

CITY COMMISSION OF THE CITY OF PAHOKEE
SPECIAL CITY COMMISSION MEETING

Monday, May 17, 2021 9:00 a.m.

360 E. Main Street, Pahokee, Florida

Meeting Streamed By YouTube - NO PUBLIC ACCESS

This Meeting of the City Commission of the City of Pahokee is being held to discuss the following topics.

A. INVOCATION & PLEDGE OF ALLEGIANCE

B. ROLL CALL

C. TOPIC

1. Discussion of Public Access to Commission Meetings.
2. Discussion of Ordinance 2019-02 (Dictates how to run Commission Meetings)
3. Forensic Audit – Prior to appointment of new City Manager
4. City Clerk

D. DISCUSSION, COMMENTS, CONCERNS

E. ADJOURN

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 21-101

(Invalidating All Remaining Local Emergency Orders Based on the COVID-19 Emergency)

WHEREAS, on March 9, 2020, I issued Executive Order 20-52, subsequently extended, declaring a state of emergency for the entire State of Florida as a result of COVID-19; and

WHEREAS, the State of Florida led the national effort to distribute COVID-19 vaccines to seniors first and has now provided vaccines to nearly 9 million people; and

WHEREAS, every Floridian who desired a vaccine is eligible to obtain one, and Florida now maintains a sufficient supply of COVID-19 vaccines for every eligible Floridian who desires a vaccine to be vaccinated; and

WHEREAS, scientific studies show that vaccines protect individuals from COVID-19 and reduce hospitalizations and deaths caused by COVID-19; and

WHEREAS, on April 29, 2021, Surgeon General Dr. Scott Rivkees issued a Public Health Advisory (1) stating that continuing COVID-19 restrictions on individuals, including long-term use of face coverings and withdrawal from social and recreational gatherings, pose a risk of adverse and unintended consequences, (2) further expanding vaccine eligibility, and (3) advising government offices to resume in-person operations and services; and

WHEREAS, due to the tremendous steps the State has taken to protect Florida's most vulnerable populations and rapidly offer vaccines to every eligible Floridian who desires one, local communities lack justification in continuing to impose COVID-related emergency orders restricting the rights and liberties of their citizens; and

WHEREAS, on May 3, 2021, I signed into law SB 2006 – Emergency Management – which provides, effective July 1, 2021, that any emergency order issued by a political subdivision must be narrowly tailored to serve a compelling public health or safety purpose, must be limited in duration, applicability, and scope in order to reduce any infringement on individual rights or liberties to the greatest extent possible, and may be invalidated by the Governor, at any time, if the Governor determines that such order unnecessarily restricts individual rights or liberties; and

WHEREAS, it is my determination that the remaining emergency orders issued by the political subdivisions of this State due to the COVID-19 emergency are not narrowly tailored to serve a public health or safety purpose and unnecessarily restrict individual rights and liberties, including the economic and commercial rights and liberties of business owners in this State; and

NOW, THEREFORE, I, RON DESANTIS, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, promulgate the following Executive Order:

Section 1. In order to protect the rights and liberties of individuals in this State and to accelerate the State’s recovery from the COVID-19 emergency, any emergency order issued by a political subdivision due to the COVID-19 emergency which restricts the rights or liberties of individuals or their businesses is invalidated.

Section 2. Nothing herein prohibits a political subdivision of the State from enacting ordinances pursuant to regular enactment procedures to protect the health, safety, and welfare of its local population. Only the COVID-19 emergency orders, as defined in SB 2006, enacted prior to July 1, 2021, are hereby invalidated.

