

ORDINANCE NO. 10-01

AN ORDINANCE

entitled

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, REVISING CHAPTER 2, DIVISION 6 OF THE CODE OF ORDINANCES OF THE CITY OF PALATKA, FLORIDA, ENTITLED FIREFIGHTERS' PENSION PLAN, BY RESTATING THE PLAN IN ITS ENTIRETY; BY AMENDING SECTION 2-231, RETIREMENT PLAN PURPOSE; AMENDING SECTION 232, DEFINITIONS; AMENDING SECTION 2-233, MEMBERSHIP OF RETIREMENT PLAN, TERMINATION OF MEMBERSHIP; AMENDING SECTION 2-235, INTERVENING MILITARY SERVICE; AMENDING SECTION 2-240, AMOUNT OF PENSION, EFFECT OF RE-EMPLOYMENT; AMENDING SECTION 2-243, FORMS OF PAYMENT OF A PENSION; AMENDING SECTION 2-244, DISABILITY RETIREMENT, GENERAL CONDITIONS, SPECIAL CONDITIONS, APPLICABLE DUTY DISABILITY; AMENDING SECTION 2-249, GUARANTEED MINIMUM AGGREGATE PAYOUT; AMENDING SECTION 2-250.5, MEDICAL CARE COVERAGE; AMENDING SECTION 2-250.45, SAME-INVESTMENT AUTHORITY AND RESTRICTIONS; AMENDING SECTION 2-250.65, RESERVE FOR ACCUMULATED MEMBER CONTRIBUTIONS; AMENDING SECTION 2-250.115 INTERNAL REVENUE CODE QUALIFICATION; AMENDING SECTION 2-250.125, REQUIRED DISTRIBUTIONS; AMENDING SECTION 2-250.130, ROLLOVER DISTRIBUTIONS; ADDING SECTION 2-250.138, INTERNAL REVENUE CODE LIMITS; PROVIDING AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PALATKA, FLORIDA:

Section 1. Section 2-231 of Chapter 2 of the City of Palatka City Code is hereby amended and restated as follows:

Sec. 2-231. Retirement plan purpose; name; effective date.

- (a) The City of Palatka Firefighters' Retirement Plan is hereby created and maintained for the purpose of providing retirement income to qualifying members and former members, and survivor income to their eligible beneficiaries. This Plan is intended to be a tax qualified plan under Code Section 401(a) and meet the requirements of a governmental plan as defined in Code Section 414(d).

(b) The effective date of the retirement plan is October 1, 1999.

Sec. 2-232. Definitions.

As used in this division:

Accumulated member contributions means the balance in a member's individual account in the reserve for member contributions.

Beneficiary means an individual who is being paid or who has entitlement to the future payment of a pension on account of a reason other than the individual's membership in the retirement plan.

Compensation means the fixed monthly remuneration paid a firefighter for personal services rendered the city while a member of the retirement plan. Remuneration shall include salary and wages; longevity pay; overtime pay; shift differentials; pay for periods of absence from work by reason of vacation, holiday, and sickness; deferred compensation amounts under deferred compensation programs recognized by the board of trustees. Compensation shall not include any payment or reimbursement not specifically stated to be included, such as assignment pay; allowances for clothing, equipment, cleaning, meals and travel; reimbursement of expenses; vehicle allowances; bonuses; termination of pay; severance pay; payments in consideration of unused vacation and sick leave; the values of any fringe benefit. Beginning with earnings after December 31, 2008 and pursuant to Internal Revenue Code Section 414(u)(7), the definition of *Compensation* includes amounts paid by the City as differential wages to members who are absent from employment while serving in qualified military service.

Firefighter means any person employed the City of Palatka Fire Department who is certified as a firefighter as a condition of employment in accordance with s. 633.35 and whose duty it is to extinguish fires, to protect life or to protect property. The terms includes all certified supervisory, and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters.

Final average compensation means the most highly compensated 36 consecutive months during the last five years of service to the City prior to retirement. For purposes of this definition, pay under workers' compensation is excluded for purposes of computing final average compensation. Prior to August 31, 2001, leave under workers' compensation is a break in service and is not counted when computing length of service. On and after September 1, 2001, leave under workers' compensation is not a break in service for purposes of this plan only.

Pension means a series of monthly payments by the retirement plan. Payment may be for a temporary period or throughout the future life of a retired member or beneficiary.

Retirant or retired member means a full-time firefighter who is being paid a pension on account of the individual's membership in the retirement plan.

Retirement means a full-time firefighter's separation from city employment as a firefighter with immediate eligibility for receipt of benefits under the plan.

Service means personal service rendered the city while a member of the retirement plan and qualifying military service pursuant to section 2-235 and 2-236.

Sec. 2-233. Membership of retirement plan; termination of membership.

(a) An individual who is employed full-time by the city's fire department who is a state certified firefighter as a condition of employment and whose duty it is to extinguish fires, to protect life or to protect property, in a position normally requiring 2,080 or more hours of work in a year shall be a member of the retirement plan unless employed in an excluded position.

(b) Excluded positions are:

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

(2) Any position held by a retired member.

(c) An individual shall cease to be a member upon termination of employment by the city as a firefighter, or upon ceasing to be employed in a position as a full-time firefighter normally requiring 2,080 or more hours of work in a year, or upon becoming employed in an excluded position. If rehired by the city as a firefighter, then the provisions of §2-240(c) become applicable.

(d) The fire chief may participate in the plan at his or her option.

Sec. 2-234. Credited service; forfeiture; reinstatement.

(a) Service rendered by a member as a full-time firefighter in the City's fire department, or for military service during employment with the city's fire department shall be credited to the member's individual credited service account in accordance with rules the board of trustees shall prescribe. Service shall be credited to the nearest one-twelfth year. In no case shall more than one year of credited service be credited on account of all service rendered by a member in any one year nor shall less than 80 hours of service in a calendar

month be counted. The board of trustees may credit a member with a full year of credited service if the member has acquired at least nine-twelfths of a calendar year of credited service during the year.

(b) Credited service may only be forfeited if the member withdraws his or her contributions to the fund unless the member repays the amount withdrawn as provided for in subsection (c).

