

ORDINANCE NO. 2892

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA AMENDING CHAPTER 42 (PENSION AND RETIREMENT) ARTICLE II - POLICE OFFICERS, OF THE CODE OF ORDINANCES OF THE CITY OF HOLLY HILL, FLORIDA, PROVIDING FOR COMPLIANCE WITH THE INTERNAL REVENUE CODE; PROVIDING FOR A REPEALER, PROVIDING FOR A SAVINGS CLAUSE, PROVIDING FOR CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, recent changes to federal laws and regulations require that various amendments be made to the Plan in order to maintain its status as a qualified plan under Section 401(a) of the Internal Revenue Code; and

WHEREAS, an amendment to the city code is necessary to permit such new obligations and conditions; and

WHEREAS, the trustees of the Police Officers Pension Trust Fund of the City of Holly Hill have requested and approved such an amendment as being in the best interests of the participants and beneficiaries as well as improving the administration of the plan; and

WHEREAS, the City Commission has, prior to the second reading of this Ordinance received, reviewed and considered an actuarial impact statement describing the actual impact of the amendments provided for herein,

NOW, THEREFORE, THE CITY OF HOLLY HILL, FLORIDA HEREBY ORDAINS:

Section 1. That Section 42-31 of the Code of Ordinances of the City of Holly Hill, Florida be and the same is hereby amended as follows:

Sec. 42-31. Pension benefits.

(a) (1) The amount of monthly retirement income payable to a police officer who retires on or after his or her normal retirement date, which shall be the date at which the police officer has either attained the age of 55 and completed six years of credited service or completed 20 years of credited service, regardless of age, whichever occurs first, shall be an amount equal to the number of his year of credited service multiplied by two and one-half percent of his or her average final compensation for all police officers who retired prior to October 1, 1999 and three percent for all police officers who retire on or after October 1, 1999.

~~a. Ninety thousand dollars, adjusted for cost of living in accordance with Internal Revenue Code (IRC) section 415(d), but only for the year in which such adjustment is effective; or~~

~~b. One hundred percent of the average annual compensation for the participant's three highest paid consecutive years; however, benefits of up to \$10,000.00 a year can be paid without regard to the 100 percent limitation if the total retirement benefits payable to a participant under all defined benefit plans, as defined in IRC section 414(j), maintained by the employer for the present and any prior year do not exceed \$10,000.00 and the employer has not at any time maintained a defined contribution plan, as defined in IRC section 414(j), in which the police officer was a participant.~~

~~(2) If the participant has less than six years of service with the employer, as defined in IRC section 414(b)(5) and as modified by IRC section 415(b)(6)(D), the applicable limitation in subsections (1)a. or b., above, shall be reduced by multiplying such limitation by a fraction, not to exceed one. The numerator of such fraction shall be the number of years, or part thereof, of service with the employer; the denominator shall be six years.~~

~~(i) Termination from employment, voluntary or non-voluntary, prior to becoming eligible for any benefit provided herein.~~

~~(1) Any participant that leaves employment with the city before accumulating six years of credited service and before being eligible to retire under the provisions herein, shall be entitled to a refund of all contributions such participant made to this~~

~~retirement trust fund without interest. However, such participant may elect to leave said contributions in the retirement trust fund for up to five years in contemplation re-employment, at which time, if not re-employed said contributions shall be disbursed to the participant without interest.~~

~~(2) Any participant that leaves employment with the city after accumulating six or more years of credited service may elect to leave all accrued employee contributions in the retirement trust fund. Such participant upon attaining normal retirement age provided herein shall be eligible to retire as provided in subsection (a)(1) above.~~

~~(3) In the event a participant that left accumulated contributions in the retirement trust fund dies prior to disbursement of said contributions or payment of all retirement benefit eligibility all remaining contributions or retirement benefit payments shall be payable to the participant's designated beneficiary or in the event of no such designated beneficiary to the participant's estate.~~

