

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 46, ARTICLE II, GENERAL EMPLOYEES, DIVISION III, BENEFITS AND CONTRIBUTIONS, SECTION 111, COMPLIANCE WITH INTERNAL REVENUE CODE, TO COMPLY WITH CHANGES MADE TO THE INTERNAL REVENUE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Key West currently has an Employees' Retirement Plan (the "Plan") for the benefit of City general employees;

WHEREAS, changes to the Internal Revenue Code happen quickly and frequently. There is a benefit in authorizing the Board to make appropriate changes to the Plan in order to maintain the Plan's tax qualified status;

WHEREAS; effective January 1, 2020, the Internal Revenue Code was amended by increasing the required minimum distribution age from 70½ to 72;

WHEREAS; the City Code should be amended to reflect this Internal Revenue Code amendment;

WHEREAS; the City Commission finds that it is in the best interest of the City and employees to amend the Plan; and

WHEREAS the City Commission finds that this ordinance will best serve the interest of the citizens of Key West.

NOW, THEREFORE, BE IT ORDAINED by the City of Key West, Florida:

**Section 1:** That Section 46-111, subsection (a), subsection (d), and subsection (g)(2), of the Code of Ordinances is hereby amended to read as follows:

**Section 46-326 Compliance with Internal Revenue Code.**

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- (a) It is the intention of the city and the board that th plan remain at all times a qualified plan, as that term is defined under the Internal Revenue Code. In recognition of the changing requirements of plan qualification, the board shall adopt an administrative policy setting forth the required provisions for tax

qualification. Such a policy shall be amended by the board as required to maintain continuing compliance with the Internal Revenue Code and that policy and any amendments shall have the force of law as if adopted by the City Commission.

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- (d) In no event may a member's retirement benefit be delayed beyond the later of April 1 following the calendar year in which the member attains age ~~70½~~ 72, provided the member had not attained age 70½ by December 31, 2019, or April 1 of the year following the calendar year in which the member retires.
- (g) The method of distribution, if the participant dies before distribution is commenced, must satisfy the following requirements:
  - (1) Any remaining portion of the participant's interest that is not payable to a beneficiary designated by the participant will be distributed within five years after the participant's death;
  - (2) Any portion of the participant's interest that is payable to a beneficiary designated by the participant will be distributed either: (i) within five years after the participant's death; or (ii) over the life of the beneficiary, or over a period certain not extending beyond the life expectancy of the beneficiary, commencing not later than the end of the calendar year following the calendar year in which the participant died or, if a designated beneficiary is the participant's surviving spouse, commencing not later than the end of the calendar year following the calendar year in which the participant would have attained age 72 ~~70½~~.

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**Section 2:** It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Key West, that the sections of the Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 3:** If any clause, section, or other part or application of this Ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and shall not affect the validity of the remaining portions or applications which shall remain in full force and effect.

**Section 4:** All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5:** This ordinance shall be effective upon adoption unless otherwise stated in this ordinance.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Authenticated by the presiding officer and the Clerk of the Commission on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Filed with the Clerk on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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TERI JOHNSTON, MAYOR

ATTEST:

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CHERI SMITH, CITY CLERK