(c) Forfeited credited service may be reinstated by a member, by paying the Plan the amount necessary to make the Fund whole for the purchase of this service. The repayment shall be made in lump sum within three years after initiation of repayment. The amount will be calculated by the actuary at the employee's expense.

(d) Except as provided in subsection (c), forfeited credited service may not be reinstated.

(e) A nonvested member may voluntarily leave his or her contributions in the fund for a period of five years after leaving the employ of the city's fire department, pending the possibility of being rehired by the department, without losing credit for the time he or she has participated actively as a full-time firefighter. If the member is not reemployed as a full-time firefighter, with the Palatka Fire Department, within five years, his or her contributions shall be returned without interest.

(f) Credited service shall be granted for the first thirty (30) days of disability retirement during which the disability retired member is paid workers' compensation periodic benefits on account of the disability for which retired.

Sec. 2-235. Intervening military service; credited service.

A member who leaves the employ of the city to enter any armed service of the United States shall be entitled to credited service for periods of active duty, if each of the following conditions are satisfied:

(a) The individual becomes a member within one year from and after the date of release from active service;

(b) No more than five years of credited service may be provided for military service of the member;

(c) The member is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Act;

(d) Members who die or become disabled while serving on active duty military services shall be entitled to credited service even though such member was not re-employed by the

City. Members who die or become disabled while on active duty military service shall be treated as though re-employed the day before the member became disabled or died, was credited with service they would have been entitled to under this section, and then either died a non-duty death while employed or became disabled from a non-duty disability.

Sec. 2-236. Nonintervening military service; credited service.

(a) A member who has honorably served in any armed service of the United States during the following times of war: World War II December 7, 1941 through December 31, 1946; Korean Conflict June 27, 1950 through January 31, 1955; Vietnam Era August 5, 1964 through May 7, 1975; the Persian Gulf War August 2, 1990 through April 11, 1991 the Iraq war, March 19, 2003 to [end of war date] shall be entitled to credited service for periods of active duty lasting 30 or more days, upon satisfaction of each of the following conditions and subject to the limitations specified in subsection (b):

- (1) The member has at least seven years of credited service before he may claim and pay for wartime military service credit, not including credited service acquired under the provisions of section 2-235;
- (2) The member pays the purchase cost specified in subsection (c), to the retirement system prior to the member's date of retirement.

(b) The maximum military time that can be credited a member under the provisions of this section is four years of "wartime" service reduced by the amount of intervening military service credited the member under the provisions of section 2-235. If any portion of one period of military service occurred during the dates identified as "wartime," the entire period up to two years may be claimed (e.g., if your period of active military duty began on January 1, 1955, you are eligible to claim all that period of active military service up to a maximum of two years).

(c) Effective January 1, 2008 the purchase cost for the purchase of each month of military service credited under the provisions of this section is the full actuarial cost for the purchase of the service plus any fees associated with the calculation of the cost to purchase such service. The purchase cost shall be paid in one lump sum payment; installment purchases are not permitted.

Sec. 2-237. Benefit group.

(a) The firefighter benefit group is designated for the purpose of determining benefit eligibility conditions, benefit amounts, and member contribution rates. The benefit group shall consist of all members employed full-time in the fire department who are state certified firefighters in positions normally requiring 2,080 or more hours of work in a year. The benefit group shall not include any member who is temporarily employed as a firefighter during an emergency.

(b) Benefit eligibility conditions shall be those applicable to the member's benefit group at the time of termination of membership.

(c) Pension amounts shall be separately determined for any additional benefit group for which the member has credited service, using retirement plan provisions in effect at time of termination of membership.

Sec. 2-238. Normal retirement conditions.

(a) A member or a vested former member may retire upon satisfaction of each of the following requirements:

- (1) A written application for retirement, in the form prescribed by the board of trustees, has been filed with the retirement plan;
- (2) Membership is terminated prior to the date of retirement; and
- (3) The individual meets an applicable age and/or service requirement for normal retirement.

(b) The age and/or service requirements for normal retirement for firefighters is:

The individual has attained age 50 years or older and seven or more years of credited service; age 55 years or older and ten or more years of credited service; or the individual has 25 or more years of credited service without regard to age.

(c) Upon normal retirement as provided in this section an individual shall be paid a pension computed according to section 2-240.

Sec. 2-239. Vested termination of membership.

(a) A member who ceases to be a member for a reason other than retirement or death shall be a vested former member if the member has seven or more years of employment with the city provided, however, years of employment to be counted for purposes of determining eligibility for a vested benefit shall only include those years during which the member has not withdrawn his or her member contributions to a retirement program of the city.

(b) Withdrawal of accumulated member contributions and forfeiture of credited service shall terminate vested former member status and constitute forfeiture of all rights in and to a pension.

Sec. 2-240. Amount of a pension; effect of re-employment.

(a) The amount of a pension under the normal form is equal to the sum of separate amounts determined in accordance with the pension amount formula applicable to each benefit group under which the retiring individual has credited service. The amount of pension attributable to credited service in force under a particular benefit group is equal to a fraction of the amount of pension determined as if the individual's total credited service was under the benefit group. The numerator of the fraction is the individual's credited service under the benefit group. The denominator of the fraction is the individual's total credited service.

(b) The firefighter benefit group pension amount formula is as follows:

- (1) Two and fifty one-hundredths percent of final average compensation multiplied by credited service.
- (2) A Chapter 175, Florida Statutes, percent of final average compensation multiplied by credited service, if the individual retires pursuant to section 2-238. The Chapter 175, Florida Statutes, percent shall be the percent which can be actuarially funded by the monies received pursuant to Chapter 175, Florida Statutes, after deducting the actuarial cost of any earlier retirement opportunity provided in section 2-238 to members of the firefighter benefit group, the 25 years' retirement and the five percent minimum interest for DROP balances. The percent shall be redetermined annually following completion of the annual actuarial valuation and the redetermined percent shall become effective the first day of October following the redetermination. The redetermination percent shall be applied prospectively to retired members and beneficiaries of deceased retired members.

The percent effective October 1, 2007 has been redetermined to be eighty one-hundredths percent.

