

ORDINANCE NO.: 4058

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING ARTICLE I OF CHAPTER 14, ENTITLED "PENSIONS AND RETIREMENT PROGRAMS," OF THE CODE OF ORDINANCES OF THE CITY OF RIVIERA BEACH BY PROVIDING FOR THE CITY'S PARTICIPATION IN THE FLORIDA RETIREMENT SYSTEM; PROVIDING FOR SEVERABILITY AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City of Riviera Beach offers retirement benefits for General Employees, Firefighters and Police Officers using three separately administered pension plans; and

**WHEREAS**, the State of Florida permits cities to enroll in the Florida Retirement System (hereinafter also referred to "FRS"); and

**WHEREAS**, the City of Riviera Beach has determined it is in the best interests of the City to have its General Employees, Firefighters, Police Officers, and Elected Officials participate in the FRS unless otherwise excluded by law, by specifically having all new General Employees, Firefighters, and Police Officers participate, having all elected officials participate, and allowing existing employees, who elect to transfer to FRS, participate; and

**WHEREAS**, General Employees, Firefighters, and Police Officers are hereinafter also referred to collectively as "employees."

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA that:**

**SECTION 1.** Chapter 14, entitled "Pensions and Retirement Programs," Article I, entitled "In General" of the Code of Ordinances of the City of Riviera Beach is hereby amended as follows (deleting is ~~stricken through~~ and adding is underlined):

**ARTICLE I. GENERAL**

**Sec. 14-1. Participation in the Florida Retirement System.**

All employees of the City of Riviera Beach hired on or after May 1, 2015, and elected officials, as of March 1, 2015, shall participate in the Florida Retirement System as authorized by Chapter 121, Florida Statutes, except as excluded by law or by this chapter. Employees hired before May 1, 2015, shall on May 1, 2015, become compulsory participants in the Florida Retirement System, except for such employees who, pursuant to section 14-2, elect prior to May 1, 2015, not to participate in the

Florida Retirement System. The City's elected officials' positions shall be included in the Elected Officers' Class of the Florida Retirement System, effective as of March 1, 2015.

**Sec. 14-2. Election of the Florida Retirement System.**

(a) Prior to April 1, 2015, a referendum election of coverage in which all employees in the City having the right to participate in the Florida Retirement System shall be held on a date fixed by the city manager or the manager's designee.

(b) Only those employees who elected coverage under the Florida Retirement System by an affirmative vote in this referendum election shall be eligible for such participation as well as future employees of the City who shall become automatically compulsory members of Florida Retirement System without the right of election.

(c) Once made, the choice by the employee to participate in the Florida Retirement System shall be irrevocable.

**Sec. 14-3. Agreement execution.**

(a) The mayor, or in the mayor's absence, the chairperson of the city council, is hereby authorized and directed to execute all necessary agreements and amendments thereto with the administrator of the Florida Retirement System for the purpose of extending the benefits provided by it to the city's employees and elected officials.

(b) As provided herein, such agreements shall provide for the methods of administration of this retirement plan by the city that are found by the administrator of the Florida Retirement System to be necessary and proper and shall be effective for any employment covered by such agreements for employee services performed on and after the first day of March, 2015, for elected officials, and on and after the first day of May, 2015 for General Employees, Firefighters, and Police Officers.

**Sec. 14-4. Employee and elected official withholding.**

There shall be withheld from the periodic compensation of each employee and elected official sufficient funds to remit to the Florida Retirement System for Social Security contributions and retirement contributions as required by applicable state laws or regulations which shall be paid over by the city to the Florida Retirement System administrator designated by state law or regulations to receive such amounts.

**Sec. 14-5. Appropriation and pay from city funds.**

There shall be appropriated and paid to the lawfully designated administrator of the

Florida Retirement System in the manner provided by applicable state laws and regulations such amounts from available city general or special funds derived from ad valorem tax and non-ad valorem tax sources, and at such times as may be required to pay promptly the contributions and assessments of the city as a Florida Retirement System employer at the times and in the manner provided by state law and regulation.

**Sec. 14-6. Records.**

The city shall keep such records and make such reports as may be required by applicable state laws or regulations, and shall adhere to all laws and regulations relating to the Florida Retirement System.

**Sec. 14-7. Benefits and overage conditions.**

The city hereby adopts the terms, conditions, requirements, reservations, benefits, privileges, and other conditions thereunto appertaining to the Florida Retirement System for and on behalf of its elected officials and the employees of the city's departments and agencies to be covered under the agreements with the Florida Retirement System.

**Sec. 14-8. Custodian of funds.**

The city's director of finance and administrative services is hereby designated the custodian of all Florida Retirement System sums withheld from the compensation of employees and elected officials as authorized herein and of the appropriate funds from the employer's contributions. Also, the director of finance and administrative services is hereby designated the withholding and reporting agent and charged with the duty of maintaining records for the purposes of this chapter.

**SECTION 2.** If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings on invalidity shall not affect this remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part herein, and the remainder of the Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

**SECTION 3.** Specific authority is hereby granted to codify this ordinance.

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**PAGE 4 of 7**

**SECTION 4.** That this ordinance shall be in full force and effect immediately upon its final passage and adoption.

**PASSED AND APPROVED** on the first reading this 3rd day of December, 2014.

**PASSED AND ADOPTED** on the second and final reading, this 4th day of FEBRUARY, 2015.

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ORDINANCE NO.: 4058  
PAGE 5 of 7

APPROVED:

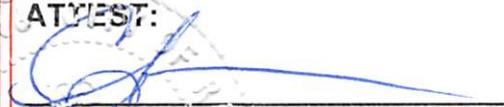


THOMAS A. MASTERS  
MAYOR

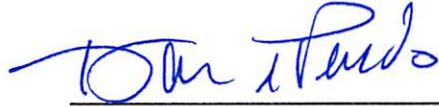
ABSENT

JUDY L. DAVIS  
CHAIRPERSON

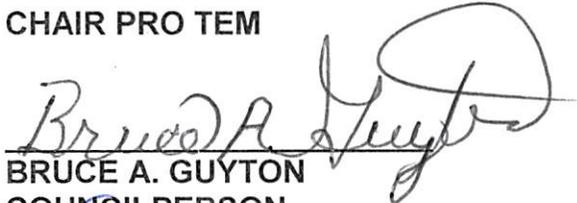
ATTEST:



CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
INTERIM CITY CLERK



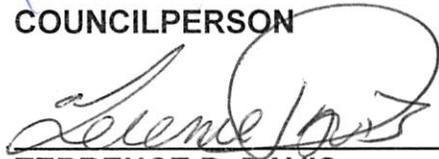
DAWN S. PARDO  
CHAIR PRO TEM



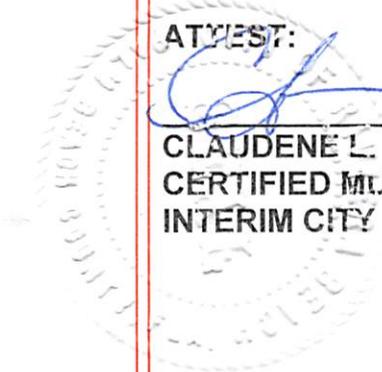
BRUCE A. GUYTON  
COUNCILPERSON



CEDRICK A. THOMAS  
COUNCILPERSON



TERRENCE D. DAVIS  
COUNCILPERSON



ORDINANCE NO.: 4058  
PAGE 6 of 7

1<sup>ST</sup> READING

MOTIONED BY: D. PARDO

SECONDED BY: B. GUYTON

J. DAVIS AYE

D. PARDO AYE

B. GUYTON AYE

C. THOMAS AYE

T. DAVIS AYE

2<sup>ND</sup> & FINAL READING

MOTIONED BY: B. GUYTON

SECONDED BY: C. THOMAS

J. DAVIS ABSENT

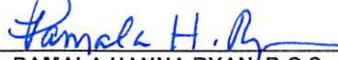
D. PARDO AYE

B. GUYTON AYE

C. THOMAS AYE

T. DAVIS NAY

REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA HANNA RYAN B.C.S., CITY ATTORNEY

DATE: 2/2/15

ORDINANCE NO.: 4058  
PAGE 7 of 7

**CERTIFICATION OF PUBLICATION**

I hereby certify that notice of the proposed enactment of this ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

2/4/15  
DATE

  
\_\_\_\_\_  
Claudene L. Anthony, Certified Municipal Clerk  
Interim City Clerk

ORDINANCE NO. 4059

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 28 OF THE CITY'S CODE OF ORDINANCES ENTITLED "SIGNS", SECTION 28-1 "DEFINITIONS" AND SECTION 28-5 "PROHIBITED SIGNS" AND ALSO BY CREATING A NEW SECTION ENTITLED "DIGITAL SIGNS", IN ORDER TO CREATE STANDARDS FOR INSTALLATION AND USE OF PROGRAMMABLE DIGITAL SIGNAGE ON PROPERTY WITH COMMUNITY FACILITY (CF) ZONING; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City of Riviera Beach's Comprehensive Plan and Code of Ordinances controls and directs development and uses throughout the City; and

**WHEREAS**, the Sign Code, which is part of the City's Code of Ordinances, needs updating to incorporate, regulate and control the location of digital signs within the City; and

**WHEREAS**, the Planning and Zoning Board held a public meeting on December 11, 2014, to discuss the proposed language to amend the City's Sign Code relating to the implementation of digital signs; and

**WHEREAS**, the Planning and Zoning Board recommended approval of these regulations for digital signs; and

**WHEREAS**, the City Council has determined that the enactment of this Ordinance is appropriate and in the public interest of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1.** That Chapter 28 "Signs", Article I, "In General", section 28-1 "Definitions" is amended, by adding the following definition:

*Digital sign* means a type of animated sign capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means and its components may include, but are not limited to, light-emitting diodes, liquid crystal display screens, plasma screens, and their functional equivalents. Sign display elements may be internally illuminated or may be

illuminated by reflected light. A digital sign may be part of another permanent sign that is not a digital sign.