~~(3) If distribution of retirement benefits begins before age 62, the dollar limitation as described in subsection (1)a., above, shall be reduced actuarially using an interest rate assumption equal to the greater of five percent or the interest rate used in the most recent annual actuarial valuation; however, retirement benefits shall not be reduced below \$75,000.00 if payment of benefits begins at or after age 55 and not below the actuarial equivalent of \$75,000.00 if payment of benefits begins before age 55. If retirement benefits begin after age 65, the dollar limitation of subsection (1)a., above, shall be increased actuarially using an interest assumption equal to the lesser of five percent or the interest rate used in the most recent annual actuarial valuation.~~

~~(4) Defined contribution plan limits of IRC section 415(e) and regulations thereunder, and combined plan limits of IRC section 415(e) and regulations thereunder, are hereby incorporated by reference to the extent that such provisions may apply to this plan.~~

~~(5) If as a result of this allocation of forfeitures, a reasonable error in estimating a participant's compensation or other factors and circumstances to which regulation 1.415-6(b)(6) shall be~~

applicable, the annual additions under this plan would cause the maximum annual additions to be exceeded for any participant, the administrator shall:

a. ~~Return any employee contributions credited for the "limitation year" to the extent that the return would reduce the excess amount in the participant's accounts;~~

b. ~~Hold any excess amount remaining after the return of any employee contribution in a section 415 suspense account;~~

c. ~~Use the section 415 suspense account in the next limitation year (and succeeding limitation years if necessary) to reduce employer contributions for that participant if that participant is covered by the plan as of the end of the limitation year; or~~

d. ~~Reduce employer contributions to the plan for such limitation year by the amount of the section 415 suspense account allocated and reallocated during the "limitation year."~~

~~(6) For the purposes of this subsection:~~

~~*Annual benefit* means a benefit payable annually in the form of a straight life annuity with no ancillary or incidental benefits and with no participant or rollover contributions. To the extent that ancillary benefits are provided, the limits set forth in subsections (1)a. and b., above, will be reduced actuarially, using an interest rate assumption equal to the greater of five percent or the interest rate used in the most recent annual actuarial valuation, to reflect such ancillary benefits.~~

~~*Average annual compensation* (for a participant's three highest paid consecutive years) shall mean the participant's greatest aggregate compensation during the period of three consecutive years in which the individual was an active participant of the plan.~~

~~*Excess amount* (for any participant for a limitation year) shall mean the excess, if any, of the annual additions which would be credited to his or her account under the terms of the plan without regard to the limitations of IRC section 415, or the maximum annual additions determined pursuant to the previous paragraph.~~

~~Section 415 suspense account shall mean an unallocated account equal to the sum of excess amounts for all participants in the plan during the limitation year. The section 415 suspense account shall not share in any earnings or losses of the fund.~~

(b) The board of trustees may invest and reinvest the assets of the Police Officers' Retirement Trust Fund, City of Holly Hill, in accordance with the provisions of F.S. § 185.06, which are hereby varied only in the following respects:

(1) The aggregate of the trust fund's investments in equities (common stocks or equivalents) at market shall not exceed 67.5 percent of the fund's assets, with a target range of 62.5 to 67.5 percent;

(2) The aggregate of the trust fund's investments in negotiable fixed income securities, including securities issued by the United States government, agencies of the United States government, or bonds, or preferred stocks issued by domestic corporations having an initial rating of A or higher, at market, shall be at least 32.5 percent of the fund's assets, with a target range of 32.5 to 37.5 percent;

(3) Short-term money market funds or instruments may be included within the above categories of investments, provided that if commercial paper is used, it must be rated at least A-2 or P-2; and

(4) International investment of any kind, equities or fixed securities, shall not exceed ten percent of the fund's assets.

(c) Except as herein specifically provided the provisions of F.S. ch. 185 shall be fully applicable to the police officers' retirement trust fund. To include a deferred retirement option program (DROP) herein described.

(1) The board of trustees of the city police officers' retirement trust fund is hereby authorized to develop and administer a deferred retirement option program (DROP) herein described.

