effective and applicable). Such in-service distribution shall be approved by the board of trustees as having no effect on the general municipal employees' retirement plan being a qualified plan under section 401(a) of the Code.

(Orig. Ord. 1158, 8-13-09; Ord. 1363, §8, 9-24-15; Ord. 1555, §1, 6-10-21)

**Secs. 30-126 – 30-140. – Reserved.**

**SECTION 2.** All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 3.** If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

**SECTION 4.** It is the intention of the City Council that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City; and that sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "chapter", "section", "article", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or relettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or his designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

**SECTION 5.** All ordinances or parts of ordinances, resolutions, or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 6.** This Ordinance shall become effective immediately upon adoption, unless otherwise provided.

PASSED, APPROVED AND ADOPTED in special session of the City Council of the City of Panama City Beach, this 9<sup>th</sup> day of November, 2023.

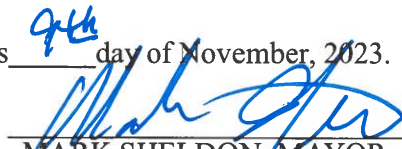
CITY OF PANAMA CITY BEACH, FLORIDA

  
\_\_\_\_\_  
MARK SHELDON, MAYOR

ATTEST  
  
\_\_\_\_\_  
LYNNE FASONE, CITY CLERK

Coding: Words in strikeout type are deletions from existing text.  
Words in underline type are additions.

EXAMINED AND APPROVED by me this 9th day of November, 2023.

  
\_\_\_\_\_  
MARK SHELDON, MAYOR

PUBLISHED on <https://publicnoticesbaycountyfl.gov/> on the 24th day of October, 2023.

POSTED on [pcbfl.gov](http://pcbfl.gov) on the 13th day of October, 2023.



October 4, 2023

Ms. Holly White  
Assistant City Manager  
City of Panama City Beach, Florida  
17007 Panama City Beach Parkway  
Panama City Beach, Florida 32413

Re: General Employees' Pension Plan – Actuarial Impact Statement

Dear Holly:

As requested, we have performed an appropriate actuarial analysis of the changes to the General Employees' Pension Plan to be enacted by the proposed ordinance. We received a draft of this ordinance from you, via email on September 20, 2023.

The allowed DROP effective take date provisions were updated to remove the 15 day requirement. The definition of actuarial equivalence was also updated from the 1983 Group Annuity Mortality table to the RP2000 Generational Mortality table.

There are potential impacts to the plan that will depend on experience in the future. However, we do not expect this provision to materially affect participant behavior in aggregate. While there may be an employee who has their benefit affected due to this provision, we expect the vast majority of the participants will see no change in their benefits. We also do not currently make any provisions in the actuarial valuation assumptions for potential suspension of benefits, so no changes to the valuation would be necessary.

As a result, I have concluded that there should be no significant impact on the City's funding requirements due to the changes and no formal Actuarial Impact Statement is required for this change.

Sincerely yours,

A handwritten signature in black ink that reads "Stephen Lambert-Oswald". The signature is written in a cursive, flowing style.

Stephen Lambert-Oswald FSA, EA, MAAA

cc: Douglas Beckendorf

P:\CoreRet\National Valuation Team\2008757 City of Panama City Beach\Client Specific Information\Plan Documents\01 QP\General\2023\Impact Proposed Ord. Updating DROP provision and Act. Equiv) Oct. 2023.docx



**AFFIDAVIT OF PUBLICATION**

**Column Software, PBC**  
 331 NW 26th St, Suite 304  
 Miami, FL, 33127

Before the undersigned authority personally appeared Bailee Liston, who on oath says that he or she is an agent of Column Software, PBC; that the attached copy of advertisement, being a legal advertisement or public notice of Display Ad (document upload) Notice in the matter of Ord 1635, was published on the publicly accessible website of FL, hosted by Column Software, PBC on Oct. 24, 2023

and that the fees charged are legal.

Affiant further says that the website complies with all legal requirements for publication in chapter 50, Florida Statutes; and affiant further says that he or she has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication on said website.