**SECTION 2.** That Chapter 28 "Signs", Article I, "In General", section 28-5 "Prohibited Signs" is amended as follows:

**Sec. 28-5. – Prohibited signs.**

It shall be unlawful for any person to erect or use within the city:

- (1) Any swinging sign.
- (2) Any snipe sign.
- (3) Any banner.
- (4) Any sign erected, located or maintained so as to prevent free ingress to or egress from any door, window or fire escape.
- (5) Any sign attached to a standpipe or fire escape.
- (6) Any sign or other advertising structure which by reason of its position, shape or color interferes, obstructs or may be confused with any authorized traffic control device or emergency vehicle signal.
- (7) Any sign or advertising structure, portable or fixed, other than directional signs erected by authorized city, county or state officials placed or erected on or over any part of the public right-of-way, sidewalk, street or curb or building setback line, except as provided for projection clearance for wall signs in section 28-118
- (8) Any other type or kind of sign which does not comply with the terms, conditions and provisions contained in this section and ordinances amendatory hereto and supplemental hereto.
- (9) Any unauthorized sign on city property.
- (10) Any sidewalk, A-frame or sandwich sign.
- (11) Any animated sign, except time and temperature signs with a complete time and/or temperature sequence span of four to eight seconds, except for digital signs meeting the requirements provided within Chapter 28.
- (12) Any add-on signs unless they shall have been issued a permit in conformance with the sign code.
- (13) Any sign in or on the waters of Lake Worth.

**SECTION 3.** That Chapter 28 "Signs", Article III, "Construction and Installation Standards" is amended with as follows:

**Sec. 28-107. - Signs in residential, commercial, public and industrial districts.**

- (a) In districts zoned RS-5, RS-6, RS-8, RD-15 and RM-15, no signs other than home nameplates shall be allowed; except that churches, temples, schools

and hospitals shall be permitted signs totaling not more than 32 square feet in area per street front, which shall not be placed or maintained nearer the street than five feet from the building setback line.

- (b) In RMH-15, RM-20, commercial, industrial, OP, RO, CF and U districts, no sign shall be placed or maintained nearer the street than five feet from the building setback line. All signs in the districts shall be not more than 32 square feet in area per street front, except for monument type signs meeting the criteria provided within Section 31-551 entitled "Principal arterial commercial design standards overlay" and digital signs meeting the requirements provided within Chapter 28.

**Section 28-125. Programmable Digital Signs**

- (a) A digital sign may be permitted subject to the following requirements:
- (1) Permitted locations.
- a. Digital signs shall be located only within the Community Facility (CF) Zoning District. The digital sign and its messages must be associated with a public use.
- b. Only one digital sign is permitted per development site, measuring no more than 100 square feet in area per street front.
- c. No digital sign shall be located within 250 feet of a residentially zoned parcel or residential structure.
- d. No digital sign shall be placed within a visibility triangle which shall be measured 30 feet from intersecting street right-of-way lines.
- e. Digital signs shall be located in a manner that will not adversely interfere with the visibility or functioning of traffic signals and traffic signage, by taking into consideration the physical elements of the digital sign and the surrounding area, such as physical obstructions, line of sight issues, sign brightness and visual obstruction or impairment issues.
- (2) Operational limitations.
- a. Digital signs shall contain static, motionless messages only.
- b. Displaying any form of motion, or the optical illusion of movement, video or varying light intensity is prohibited.
- c. Each message on a digital sign must be individually complete and shall not continue on a subsequently displayed message.
- d. Audio mechanisms, producing sounds, messages or music are prohibited.
- (3) Display time.
- a. Each message on a digital sign must be displayed for a minimum duration of six (6) seconds.

- (4) Brightness. Digital billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a pre-set distance. This requirement is based on levels established by the Illuminating Engineering Society of North America (IESNA) for Light Emitting Diode (LED) signage as amended from time to time. Certification confirming that brightness levels are below the 0.3 foot candles threshold shall be provided to the city every two years.
  - a. Each digital sign must have a light sensing device that will adjust the display brightness in real-time as ambient light conditions change so that at no time a sign shall exceed a brightness level of three tenths (0.3) foot candles above ambient light.
- (5) Photometric Plan. Each application for a digital sign shall be accompanied by a photometric plan. The photometric plan shall demonstrate the digital sign's maximum light intensity, in foot candles above ambient light, at locations identified by the applicant or city staff that may be impacted within 300 feet of the proposed digital sign location. This plan may be reviewed by a third party lighting specialist selected by the city. Costs associated with third party review shall be paid by the applicant to the city.
- (6) Malfunction. Digital signage shall have a default mechanism installed to either turn the display off or only show black on the display in the event of a malfunction.
- (7) Display of public emergency and public service information. Owners of digital signs shall coordinate with local public safety authorities to display emergency information and public service information important to the traveling public including, but not limited to Amber Alerts, Silver Alerts, Blue Alerts, traffic alerts, public safety messages and emergency management information. Digital sign operators shall provide for regional emergency announcements and alerts to be displayed on the digital sign without charge as requested by the City Manager or designee.
- (8) Personalized messages. The display of personalized "smart" messages, that are triggered or initiated by license plate recognition, facial recognition or by reading or analyzing electronic signals from traffic or an individual vehicle, such as but not limited to a radio station, is prohibited unless used in a public emergency or public service capacity.
- (9) Message sequencing. The practice of using multiple sequential messages to present a single advertisement on an individual or combination of digital signs shall be prohibited.

- (10) Fees and penalties. A fee of \$500.00 per day shall be assessed for a violation of this ordinance.

**SECTION 4.** If any word, phrase, clause, subsection or section of this Ordinance is for any reason held invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

**SECTION 5.** It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Riviera Beach, and the sections of this Ordinance may be renumbered to accomplish such intentions.

**SECTION 6.** That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**SECTION 7.** That this Ordinance shall take effect immediately upon its final approval and adoption.

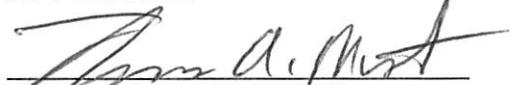
**SECTION 8.** Specific authority is hereby granted to codify this Ordinance.

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PASSED AND APPROVED on the first reading this 21st day of JANUARY 2015.

PASSED AND ADOPTED on second and final reading this 4th day of FEBRUARY 2015.