(2) *Eligibility:* A member of the retirement trust fund may enter into the DROP on the first day of any month following the attainment of the member's normal retirement date. A member electing to participate in the DROP must complete and execute an application and notice of election to participate in the drop form

provided by the retirement trust fund. Participation in the DROP shall be irrevocable after the member executes this form.

(3) *Limitation and disqualification for other benefits:* A member shall participate in the DROP only once. After commencement of participation in the DROP the member shall not earn or accrue additional vesting credits and shall not be eligible for disability or pre-retirement death benefits.

(4) *Cessation of contributions:* Upon the effective date of a member's commencement of participation in the DROP, all (city and member) pension contributions shall cease. The member shall not be eligible to make any other contributions to their DROP account.

(5) *Benefit calculation:* For all retirement trust fund purposes, the service and vesting credits of a member participating in the DROP shall remain as they existed on the effective date of commencement of participation in the DROP. Service thereafter shall not be recognized by the retirement trust fund or used for the calculation or determination of any benefits payable by the retirement trust fund. The average final compensation of the member shall remain as it existed on the effective commencement date of participation in the DROP. Earnings or increases in earnings thereafter shall not be recognized by the retirement trust fund or used for the calculation or determination of any benefits payable by the retirement trust fund. For purposes of determining the accrued benefit, the member's salary for the purposes of calculating his or her average monthly earnings shall include an amount equal to any lump sum payments that 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 initial payments to the member's DROP account. Distribution of such lump sums shall be based on calculations made at the time the member entered the DROP; all leave accrued after entry into DROP shall be paid at the rate of compensation at termination of DROP participation.

(6) *Payments to DROP account:* The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a normal retirement benefit upon commencing participation in the DROP shall be paid into the member's DROP account.

(7) *DROP account earnings:* After each fiscal year quarter, the average daily balance in a member's DROP account shall be credited at the rate equal to the retirement trust fund's actual rate of investment return, net of fees.

(8) *Maximum participation:* A member may participate in the DROP for a maximum of five (5) years (sixty (60) months). At the conclusion of the five years, the member's city employment shall be terminated pursuant to this section.

(9) *DROP account distributions:*

a. Upon termination of a member's city employment (for any reason, retirement, resignation, discharge or death), the retirement benefits payable to the member or to the member's beneficiary (if the member selected an optional form of retirement benefit which provides for payments to the beneficiary) shall be paid to the member or beneficiary and shall no longer be deposited into the member's DROP account.

b. Within 90 days following the termination of a member's employment, the balance in the member's DROP account shall be payable at the member's option as follows:

1. In full in a single lump sum payment, all accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service (IRS), paid to the DROP member or surviving beneficiary; or;
2. By rollover to another qualified retirement plan.

Regardless of the option selected by the member, the board of trustees shall have the right to accelerate payments in order to comply with section 401(A)(9) of the Internal Revenue Code (IRC) and the right to defer payments to comply with section 415, IRC.

(10) *Death:* In the event that a member dies prior to the full distribution of their DROP account, all benefits and rights shall then be vested in the member's designated beneficiary. DROP members shall not be eligible for pre-retirement death or disability benefits.

(11) *Amendment:* The board of trustees may amend this DROP procedure at any time in order to be consistent with the provisions covering DROP set forth in any applicable collective bargaining agreement and shall be binding upon all future DROP members and upon all DROP members who have balances in their accounts. Such amendments may increase the expense, decrease the account earnings, or limit or restrict the payout options.

(d) All police officers employed by the city shall contribute 19.2 percent of each installment of salary to the police officers' retirement trust fund. Effective October 1, 2005 all police officer contributions shall be reduced to five percent of each installment of salary. The city shall withhold such percentage from each installment of salary of each police officer which shall be deposited in the retirement trust fund at least monthly. This contribution shall also be considered as an employee contribution and shall be included in the computation of the police officers' average final compensation. However, police officers employed with the city prior to October 1, 1999 shall have 10.6 percent added to their final average compensation. No police officer shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the city directly to the retirement trust fund. All withholdings as required by state and federal laws shall be deducted from the above described contributions and the remaining net contribution shall be distributed to the retirement trust fund. All such contributions by the city shall be deemed and considered as part of the police officers accrued contributions and subject to all provisions of this plan pertaining to accrued contributions of police officers, except as set forth below. This city pickup of contributions is intended to comply with section 414(h)(2) of the Internal Revenue Code.