(c) Payment of a pension on account of retirement under the provisions of section 2-238 (normal retirement) shall be suspended if the retired member becomes employed by the city in a position that would entail membership in the retirement plan were the individual not a retired member or if the member is not a mandatory member in this plan. Suspension of the pension shall become effective the first day of the calendar month following employment of the retired member. Upon re-employment the member shall again accrue service under this plan. Payment of the suspended pension shall resume, following recomputation of the benefit based on total years of service less any benefits paid, on the first day of the calendar month following termination of employment. A member who retires under the normal retirement provision and is at least age 50 is entitled to be re-employed and continue to receive a retirement benefit pursuant to Internal Revenue Code Section 401(a)(36) and its final regulations including §1.401(1)-1 provided the retiree is not a

mandatory member of this plan. The member who continues to receive benefits while employed shall not accrue any additional service.

Sec. 2-241. Adjustment of pension after retirement.

(a) A retirant or beneficiary who is being paid a pension which has an effective date prior to October 1, 1986, shall have their pension increased January 1, 1987; and the increased pension shall be the basis of payments from and after January 1, 1987. The amount of increase shall be determined from the following schedule:

Effective Date of Pension	Amount of Increase (per month)
Prior to October 1, 1986, at least 1 year, but less than 2 years	The larger of 2.5% or \$150.00 per year (\$12.50)
2 or more years	The larger of 5% or \$150.00 per year (\$12.50)

In the case of a pension being paid the beneficiary of deceased retirant, the effective date of the beneficiary's pension shall be the effective date of the retirant's pension.

(b) Each pension having an effective date prior to April 1, 1998, shall be increased April 1, 1999 in accordance with the following schedule: 1.5% per year since retirement, but not greater than a total increase of 7.0%.

The increase will be applied to the base benefit only, excluding any chapter 175 benefit.

The effective date of a pension payable to the beneficiary of a deceased retired member shall be the effective date of retired member's pension for the purposes of this subsection.

Sec. 2-242. Normal Form of Pension Benefit

(a) The normal form of pension benefit to a married member is a 75% joint and survivor pension for life to the surviving spouse of a deceased retired member with at least 120 payments guaranteed to the retiree and surviving spouse collectively, if each of the following conditions are met:

- (1) The retired member retired after September 30, 1985;

- (2) The retired member did not elect to be paid under form of payment SL, A, B, or C, provided in section 2-243; and
- (3) The retired member was married to the surviving spouse at time of retirement and at time of death.

(b) The normal form of pension to an unmarried member or a married member whose surviving spouse is not eligible for the benefit in subsection (a) is a ten year certain and life benefit, paid to the beneficiary named by the deceased retired member. If there is no beneficiary named, the benefit, if any shall be paid to the estate of the deceased retired member.

Sec. 2-243. Forms of payment of a pension.

A member may elect to have pension payments made under any one of the following forms of payment and name a survivor beneficiary. The election and naming of survivor beneficiary shall be made on a form furnished by and filed with the retirement plan prior to the date the first pension payment is made. Notwithstanding any other provision of this section, a retired member may change his or her designation of joint annuitant or beneficiary up to two times as provided in s. 175.171(1)(c)4 without the approval of the board of trustees or the current joint annuitant or beneficiary. The retiree is not required to provide proof of the good health of the joint annuitant or beneficiary being removed, and the joint annuitant or beneficiary being removed need not be living. Any retired member who desires to changes his or her joint annuitant or beneficiary shall file with the board of trustees a notarized notice of such change. Upon receipt of a completed change of joint annuitant form or such other notice, the board of trustees shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit and there is no impact to the Plan. The beneficiary or joint annuitant being removed will be assumed deceased by the actuary in determining the actuarially equivalent amount of the revised monthly payment. No retirant's current benefit shall be increased as a result of the change of beneficiary. No change of retirement option may be made after the date of cashing or depositing the first retirement check.

Payment shall be made under the normal form of payment if there is not a timely election of another form of payment.

The amount of pension under forms of payment SL, A, B and C shall have the same actuarial present value, computed as of the effective date of the pension, as the amount of pension under the normal form of payment.

Form of payment SL--Straight life pension. The retired member is paid a pension for life under form of payment SL. The amount of pension shall be determined in accordance with section 2-240.

Form of payment A--Life payments with full continuation to survivor beneficiary. The retired member is paid a reduced pension for life under form of payment A. Upon the death of the retired member during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid the full amount of reduced pension until death.

Form of payment B--Life payments with continuation to survivor beneficiary. The retired member is paid a reduced pension for life under form of payment B. Upon the death of the retired member during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid 75, 66 2/3 or 50 percent of the amount of reduced pension benefits until death.

Form of payment C--Life payments with period certain guarantee. The retired member is paid a reduced pension for life under form of payment C. Upon the death of the retired member during the guaranteed period, the named survivor beneficiary is paid the full amount of the reduced pension for the remainder of the guaranteed period. The guaranteed period shall be 120 months. The actuarial present value of the remaining guaranteed payments shall be paid to the legal representative of the retired member or the named survivor beneficiary, whoever survives the longer, if both the retired member and the named survivor beneficiary die during the guaranteed periods.

Sec. 2-244. Disability retirement; general conditions; special conditions applicable to duty disability.

(a) The board of trustees may retire a member who becomes incapacitated for continued employment by the city if each of the following conditions are met:

- (1) Application for disability retirement is filed with the retirement plan by either the member or the city within one year of the date the member ceases to be paid by the city;
- (2) The member has ten or more years of credited service;
- (3) The member undergoes all medical examinations and tests ordered by the retirement plan, and releases to the retirement plan all medical reports and records requested by the retirement plan; and
- (4) The medical advisor selected by the board of trustees reports that: (i) the member is mentally or physically incapacitated for any continued employment as a firefighter; (ii) the disability is likely to continue for at least one year (to be permanent); and (iii) the member should be retired. The effective date of a disability retirement shall not predate (i) the date of disability, or (ii) the date the member ceases to be paid by the city.

(b) The amount of a disability pension shall be computed according to section 2-240 and shall not be less than twenty-five percent of the firefighter's average monthly salary at the time of disability. The disability retired member shall have the right to elect a form of payment provided in section 2-243.

(c) The following exceptions to the provisions of subsections (a) and (b) shall apply if the board of trustees finds that the member's disability is the direct result of the member's performance of duty as an employee of the city:

- (1) The requirement of ten years of credited service shall be waived.
- (2) The amount of pension shall not be less than 45 percent of the firefighter's average monthly salary for the last five years at the time of the disability. If the member does not have five years of service at the time of the disability, the amount of pension shall not be less than 45 percent of the firefighter's average monthly salary for the total months of service at the time of disability.