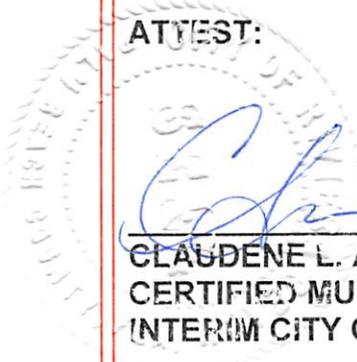
APPROVED:

  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

ABSENT  
\_\_\_\_\_  
JUDY L. DAVIS  
CHAIRPERSON

  
\_\_\_\_\_  
DAWN S. PARDO  
CHAIR PRO TEM

ATTEST:

  
  
\_\_\_\_\_  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
INTERIM CITY CLERK

  
\_\_\_\_\_  
BRUCE A. GUYTON  
COUNCILPERSON

  
\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

  
\_\_\_\_\_  
TERENCE D. DAVIS  
COUNCILPERSON

1<sup>ST</sup> READING

MOTIONED BY: B. GUYTON

SECONDED BY: T. DAVIS

J. DAVIS AYE

D. PARDO AYE

B. GUYTON AYE

C. THOMAS AYE

T. DAVIS AYE

2<sup>ND</sup> & FINAL READING

MOTIONED BY: B. GUYTON

SECONDED BY: C. THOMAS

J. DAVIS ABSENT

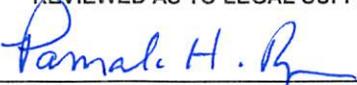
D. PARDO AYE

B. GUYTON AYE

C. THOMAS AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA HANNA RYAN, B.C.S. CITY ATTORNEY

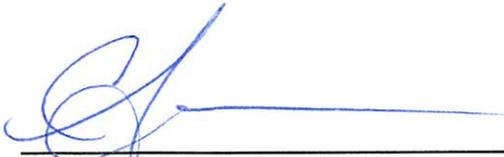
DATE: 2/2/15

ORDINANCE NO. 4059

**CERTIFICATION OF PUBLICATION**

I hereby certify that notice of the proposed enactment of this ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

2/4/15  
DATE

  
\_\_\_\_\_  
Claudene L. Anthony, Certified Municipal Clerk  
Interim City Clerk

**ORDINANCE NO. 4060**

**AN ORDINANCE OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 14, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF RIVIERA BEACH RELATING TO THE RETIREMENT SYSTEM FOR GENERAL EMPLOYEES; PROVIDING FOR INTERNAL REVENUE CODE COMPLIANCE; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**WHEREAS**, on January 31, 2013, the Internal Revenue Service issued a Favorable Determination Letter, finding that the Plan complies with all qualification requirements; and

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

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

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

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, as follows:**

**SECTION 1.** That the above recitations are true and correct.

**SECTION 2.** That section 14-21 entitled "Definitions" of Article II, entitled "General Employees" of Chapter 14, entitled "Pensions and Retirement Programs" of the Code of Ordinances of the City of Riviera Beach is hereby amended as follows (deleting is ~~stricken through~~ and adding is underlined):

**Sec. 14-21. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\*\*\*

*Earnings* means basic wages, excluding nonregular overtime, bonuses and any other nonregular payments. Basic wages includes salary, longevity and payments for earned, accrued and unused vacation, sick leave, and unreimbursed overtime, provided, no such payments made to an individual member shall be credited in excess of any limitations which may apply to the majority of members for credit for such payments. Basic wages shall not include severance pay, travel allowances or clothing allowances. Notwithstanding any other provision of this section, current employees, whose accrued and unused vacation and/or sick leave accruals are governed by a written employment contract with the city and who have given the city manager an irrevocable notice of voluntary retirement, said retirement to be effective on or before July 31, 2001, shall be permitted to incorporate accrued and unused vacation and/or sick leave as determined by resolution of the city council. ~~For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, Compensation shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in Subsection (a) of Section 14-34 hereof, 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.~~

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**SECTION 3.** That section 14-23(a), entitled "Retirement dates," of Article II, entitled "General Employees" of Chapter 14, entitled "Pensions and Retirement Programs" of the Code of Ordinances of the City of Riviera Beach is hereby amended by adding a new subparagraph (4) as follows:

**Sec. 14-23. - Retirement dates.**

(a) *Normal retirement date.*

\*\*\*

(4) Vesting of benefits upon Normal Retirement Date. Any provision of this plan to the contrary notwithstanding, a member's accrued benefit shall become 100% vested upon the attainment of the Normal Retirement Date.

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**SECTION 4.** That section 14-24(d)(2), entitled "Retirement benefits" of Article II, entitled "General Employees" of Chapter 14, entitled "Pensions and Retirement Programs" of the Code of Ordinances of the City of Riviera Beach is hereby amended as follows (deleting is ~~stricken through~~ and adding is underlined):

**Sec. 14-24. - Retirement benefits.**

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(d) *Preretirement death.*

\*\*\*

(2) *Nonservice-incurred.* If any member shall die prior to retirement from causes not attributable to active duty or services, as of the time of death, had met the eligibility requirements for early retirement; in such event, the member's accrued retirement benefit, determined in the same manner as though such member had lived and elected early retirement, shall be payable for a period of ten years certain to his designated beneficiary. In the case of a member who dies on or after January 1, 2007 while performing "Qualified Military Service" under Title 38, United States Code, Chapter 43, Uniformed Services Employment and Reemployment Rights Act ("USERRA") within the meaning of Section 414(u) of the Internal Revenue Code, any "additional benefits" (as defined by Section 401(a)(37) of the Internal Revenue Code) provided under the Plan that are contingent upon a member's termination of employment due to death shall be determined as though the member had resumed employment immediately prior to his death. With respect to any such "additional benefits," for vesting purposes only, credit shall be given for the period of the member's absence from covered employment during "Qualified Military Service".

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**SECTION 5.** That section 14-31, entitled "Termination of plan" of Article II, entitled "General Employees" of Chapter 14, entitled "Pensions and Retirement Programs" of the Code of Ordinances of the City of Riviera Beach is hereby amended by adding a new subsection (e) as follows:

**Sec. 14-31. – Termination of plan.**

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- (e) Vesting of benefits upon Termination of the Plan. Any provision of this plan to the contrary notwithstanding, a member's accrued benefit shall become 100% vested upon termination of the Plan.

**SECTION 6.** That section 14-34(a), entitled "Internal Revenue Code Compliance" of Article II, entitled "General Employees" of Chapter 14, entitled "Pensions and Retirement Programs" of the Code of Ordinances of the City of Riviera Beach is hereby **REPEALED** in its entirety and replaced with the following underscored new language.

**Sec. 14-34. - Internal Revenue Code compliance.**

- (a) Maximum amount of retirement income.

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

The Annual Pension as defined in Paragraph (2) below otherwise payable to a member at any time shall not exceed the Dollar Limitation for the member multiplied by a fraction whose value cannot exceed one, the numerator of which is the member's number of years (or part thereof, but not less than one year) of service with the City and the denominator of which is 10. For this purpose, no more than one year of service may be credited for any Plan

Year. If the benefit the member would otherwise accrue in a limitation year would produce an Annual Pension in excess of the Dollar Limitation, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the Dollar Limitation.

- (2) “Annual Pension” means the sum of all annual benefits, payable in the form of a straight life annuity. Benefits payable in any other form shall be adjusted to the larger of:
- a. For limitation years beginning on or after July 1, 2007
    - 1. the straight life annuity (if any) payable to the member under the Plan commencing at the same Annuity Starting Date as the member’s form of benefit, or
    - 2. the actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).
  - b. For limitation years beginning before July 1, 2007
    - 1. the actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using the interest rate and mortality basis specified by the Board of Trustees for determining Actuarial Equivalence under the Plan for the particular form of payment, or
    - 2. the actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).

No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits

(such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to §417(e)(3) of the Internal Revenue Code and would otherwise satisfy the limitations of this Subsection (a), and the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Subsection (a) applicable at the annuity starting date, as increased in subsequent years pursuant to § 415(d) of the Code. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

(3) “Dollar Limitation” means, effective for the first limitation year beginning after January 1, 2001, \$160,000, automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a member’s benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The Dollar Limitation shall be further adjusted based on the age of the member when the benefit begins as follows:

a. For Annuity Starting Dates in limitation years beginning on or after July 1, 2007

1. If the Annuity Starting Date for the member’s benefit is after age 65

i. If the Plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement

The Dollar Limitation at the member’s Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity

commencing at the member's Annuity Starting Date that is the actuarial equivalent of the Dollar Limitation with actuarial equivalence computed using a 5.00% interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that Annuity Starting Date (and expressing the member's age based on completed calendar months as of the Annuity Starting Date).

- ii. If the Plan does have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement

The Dollar Limitation at the member's Annuity Starting Date is the lesser of (aa) the Dollar Limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the member's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 65, both determined without applying the limitations of this Subsection (a), and (bb) the limitation determined under Subclause (3)a.1.i. of this Subsection (a). For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the member's Annuity Starting Date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted

immediately commencing straight life annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical member who is age 65 and has the same Accrued Benefit as the member.

2. Except with respect to a member who is a "Qualified Member" as defined in Section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code), if the Annuity Starting Date for the member's benefit is before age 62

i. If the Plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement

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

ii. If the Plan does have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement

The Dollar Limitation at the member's Annuity Starting Date is the lesser of (aa) the Dollar Limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the member's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 62, both determined without applying the limitations of this Subsection (a), and (bb) the limitation determined under Subclause (3)a.2.i. of this Subsection (a).