(e) The effective date of allowing police officers to retire upon the earlier of attaining the age of 55 and completion of ten years of credited service or upon completion of 20 years of credited service regardless of age shall be October 1, 1993. The effective date of the increase of employee deductions from 9.2 percent to 11.2 and the decrease of the employee contribution in lieu of payroll deductions from 10.6 percent to eight percent shall be as of October 1, 1999. The effective date of the decrease of employee deductions from 11.2 percent to five percent and the decrease of the employee contribution in lieu of payroll deductions from eight percent to zero shall be as of October 1, 2005.

(f) This section shall apply to all police officers whose employment is terminated voluntarily or involuntarily, on or after October 1, 1993.

(g) Each police officer that retires after October 1, 1997 but before October 1, 1999 shall receive an additional \$100.00 per month benefit until the age of 65 as long as the retiree had at least 20 years of service at the time of retirement. Each police officer that retires after October 1, 1999 shall receive an additional \$150.00 per month benefit for life regardless of the years of credited service at the time of retirement.

(h) Police officers hired on or after October 1, 1999 shall be entitled to receive ten percent of the contribution made by the city on behalf of the employee for each completed year of service, with monthly credit for partial years of service after the first year of service, as set forth in the following schedule, provided that any police officer employed on or after October 1, 2005 shall only be entitled to contributions made by such police officer:

TABLE INSET:

Up to one year of service:	0 percent of the city's contribution
1 year of completed service:	16 2/3 percent of the city's contribution
2 years of completed service:	33 1/3 percent of the city's contribution
3 years of completed service:	50 percent of the city's contribution
4 years of completed service:	66 2/3 percent of the city's contribution
5 years of completed service:	83 1/3 percent of the city's contribution
6 years of completed service:	100 percent of the city's contribution

(i) Commencing October 1, 2006 all police officers who retire (including disability retirees and beneficiaries of retirees) on or after September 30,

2006 shall receive an annual cost of living adjustment of two percent of such monthly retirement benefit payable.

Section 2. That Section 42-33 of the Code of Ordinances of the City of Holly

Hill, Florida be and the same is hereby amended as follows:

Sec. 42-33. Direct transfers of eligible rollover distributions Internal Revenue Code Compliance.

~~———— (a) ——— *General.* 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, 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.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:~~

~~*Direct rollover* means a payment by the plan to the eligible retirement plan specified by the distributee.~~

~~*Distributee* includes an employee or former employee. In addition, the former employee's surviving spouse is a distributee with regard to the interest of a spouse.~~

~~*Eligible retirement plan* means an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, and an annuity plan described in section 403(a) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.~~

~~*Eligible rollover distribution* means any distribution of all or a portion of the balance to the credit of the distributee, except that an eligible rollover distribution 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; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income.~~

(a) Maximum Pension.

Notwithstanding any provision of this Plan to the contrary, the Annual Pension that is accrued by or paid to a participant shall not exceed the Dollar Limitation set forth below. If the benefit the participant would otherwise accrue in a Limitation Year would produce an Annual Pension in excess of the Dollar Limitation, the benefit shall be limited to a benefit that does not exceed the Dollar Limitation.

(1) Definitions Used in this Section

(A) "Annual Pension" means the benefits received by a participant under this Plan expressed in the form of a straight life annuity. In determining whether benefits payable exceed the Dollar Limitation set forth below, benefits payable in any form other than a straight life annuity shall be adjusted to the larger of:

(i) The annual amount of the straight life annuity (if any) payable to the participant under the plan commencing at the same annuity starting date as the form of benefit payable to the participant; 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 participant, computed using a 5 percent interest assumption and the applicable mortality table described in §1.417(e)-1(d)(2) for that annuity starting date.