(d) A firefighter will not be entitled to receive any disability retirement income if the disability is a result of:

- (1) Excessive and habitual use by the firefighter of drugs, intoxicants, or narcotics;
- (2) Injury or disease sustained by the firefighter while willfully and illegally participating in fights, riots, or civil insurrections or while committing a crime;
- (3) Injury or disease sustained by the firefighter while serving in any armed forces. Effective on and after January 1, 2007, this exclusion does not affect members who have become disabled as a result of intervening military service under the federal Heroes Earnings and Assistance and Relief Tax Act of 2007 (H.R. 6081; P.L. 110-245).; or
- (4) Injury or disease sustained by the firefighter after his or her employment has terminated.

Sec. 2-245. Disability retirement; limitation on amount of pension.

(a) The provisions of this section shall apply during the period, if any, between the effective date of a disability pension and the date the disability retired member attains age of 65 years. Application of the limitation shall be to the amount of pension under the normal form of payment. The effect of an election of any other form of payment shall be taken into account after application of the provisions of this section.

(b) When a retired member is receiving a disability pension, and workers' compensation benefits, and the total monthly benefits received from these exceed 100 percent of the member's final average compensation, the disability pension shall be reduced so that the total monthly pension received by the retired member does not exceed 100 percent of such final average compensation. The amount of any lump sum workers' compensation payment shall be converted to an equivalent monthly benefit payable for ten years certain by dividing the lump sum amount by 83.9692. In no event shall the retired member be denied the minimum benefits provided in F.S. Ch. 175.

(c) The plan shall compute the initial amount of pension on the presumption the retired member is receiving social security disability benefits and worker's compensation periodic benefits. The presumed amounts shall be estimated by the plan using the retired member's final average compensation and the single person statutory benefits. The retired member may, at any time, submit evidence of receipt of a lesser amount of social security or worker's compensation benefits. The plan shall adjust the amount of pension to reflect actual social security and worker's compensation benefits if it finds the submitted evidence substantiates the disability retired member's claim.

(d) The disability retired member may submit an affidavit declaring that an application for social security or worker's compensation benefits will not be made, thereby voiding application of the presumption of receipt. The affidavit shall also contain the promise to immediately notify the retirement plan should an application be made for social security or worker's compensation benefits.

(e) The retirement plan shall periodically request substantiated income information from disability retired members subject to this section. Failure to provide the requested information within 90 days of the request shall cause suspension of payment of the pension until the information is received.

Sec. 2-246. Disability retirement; continuation subject to reexamination; suspension/termination of pension.

(a) The retirement plan may require a disability retired member to undergo periodic medical or other re-evaluation if the individual does not satisfy an applicable age and/or service requirement for normal retirement. If the disability retired member refuses to submit to reevaluation, payment of the pension may be suspended by the board of trustees. If the refusal continues for one year, the board of trustees may revoke the disability retired member's rights in and to the disability pension. A disability pension shall be discontinued if the medical advisor selected by the board of trustees reports that the disability retired member is no longer disabled in that he or she is able to render useful and efficient service as a firefighter and the board of trustees concurs with the report.

(b) The membership status of a terminated disability retired member who is returned to city employment shall be governed by the provisions of section 2-233. If a firefighter

recovers from a disability and reenters the service as a firefighter, service will be deemed to have been continuous, but the period beginning with the first month for which he or she received a disability retirement income payment and ending with the date he or she reentered the service may not be considered as credited service. However, credited service shall be granted for the first 30 days of disability retirement during which the disability retired member is paid worker's compensation periodic benefits on account of the disability for which retired.

(c) A terminated disability retired member who does not reacquire membership and restoration of credited service, as provided in subsection (b), shall have actual credited service at time of disability retirement restored if such restoration enables the individual to become a vested former member.

Sec. 2-247. Active member survivor benefits; conditions for automatic pension to spouse.

(a) The normal form of benefit to a married active member is 75 percent joint and survivor pension paid for life to the surviving spouse of a deceased active member with at least 120 payments guaranteed to the surviving spouse, if each of the following conditions are met:

- (1) The member has seven more years of credited service;
- (2) The member was married to the surviving spouse at time of death; and
- (3) The member died while employed by the city as a firefighter.

(b) Notwithstanding the provisions of section 2-248, payment of the pension shall not commence prior to the first day of the month following date the deceased member would have satisfied an age and/or service requirement for retirement pursuant to section 2-247 had the deceased member continued in city employment.

(c) The amount of a deceased member's accrued pension shall be computed as if the deceased member had retired the day preceding death under the normal retirement provisions and elected the normal form of payment.

(d) The normal form of pension to a deceased unmarried active member or deceased married active member whose spouse is not eligible for the benefit in subsection (a) is a ten year certain and life benefit paid to the beneficiary named by the deceased active member. If there is no beneficiary named, the benefit, if any, shall be paid to the estate of the deceased active member.

Sec. 2-248. Member survivor benefits; special conditions applicable to death in line of duty.

If the death of an active member is found by the board of trustees to be the direct result of the member's performance of duty as a city firefighter, the following additional provisions shall apply to section 2-247:

- (a) The age and/or credited service requirement shall be waived;
- (b) The amount of pension paid a surviving spouse shall not be less than 35 percent of the deceased member's final average compensation. If a deceased member did not have five years of service at the time of death in line of duty, the amount of pension paid a surviving spouse shall not be less than 35 percent of the deceased member's average monthly salary for the total months of service at the time of death.

Sec. 2-249. Guaranteed minimum aggregate payout.

If all pension payments permanently terminate before there has been paid an aggregate amount equal to the retired member's, deceased member's, or deceased vested former member's accumulated member contributions at time of retirement, the difference between the amount of accumulated member contributions and the aggregate amount of pension payments made shall be paid to such individual or individuals as the former member may have named on a form provided by and filed with the retirement plan. If no such named individual survives, the difference shall be paid to the estate.

Sec. 2-250. Pensions; commencement, termination and change.