Section 3. This order is effective beginning on July 1, 2021 and shall be immediately filed with the Division of Administrative Hearings.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, 3rd day of May, 2021



RON DESANTIS, GOVERNOR

ATTEST:



SECRETARY OF STATE

2021 MAY -3 PM 4: 06
DEPARTMENT OF STATE
TALLAHASSEE, FL

FILED

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 21-102

(Suspending All Remaining Local Government Mandates and Restrictions Based on the COVID-19 State of Emergency)

WHEREAS, on March 9, 2020, I issued Executive Order 20-52, declaring a state of emergency for the entire State of Florida as a result of COVID-19; and

WHEREAS, on September 25, 2020, I issued Executive Order 20-244, suspending the collection of local fines and penalties associated with COVID-19 regulations upon individuals, and on March 10, 2021, I issued Executive Order 21-65, categorically remitting all fines upon individuals and businesses alike related to local government COVID-19 restrictions; and

WHEREAS, on March 29, 2021, the Legislature presented, and I signed into law, SB 72 – Civil Liability for Damages Relating to COVID-19, enacted as Chapter 2021-1, Laws of Florida, which provides crucial liability protection to individuals, businesses, educational institutions, religious organizations, and health care providers for liability claims related to COVID-19; and

WHEREAS, on April 27, 2021, I extended the state of emergency initiated by Executive Order 20-52 as necessary to ensure Florida schools remain open for the remainder of the school year, to protect Floridians from being required to produce a so-called vaccine passport as a condition of participating in everyday life, and to implement budgetary response efforts to help Floridians to the greatest extent possible; and

WHEREAS, on April 29, 2021, Surgeon General Dr. Scott Rivkees issued a Public Health Advisory (1) stating that continuing COVID-19 restrictions on individuals, including long-term use of face coverings and withdrawal from social and recreational gatherings, pose a risk of

adverse and unintended consequences, (2) further expanding vaccine eligibility, and (3) advising government offices to resume in-person operations and services; and

WHEREAS, the State of Florida led the national effort to distribute the vaccine to elderly and vulnerable populations and has provided vaccines to nearly 9 million people; and

WHEREAS, every eligible Floridian is now legally permitted to obtain a vaccine, and Florida maintains a sufficient supply for every eligible Floridian who desires a vaccine to be vaccinated; and

WHEREAS, scientific studies show that vaccines protect individuals from COVID-19 and reduce hospitalizations and deaths caused by COVID-19; and

WHEREAS, the State and the majority of local governments have declined to issue mask mandates; and

WHEREAS, a select number of local governments continue to impose mandates and business restrictions, without proper consideration of improving conditions and with no end in sight; and

WHEREAS, due to the tremendous steps the State has taken to protect Florida's most vulnerable populations and rapidly offer vaccines to every eligible Floridian who desires one, local communities lack justification in continuing to impose COVID-19 mandates or restrictions upon their citizens; and

WHEREAS, with my encouragement, the Florida Legislature passed and I signed SB 2006, a measure designed to curb restrictions and closures of businesses during an extended emergency, to add significant accountability and difficulty for the continuation of any local limitation on the rights or liberties of individuals or businesses, and to declare in no uncertain terms that the policy of the State of Florida will favor a presumption of commercial operation and individual liberty with no toleration for unending and unjustified impediments to that liberty; and

WHEREAS, in light of these recently enacted reforms, the widespread vaccination of Florida residents, and the sufficient supply of vaccines for all eligible Florida residents, I find that it is necessary for the State of Florida to enhance its rapid and orderly restoration and recovery from the COVID-19 emergency by preempting and suspending all remaining local emergency restrictions on individuals and businesses and to return day-to-day life back to normal everywhere in the State.

NOW, THEREFORE, I, RON DESANTIS, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, promulgate the following Executive Order:

Section 1. In order to mitigate the adverse and unintended consequences of the COVID-19 emergency and to accelerate the State's recovery, all local COVID-19 restrictions and mandates on individuals and businesses are hereby suspended.

Section 2. This order eliminates and supersedes any existing emergency order or ordinance issued by a county or municipality that imposes restrictions or mandates upon businesses or individuals due to the COVID-19 emergency.

Section 3. For the remaining duration of the state of emergency initiated by Executive Order 20-52, no county or municipality may renew or enact an emergency order or ordinance, using a local state of emergency or using emergency enactment procedures under Chapters 125, 252, or 166, Florida Statutes, that imposes restrictions or mandates upon businesses or individuals due to the COVID-19 emergency.