No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to §417(e)(3) of the Internal Revenue Code and would otherwise satisfy the limitations of this Subsection (a), and the amount payable under the form of

benefit in any Limitation Year shall not exceed the limits of this Subsection (a) applicable at the annuity starting date, as increased in subsequent years pursuant to § 415(d) of the Code. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

(B) “Dollar Limitation” means \$160,000 (subject to the annual adjustments provided under Section 415(d) of the IRC). Said amount shall be adjusted based on the age of the participant when benefits begin, as follows:

(i) Except with respect to a participant who is a “Qualified Participant” as defined in Section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code) beginning before age 62 the Age-Adjusted Dollar Limitation is equal to the lesser of--

(I) the actuarial equivalent of the annual amount of a straight life annuity commencing at the annuity starting date that has the same actuarial present value as a deferred straight life annuity commencing at age 62, where annual payments under the straight life annuity commencing at age 62 are equal to the Dollar Limitation (as adjusted pursuant to section 415(d) for the limitation year), and where the actuarially equivalent straight life annuity is computed using a 5 percent interest rate and the applicable mortality table under §1.417(e)-1(d)(2) that is effective for that annuity starting date (and expressing the participant’s age based on completed calendar months as of the annuity starting date); and

(II) the Dollar Limitation (as adjusted pursuant to section 415(d)) multiplied by the ratio of the annual amount of the straight life annuity under the plan to the annual amount of the straight life annuity under the plan

commencing at age 62, with both annual amounts determined without applying the rules of section 415.

(ii) For benefits beginning after the age of 65, the age-adjusted Dollar Limitation is equal to the lesser of:

(I) the actuarial equivalent of the annual amount of a straight life annuity commencing at the annuity starting date that has the same actuarial present value as a straight life annuity commencing at age 65, where annual payments under the straight life annuity commencing at age 65 are equal to the dollar limitation of section 415(b)(1)(A) (as adjusted pursuant to section 415(d) for the limitation year), and where the actuarially equivalent straight life annuity is computed using a 5 percent interest rate and the applicable mortality table under §1.417(e)-1(d)(2) that is effective for that annuity starting date (and expressing the participant's age based on completed calendar months as of the annuity starting date); and

(II) the section 415(b)(1)(A) Dollar limitation (as adjusted pursuant to section 415(d) and §1.415(d)-1 for the limitation year) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan to the adjusted age 65 straight life annuity. The adjusted immediately commencing straight life annuity means the annual amount of the immediately commencing straight life annuity payable to the participant, computed disregarding the participant's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are applied to offset accruals. For this purpose, the annual amount of the immediately commencing straight life annuity is determined without

applying the rules of section 415. The adjusted age 65 straight life annuity means the annual amount of the straight life annuity that would be payable under the plan to a hypothetical participant who is 65 years old and has the same accrued benefit (with no actuarial increases for commencement after age 65) as the participant receiving the distribution (determined disregarding the participant's accruals after age 65 and without applying the rules of section 415).

(iii) There shall be no age adjustment of the Dollar Limitation with respect to benefits beginning between the ages of 62 and 65.

(2) The limitations set forth in this Subsection (a) shall not apply if the Annual Pension does not exceed \$10,000 provided the participant has never participated in a Defined Contribution Plan maintained by the City.

(3) Cost-of-living adjustments in the Dollar Limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury under Section Subsection 415(d) of the Code.

(4) In the case of a participant who has fewer than 10 years of participation in the Plan, the Dollar Limitation set forth in Paragraph (1)(B) of this Subsection (a) shall be multiplied by a fraction - (i) the numerator of which is the number of years (or part thereof) of participation in the Plan, and (ii) the denominator of which is 10.

(5) Any portion of a participant's benefit that is attributable to mandatory employee contributions (unless picked-up by the City) or rollover contributions, shall be taken into account in the manner prescribed in the regulations under Section 415 of the Code.

