

**TO:** Honorable Mayor & Members of the North Port Commission  
**FROM:** Jonathan R. Lewis, ICMA-CM, City Manager  
**TITLE:** Commission pay frequency

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### **Recommended Action**

Provide direction to staff on whether to continue paying Commissioners monthly or change to bi-weekly as all other City employees are paid.

### **Background Information**

At the City Commission meeting on January 24, 2017, the Commissioners discussed the pay frequency of City Commissioners. Finance staff has researched the history of City Commissioner pay. Prior to 2002, Commissioners were not treated as employees of the City, but were considered independent contractors and received a monthly stipend through Accounts Payable. In April of 2002, the City received a Determination of Employment Status, attachment 1, from the IRS, which switched the City Commissioners from being independent contractors to employees for federal tax purposes. Therefore, effective with the June 21, 2002 payroll, City Commissioners have been paid as employees.

Commissioner pay is currently covered in the City Administrative Code Section 2-23, Declaration of Compensation; pay as follows:

Sec. 2-23. - Declaration of compensation; payment.

The North Port City Commissioner compensation shall be paid as follows:

- (1) On or before the last day of each month, commissioners shall be paid for that current month.
- (2) If a commissioner leaves office mid-month, his/her compensation shall be prorated. The calculation shall be determined by the commissioner's last day in office, divided by the number of calendar days in the month.
- (3) If a commissioner begins office mid-month, his/her compensation shall be prorated. The calculation shall be determined by the commissioner's first day in office, divided by the number of calendar days in the month.
- (4) Compensation for the city commission shall be \$2,431.01 per month, and for the mayor shall be \$2,531.01 per month. Any further changes shall be in compliance with article III, section 3.03 of the North Port City Charter.

This section was last amended by Ordinance No. 2012-28, with an effective date of November 6, 2012, which is attachment 2. Commission compensation is also covered in the City Charter, Section 3.03, with section b stating that any ordinance which changes the compensation of the Commissioners will not take effect until the next General City Election.

If the City Commission desires to have the pay frequency changed from once a month to bi-weekly as all other City employees are currently paid, Finance staff will prepare an Ordinance amending Ordinance No. 2012-28. Staff would recommend that the effective date for this ordinance be the first payroll of the subsequent month of the ordinance being adopted. If Commission recommends the amendment, staff also would change the amount of any deductions from Commissioner pay for items such as health insurance to a bi-weekly amount.

Currently City Commissioners are paid \$2,431.01 per month, with the Mayor receiving \$100 additional. If the Commission directs staff to make the adjustment to bi-weekly, Commissioners will be paid \$1,122.00 bi-weekly, with the Mayor receiving and additional \$46.15 bi-weekly.

**Strategic Plan**

Financially Responsible City Providing Quality Municipal Services.

**Financial Impact**

There would be no financial impact to the City with this change.

**Procurement**

N/A

Attachments:

1. IRS Determination of Employment Status
2. Ordinance No 2012-28

**Prepared by:** Pete Lear

**Department Director:** Pete Lear



**Internal Revenue Service**  
SB/SE Area 1, Compliance  
Vermont Territory, SS-8 Unit

**Department of the Treasury**  
40 Lakemont Road  
Newport, VT 05855-1555

Date: APR 12 2002

Person to Contact:  
Edward Brochu 03-00098

Ann Marie S. Ricardi, Finance Director  
City of North Port Florida  
5650 N. Port Blvd.  
North Port, FL 34287-3102-505

Tel.: #802-334-0250  
Fax: #802-334-0249

Refer Reply to:  
Case # 22822, 22823, 22824, 22825,  
22826, 22827, & 22828

Dear Ms. Ricardi:

This is in response to a Form SS-8 that was submitted to request a determination of employment status, for Federal employment tax purposes, between the City of North Port Florida, hereafter referred to as the firm, and the individuals named below, hereafter referred to as the workers:

- |                         |        |
|-------------------------|--------|
| 1. Joseph E. Fink       | #22822 |
| 2. Roy E. Hall, Jr.     | #22823 |
| 3. Richard A. Lockhard  | #22824 |
| 4. George D. Mullen     | #22825 |
| 5. Thomas L. Williamson | #22826 |
| 6. Rue S. Berryman      | #22827 |
| 7. Barbara L. Gross     | #22828 |

It is our usual practice in cases of this type to solicit information from both parties involved. Since worker #1 and #5 did not respond to our Form SS-8 request for information concerning the work relationship, we are issuing this determination based on the information submitted by the firm and the other workers. Any other conditions that were not known or furnished may change this determination.