Section 4. Nothing herein prohibits a political subdivision of the State from enacting ordinances pursuant to regular enactment procedures to protect the health, safety, and welfare of its population. Only orders and ordinances within the scope of Section 1 based on a local state of

emergency or on emergency enactment procedures due to the COVID-19 emergency are hereby eliminated and preempted.

Section 5. This order supersedes Sections 2 and 3 of Executive Order 20-244.

Section 6. This order is effective immediately.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, 3rd day of May, 2021.



RON DESANTIS, GOVERNOR

ATTEST:



SECRETARY OF STATE

DEPARTMENT OF STATE
TALLAHASSEE, FL

2021 MAY -3 PM 4:06

FILED

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, REPEALING AND REPLACING ARTICLE II, SECTION 2-26 ENTITLED RULES OF PROCEDURE; RENUMBERING AND REORDERING ARTICLE II 2-27 THROUGH ARTICLE 2-30; EXPANDING ESTABLISHED RULES AND PROCEDURES FOR CITY COMMISSION MEETINGS; PROVIDING FOR COMPENSATION PROCEDURES FOR REQUESTING INFORMATION AND REPORTING CITIZEN COMPLAINTS; PROVIDING FOR PUBLIC RECORDS DEFINITION; DESIGNATING CITY CLERK AS CUSTODIAN OF RECORDS; PROVIDING FOR INSPECTION OF PUBLIC RECORDS; ESTABLISHING PROHIBITION AGAINST REMOVING AND WITHHOLDING RECORDS FROM CUSTODIAN; PROVIDING FOR PUBLIC HEARINGS; PROVIDING FOR INDEMNIFICATION OF MUNICIPAL OFFICES; ESTABLISHING INTEREST AND ADMINISTRATIVE FEES ON CITY SERVICES; PROVIDING FOR SETTLEMENT OF CLAIMS; ESTABLISHING SETTLEMENT OF CLAIMS PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Pahokee ("City Commission") desires to revise its Rules of Procedure by revising Article II, Section 2-26, of the City of Pahokee Code of Ordinances.

WHEREAS, the City Commission finds that it would operate more efficiently if revised Rules of Procedure were adopted and followed.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, AS FOLLOWS:

Section 1. City commission meetings generally.

(a) *Ground rules for decorum regarding members of the city commission.* The following shall constitute the guidelines for decorum to be adhered to by members of the city commission in their respective roles as elected public officers of the city:

- (1) Members of the city commission shall:

- A. Each conducts themselves with dignity;
- B. Agree to disagree with each other; and
- C. Show respect for the points of view of other members of the city commission.

(2) Members of the city commission shall not:

- A. Falsely accuse another member of the city commission of wrongdoing;
- B. Criticize each other in a rancorous or unprofessional manner;
- C. Make personal attacks on another member of the city commission; or
- D. Individually act without the support of the city commission.

(b) *Procedures and Scope.*

(1) The City of Pahokee city commission is permitted by Florida law to determine its own rules of procedure. Unless otherwise set forth herein, all municipal meetings shall be conducted in accordance with the procedural requirements as established by Roberts Rules of Order, said rules of order being incorporated into this section by reference.

(2) The city commission, the city Manager, the city clerk, and the public shall be governed by the terms, conditions, and provisions of this section as the basis and framework for procedures of the city commission.

(3) Members of the city commission and other public officers attending or participating in any regular or special meeting of the city commission shall abide by the standards of conduct and values set forth by to Code of Ethics for Public Officers to be established by the Commission.

(c) *Agenda.* Unless otherwise set forth herein, City Commissioners shall agree by majority vote on items to be placed on a Commission agenda. Decisions regarding the placement of an agenda item shall be made by the Commission no later than the meeting immediately preceding the placement of the item to be discussed and voted upon. A portion of each regular commission agenda shall be set aside for discussion of future agenda items.

The City Manager and the City Attorney may agenda an item for discussion and vote, without Commission consideration, if the item involves the regular business and administration for smooth operations of the City.