- (a) An early, normal or disability pension shall commence the first day of the calendar month next following the member's or vested former member's date of retirement. A preretirement survivor pension shall commence the first day of the calendar month next following the month in which occurs the death causing payment of pension. A post-retirement survivor pension shall commence the first day of the calendar month next following the death causing payment of the pension.
- (b) Termination of payment of a pension shall occur at the end of the calendar month in which occurred the event causing termination. Payment shall be made for the full month of termination.
- (c) A change in the amount of a pension shall occur the first day of the calendar month next following the date of the event causing the change.

Sec. 2-250.5. Medical care coverage.

A retired member who elects coverage under a group medical insurance or prepayment plan recognized by the city may authorize the retirement plan to deduct the premium from the retired member's pension payments. Upon written request of the retiree of the plan, the Board shall authorize the withholding of premium payments for accident, health, and long term care insurance for the retiree and the retiree's spouse and dependents. Such payments shall be made to the provider of such accident, health and/or long-term care insurance in the amount and at the time specified by the retiree. As provided for in Fla. Stat. 175.061(7), the plan does not incur liability for participation in this permissive program if its actions are taken in good faith.

Sec. 2-250.10. Member contributions; amounts.

Member contributions to the firefighters' retirement plan shall be at the rate of four percent of compensation through the last full pay period in September 1995; five percent through September 2000; five and one half percent through the first full payroll in September, 2005; and six percent thereafter.

Sec. 2-250.15. Member contributions; refunds.

(a) An individual's accumulated member contributions, less any disability benefits paid to him or her after July 1, 1963, shall be refunded to the individual if the following conditions are met:

- (1) The individual has not met an applicable age and/or service condition for normal retirement;
- (2) The individual has not accumulated aggregate time of seven years toward retirement;
- (3) The individual makes application for the refund on a form provided by and filed with the retirement system.

(b) If an individual dies and no pension becomes or will become payable on account of death, the individual's accumulated member contributions, without interest, shall be refunded in accordance with the deceased individual's instructions made on a form provided by and filed with the retirement plan. If there be no such instructions or if the individuals who are to be paid the refund no longer live, the accumulated member contributions shall be refunded to the estate of the deceased individual.

Sec. 2-250.20. Denial of claim for benefits; appeal to board of trustees.

A benefit claimant shall be notified in writing, within 30 days, of a denial of a claim for benefits. The notification shall contain the basis for the denial. The benefit claimant may appeal the denial and request a hearing before the board of trustees. The appeal shall be in writing and filed with the retirement plan within 90 days of the date of the notification of denial. The request for appeal shall contain a statement of the claimant's reasons for believing the denial to be improper. The board of trustees shall schedule a hearing of the appeal within 60 days of receipt of the request to appeal.

Sec. 2-250.25. Board of trustees--Authority and responsibility; composition; term of office; oath of office; vacancies.

(a) The administration, management and responsibility for the proper operation of the retirement plan, and for interpreting and making effective the provisions of the retirement plan are vested in a board of trustees.

(b) The board of trustees shall consist of the following five individuals:

- (1) Two individuals who are legal residents of the City of Palatka shall be selected by and to serve at the pleasure of the city commission;
- (2) Two full-time firefighters elected by a majority of the active full-time firefighters who are members of the plan;
- (3) One individual chosen by a majority of the previous four members. Such person's name shall be submitted to the city commission. Upon receipt of the fifth person's name, the city commission, as a ministerial duty, shall appoint such person to the board of trustees.

(c) Effective for terms beginning after the effective date of this Ordinance, the term of office of the fifth member of the board of trustees will be four years. Effective for terms beginning after the effective date of this Ordinance, each resident member shall serve as trustee for a period of four years, unless sooner replaced by the city commission. Effective for terms beginning after the effective date of this Ordinance, each firefighter member shall serve as trustee for a period of four years, unless he or she sooner leaves the employment of the city as a full-time firefighter. Any trustee may succeed himself or herself in office.

(d) Each trustee shall, prior to taking office, take an oath of office administered by the city clerk.

(e) A vacancy shall be filled within 90 days, for the unexpired term, in the same manner as the position was previously filled.

Sec. 2-250.30. Same--Quorum; record of proceedings.

Three trustees shall constitute a quorum at any meeting of the board of trustees. At least three concurring votes shall be required for a valid action by the board of trustees. The secretary of the board of trustees shall keep a written record of its proceedings, actions, or hearings of the board.

Sec. 2-250.35. Same--Officers; services.

- (a) The board of trustees shall by majority vote elect from its membership a chairperson and a chairperson pro tem.
- (b) The trustees shall by a majority vote elect a secretary from their membership.
- (c) The board of trustees shall meet at least quarterly each year.
- (d) The board of trustees may deposit with the city all funds and securities of the retirement plan, and the city shall be liable in the same manner and to the same extent as it is liable for the safekeeping of funds for the municipality. Such funds shall be kept in a separate fund by the city or clearly identified as funds of the firefighters' pension trust fund. In lieu thereof, the board of trustees shall deposit the funds and securities of the retirement fund in a qualified public depository as defined in section 280.02(12), Florida Statutes, which depository with regard to such funds and securities shall conform to and be bound by all the provisions of Chapter 280, Florida Statutes.
- (e) The board of trustees may utilize the services of the city attorney as legal advisor to the board. However, if the board of trustees so elects, it may employ independent legal counsel at the retirement fund's expense.
- (f) The board of trustees is authorized and empowered to employ at the retirement fund's expense such professional and other services as it requires for the proper discharge of its responsibilities.
- (g) All matters dealing with meeting the minimum benefits required by C.S.H.B. 261 shall be financed by the increase in the chapter 175 funds. The initial cost of separation of the firefighters from the city's general retirement plan shall be financed by the firefighters' retirement plan.

Sec. 2-250.40. Same--Reports.

The board of trustees shall prepare an annual report for each fiscal year. The annual report shall contain information about the financial, actuarial and other activities of the retirement

plan during the fiscal year. A copy of the annual report shall be furnished to the mayor and city commission.

Sec. 2-250.45. Same--Investment authority and restrictions.