(B) For Annuity Starting Dates in limitation years beginning before July 1, 2007

<u>Age as of Annuity Starting Date:</u>	<u>Adjustment of Dollar Limitation:</u>
<u>Over 65</u>	<p><u>The smaller of: (a) the actuarial equivalent of the limitation for age 65, computed using the interest rate and mortality basis specified by the Board of Trustees for determining actuarial equivalence under the Plan, or</u></p> <p><u>(b) the actuarial equivalent of the limitation for age 65, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</u></p> <p><u>Any increase in the Dollar Limitation determined in accordance with this paragraph shall not reflect a mortality decrement between age 65 and the age at which benefits commence if benefits are not forfeited upon the death of the Member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.</u></p>
<u>62 to 65</u>	<u>No adjustment.</u>
<u>Less than 62</u>	<p><u>The smaller of: (a) the actuarial equivalent of the limitation for age 62, computed using the interest rate and mortality basis specified by the Board of Trustees for determining actuarial equivalence under the Plan,</u></p>

	<p>(b) <u>or</u> <u>the actuarial equivalent of the limitation for age 62, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</u> <u>This adjustment shall not apply to any "Qualified Member" as defined in Section 415(b)(2)(H), nor to survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code.</u></p>
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- (4) With respect to Subclause (3)a.1.i., Subclause (3)a.2.i. and Subparagraph (3)b. above, no adjustment shall be made to the Dollar Limitation to reflect the probability of a member's death between the Annuity Starting Date and age 62, or between age 65 and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the member prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the Plan does not charge members for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the member's death.
- (5) The term "limitation year" is the 12 month period which is used for application of the limitations under Code Section 415 and shall be the calendar year.
- (6) The limitations set forth in this Subsection (a) shall not apply if the Annual Pension does not exceed \$10,000 provided the member has never participated in a Defined Contribution Plan maintained by the City.
- (7) Cost-of-living adjustments in the Dollar Limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury under Section Subsection 415(d) of the Code.
- (8) In the case of a member who has fewer than 10 years of participation in the Plan, the Dollar Limitation set forth in Paragraph (3) of this Subsection (a) shall be multiplied by a fraction - (i) the numerator of which is the number of

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years (or part thereof) of participation in the Plan, and (ii) the denominator of which is 10.

- (9) Any portion of a member's benefit that is attributable to mandatory member contributions (unless picked-up by the City) or rollover contributions shall be taken into account in the manner prescribed in the regulations under Section 415 of the Code.
- (10) Should any member participate in more than one defined benefit plan maintained by the City, in any case in which the member's benefits under all such defined benefit plans (determined as of the same age) would exceed the Dollar Limitation applicable at that age, the accrual of the member's benefit under this Plan shall be reduced so that the member's combined benefits will equal the Dollar Limitation.
- (11) For a member who has or will have distributions commencing at more than one annuity starting date, the Annual Benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to § 1.401(a)-20, Q&A 10(d), and with regard to § 1.415(b)1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.
- (12) The determination of the Annual Pension under Paragraph 2 of this Subsection (a) shall take into account (in the manner prescribed by the regulations under Section 415 of the Code) social security supplements described in § 411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant § 1.411(d)-4, Q&A-3(c) of the Income Tax Regulations.
- (13) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed

under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this Subsection (a) and the provisions of Section 415 of the Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code. The value of any benefits forfeited as a result of the application of this Subsection (a) shall be used to decrease future employer contributions.

- (14) For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, Compensation shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the member and which is not includible in the gross income of the member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in this Subsection (a), compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the member by reason of Section 132(f)(4) of the Internal Revenue Code. For limitation years on or after July 1, 2007, compensation shall include payments that otherwise qualify as compensation and that are made by the later of: (a) 2 and ½ (two and one-half) months after severance from employment with the employer, and (b) the end of the limitation year that includes the date of severance.

**SECTION 7.** That section 14-34(c), entitled "Internal Revenue Code Compliance," of Article II, entitled "General Employees" of Chapter 14, entitled "Pensions and Retirement Programs" of the Code of Ordinances of the City of Riviera Beach is hereby amended as follows (deleting is ~~stricken through~~ and adding is underlined):

**Sec. 14-34. – Internal Revenue Code compliance.**

\*\*\*

- (c) *Required Minimum Distributions.*

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

~~(A)~~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)~~1. 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)~~2. 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)~~3. 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)~~b. The participant's entire interest shall be distributed as follows:

~~(i)~~1. *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)~~ (2)a. above, over the life of the designated beneficiary or over a period certain not exceeding:

~~(H)~~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

~~(H)~~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)~~2. *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.

~~(G)~~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)~~ (2)a. and ~~2(B)~~ (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)~~a. Joint life annuities where the beneficiary is not the participant's spouse. If the participant's interest is being

distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary, annuity payments to be made on or after the participant's required beginning date to the designated beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of section ~~1.401(a)(9)-6~~ 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

~~(B)~~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)~~ (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)a., ~~(4)(B)~~ (4)b. and ~~(4)(C)~~ (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)~~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)~~1. The annuity distributions will be paid in periodic payments made at intervals not longer than one year;

~~(ii)~~2. 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)~~3. 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)~~4. Payments will either be non-increasing or increase only as follows:

~~(i)~~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;

~~(H)~~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;

~~(H)~~iii. To provide cash refunds of employee contributions upon the participant's death; or

~~(V)~~iv. To pay increased benefits that result from a plan amendment.

~~(B)~~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 Clause (2)(A)(i) (2)a.1. or (2)(A)(ii) (2)a.2., 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)~~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)~~ (2)a. above), the date distributions are considered to begin is the date distributions actually commence.

(6) Definitions.

~~(A)~~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, 1.401(a)(9)-4~~ of the Treasury regulations.

~~(B)~~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)~~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.

**SECTION 8.** That section 14-34(d), entitled "Internal Revenue Code Compliance," of Article II, entitled "General Employees" of Chapter 14, entitled "Pensions and Retirement Programs" of the Code of Ordinances of the City of Riviera Beach is hereby amended as follows (deleting is ~~stricken through~~ and adding is underlined):

**Sec. 14-34. – Internal Revenue Code compliance.**

\*\*\*

(d) Eligible rollover distributions:

~~(1) Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this subsection, 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.~~

~~(2) Definitions:~~

~~(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: any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period often (10) years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).~~

~~(B) Eligible retirement plan: An eligible retirement plan is 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 Code, an annuity plan described in section 403(a) of the Code or a qualified trust described in section 401(a) of the 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. An eligible retirement plan shall also mean, with respect to distributions made after December 31, 2001, an annuity contract described in Section 403(b)~~

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~~of the Code and 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. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relation order, as defined in Section 414(p) of the Code.~~

~~(C) Distributee: A distributee includes a participant or former participant.~~

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

(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:

1. 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;

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

3. the portion of any distribution which is made upon hardship of the member; and

4. 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.

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**SECTION 9.** If any word, phrase, clause, subsection or sections of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

**SECTION 10.** 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 11.** Specific authority is hereby granted to codify this ordinance.

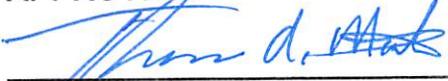
**SECTION 12.** That this ordinance shall be in full force and effect immediately upon its final passage and adoption.

PASSED AND APPROVED on first reading this 1<sup>st</sup> day of  
APRIL, 2015.

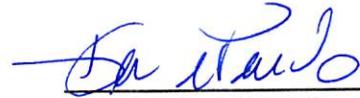
**ORDINANCE NO. 4060**  
**Page 23**

**PASSED AND ADOPTED on second and final reading this 15<sup>th</sup> day of  
APRIL, 2015.**

APPROVED:

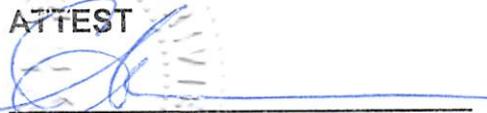


THOMAS A MASTERS  
MAYOR



DAWN S. PARDO  
CHAIRPERSON

ATTEST



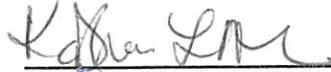
CLAUDENE L. ATHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK



TERENCE D. DAVIS  
CHAIR PRO-TEM

ABSENT

BRUCE A. GUYTON  
COUNCIL MEMBER



KASHAMBA L. MILLER  
COUNCIL MEMBER



CEDRICK A. THOMAS  
COUNCIL MEMBER

1<sup>st</sup> READING

MOTIONED BY: B. GUYTON

SECONDED BY: C. THOMAS

B. GUYTON	<u>AYE</u>
K. MILLER	<u>AYE</u>
C. THOMAS	<u>AYE</u>
D. PARDO	<u>AYE</u>
T. DAVIS	<u>AYE</u>

2<sup>ND</sup> FINAL READING

MOTIONED BY: C. THOMAS

SECONDED BY: T. DAVIS

D. PARDO	<u>AYE</u>
T. DAVIS	<u>AYE</u>
B. GUYTON	<u>ABSENT</u>
K. MILLER	<u>AYE</u>
C. THOMAS	<u>AYE</u>

REVIEWED AS TO LEGAL SUFFICIENCY

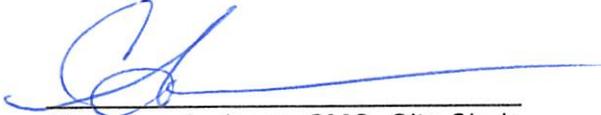
Pamala H. Ryan  
PAMALA H. RYAN, B.C.S. CITY ATTORNEY