(d) *Duties and responsibilities of mayor.*

(1) The mayor or presiding officer at any regular or special meeting of the city commission shall only introduce agenda items by the agenda item number and the brief title as listed on the agenda with no further explanation or comment. Thereafter, the mayor or presiding officer may call on the City Manager, and the City Manager or his or her designee shall furnish a brief explanation of the item

under consideration. The item shall then be opened for public hearing, if applicable, or discussion by the city commission as required for the particular item under the time limits imposed by this section.

(2) Any comments or questions by the attending public shall be directed to the mayor or presiding officer. Members of the city commission shall direct all comments and questions on the subject matter being discussed to the mayor or presiding officer only and shall not engage in cross conversations with other members of the public or direct any questions to other members of the city commission or to the public. The mayor or presiding officer shall not unreasonably withhold or delay recognition of any member of the city commission desiring to speak. The mayor or presiding officer shall recognize other members of the city commission in rotation and not call on any member a second and subsequent time until such time as all members of the city commission shall have had the opportunity to speak.

(3) If the mayor or presiding officer desires to participate in a discussion, he or she shall do so only when the speaking member of the city commission has relinquished the floor. The mayor or presiding officer shall not interrupt a speaking member of the city commission for the purpose of comment other than to move the discussion forward.

(4) The mayor or presiding officer shall not use his or her power as chair to dominate debate or discussion, nor shall the mayor or presiding officer unreasonably cut short or prolong any debate, discussion, or taking of a vote.

(5) Motions to change the order of business shall require a majority vote of the city commission.

(7) The mayor or presiding officer, in consultation with the city attorney, shall make rulings on parliamentary procedure. At least three (3) votes of members of the city commission is required to overrule the mayor or presiding officer on rulings of parliamentary procedure.

(8) The mayor or presiding officer may, during city commission proceedings, request that the city commission move on to the next item on the meeting agenda by voting or otherwise.

(e) *Time of meetings.* All regularly scheduled meetings of the city commission shall begin not later than 6:30 p.m. and shall end no later than 9:00 p.m. Any items remaining on the agenda shall be placed under Old Business for the next commission agenda. In setting matters over to the next meeting or a special meeting, the city clerk is directed to take into consideration all notice provisions relative to municipal ordinances and, specifically, Florida Statutes, Section 166.041.

(f) *City commission discussion.*

(1) Discussion by a member of the city commission shall not be limited, unless a motion to limit debate is made and adopted. Each member of the city commission shall be afforded the opportunity to offer rebuttal to each item discussed. A motion to limit debate shall take precedence over all motions, except a motion to adjourn, a point of order, or a motion to table.

(2) Each member of the city commission and the public who desires to speak shall address the mayor or presiding officer, and upon recognition by the mayor or presiding officer, shall confine himself or herself to the issues under debate, avoiding all personalities and indecorous language.

(3) Members of the city commission shall not interrupt anyone who has the floor, unless it is to call the meeting to order, or as otherwise provided in this section. If a member of the city commission desires to direct questions to another member of the city commission or the public, the questions shall be directed to the mayor or presiding officer who in turn will recognize the individual who wishes to answer the specific question.

(4) While the city commission is in session, members of the city commission and the public present at the meeting shall not, by conversation or otherwise, delay or interrupt the proceedings or the peace of the city commission. There shall be no audience outburst and disruptive conversation from members of the public.

(g) *Citizen's Rights*

(1) *Right to be Heard:* Members of the public shall be given a reasonable opportunity to be heard on agenda items except as provided for below. Public input shall be limited to three (3) minutes. This right does not apply to:

- i. An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the Commission to act.
- ii. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
- iii. A meeting that is exempt from Section 286.011, Florida Statutes; or
- iv. A meeting during which the Commission is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.