The board of trustees are the trustees of the monies and assets of the retirement plan. The board of trustees has the authority and power to invest and reinvest the monies and assets of the retirement plan subject to all terms, conditions, limitations and restrictions imposed by the State of Florida on the investments of public employee retirement plans. The board of trustees may employ at the retirement fund's expense investment counsel to advise the board in the making and disposition of investments. These expenses should be borne by the plan. In exercising its discretionary authority with respect to the management of the monies and assets of the retirement plan, the board of trustees shall exercise the care, skill, prudence, and diligence, under the circumstances then prevailing, that an individual of prudence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and similar objectives.

Notwithstanding any thing else in this section and as provided in Fla. Stat. §215.473, the board of trustees must identify and publicly report any direct or indirect holdings it may have in any scrutinized company as defined in that section. Beginning January 1, 2010, the Board must proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have directly in that company. The divestiture of any such security must be completed by September 30, 2010. The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by s. 215.473, and the manner of disposition, if any, is reasonable as to the means chosen. For the purposes of determining which companies are scrutinized companies, the Board may utilize the list of scrutinized companies as developed by the Florida State Board of Administration. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this paragraph and s. 175.071, Florida Statutes.

Sec. 2-250.50. Same--Use of monies and assets; prohibited actions.

(a) All monies and assets of the retirement plan shall be held and invested for the sole purpose of meeting the legitimate obligations of the retirement plan and shall be used for no other purpose.

(b) Members of the board of trustees and its employees are prohibited from:

- (1) Having a beneficial interest, direct or indirect, in an investment of the retirement plan;
 - (2) Borrowing money or assets of the retirement plan;
 - (3) Receiving any pay or emolument from any individual or organization, but may receive expenses and per diem as provided by Florida law.
- (c) No payment shall be made unless it has been authorized in advance by a specific or continuing resolution of the board of trustees.

Sec. 2-250.55. Financial objective of the retirement plan; city contributions.

- (a) The financial objective of the retirement plan is to receive contributions each fiscal year which are sufficient to:
- (1) Fund the actuarial cost of benefits likely to be paid on account of credited service earned by members during the fiscal year; and
 - (2) Fund the unfunded actuarial cost of benefits likely to be paid on account of credited service earned by members prior to the fiscal year over a period of not more than that provided in F.S. ch. 112.
- (b) Contribution requirements shall be determined by annual actuarial valuation using a generally recognized level percent of payroll actuarial cost method and shall be calculated in accordance with the provisions of Article X, Section 14 of the Constitution of the State of Florida and the applicable provisions of F.S. ch. 175.
- (c) The board of trustees shall certify to the city commission and the city manager the amount of annual contribution needed to meet the financial objective and the city commission shall appropriate and cause the contribution to be paid to the retirement plan.

Sec. 2-250.60. Chapter 175 legislation; chapter 175 contributions.

All costs associated with legislative C.S.H.B. 261 shall be paid from the plan. Any increase in benefits as a result of C.S.H.B. 261 will only be provided subject to additional chapter 175 funds being received into the plan. These costs include, but are not limited to, additional costs determined by an actuary to have occurred as a result of legislation, disability retirement increases, elimination of off-sets, defined income, and all other related expenses.

Sec. 2-250.65. Reserve for accumulated member contributions.

(a) The reserve for accumulated member contributions is the account in which is accumulated the contributions deducted from the compensation of members, or otherwise paid to the retirement plan by the member or on the member's behalf, and which shall be charged with refunds of accumulated member contributions and transfers of accumulated member contributions. Continuation of employment by the member shall constitute consent and agreement to the deduction of the applicable member contribution. Payment of compensation less the deduction shall be full and complete discharge of all claims and demands for compensation for personal service rendered the city.

(b) The city shall cause the applicable member contributions to be deducted from the compensation of each member. The deducted member contributions shall be credited to the retirement plan immediately after each pay period and shall be credited to the members individual sub-accounts.

(c) A member's accumulated contributions shall be transferred from reserve for accumulated member contributions to the reserve for pension payments if a pension becomes payable on account of the member's retirement or death. At the expiration of a period of five years from the date a member ceases to be a member and does not become a vested former member, the individual's accumulated member contributions shall be returned without interest and, if unclaimed by the individual or the individual's legal representative, and the contributions are in excess of \$1,000, then the balance shall be transferred to an individual retirement plan of the Board's choosing and the Board shall notify the member in writing of such transfer.

Sec. 2-250.70. Reserve for pension payments.

(a) The reserve for pension payments is the account which is charged for all pension payments and refunds of accumulated member contributions which have been transferred to this account. If a disability pension is terminated and the individual again becomes a member or becomes a vested former member, any excess of the accumulated member contributions transferred to this account as a result of the disability retirement over the aggregate amount of pension paid shall be transferred to the reserve for accumulated member contributions.

(b) Each year following receipt of the report of the annual actuarial valuation, the balance in the reserve for pension payments shall be set equal to the actuarial present value of pensions being paid retired members and beneficiaries by a transfer to or from the reserve for employer contributions. The pending transfer shall be taken into account by the actuary when making the actuarial valuation.

Sec. 2-250.75. Reserve for chapter 175 funds.

The reserve for chapter 175 funds is the account to which all funds received pursuant to chapter 175 shall be deposited.

Sec. 2-250.80. Reserve for employer contributions.

The reserve for employer contributions is the account to which is credited city contributions, and from which shall be made transfers to the reserve for pension payments and the reserve for undistributed investment income.

Sec. 2-250.85. Reserve for undistributed investment income.

(a) The reserve for undistributed investment income is the account to which is credited all interest, dividends, and other income from retirement plan assets; all gifts and bequests; all unclaimed accumulated member contributions and pensions; and all other monies received by the retirement plan the disposition of which is not specifically provided. There shall be transferred from the reserve account all amounts required to credit interest to the other reserve account and to fund the reserve for administrative expenses.

(b) Whenever the board of trustees determines the balance in the account is more than sufficient to cover current charges, the excess, or any part thereof, may be used to fund contingency reserves or meet special requirements of the other reserve accounts. Whenever the balance in the account is insufficient to cover current charges, the amount of the insufficiency shall be transferred to that account from the reserve for employer contributions.

Sec. 2-250.90. Assets not segregated.

The descriptions of the reserve accounts shall be interpreted to refer to the account records of the retirement plan and not to the segregation of monies or assets by reserve accounts.

Sec. 2-250.95. Interest credited to reserve accounts.