**NOTICE ID:** I51cRR6i25qU4Z811Aui  
**Publication Fee:** 0.00

*Bailee Liston*

(Signed)  
 as authorized signatory of Column Software, PBC

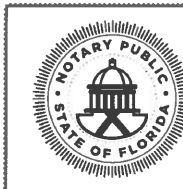
**VERIFICATION**

State of Florida  
 County of Charlotte

Subscribed in my presence and sworn to before me on this:  
 10/25/2023

*Rachael Mary Schultz*

Notary Public  
 Notarized online using audio-video communication



RACHAEL MARY SCHULTZ  
 Notary Public - State of Florida  
 Commission # HH13567A  
 Expires on May 27, 2027

Published in Bay County  
**PUBLIC NOTICE**

NOTICE IS HEREBY GIVEN that the following ordinance shall be presented to the City Council of the City of Panama City Beach, Florida, for a public hearing and second reading at its regular meeting to be conducted at **9 A.M on THURSDAY, November 9, 2023** , or as soon thereafter as the matter may be heard, at City Hall located at 17007 Panama City Beach Parkway, Panama City Beach, Florida, to-wit,

**ORDINANCE NO. 1635**

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH ADDING A NEW CHAPTER 30, "PENSIONS"; ADDING A NEW ARTICLE III, "THE CITY OF PANAMA CITY BEACH GENERAL MUNICIPAL EMPLOYEES' PENSION PLAN", INCORPORATING THE CITY OF PANAMA CITY BEACH GENERAL MUNICIPAL EMPLOYEES' PENSION PLAN, ADOPTED PURSUANT TO ORDINANCE NO. 1158, AS SUBSEQUENTLY AMENDED, INTO THE CITY OF PANAMA CITY BEACH CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

This meeting will be held at City Hall. The live meeting will be live-streamed on [www.pcbfl.gov](http://www.pcbfl.gov) . All persons wishing to be heard on the adoption of this Ordinance are invited to appear.

Any person requiring a special accommodation to participate in this meeting because of a disability or physical impairment should contact Lynne Fasone, the Panama City Beach City Clerk, Lynne.Fasone@pcbfl.gov or by phone at 850-289-5100 at least (5) calendar days prior to the meeting. If you are hearing or speech impaired, and you possess TDD equipment, you may contact the City Clerk using the Florida Dual Party Relay system which can be reached at (800) 955-8770 or (800) 955-8771 (TDD).

CITY OF PANAMA CITY BEACH, FL  
 BY: /s/ Lynne Fasone, City Clerk

# **Business Impact Estimate**

*This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the City's website by the time notice of the proposed ordinance is published. This Business Impact Estimate may be revised following its initial posting.*

Proposed ordinance's title/reference: **ORDINANCE NO. 1635, ADDING A NEW CHAPTER 30 "PENSIONS" FOR PANAMA CITY BEACH GENERAL EMPLOYEE'S PENSION PLAN, SECOND READING / PUBLIC HEARING.**

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City is of the view that a business impact estimate is not required by state law<sup>1</sup> for the proposed ordinance:

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

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<sup>1</sup> See Section 166.041(4)(c), Florida Statutes.

If no exemption applies, in accordance with the provisions of controlling law, the City hereby publishes the following information:

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

The main purpose of Ordinance No. 1635 is to incorporate all prior ordinances pertaining to the City of Panama City Beach General Municipal Employees' Pension Plan into the City's Code of Ordinances in a new Chapter and Article, 30 and III, respectively. By codifying the Ordinances, it will now be much simpler and efficient to research pension questions and issues since Chapter 30, Article III will represent the most current, comprehensive plan document. Without this codification, one must look to Ordinance No. 1158 adopted in August of 2009 and all subsequent ordinances to determine the most up to date Plan information.

In addition to the codification, Ordinance No. 1635 incorporates two minor changes that have not previously been considered by the Council. The mortality table utilized to calculate the actuarial equivalent, as defined, has been updated from the 1983 Group Annuity Mortality Table for Males to the RP 2000 Generational Mortality Table. The General Municipal Employees' Pension Board recommended this change at its meeting held on August 31, 2023 as suggested by the Plan's actuary. The second change was made to Section 30-123(b)(2) to change the effective date of an election to participate in the DROP to the first day of the first calendar month subsequent to the election date. Previous language indicated an effective date on the first day of the first calendar month at least fifteen (15) business days after an election was received from a Member; however, the City historically has not held Members to the fifteen (15) business days so this section was changed to correspond to the City's historical practice.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.:

There is no direct economic impact on private, for-profit businesses in the City.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: None.

4. Additional information the governing body deems useful (if any): N/A