(h) *Manner of Addressing the Commission - Time Limit:* Each person addressing the Commission shall sign in with the City Clerk no later than 6:35 PM. Persons shall step up to the microphone, shall give his/her name and address in an audible tone of voice for the record and, unless further time is granted by the Commission, shall limit his/her address to

three (3) minutes. All remarks shall be addressed to the Commission as a body, and not to any member thereof. No person, other than members of the Commission and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the Commission. When requested by any member of the Commission the City Manager, City Attorney, as well as staff members, may enter into any discussion. No questions shall be asked the Commissioners, except through the presiding officer. The City Manger and the City Attorney may ask the Chair for permission to speak at any time. Questions regarding day-to-day operations should be directed to the City Manager for an answer at a later time.

i) *Personal and Slanderous Remarks:* Any person making personal, impertinent or slanderous remarks, or who shall become boisterous, while addressing the Commission may be requested to leave the meeting and may be forthwith, by the presiding officer, barred from further audience before the Commission at the meeting from which ejected.

(j) *Freedom of Expression.* Nothing herein shall be construed to limit any member of the public from expressing their opinions outside of a public meeting.

(k) *Application to city boards.* All references in this section to "city commission" shall also mean the various city boards provided for in this code or created by the city commission.

(l) *Special meetings.* Special meetings of the governing body shall be called solely for specific and stated purposes only. It is the intention of the city commission that no items shall be added to a special meeting agenda other than those items for which the meeting was called.

(m) *Quorum for City Commission Meeting.* Except as otherwise provided in the City Charter, any three members of the Commission shall constitute a quorum.

(n) *Quorum and dismissal from City boards/committees.* The majority of the voting members present at any Board/Committee meeting shall constitute a quorum to conduct business. Board/ Committee members shall be removed from a board/committee for missing three (3) consecutive committee meetings or four (4) total meetings during any fiscal year, unless due to illness or excused by a vote of the City Commission.

Board/Committee members shall serve at the pleasure of the commission and may be suspended and removed for other just cause. Any committee/board member who becomes a candidate for public elective office, or becomes an employee of city, shall automatically forfeit committee membership status.

Section 2. Compensation and expense allowance for City Commission.

The following shall be the annual salaries for the respective elective offices of the City:

- (1) Mayor, nine thousand dollars (\$9,000.00);
- (2) City commissioner, four thousand eight hundred dollars (\$4,800.00).

In addition to the compensation, each such officer shall be entitled to receive the following:

- (1) Reimbursement and payment for reasonable out-of-town authorized travel expenses while on city business;
- (2) Any compensation they may be entitled to as a member of the volunteer fire department or auxiliary police as applicable to the other members thereof;
- (3) The regular city's share and contribution toward the cost of any premium or payment for any authorized general employees' pension plan, health and accident insurance program, life insurance program, and medical insurance program as applicable to all regular city employees.

- (a) Any city commissioner who is absent from two (2) consecutive regular meetings of the city commission shall forfeit or not be entitled to receive the equivalent of one (1) month's compensation, which is four hundred dollars (\$400.00), and a like sum for each subsequent absence from two (2) consecutive such meetings. Upon a finding by the city commission that any such absence was due to illness, death in the immediate family of any city commissioner or for the purpose of conducting city business or city related business; such absence may be excused and this forfeiture waived by the City Commission.

Section 3. Attendance of meetings by telephone or other electronic means.

(a) Any city commissioner, who is unable to attend any regular or special city commission meeting in person shall be afforded the opportunity to appear at said meeting via telephone or other electronic means; however, in no event shall any meeting be held unless a minimum of two (2) commissioners are present in person at said meeting.

(b) It is not the intent of this section to allow city commission members to attend city commission meetings via telephone or other electronic means, simply for their convenience, but only for those circumstances where it is not possible for said city commission member to attend the regular or special city commission meeting in person.

Section 4. Order of business.