DATE: 4/14/15

**CERTIFICATION OF PUBLICATION**

I hereby certify that notice of the proposed enactment of this ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

4-15-15  
Date

  
\_\_\_\_\_  
Claudene Anthony, CMC, City Clerk

ORDINANCE NO. 4061

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 31 OF THE CITY'S CODE OF ORDINANCES, ENTITLED "ZONING", ARTICLE V "DISTRICT REGULATIONS", DIVISION 9 "RM-20 HIGH DENSITY MULTIFAMILY DWELLING DISTRICT", AND DIVISION 10 "RMH-20 HIGH DENSITY MULTIFAMILY/HOTEL DISTRICT", AND DIVISION 25 "RH RESORT HOTEL DISTRICT", BY AMENDING PROPERTY DEVELOPMENT STANDARDS ASSOCIATED WITH OCEAN SETBACKS, COASTAL CONSTRUCTION AND DEVELOPMENT DENSITY, IN ORDER TO PROMOTE INCREASINGLY SUSTAINABLE DEVELOPMENT DESIGNS ON SINGER ISLAND; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City of Riviera Beach is a Florida Municipal Corporation vested with home rule-authority pursuant to Article VIII, §2 of the Florida Constitution and the Municipal Home Rule Powers Act, F.S., Chapter 166; and

**WHEREAS**, the City has historically experienced serious erosion and sand loss on the eastern coastline of Singer Island due to natural tidal processes and storm events; and

**WHEREAS**, thousands of dollars are annually allocated by the City of Riviera Beach and Palm Beach County towards sand renourishment projects in order to combat coastal erosion and to provide useable beach area; and

**WHEREAS**, it is likely that costs associated with future beach renourishment projects will continue to increase over time; and

**WHEREAS**, on July 16, 2014, a six-month moratorium was adopted by the City Council by Ordinance No. 4047 for the filing, receiving and/or processing of any application for property development approval for all parcels located on the east side of Singer Island adjacent to the Atlantic Ocean, excluding the previously received development proposal at 3100 North Ocean Drive, to allow City staff to evaluate and propose amendments to coastal property development standards; and

**WHEREAS**, City staff prepared amendments to the RM-20 High Density Multifamily Dwelling District, the RMH-20 High Density Multifamily/Hotel District and the RH Resort Hotel zoning districts; and

**WHEREAS**, the Palm Beach County Department of Environmental Resources Management supports the City's initiative to promote increasingly sustainable development designs by utilizing the 1997 Coastal Construction Control Line for an easternmost property development line for coastal construction; and

**WHEREAS**, during two heavily attended public meetings, the Planning and Zoning Board reviewed proposed amendments to the City's Codes of Ordinances provided by City staff on November 13, 2014 and on December 11, 2014; and

**WHEREAS**, on December 11, 2014, with a 5 to 1 vote, the Planning and Zoning Board recommended that City Council approve the Code amendments provided by City staff and included that there should be "no exceptions to the new ordinance"; and

**WHEREAS**, the City Council has determined that the enactment of this Ordinance is necessary and proper, as it promotes the health, safety and welfare of the general public.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA THAT:**

**SECTION 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**SECTION 2.** That Chapter 31 of the Code of Ordinances, "Zoning", Article V, "District Regulations", Division 9, RH-20 High Density Multifamily Dwelling District, is hereby amended as follows with additions underlined and deletions in strikethrough format ( addition / ~~deletion~~ ) as provided below:

**DIVISION 9. - RM-20 HIGH DENSITY MULTIFAMILY DWELLING DISTRICT**

**Sec. 31-241. - Purpose.**

The RM-20 high density multifamily dwelling district is intended to provide for development of multifamily dwellings and allows a high density of population with a proportional increase in amenities as the density rises. The district is basically residential in character and promotes a high quality environment through aesthetically oriented property development standards.

**Sec. 31-242. - Use regulations.**

(a) *Uses permitted.* The following uses are permitted in the RM-20 high density multifamily dwelling district:

- (1) Single-family dwellings.
- (2) Two-family dwellings.
- (3) Multiple family dwellings.
- (4) Townhouses.
- (5) Condominiums and cooperatives.
- (6) Private clubs as accessory to the residential uses.
- (7) Home occupations.
- (8) Any use commonly accessory to the above uses.

(b) *Special exception.* The following uses are permitted by special exception in the RM-20 high density multifamily dwelling district:

- (1) Residential planned unit developments (R-PUD).
- (2) Mobile home parks.

(c) *Uses prohibited.* No use, building or structures of a commercial nature, except that which provides for access to the public beach, shall be permitted east of the coastal construction control line.

**Sec. 31-243. - Property development standards.**

The property development standards in the RM-20 high density multifamily dwelling district are as follows:

(1) Minimum property size/maximum density:

a. Single-family dwellings: 8,000 square feet.

b. Multifamily dwellings: maximum permitted density shall be 4720 residential dwelling units per acre including the density bonus referred to in subsection (2) of this section. If the density bonus provision is not applied for, the maximum permitted density shall be 4317 units per acre.

(2) Bonus density: the bonus density shall be as established in chapter 26, entitled, Minority Employment and Affordable Housing Opportunity Plan.

(3) Density transfers: calculation of total site area to derive appropriate density transfer shall be computed as follows:

a. Total land area on Singer Island from the westernmost property line, east of the right-of-way of S.R. 703 (A1A) to the 1997 coastal construction setback line as established by the ~~s-State of Florida~~ department of natural resources (DNR) shall be computed at 100 percent of the total dry land area between those two points.

b. Total land area east of the 1997 coastal construction control line and to the vegetation-mean high water line or the easternmost property line, whichever is less, shall be calculated at 50 percent of the total land area between those two points.

~~c. Total land area east of the vegetation line and the mean high water line shall be computed at 25 percent of the total land area between those two points.~~

~~d-c.~~ Total area of wetlands, marshes, lagoons and known mangrove habitat shall not be computed for density transfer purposes.

~~e-d.~~ No area of submerged land on Lake Worth shall be computed for density transfer purposes.

(4) Maximum building height: 20 stories or 200 feet, excluding mechanical facilities, ornamental towers, antennas, and similar non-habitable building elements, which shall not exceed 20 feet in additional height. Such non-habitable building elements shall be screened and set back from the roof line in such a way as to avoid increasing the building's offsite ground-level shadow.

(5) Minimum building setbacks:

a. Front:

1. Main structures more than two stories in height, 100 feet.

2. Main structures two stories or less in height, 50 feet.

3. Accessory structures, e.g., parking garages, recreational decks, boiler and generator rooms, etc., 50 feet. ~~For properties on Lake Worth, the front yard shall be 30 feet.~~ This regulation does not apply to ornamental walls and gatehouses, which shall set back ~~five~~ 15 feet from the front property line.

b. Side:

1. Ten percent of the lot or 20 feet, whichever is greater, shall be maintained for all structures, excluding accessory structures two stories or less.

2. The accessory structures, e.g., parking garages, recreational decks, boiler and generator rooms, etc., which are two stories or less, shall be set back a minimum of 20 feet.

c. Rear: 15 percent of the lot, but not to exceed 100 feet.

d. Ocean: the ~~1979-1997 Coastal Construction Control Line, coastal construction setback line or 25 feet from the crest of the dune, whichever is greater.~~

e. High-rise setback: all buildings in excess of two stories shall provide two feet additional setback from each property line (with exception of the ocean side setback line for property on Singer Island) for each additional story of height.

f. For property located west of Lake Worth, minimum setbacks are as follows:

(1) Front: 20 feet.

(2) Side: seven feet; 12 ½ feet on side street.

(3) Rear: 15 percent of the length of the lot or 20 feet, whichever is less.

(4) High-rise setback: all buildings in excess of two stories shall provide two feet additional setback from each property line for each additional story of height.

(6) Floor area ratio: the ratio of all aggregate residential floor area to site area shall not exceed 1.3:1.

(7) Maximum lot coverage: ~~60-70~~ percent of the aggregate site area computed in subsection (3) of this section, density transfer, for all structures inclusive of accessory structures, i.e., parking structures, recreational decks, boiler and generator rooms, etc.

(8) Maximum north/south width: 110 feet for main structures. For the purposes of this regulation the accessory structures, e.g., parking garages, etc., two stories or less in height shall not be considered as part of the main building.