(6) Should any participant participate in more than one defined benefit plan maintained by the City, in any case in which the participant's benefits under all such defined benefit plans (determined as of the same age) would exceed the Dollar Limitation applicable at that age, the accrual of the participant's

benefit under this Plan shall be reduced so that the participant's combined benefits will equal the Dollar Limitation.

(7) For a participant who has or will have distributions commencing at more than one annuity starting date, the Annual Benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to § 1.401(a)-20, Q&A 10(d), and with regard to § 1.415(b)1(b)1(iii)(B) and (C) of the Income Tax Regulations.

(8) The determination of the Annual Pension under Paragraph (a)(1) of this Subsection (a) shall take into account (in the manner prescribed by the regulations under Section 415 of the Code) social security supplements described in § 411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant § 1.411(d)-4, Q&A-3(c) of the Income Tax Regulations.

(9) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this Subsection (a) and the provisions of Section 415 of the Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code. The value of any benefits forfeited as a result of the application of this Subsection (a) shall be used to decrease future employer contributions.

(10) For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, Earnings shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in this Subsection (a) of Section 42-33, compensation paid or made available during such limitation years shall include elective amounts

that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Internal Revenue Code.

(b) Required Beginning Date:

Notwithstanding any other provision of the Plan, payment of a participant's retirement benefits under the Plan shall commence not later than the participant's Required Beginning Date, which is defined as the later of:

- April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of 70½ years; or

- April 1 of the calendar year that next follows the calendar year in which the participant retires.

(c) Required Minimum Distributions.

(1) Required Beginning Date. The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's Required Beginning Date as defined in Subsection (b) of this Section 42-33.

(2) Death of participant Before Distributions Begin.

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

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

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

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

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

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

(I) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death; or

(II) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(ii) No Designated Beneficiary. If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(C) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. In any case in which (i) the participant dies before the date distribution of his or her interest begins, (ii) the participant's surviving spouse is the participant's sole designated beneficiary, and (iii) the surviving spouse dies before distributions to the surviving spouse begin, Subparagraphs (2)(A) and 2(B) above shall apply as though the surviving spouse were the participant.

(3) Requirements For Annuity Distributions That Commence During participant's Lifetime.

(A) Joint Life Annuities Where the Beneficiary Is Not the participant's Spouse. If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary, annuity payments to be made on or after the participant's Required Beginning Date to the designated beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(B) Period Certain Annuities. Unless the participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age 70, the applicable distribution period for the participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the participant as of the participant's birthday in the year

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

(4) Form of Distribution. Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Subparagraphs (4)(A), (4)(B) and (4)(C) below. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the participant's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

(A) General Annuity Requirements. If the participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(i) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(ii) the distribution period will be over a life (or lives) or over a period certain, not longer than the distribution period described in Paragraphs 2 or 3 above, whichever is applicable, of this Subsection (c);

(iii) once payments have begun over a period certain, the period certain will not be changed even

if the period certain is shorter than the maximum permitted;

(iv) payments will either be non-increasing or increase only as follows:

(I) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(II) to the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period dies or is no longer the participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;

(III) to provide cash refunds of employee contributions upon the participant's death; or

(IV) to pay increased benefits that result from a Plan amendment.

(B) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the participant's Required Beginning Date (or, if the participant dies before distributions begin, the date distributions are required to begin under Subparagraph (2)(A)(i) or (2)(A)(ii), whichever is applicable) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the participant's Required Beginning Date.

(C) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(5) For purposes of this Subsection (c), distributions are considered to begin on the participant's Required Beginning Date. If annuity payments irrevocably commence to the participant (or to the participant's Surviving Spouse) before the participant's Required Beginning Date (or, if to the participant's Surviving Spouse, before the date distributions are required to begin in accordance with Subparagraph (2)(A) above), the date distributions are considered to begin is the date distributions actually commence.

(6) Definitions.

(A) Designated beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(B) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's Required Beginning Date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Paragraph (2) of this Subsection (c).