(a) The board of trustees shall at least annually credit interest on the individual balances in the reserve for accumulated member contributions, and on the balances in the reserve for pension payments and the reserve for employer contributions. The amounts of interest so credited shall be charged to the reserve for undistributed investment income.

(b) The board of trustees shall determine the rate or rates of interest to be used in the crediting of interest.

Sec. 2-250.100. Assignments prohibited; certain deductions; authorized.

The right of an individual to a pension, to a refund of accumulated member contributions, the pension itself, or any other right accrued or accruing to any individual, and the monies and assets of the retirement plan, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or other process of law, except a domestic relations income deduction order for alimony and/or child support, and shall be unassignable except as otherwise specifically provided herein.

Sec. 2-250.105. Subrogation; right of setoff.

(a) If an individual becomes entitled to a pension or other benefit payable by the retirement plan as a result of an accident or injury caused by the act of a third party, the city shall be subrogated to the rights of the individual against the third party to the extent of city financed benefits which the retirement plan pays or becomes liable for payment.

(b) The retirement plan shall have the right of setoff to recover overpayments made by the retirement plan and to satisfy any claim arising from embezzlement or fraud committed by a member, retired member, vested former member, beneficiary, or other individual having a claim to benefits.

Sec. 2-250.110. Correction of errors.

The retirement plan shall correct errors in the records of the retirement plan. The retirement plan shall seek to recover overpayments and shall make up underpayments. Recovery of overpayments may be accomplished by reducing the amount of future payments so that the actuarial present value of actual payments to the recipient is equal to the actuarial present value of the payments to which the recipient was correctly entitled.

Sec. 2-250.115. Internal Revenue Code qualification.

The city intends the retirement plan to be a qualified pension plan under section 401 of the Internal Revenue Code, as amended, or successor provisions of law, meet the requirements of a governmental plan as defined in Code Section 414(d) and that the trust be an exempt organization under section 501 of the Internal Revenue Code. The city may adopt such additional provisions to the retirement plan as are necessary to fulfill this intent.

Sec. 2-250.120. Pensions payable prior to enactment of the firefighters' retirement plan.

Pensions allowed and payable to retired members prior to the effective date of Ordinance No. 00-26, enacting the firefighters' retirement plan, will continue without adjustment, except as provided in sections 2-240 and 2-241.

Sec. 2-250.125. Required distributions.

(a) In accordance with Internal Revenue Code section 401(a)(9), all benefits under this plan will be distributed, beginning not later than the required beginning date set forth below, over a period not extending beyond the life expectancy of the firefighter or the life expectancy of the firefighter and a beneficiary designated in accordance with sections 2-242 and 2-243.

(b) Any and all benefit payments shall begin by the later of:

- (1) April 1 of the calendar year following the calendar year of the member's retirement date; or
- (2) April 1 of the calendar year following the calendar year in which the member attains age 70 1/2.

(c) If an employee dies before his entire vested interest has been distributed to him, the remaining portion of such interest will be distributed at least as rapidly as provided for under section 2-242 and 2-243 and will comply with the incidental death benefit under Internal Revenue Code Section 401(a)(9)(G).

Sec. 2-250.130. Rollover distributions.

(a) This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) Definitions.

- (1) *Eligible rollover distribution:* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee or an alternate payee under an income deduction order under Florida Law, except that an eligible rollover does not include: any distribution that is one of a

series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; and any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

- (2) *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, or a qualified trust described in section 401(a) of the code, an eligible deferred compensation plan described in section 457(c)(1)(A) of the code that accepts the distributee's eligible rollover distribution.
- (3) *Distributee:* A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is entitled to payment for alimony and child support under a domestic relations order determined to be qualified by this fund, are distributed with regard to the interest of the spouse or former spouse.
- (4) *Direct rollover:* A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

Sec. 2-250.135. False or misleading statements made to obtain retirement benefits prohibited.

- (a) It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit under this plan.
- (b)
 - (1) A person who violates subparagraph (a) commits a misdemeanor of the first degree, punishable as provided in F.S. §§ 775.082 or 775.083.
 - (2) In addition to any applicable criminal penalty, upon conviction for a violation described in subsection (a), a participant or beneficiary of this plan may, in the discretion of the board of trustees, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under this plan. For purposes of this subsection, a conviction means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

Sec. 2-250.140. Deferred retirement option plan (DROP).

- (a) Eligibility to participate in the DROP
- (1) Any member who is eligible to receive a normal retirement pension may participate in the DROP. Members shall elect to participate by applying to the Board of Trustees on a form provided for that purpose.
 - (2) A member cannot participate in the DROP any longer than five (5) years.
 - (3) Upon a member's election to participate in the DROP, he or she shall cease to be a member and is precluded from accruing any additional benefit under the Pension Fund. For all Fund purposes, the member becomes a retiree, except that a DROP member may be an elected member of the Board of Trustees. The amount of credited service and final average salary freeze as of the date of entry into the DROP.
- (b) Amounts payable upon election to participate in DROP
- (1) Monthly retirement benefits that would have been payable had the member terminated employment with the department and elected to receive monthly pension payments will be paid into the DROP and credited to the retiree. Payments into the DROP will be made monthly over the period the retiree participates in the DROP, up to a maximum of sixty (60) months.
 - (2) Payments to the DROP earn interest using the rate of investment return earned on Pension Fund assets during the twelve (12) month period ending September 30th. However, in no event will the interest rate be less than an annual rate of five percent. The rate determined shall be the rate as reported by the Fund's investment monitor. However, if a firefighter does not terminate employment at the end of participation in the DROP, interest credits shall cease on the current balance and on all future DROP deposits.
 - (3) No payments will be made from DROP until the member terminates employment with the department.
 - (4) Upon termination of employment, participants in the DROP will receive the balance of the DROP account in accordance with the following rules:
 - a. Members may elect to begin to receive payment upon termination of employment or defer payment of DROP until the latest day as provided under sub-subparagraph c.
 - b. Payments shall be made in either:

- i. Lump sum - the entire account balance will be paid to the retiree upon approval of the Board of Trustees.
 - ii. Installments - the account balance will be paid out to the retiree in three equal payments paid over 3 years the first payment to be made upon approval of the Board of Trustees.
 - iii. Annuity - the account balance will be used to purchase an annuity to be paid monthly, the first payment to be made upon approval by the Board of Trustees. The annuity must be purchased from an insurer licensed to sell such annuities in Florida.
- c. Any form of payment selected by firefighter must comply with the minimum distribution requirements of the IRC 401(A)(9).
 - d. The beneficiary of the DROP participant who dies before payments from DROP begin shall have the same right as the participant.
 - e. Individual member DROP accounts shall be assessed an administrative fee on a proportionate basis, taking the costs, fees, and expenses of administration of the fund as a whole, multiplied by a fraction, the numerator of which is the total of the assets in the individual member DROP accounts and the denominator of which is the total of the assets of the fund as a whole.