(9) Minimum recreation facilities and amenities:

a. Outdoor: one swimming pool, one tennis court or comparable recreational space and a designated area for sunning, picnics, etc., for residents of the project. Additionally, the following amenities are optional: putting greens, shuffleboard courts, wading pools, observation decks, exercise paths, etc.

b. Indoor: one multipurpose room for parties, games ~~or~~ and group assembly; ~~one male and one female~~ an exercise room ~~or~~ sauna. Additionally, the following amenities are optional: billiard room, library, ~~sauna~~ ~~tea room~~, etc.

c. Note: a pavilion may be provided, either inside or outside, as a substitute for one of the above minimum requirements.

**Sec. 31-244. - Parking.**

(a) The required off-street parking requirements for an RM-20 high density multifamily dwelling district should conform to section 31-566 et seq.

(b) Seventy-five percent of all required parking shall be placed under a permanent structure in a manner to effectively conceal such parking facility from the public right-of-way by landscaping and other means.

(c) ~~The b Bonuses density~~ shall be as established in chapter 26, entitled, Minority Employment and Affordable Housing Opportunity Plan.

(d) The maximum height for a parking garage shall be 60 feet.

(e) Parking garages shall be concealed from S.R. 703 (A1A) using buffer landscaping and utilizing facade treatments which blend the parking garage structure with the main high-rise structures.

**Sec. 31-245. - Landscaping.**

In addition to the requirements of section 31-596 et seq., the following landscaping criteria shall be provided:

(1) Twenty percent of all gross vehicular use areas shall be landscaped.

(2) For every 12 parking slips, a landscaped island five feet in width shall be provided.

(3) Where environmentally sensitive land, wetlands and other conservation or preservation areas abut or are located within the site, at minimum there shall be a ten-foot wide landscape buffer surrounding said areas planted with ecologically appropriate native vegetation. ~~or a five-foot landscape strip shielding an attendant six-foot high wall.~~

(4) All property lines shall be provided with a sufficient landscape strip at least five feet in width, with one tree for every 50 linear feet.

(5) Where the dune has been destroyed or depleted of landscaping in a manner that does not afford a natural protection from the elements, the dune shall be rebuilt and replenished with landscaping to provide the necessary protection and to reestablish the dune ecosystem. Re-establishing of the dune shall be designed to align with the natural dune and contours found to the north and south of the subject property.

(6) Fifty percent of all required trees shall ~~be of the shaded~~ consist of native shade tree species.

(7) The required shade trees shall be ~~ten-twelve~~ twelve feet in height with ~~five-six~~ six-foot clear trunk at planting and reach 25 feet in height and a 16-foot spread as a minimum.

(8) Preservation areas within a site shall be computed as a substitution for landscape areas.

(9) Modification of wetlands and buffers along access roads shall be permitted to allow standard driveway access to a main facility and subordinate uses.

**Sec. 31-246. - Site plan review.**

A site plan review shall be required for all permitted uses in the RM-20 high density multifamily dwelling district, except single-family and two-family dwellings.

**Secs. 31-247—31-260. - Reserved.**

**SECTION 3.** That Chapter 31 of the Code of Ordinances, "Zoning", Article V, "District Regulations", Division 10, RMH-20 High Density Multifamily/Hotel District, Section 31-263, "Property development standards" is hereby amended as follows with additions underlined and deletions in strikethrough format ( addition / deletion ) as provided below:

**DIVISION 10. - RMH-20 HIGH DENSITY MULTIFAMILY/HOTEL DISTRICT**

**Sec. 31-261. - Purpose.**

The RMH-20 high density multifamily/hotel district is similar to the RM-20 district except that hotels and motels and their customary accessory uses as found to be appropriate may be permitted. The district is basically residential in character and promotes a high quality environment through aesthetically oriented property development standards.

**Sec. 31-262. - Use regulations.**

(a) *Uses permitted.* The following uses are permitted in the RMH-20 high density multifamily/hotel district:

- (1) Single-family dwellings.
- (2) Two-family dwellings.
- (3) Multiple family dwellings.
- (4) Hotels, motels, apartment hotels.

(5) Restaurants and shops accessory to hotels or motels, ~~which uses shall not have signs or displays visible from the public street.~~

(6) Private clubs as accessory to the residential uses.

(7) Home occupations.

(8) Any use commonly accessory to the above uses.

(b) *Special exception.* The following uses are permitted by special exception in the RMH-20 high density multifamily/hotel district:

(1) Residential planned unit developments (R-PUD).

(2) Timesharing.

(c) *Uses prohibited.* No commercial use, building or structure, except that which provides for access to the public beach, shall be permitted east of the 1997 coastal construction setback line.

**Sec. 31-263. - Property development standards.**

The property development standards in the RMH-20 high density multifamily/hotel district are as follows:

(1) Minimum property size/maximum density:

a. Single-family dwelling: 8,000 square feet.

b. Multifamily dwelling: maximum permitted density shall be 20 residential dwelling units per acre, including the density bonus referred to in subsection (2) of this section. ~~The base density is 13 dwelling units per acre.~~ If the density bonus provision is not applied for, the maximum permitted density shall be ~~15~~17 units per acre. Base density for hotels and motels shall be 30 units per acre. With the density bonus, the maximum permitted density for hotel/motel shall be 40 units per acre.

(2) Bonus density: the bonus density shall be as established in chapter 26, entitled, Minority Employment and Affordable Housing Opportunity Plan.

(3) Density transfers: calculation of total site area to derive appropriate density transfer shall be computed as follows:

a. Total land area on Singer Island from the westernmost property line, east of the right-of-way of S.R. 703 (A1A) to the 1997 coastal construction setback line as established by the ~~s-State of Florida~~ State of Florida department of natural resources (DNR) shall be computed at 100 percent of the total dry land area between those two points.

b. Total land area east of the 1997 coastal construction control line and to the vegetation-mean high water line or the easternmost property line, whichever is less, shall be calculated at 50 percent of the total land area between those two points.

~~e. Total land area east of the vegetation line and the mean high water line shall be computed at 25 percent of the total land area between those two points.~~

~~d-c. Total area of wetlands, marshes, and lagoons and known mangrove habitat, etc., shall not be computed for density transfer purposes.~~

~~e-d. No area of submerged land on Lake Worth shall be computed for density transfer purposes.~~

(4) Maximum building height: 20 stories or 200 feet, excluding mechanical facilities, ornamental towers and antennas, which shall not exceed ~~ten~~ 20 feet in additional height. Such non-habitable building elements shall be screened and set back from the roof line in such a way as to avoid increasing the building's offsite ground-level shadow.

(5) Minimum building setbacks:

a. Front:

1. Main structures more than two stories in height, 100 feet.
2. Main structures two stories or less in height, 50 feet.
3. Accessory structures, e.g., parking garages, recreational decks, boiler and generator rooms, etc., 50 feet. ~~For properties on Lake Worth, the front yard shall be 30 feet.~~ This regulation does not apply to ornamental walls and gatehouses, which shall be set back 15 feet from the front property line.

b. Side:

1. Ten percent of the lot or 20 feet, whichever is greater, shall be maintained for all structures excluding accessory structures two stories or less.
2. The accessory structures, e.g., parking garages, recreational decks, boiler and generator rooms, etc., which are two stories or less shall be set back a minimum of 20 feet.

c. Rear: 15 percent of the lot, but not to exceed 100 feet.

d. Ocean: the 1997 Coastal Construction Control Line. ~~coastal construction setback line or 25 feet from the crest of the dune, whichever is greater.~~

e. High-rise setback: all buildings in excess of two stories shall provide two feet additional setback from each property line (with exception of ocean side setback line) for each additional story of height.

(6) Floor area ratio: the ratio of all aggregate residential floor area to site area shall not exceed 1.3:1.

(7) Maximum lot coverage: ~~60~~70 percent of aggregate site area computed in subsection (3) of this section, density transfer, for all structures inclusive of accessory structures, i.e., parking garages, recreational decks, boiler and generator rooms, etc.

(8) Maximum north/south width: 110 feet for main structures. For the purposes of this regulation, the accessory structures, e.g., parking garages, etc., two stories or less in height shall not be considered as part of the main building.

(9) Minimum recreation facilities and amenities:

a. Outdoor: one swimming pool, one tennis court or comparable recreational space and a designated area for sunning, picnics, etc., for residents of project. Additionally, the following amenities are optional: putting green, shuffleboard court, wading pools, observation decks, exercise paths, etc.

b. Indoor: one multipurpose room for parties, games ~~or~~and group assembly; ~~one male and one female~~an exercise room ~~or sauna~~. Additionally, the following amenities are optional: billiard room, library, sauna ~~tea room~~, etc.

c. Note: a pavilion may be provided, either inside or outside, as a substitute for one of the above minimum requirements.

**Sec. 31-264. - Parking.**

(a) The required off-street parking requirements for an RMH-20 high density multifamily/hotel district should conform to section 31-566 et seq.