The following order of business shall be observed:

- a. Invocation and Pledge of Allegiance;
- b. Roll call;
- c. Additions, deletions, and approval of agenda items;
- d. Citizen Comments/Public Service Announcements – All Items On Agenda (3 Minutes);
- e. Approval of minutes;
- f. Consent agenda;
- g. Resolution(s)
- h. Ordinance(s);

- i. Public hearings;
- j. Proclamation(s);
- k. Presentation(s);
- l. Report of the mayor;
- m. Report of the city manager;
- n. Report of the city attorney;
- o. Old business;
- p. New business;
- q. Future Agenda Items of Commissioners, if any.
- r. For the Good Of The Order (community events, feel good announcements)
- s. Adjourn.

At all special meetings, the regular order shall be dispensed with after the roll call with the exception of public comment which shall be three (3) minutes per person.

Section 5. City commissioners' votes recorded on ordinances and resolutions.

Each city commissioner's vote shall be recorded on all ordinances and resolutions presented to the city commission.

Section 6. Order. - Votes required to pass resolutions.

A minimum of three (3) votes in favor of a resolution is required to effect passage of the resolution.

Section 7. Requests for readily available information; reporting citizen complaints.

When requesting readily available information or documents not requiring research or analysis, or relaying citizen complaints regarding code enforcement violations, members of the city commission may deal directly with department directors under the direction and supervision of the City Manager for questions only. For all other inquiries, requests for action or assistance, or reports, including but not limited to complaints regarding, by, or about employees of the city, members of the city commission shall deal solely with the City Manager. All follow-up to inquiries by members of the city commission shall be made to the City Manager. No orders may be given by any City employee by any City Commissioner.

Nothing in this section shall be construed to permit any member of the city commission to suggest, direct, or instruct any city staff member to perform any duties or functions, not previously directed by the City Manager or to resolve citizen complaints in a specific manner.

Section 8. Public records--Definition.

For the purposes of this Code, the term "public records" is defined as the books, records, documents, letter, memoranda, written proceedings, minutes, instruments,

ordinances, resolutions, or copies or reproductions, prepared by, enacted or received by any city official group, body, committee or board or the city commission of the city pertaining to city business; with the exception however of confidential employment records provided for in this Code.

Section 9. Clerk designated custodian, duties.

The City Clerk shall be the custodian of the public records of the city for all purposes. Any public record coming into the possession of any officer, official, employee, agent or servant of the city, shall be filed with the city clerk within seventy-two (72) hours of receipt or if the same falls upon a day that the city hall is not open for conduct of municipal business, then by noon of the first ensuing business day. All public records received by the city clerk shall have placed thereon an appropriate designation as to the time and date of receipt. Duplicates of any instruments or records of which the city clerk has the original, need not be filed with the city clerk.

Section 10. Inspection by citizens.

The public records of the city shall be open for inspection of any interested person or party during the customary business hours of the city clerk's office, subject however to the proper rules and regulations for the efficient conduct of the clerk's business and Florida law.

Section 11. Removing or withholding from custodian.

No person shall remove, conceal, withhold, retain or keep any public record from the lawful custody of the city clerk.

Section 12. Public hearings.

It is the intent of this provision to provide citizens of the City of Pahokee with the earliest opportunity to comment on proposed ordinances. Public hearings shall be held at the second reading of the ordinance, except as otherwise provided by law.

Section 13. Indemnification of municipal offices for losses and expenses incurred in defense of litigation instituted against official for actions in discharging municipal duties.

(a) *Definitions.*

- (1) "Official" shall mean the mayor, every city commissioner, officer, agent, or employee of the city, whether elected, appointed or employed, with or without compensation.

(2) "Indemnification" shall include the payment of all expenses and losses, including reasonable counsel fees, paid, incurred or imposed upon an official as a result of any litigation or proceeding.

(3) "Expense" shall include any monies paid by an official and incurred in the defense or settlement of any litigation or proceeding, including but not limited to, legal fees, costs of litigation, and the amount of any settlement, judgment or verdict.