Sec. 2-250.137. One-time increase in benefits payable to firefighter pension retirees.

The City of Palatka Firefighters' Pension Fund is hereby amended to provide that the benefits paid to retirees and beneficiaries who receiving benefits as of Jun 1, 2002 will be doubled effective for the July 1, 2002 benefit. Such doubled amount will be the new pension benefit amount paid to the retiree or beneficiary for the remainder period for which the benefit will be paid based upon the form of benefit chosen by the retiree. This benefit increase is provided as a one-time benefit to the retirees and beneficiaries who are in pay status on June 1, 2002. The benefit increase is prospective only.

Sec. 2-250.138. 415 Internal Revenue Code Limits.

(a) Basic Limitations. Subject to the adjustments in paragraph 3, the maximum amount of the actual annual retirement income paid in any year with respect to a Participant under this Plan attributable to employer provided benefits shall not exceed the dollar amount allowable for any calendar year pursuant to §415(b) of the Code, as adjusted in such calendar year for increases in the cost of living in accordance with Regulations issued by

the Secretary of the Treasury under §415(d) of the Code. For purposes of applying the basic limitation, benefits payable in any form other than a straight life annuity with no ancillary benefits shall be adjusted, as provided by Treasury Regulations, so that such benefits are the Actuarial Equivalent of a straight life annuity. For purposes of this subsection, the following benefits shall not be taken into account:

- (1) Any ancillary benefit which is not directly related to retirement income benefits;
- (2) Any other benefit not required under §415(b)(2) of the Code and Treasury Regulations thereunder to be taken into account for purposes of the limitation of §415(b)(1) of the Code.

(b) **Participation in Other Defined Benefit Plans.** The limitation of this subsection with respect to any Participant who at any time has been a Participant in any other defined benefit plan (as defined in §414(j) of the Code) maintained by the City shall apply as if the total benefits payable under all defined benefit plans in which the Participant has been a Participant were payable from one Plan.

(c) **Adjustments in Limitations.**

- (1) In the event the Participant's retirement benefits become payable before age sixty-two (62), the maximum amount of annual retirement income limitation prescribed by this Article shall be reduced in accordance with Regulations issued by the Secretary of the Treasury pursuant to the provisions of §415(b) of the Code, so that such limitation (as reduced) equals an annual benefit (beginning when such retirement income begins) which is equivalent to the Code §415(b) maximum amount of annual retirement income beginning at age 62. This limitation shall not apply to qualified police or firefighters as that term is defined in Code Section 415(b)(2)(G).
- (2) In the event the Participant's benefit is based on at least fifteen (15) years of Credited Service, the adjustments provided for in subparagraph (1) above shall not apply.
- (3) The reductions provided for in subparagraph (a) above shall not be applicable to disability benefits or pre-retirement death benefits.
- (4) In the event the Participant's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the basic limitation set forth in paragraph 1 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 using an assumed interest rate of five percent (5%) and shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

- (5) Less than Ten (10) Years of Service. The maximum retirement benefits payable under this Article to any Participant who has completed less than ten (10) years of Credited Service with the City shall be the amount determined under paragraph 1 multiplied by a fraction, the numerator of which is the number of the Participant's years of Credited Service and the denominator of which is ten (10). The reduction provided for in this subparagraph shall not be applicable to disability benefits or pre-retirement death benefits.
- (6) Ten Thousand Dollar \$10,000 Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a Participant shall be deemed not to exceed the limitations in this subsection if the benefits payable, with respect to such Participant under this Plan 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 Plan year and for any prior Plan Year and the City has not at any time maintained a qualified defined contributions plan in which the Participant participated.
- (7) Reduction of benefits. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the Participant's benefit under any defined benefit plans in which Participant participated, such reduction to be made first with respect to the plan in which Participant 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 Participant participated, such reduction to be made first with respect to the plan in which Participant 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 different manner and priority pursuant to the agreement of the Board and the plan administrator of all other plans covering such Participant.
- (8) Cost-of-Living Adjustments. The limitations as stated herein shall be adjusted annually in accordance with any cost-of-living adjustments prescribed by the Secretary of the Treasury pursuant to §415(d) of the Code.
- (d) This section shall be effective for distributions after December 31, 2001.

Section 2. Conflicting Ordinances Repealed.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

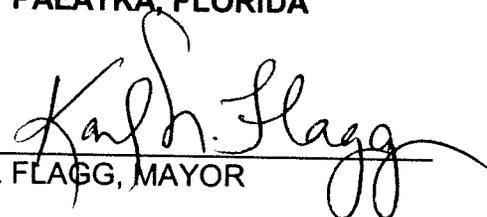
Section 3. A copy of this Ordinance shall be furnished to the Municipal Code Corporation for insertion in the code of Ordinances for the City of Palatka.

Section 4. Effective Date.

This ordinance shall become effective immediately upon its final passage by the City Commission of the City of Palatka, Florida.

PASSED AND ADOPTED by the City Commission of the City of Palatka, Florida, on the 28th day of January, A.D. 2010.

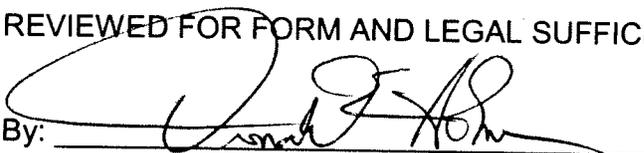
CITY OF PALATKA, FLORIDA

By: 
KARL FLAGG, MAYOR

ATTEST:


BETSY DRIGGERS, CITY CLERK

REVIEWED FOR FORM AND LEGAL SUFFICIENCY

By: 
CITY ATTORNEY