(b) Seventy-five percent of all required parking shall be placed under a permanent structure in a manner to effectively conceal such parking facility from the public right-of-way by landscaping and other means.

(c) ~~For bonus, see chapter 26~~ Bonuses shall be as established in chapter 26, entitled, Minority Employment and Affordable Housing Opportunity Plan.

(d) The maximum height for a parking garage shall be 60 feet.

(e) Parking garages shall be concealed from S.R. 703 (A1A) using buffer landscaping and utilizing facade treatments which blend the parking garage structure with the main high-rise structures.

**Sec. 31-265. - Landscaping.**

In addition to the requirements of section 31-596 et seq., the following landscaping criteria shall be provided:

- (1) Twenty percent of all gross vehicular use areas shall be landscaped.
- (2) For every 12 parking spaces, a landscaped island five feet in width shall be provided.
- (3) Where environmentally sensitive land, wetlands and other conservation or preservation areas abut or are located within the site, at minimum there shall be a ten-foot wide landscape buffer surrounding said areas, planted with ecologically appropriate native vegetation. ~~or a five-foot wide landscape strip shielding an attendant six-foot high wall.~~
- (4) All property lines shall be provided with a sufficient landscape strip at least five feet in width with one tree for every 50 linear feet.
- (5) Where the dune has been destroyed or depleted of landscaping in a manner that does not afford a natural protection from the elements, the dune shall be rebuilt and replenished with landscaping to provide the necessary protection and to reestablish the dune ecosystem. Re-establishing of the dune shall be designed to align with the natural dune and contours found to the north and south of the subject property.
- (6) Fifty percent of all required trees shall ~~be of the shaded~~ consist of native shade tree species.
- (7) The required shade trees shall be ~~ten~~ twelve feet in height with a ~~five~~ six-foot clear trunk at planting and reach 25 feet in height and a 16-foot spread as a minimum.
- (8) Preservation areas within a site shall be computed as substitution for landscape areas.
- (9) Modification of wetlands and buffer area along access road shall be permitted to allow standard driveway access to main facility and subordinate uses.

**Sec. 31-266. - Site plan review.**

A site plan review shall be required for all permitted uses in the RMH-20 high density multifamily/hotel district except single-family and two-family dwellings.

**Secs. 31-267—31-280. - Reserved.**

**SECTION 4.** That Chapter 31 of the Code of Ordinances, "Zoning", Article V, "District Regulations", Division 25, RH Resort Hotel District, is hereby amended as follows with additions underlined and deletions in strikethrough format ( addition / ~~deletion~~ ) as provided below:

**DIVISION 25. - RH RESORT HOTEL DISTRICT**

**Sec. 31-526. - Purpose.**

This category is resort commercial in character and is intended to promote resort and tourist related activities in a high quality environment through aesthetically oriented property development standards and to ensure compatibility with the surrounding area.

**Sec. 31-527. - Definitions.**

*Resort hotel.* A facility licensed by the State of Florida offering transient lodging accommodations for the general public for a fee and which may include restaurants, meeting rooms, entertainment and recreational facilities. All suites and rooms shall have maid service provided by the establishment; be fully furnished; and be served by a central switchboard telephone system. No permanent residential uses are permitted, all suites and/or rooms must be offered for use as transient lodging accommodations for the general public during each year.

*Resort hotel suite.* An area within a resort hotel licensed as a hotel or motel and/or resort condominium by the State of Florida, which area provides a sleeping accommodation and one kitchen or cooking facility for the use of one or more transient guests registered under one entry with the resort hotel. A resort hotel suite shall consist of a minimum floor area of 450 square feet (exclusive of bathroom, closet and balcony areas), and is permitted a maximum of two bedrooms. A resort hotel suite shall have only one door directly accessible to the common area hallway.

*Resort hotel room.* A room for the use of transient guests registered under one entry with the resort hotel. A resort hotel room shall consist of a minimum floor area of 120 square feet (exclusive of bathroom, closet and balcony areas), and is permitted a maximum of one bedroom. No kitchen or cooking facilities are permitted in a resort hotel room. A Resort Hotel Room shall have only one door directly accessible to the common area hallway.

*High-rise structure.* Any part of a structure three stories in height or more.

**Sec. 31-528. - Use regulations.**

(a) *Uses permitted.* The following uses are permitted in the RH zoning district:

- (1) Hotels, motels, resort hotels.
- (2) Restaurants, and shops and meeting facilities accessory to hotels or motels, ~~which uses shall not have signs or displays visible from the public street.~~
- (3) Multiple family dwellings.
- (4) Home occupations.
- (5) Any use commonly accessory to the above uses.

(b) *Uses prohibited.* No building or structure shall be permitted east of the ~~1979-1997~~ 1997 coastal construction control line, except dune walkovers, ramps or other similar structures whose sole purpose is to provide beach access.

**Sec. 31-529. - Property development standards.**

The property development standards in the resort hotel district are as follows:

(1) *Density:*

a. Multifamily dwellings: Base minimum permitted density shall be 17 dwelling units per acre. When the Minority Employment and Affordable Housing Opportunity Plan bonus provision is used, the maximum permitted density shall be 20 residential dwelling units per acre.

b. The base density for hotels, motels and resort hotels shall be 30 resort hotel suites per acre, 60 resort hotel rooms per acre. When the Minority Employment and Affordable Housing Opportunity Plan (MEAHOP) bonus provision is used, the maximum permitted density for hotels, motels and resort hotels shall be 40 resort hotel suites per acre, 80 resort hotel rooms per acre.

(2) *Bonus density:* The bonus density shall be as established in the Minority Employment and Affordable Housing Opportunities Plan Chapter of the Land Development Code.

(3) *Density calculation:*

a. Density shall be calculated based on 100 percent of the total area of the site.

b. No area of submerged land on Lake Worth shall be computed for gross density purposes.

(4) *Maximum building height:* 20 stories or 200 feet, excluding mechanical facilities, ornamental towers and antennas, which shall not exceed twenty feet in additional height.

(5) *Minimum building setbacks:*

a. Front:

1. All structures three stories or more in height, 100 feet.
2. All structures two stories or less in height, 50 feet.
3. Ornamental walls and gatehouses, shall be set back a minimum of 15 feet from the front property line.

b. Side: Ten percent of the lot width or 20 feet, whichever is greater, shall be maintained for all structures excluding recreation decks which may be setback 20 feet provided they do not exceed 12 feet in height.

c. Ocean: ~~The 1979-1997 Coastal Construction Control Line or 25 feet from the crest of the dune, whichever is greater.~~

d. High-rise setback: All buildings in excess of two stories shall provide two feet additional setback from each property line (with exception of ocean side setback line) for each additional story of height.

(6) *Maximum impervious coverage:* 70 percent of site area as computed in subsection (3)a. of this section, for all structures inclusive of accessory structures, i.e., parking garages, recreational decks, boiler and generator rooms, etc.

(7) *Maximum north/south building width:* 120 feet for high-rise structures.

(8) *Maximum east/west building width:* 200 feet for each high-rise structure.

(9) *Distance between high-rise structures:* 100 feet for high-rise buildings.

(10) *Minimum recreation facilities and amenities:*

a. Outdoor: One swimming pool, one regulation tennis court or comparable recreational space and a designated area for sunning, picnics, etc., for occupants of project.

b. Indoor: One multipurpose room for parties, games ~~or~~ and group assembly; and one exercise room ~~or sauna~~.

(11) *Floor area ratio:* The floor area ratio shall not exceed ~~2:0~~ 2.0:1.

**Sec. 31-530. - Parking.**

(a) The required off-street parking requirements for an RH zoning district should conform to section 31-566 et seq. Resort hotel suites shall provide 1.5 parking spaces per suite and employee parking as applicable.

(b) Seventy-five percent of all required parking shall be placed under a permanent structure in a manner to effectively conceal such parking facility from the public right-of-way by landscaping and other means.

(c) For bonus, see Minority Employment and Affordable Housing Opportunity Plan regulations chapter.

(d) The maximum height for a parking garage shall be 60 feet.

(e) Parking garages shall be concealed from S.R. 703 (A1A) using buffer landscaping and utilizing facade treatments which blend the parking garage structure with the main high-rise structures.

**Sec. 31-531. - Landscaping.**

In addition to the requirements of section 31-596 et seq., the following landscaping criteria shall be provided:

(1) Twenty percent of all gross vehicular use areas shall be landscaped.

(2) All property lines shall be provided with a landscape strip at least ten feet in width with one tree for every 20 linear feet, and shrubbery between each tree and ground cover and sod in remaining areas.