We hold the workers to be and/or have been employees of the firm. In the rest of this letter, the workers' services will be referenced in the present tense while we explain the facts and the law that are the bases for this conclusion.

The parties generally agree that the firm is a charter city in Sarasota County Florida that provides police, fire, solid waste, recycling, road and drainage services, sidewalk maintenance, street lighting, planning and growth management, and some recreation programs. IRS records indicate that the firm is a State or local agency that has entered into a 218 agreement with the SSA (Social Security Administration).

The workers render services as commissioners commensurate with the status of self-employed independent contractors. The workers' title and position was created by a city charter, and with a majority rule, they provide policy direction to the city (firm) staff via the City Manager. You state that the firm has (293) budgeted employees, which we offer for informational purposes only. However, your request for a determination stems directly from the workers' discussion of their Federal employment tax status when considering an increase to their pay and benefits.

It is your belief that the workers are independent contractors for the following reasons:

- Based on behavioral control, they (the workers) act independently to direct and control most of their work, as majority rules, with little or no external forces.
- Based on financial control, they are provided everything needed to perform services to include office space, supplies, travel expenses, business cards, and pagers; however, most of this is based on an ordinance passed by the workers effective on December 1, 1997.

According to Article III of the firm's charter, its form of government was adopted as a commission/manager plan called the "City Commission". The City Commission constitutes the governing body with all legislative powers vested in it, and it is comprised of five elected commissioners (workers), one of whom they elect as the Chairperson and one as the Vice Chairperson. Section 3.05(c) of the Charter precludes the firm from employing the commission members during their respective terms of office.

The following workers offer their understanding of the services rendered. Worker #2 indicates that the firm engages him as a city commissioner to make judicial decisions, worker #4 indicates that it engages him as a commissioner to determine the manner in which such powers of the city (firm) shall be exercised as prescribed by ordinance or resolution, and worker #7 indicates that it engages her as a city commissioner to enact ordinances and city policies.

The workers' belief that they are self-employed is summarized by worker #5 who indicates that they pay self-employment tax on annual compensation and are not eligible for medical benefits, insurance or retirement benefits.

The following information was gleaned from the parties' Form SS-8 responses and accompanying documents, which support their belief that the workers perform services for the firm as independent contractors. *The firm's responses are noted in italics.*

Part I Behavioral Control:

1. *The workers follow Roberts' Rules of Order and the city charter; workers #3 and #6 concur.* Worker #2 responds that the firm does not provide training

- and/or instructions from it; according to worker #4, they must comply with the Sunshine Laws of Florida, parliamentary procedures, and emergency management procedures; worker #7 responds they receive no training or instructions except to comply with the City Charter as voted in by the citizens.
2. The parties generally concur that the workers' assignments are received on a majority rule basis; the workers establish meeting schedules or as set by other needs, and their methods are governed by themselves and the City Charter.
  3. The parties generally concur that the workers are required to resolve any problems and/or complaints in their capacity and authority as commissioners.
  6. The parties generally concur that the workers do not adhere to a daily schedule, but they have weekly commission meetings on a bi-Monday basis as scheduled on a "City Commission/Boards & Committee Calendar".
  7. The parties concur that the workers conduct their business at the firm's premises (City Hall).
  9. The workers are required to perform services personally.

#### Part II Financial Control:

1. The firm furnishes the workers with facilities, office equipment, supplies, and materials necessary to render services.
3. Though you respond "N/A" with regards to whether or not the firm reimburses the workers' expenses, it is authorized pursuant to Section 4 of Ordinance #97-32.
5. The firm compensates the workers a stipend totaling \$675 per month and \$750 per month for the chairperson.
10. The workers cannot incur any economic losses or financial risks beyond the normal loss of earnings, e.g., loss or damage of equipment, materials, etc.

#### Part III Relationship between the Worker and Firm:

1. No benefits are available to the workers.
2. Either the workers or the firm can terminate the work relationship without incurring a liability or penalty. Section 4.04 (Forfeiture of office) of the Charter provides that the workers (commissioners) can tender their resignation without liability, or an extraordinary vote of the entire City Commission (workers) can discharge a fellow commissioner without liability.
3. The workers do not perform similar services for others.

Section 3121(d)(2) of the Internal Revenue Code provides that the term "employee" means any individual who, under the usual common law rules applicable in determining the employer/employee relationship, has the status of employee.