(C) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

(d) (1) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid

directly to an eligible retirement plan specified by the distributee in a direct rollover.

(2) Definitions

The following definitions apply to this Section:

(A) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

(ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code;

(iii) the portion of any distribution that is a hardship distribution described in Section 401(k)(2)(B)(i)(IV) of the Code; and

(iv) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), provided that a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax Employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross

income and the portion of such distribution which is not so includible.

(3) Eligible retirement plan: An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, a qualified trust described in Section 401 (a) of the Code, an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, or, with respect to distributions on or after January 1, 2008, a Roth IRA (subject to the limitations of Code Section 408A(c)(3)) that accepts the distributee's eligible rollover distribution.

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

(5) Direct rollover: A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(e) Notwithstanding any other provision of this Plan, the maximum amount of any mandatory distribution, as defined in Section 401(a)(31) of the Code, payable under the Plan shall be \$1000.

(f) Compensation Limitations Under 401(a)(17):

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, the annual compensation of each participant taken into account under the Plan shall not exceed the EGTRRA annual compensation limit for limitation years beginning after December 31, 2001. The EGTRRA annual compensation

limit is \$200,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the EGTRRA annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

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

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

Section 3. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, all charter sections or parts of sections, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 4. If any word, phrase, clause, subsection or section of this ordinance be for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 5. That codification of this Ordinance in the City Code of Ordinances is hereby authorized and directed.

Section 6. That this Ordinance shall become effective immediately upon its adoption.

Section 7. That this Ordinance shall be posted at City Hall as required by law.

The within and foregoing Ordinance was introduced and read on first reading before the City Commission of the City of Holly Hill, Florida, at its regular meeting held in Commission Chambers at City Hall on the 22nd day of February, 2011.

It was moved by Commissioner Glass and seconded by Commissioner Moore that said Ordinance be approved on first reading. A roll call vote of the Commission held on said motion for approval of the Ordinance resulted as follows:

ROLL CALL VOTE AS FOLLOWS: (Ordinance 2892):

Mayor Roy Johnson	<u>Yes</u>
Commissioner John Penny	<u>Yes</u>
Commissioner Rick Glass	<u>Yes</u>
Commissioner Donnie Moore	<u>Yes</u>
Commissioner Liz Towsley Patton	<u>Yes</u>

ADOPTED THIS 22nd DAY OF February, 2011.

The within and foregoing Ordinance was introduced and read on the second reading before the City Commission of the City of Holly Hill, Florida, at its regular meeting held in Commission Chambers at City Hall on the 8th day of March, 2011.

It was moved by Commissioner Moore and seconded by Commissioner Glass that said Ordinance be adopted. A roll call vote of the Commission held on said motion to adopt the Ordinance resulted as follows:

ROLL CALL VOTE AS FOLLOWS: (Ordinance 2892):

Mayor Roy Johnson Yes

Commissioner John Penny Yes

Commissioner Rick Glass Yes

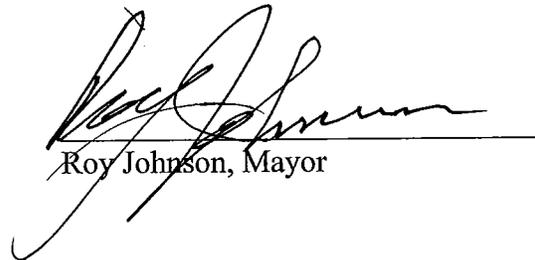
Commissioner Donnie Moore Yes

Commissioner Liz Towsley Patton Yes

ADOPTED THIS 8th DAY OF MARCH, 2011.

WHEREUPON, the Mayor of the City of Holly Hill, Florida, has hereunto set his official signature, duly attested by the City Clerk, and has caused the official seal of said City to be affixed, all at City Hall in the City of Holly Hill, this 8th day of March, 2011 for the purpose of authenticity as is required by law.

CITY OF HOLLY HILL, FLORIDA



Roy Johnson, Mayor

Mark Barker, Interim City Manager

Attest:

Joshua Fruecht, City Clerk