(b) *Indemnification.*

(1) Whenever in the performance of, or in connection with the performance of, official duties in behalf of the city, an official has been involved or shall hereafter be involved in a dispute, proceeding or litigation, either in a representative or individual capacity, with or without the city as a co-party in the matter, the city shall promptly indemnify said official. The city shall promptly preserve, protect, defend, aid and assist said official, and exonerate, indemnify and hold harmless said official from and against any and all expenses, liabilities, claims, demands, proceedings, damages, losses, charges, advances, disbursements, payments, expenses, costs, including reasonable counsel fees, awards, settlements, judgments, decrees and mandates, paid, incurred by, or imposed upon said official in all disputes, proceedings, trials and appeals, by reason of said official being or having been a city official, even though he is no longer an official at the time the expenses are incurred or the claims are made against him. The protection herein guaranteed shall exist during and after the term of office or employment, for liabilities incurred during the term of office or employment if in the persons official capacity.

(2) Each official protected hereby shall promptly cooperate in his or her own defense, and shall:

- A. File a written notice with the City Manager requesting indemnification, which notice shall include all summons, writs and other documents pertaining to the claim made against said official;
- B. Attend hearings, trials, and depositions and furnish such evidence as shall be needed;
- C. Grant the city full rights of subrogation and the right to recover under any claims, offsets, or counterclaims of the protected official arising out of or in connection with the controversy involved in this section; provided, that if the protected official shall recover any sum, then the city shall deduct all disbursements, costs, and expenses of litigation including attorneys' fees, and any award against the city, and the remainder shall belong to the protected official;
- D. Execute and deliver to the city all assignments, papers, and documents needed to carry out the purposes of this section.

(3) All officials of the city are hereby authorized, required and directed promptly to perform any and all acts necessary, expedient or proper to carry out the purposes of this section, including, but not limited to the following:

- A. The city attorney shall appear in all disputes, proceedings, litigation and appellate proceedings, and conduct the same in behalf of said officials, and is authorized to incur costs and expenses to be reimbursed;
- B. The city finance director shall promptly pay, disburse, and reimburse the necessary funds required, for said costs, expenses and indemnification and shall satisfy any awards, settlements, judgments, mandates or decrees recovered or entered against said officials;
- C. The city officials shall execute as principal or surety any and all judicial or other bonds, including supersedeas or appeal bonds, or post cash or securities in lieu of surety bonds;
- D. The payment of all the foregoing sums is hereby declared to be a proper municipal purpose and expense, and the appropriation of all funds necessary for such payment is hereby authorized and made.

(4) If at any time it shall appear that the controversy has no connection with official duties, the city commission may require an investigation and report by the City Manager and/or City Attorney. The city may, for good cause, refuse to proceed with the indemnification or defense by use of the following procedure:

- A. The official shall be given a written notice, at least twenty (20) days before a hearing, and a written complaint showing that the controversy has no connection with official duties. The notice shall state the particulars of the complaint with enough detail so that the person may prepare his defense;
- B. At the hearing, which shall be before the city commission, the city and the official shall produce witnesses who shall give sworn testimony;
- C. At the conclusion of the hearing, the commission shall make its findings of fact and conclusions on the evidence. If the commission shall find that the controversy has no connection with official duties, and involves only a private or personal matter, then the commission may refuse to proceed with the indemnification and defense.

(5) After final determination the city may, for good cause, refuse to pay any judgment or decree entered against any official by following this procedure after a final judgment or decree, including any appellate proceedings:

- A. The official shall be given a written notice, at least twenty (20) days before a hearing, and a written complaint showing that he did not act in good faith and was guilty of a flagrant, willful, and intentional violation of a city ordinance or a law of Florida. The notice shall state the particulars of the complaint with enough detail so that the person may prepare his defense;

B. At the hearing, which shall be before the city commission, the city and the official shall produce witnesses who shall give sworn testimony;

C. At the conclusion of the hearing the commission shall make its findings of fact and conclusions on the evidence. If the commission shall conclude that the official did not act in good faith and was guilty of a flagrant, willful and intentional violation of a city ordinance or a law of Florida, then the commission may refuse to pay all or a part of said judgment or decree;

D. If the official shall willfully fail or refuse to cooperate in his defense, then the commission may, to the extent that the city was damaged thereby, reduce the protection and indemnification provided under this section.