(3) Where the dune has been destroyed or depleted of landscaping in a manner that does not afford a natural protection from the elements, the dune shall be rebuilt and replenished with native landscaping vegetation to provide the necessary protection and to reestablish the dune ecosystem. Re-establishing the dune shall be designed to align with the natural dune and contours found to the north and south of the subject property, as established by survey completed by a professional engineer and surveyor.

(4) Where environmentally sensitive land, wetlands and other conservation or preservation areas abut or are located within the site, at minimum there shall be a ten-foot wide landscape buffer surrounding said areas planted with ecologically appropriate native vegetation.

**Sec. 31-532. - Site plan review.**

A site plan review shall be required for all development within the RH zoning district. Notice of all site plan reviews shall be given to all property owners within 300 feet of the subject property and a notification sign shall be posted on the property at least ten days before said review.

~~Sec. 31-533. Property within the community redevelopment area.~~

~~All construction shall comply with the standards set forth in this division 25, resort hotel district except to the extent the standards are inconsistent with the Inlet Harbor City of Riviera Beach Redevelopment Plan, as amended.~~

**SECTION 5.** 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. The Sections of this Ordinance may be renumbered or re-lettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

**SECTION 6.** If any word, phrase, clause, subsection or sections of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

**SECTION 7.** Specific authority is hereby granted to codify this ordinance.

**SECTION 8.** That this ordinance shall be in full force and effect immediately upon its final passage and adoption.

**PASSED AND APPROVED** on the first reading this 4th day of FEBRUARY, 2015.

**PASSED AND ADOPTED** on the second and final reading, this 20th day of MAY, 2015.

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APPROVED:

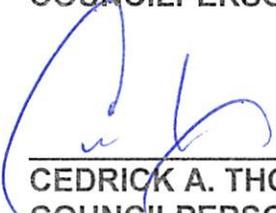
  
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THOMAS A. MASTERS  
MAYOR

  
\_\_\_\_\_  
DAWN S. PARDO  
CHAIRPERSON

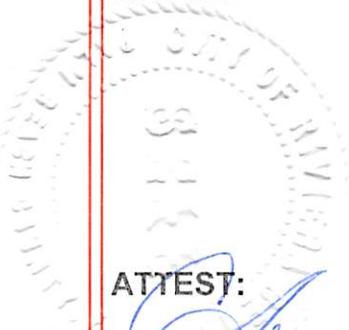
  
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TERENCE D. DAVIS  
CHAIR PRO TEM

ATTEST:  
  
\_\_\_\_\_  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
BRUCE A. GUYTON  
COUNCILPERSON

  
\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

  
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KASHAMBA L. MILLER  
COUNCILPERSON



1<sup>ST</sup> READING

2<sup>ND</sup> & FINAL READING

MOTIONED BY: B. GUYTON

MOTIONED BY: B. GUYTON

SECONDED BY: T. DAVIS

SECONDED BY: C. THOMAS

D. PARDO AYE

D. PARDO AYE

T. DAVIS AYE

T. DAVIS AYE

B. GUYTON AYE

B. GUYTON AYE

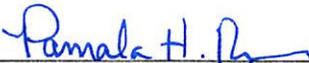
C. THOMAS AYE

C. THOMAS AYE

J. DAVIS ABSENT

K. MILLER AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA H. RYAN, B.C.S., CITY ATTORNEY

DATE: 5/5/15

**CERTIFICATION OF PUBLICATION**

I hereby certify that notice of the proposed enactment of this ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

May 20, 2015  
DATE



\_\_\_\_\_  
Claudene L. Anthony,  
Certified Municipal Clerk  
City Clerk

ORDINANCE NO. 4062

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 31 OF THE CITY'S CODE OF ORDINANCES, "ZONING", ARTICLE IV, "NONCONFORMING USES", SECTION 31-79, "RESTORATIONS" AMENDING THE MANNER IN WHICH RESTORATION VALUE IS CALCULATED AND HOW BUILDING RESTORATIONS ARE PERMITTED WITHIN THE CITY; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Riviera Beach is a Florida Municipal Corporation vested with home rule-authority pursuant to Article VIII, §2 of the Florida Constitution and the Municipal Home Rule Powers Act, F.S., Chapter 166; and

**WHEREAS**, unpredictably, a fire, natural disaster or act of God may cause damage or destruction to one or more buildings within the City; and

**WHEREAS**, the Code of Ordinances of the City of Riviera Beach, specifically Section 31-79, "Restorations", currently provides for the restoration of buildings destroyed by fire, explosion or other casualty, or act of God; and

**WHEREAS**, Section 31-79 currently limits the extent of repairs allowed following a fire, explosion or other casualty, or act of God to not exceed 100 percent of the building's assessed value; and

**WHEREAS**, the City finds it to be appropriate to amend Section 31-79 to remove the aforementioned existing limitation on restoration value associated with building repairs and to implement conditions associated with restorations in order to promote the welfare of the City; and

**WHEREAS**, on March 26, 2015, the Planning and Zoning Board, an advisory board to the City Council, reviewed and unanimously approved proposed amendments to Section 31-79 of the City's Codes of Ordinances; and

**WHEREAS**, the City Council has determined that the enactment of this Ordinance is necessary and proper, as it promotes the health, safety and welfare of the general public.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, THAT:**

**SECTION 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**SECTION 2.** That Chapter 31 of the City's Code of Ordinances, "Zoning", Article IV, "Nonconforming Uses", Section 31-79, "Restorations", is hereby amended as follows with additions underlined and deletions in strikethrough format ( addition / ~~deletion~~ ) as provided below:

**Sec. 31-79. - Restorations.**

~~Nothing in this chapter shall be taken to prevent the restoration of a building destroyed to the extent of not more than 100 percent of its assessed value by fire, explosion or other casualty, or act of God, or the public enemy, nor the continued occupancy or use of such building or part thereof which existed at the time of such partial destruction.~~

- (a) Nothing in this chapter shall be taken to prevent the restoration of a lawfully permitted and constructed building and any accessory structures, including but not limited to garages, swimming pools and decks, which all may be reconstructed with layout and elevation as they existed prior to damage or destruction, by fire, explosion, natural disaster, act of God, or other casualty as long as the following conditions are satisfied.
1. In order to be eligible to receive building permit approval for building restorations pursuant to this section, a complete building permit application for restorations must be submitted to the City within 18 months of the date on which the qualifying event occurred.
  2. All approved restoration construction must be completed and obtain either a certificate of completion or certificate of occupancy within three years from the date the first building permit was issued approving said restoration construction.
  3. All restorations shall comply with current building and fire codes at the time of reconstruction.
- (b) Nothing in this chapter shall be taken to prevent the continued occupancy or use of such building or part thereof which existed at the time of such damage or destruction unless deemed structurally unsafe by the City's Building Official.

**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. The Sections of this Ordinance may be renumbered or re-lettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

**SECTION 4.** If any word, phrase, clause, subsection or sections of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

**SECTION 5.** Specific authority is hereby granted to codify this ordinance.

**SECTION 6.** That this ordinance shall be in full force and effect immediately upon its final passage and adoption.

**PASSED AND APPROVED** on the first reading this 15th day of APRIL, 2015.

**PASSED AND ADOPTED** on the second and final reading, this 6th day of MAY, 2015.

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APPROVED:



THOMAS A. MASTERS  
MAYOR



DAWN S. PARDO  
CHAIRPERSON

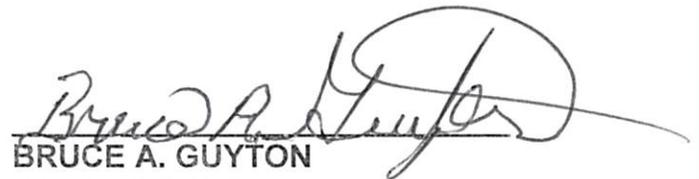
ATTEST:



CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK



TERENCE D. DAVIS  
CHAIR PRO TEM



BRUCE A. GUYTON  
COUNCILPERSON



KASHAMBA L. MILLER  
COUNCILPERSON



CEDRICK A. THOMAS  
COUNCILPERSON

1<sup>ST</sup> READING

MOTIONED BY: C. THOMAS

SECONDED BY: T. DAVIS

D. PARDO AYE

T. DAVIS AYE

B. GUYTON ABSENT

K. MILLER AYE

C. THOMAS AYE

2<sup>ND</sup> & FINAL READING

MOTIONED BY: B. GUYTON

SECONDED BY: C. THOMAS

D. PARDO AYE

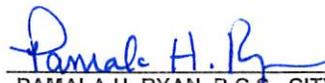
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REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA H. RYAN, B.C.S., CITY ATTORNEY

DATE: 5/5/15

CERTIFICATION OF PUBLICATION

I hereby certify that notice of the proposed enactment of this ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

May 6, 2015  
DATE

  
\_\_\_\_\_  
Claudene L. Anthony,  
Certified Municipal Clerk  
City Clerk