(6) At all hearings hereunder the sole question shall be the obligation of the city to indemnify the official, and the merits of the claim made against the official shall not be an issue, so that the defense of the claim shall not be prejudiced.

Section 14. Interest and administrative fees assessable on monies due.

(a) *Overdue accounts; interest assessable.* The city commission hereby authorizes imposing a one (1) percent penalty per month on past-due invoices owing to the city for services rendered. The penalty may be imposed on the thirtieth day after the invoice becomes first due and payable. The penalty may be imposed each month until the invoice is fully paid to the city. The one (1) percent penalty may be imposed by the director of financial management or one (1) of his designees pursuant to a plan established by that office.

(b) *Checks returned for insufficient funds.* In the event that a check, draft, or other order for the payment of money is returned to the city dishonored for any reason, then the city shall not accept payment on said account without receiving a service fee of twenty dollars (\$20.00) or five (5) per cent of the face amount of the check, draft, or order, whichever is greater.

Section 15. Settlement of claims; administrative procedure for expeditious processing of claims against and in favor of City.

(a) In those instances where municipal property has been damaged or municipal employees have been injured due to the actions of third parties, and municipal funds have been or will be expended for property repairs or medical costs, recovery shall be sought as follows:

(1) The City Manager shall evaluate all such claims and shall attempt to secure full reimbursement.

(2) To the extent that a specific fund is budgeted, whenever the municipal claim can be satisfied in full and the city completely indemnified, the City Manager shall be authorized to release the third party from liability upon payment in full. If the amount of the claim is more than five thousand dollars (\$5,000.00), the form of the

release shall be reviewed and approved by the city attorney and approved by the City Commission before being executed and provided to the person/party being released.

(3) Whenever partial settlement of a municipal claim has been offered, the City Manager shall coordinate with the applicable insurance carrier and City Attorney and evaluate the settlement offer as follows:

A. If the total amount of the municipal claim involved is five thousand dollars (\$5,000.00) or less, the City Manager shall be authorized to settle the claim.

B. If the total amount of the municipal claim involved is more than five thousand dollars (\$5,000.00), the City Manager shall cause the proposed settlement to be placed upon the agenda of the next regularly scheduled meeting of the city commission. Upon recommendation by the City Manager, the city commission shall then determine whether or not to accept the proposed settlement offer.

(4) The City Attorney shall be available to advise the city commission and the City Manager at all stages of the above proceedings.

(5) In those instances where settlement of municipal claims cannot be effected within a reasonable time, the City Attorney, with an approving vote of the city commission, shall file the appropriate lawsuit to effect collection of the claim.

(6) The City Commission shall be notified by the City Manager at the next regular City Commission meeting of the amount of any claim settled by the City Manager.

Section 16. Severability.

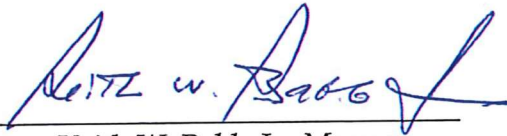
If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

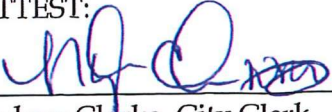
Section 17. Effective Date.

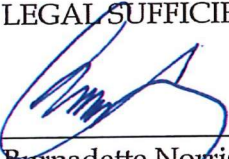
This Ordinance shall take effect immediately upon final passage.

PASSED FIRST READING this 24th day of September 2019.

PASSED SECOND READING this 12th day of November 2019.


Keith W. Babb, Jr., Mayor

ATTEST:

Nylene Clarke, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Burnadette Norris-Weeks, Esq.
Interim City Attorney

Moved by: Commissioner Everett

Seconded by: Vice Mayor Murvin

VOTE:

Commissioner Bohlen	<input type="checkbox"/> (Yes)	<input checked="" type="checkbox"/> (No)
Commissioner Everett	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Commissioner Hill	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Vice-Mayor Murvin	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Mayor Babb	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)