The question of whether an individual is an independent contractor or an employee is one of fact to be determined upon consideration of the facts and the application of the law and regulations in a particular case. Guides for determining the existence of

that status are found in the following three substantially similar sections of the Employment Tax Regulations. Sections 31.3121(d)-1, 31.3306(i)-1, and 31.3401(c)-1 relating to the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and Federal income tax withholding on wages at source, respectively.

Section 3121(d)(2) of the Internal Revenue Code provides that the term "employee" means any individual who, under the usual common law rules applicable in determining the employer/employee relationship, has the status of employee. The question of whether an individual is an independent contractor or an employee is one of fact to be determined upon consideration of the facts and the application of the law and regulations in a particular case. Guides for determining the existence of that status are found in three substantially similar sections of the Employment Tax Regulations. Please refer to Sections 31.3121(d)-1, 31.3306(i)-1, and 31.3401(c)-1 relating to the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and Federal income tax withholding, respectively.

As explained in section 31.3121(d)-1(c)(2) of the Employment Tax Regulations, the relationship of employer and employee exists when the person for whom the services are performed has the right to control and direct the means and methods of how the individual performs services. In this connection, it is not necessary that the employer actually direct or control the individual, it is sufficient that the employer has the right to do so.

In determining whether an individual is an employee or an independent contractor under the common law, all evidence of control and autonomy must be considered. Facts to provide evidence of the degree of control and autonomy are a firm's right to direct and control how the worker performs tasks for which hired, the right to direct or control how the aspects of the worker's activities are conducted, and how the parties perceive their relationship. See Rev. Rul. 87-41, 1987-1 C.B. 296, Publication 15, "Circular E, Employer's Tax Guide", and Publication 15-A, "Employer's Supplemental Tax Guide."

As is the case in almost all worker classification cases, some facts will point to an employment relationship while other facts indicate an independent contractor status. The determination of the worker's status, therefore, rests on the weight given to the factors under the common law, keeping in mind that no one factor is determinative of a worker's status.

Under the common law, the relationship of employer and employee exists when the person for whom the services are performed has the right to control not only what is done, but also how it is done. Evidence of control generally falls into three categories: behavioral controls, financial controls, and relationship of the parties. Behavioral factors that illustrate if there is a right to direct and control how a worker performs services include training, instructions, and supervision. Financial factors that illustrate if there is a right to direct and control the financial aspects of the

worker's business include significant investment, unreimbursed expenses, making services available to the relevant market, the methods of payment, and the opportunity for profit or loss. Factors that illustrate how the parties perceive their relationship include:

1. their intent as expressed in written contracts,
2. the provision for or lack of employee benefits,
3. the right of the parties to terminate the relationship,
4. the permanency of the relationship, and
5. if the services are part of the service recipient's regular business activities.

Based on the facts gleaned from the information and documentation submitted by the parties concerning the work relationship in the relevant tax years, it is our conclusion that the firm exercises or retains the right to exercise direction and control over the workers' services via its City Charter. The workers are not engaged in an independent enterprise requiring capital outlays or the assumption of business risks, but rather their services are a necessary and integral part of the firm's municipal function. The workers do not have the opportunity to realize a profit or incur a loss in the performance of their services, and both the workers and the firm retain the right to terminate the work relationship at any time without incurring a liability.

Regarding behavioral control, virtually every business will impose on their workers, whether independent contractors or employees, some form of instruction, e.g., requiring that a job be performed within specified time frames. It must be determined whether a business retains the right to control the details of a worker's performance *or instead has given up its right to control those details*. The weight of "instructions" in any case depends on the degree to which instructions apply to **how the job gets done** rather than to the **end result**. And it must be borne in mind that many employees perform services without receiving instructions because of the training and experience, and/or the repetitive nature and familiarity they bring to their tasks. A firm has wide latitude in determining the standard for its business operation to insure against economic loss. A firm will oftentimes assert that its direction and control over the worker is absent if he/she performs services when he/she wants to, or that he/she is their own boss and performs services at his/her own convenience and schedule. However, these assertions are not consistent with prudent and reasonable business practices and ignore the economic realities of a business operation prescribing that a worker must produce a sufficient amount of work to make his/her services economically profitable and/or satisfactory to both parties.

Behavioral control is evidenced in this case because the workers' services are directed as outlined in the firm's City Charter

Regarding financial control, the workers do not have a significant and/or substantive investment in services related to those rendered to the firm. Whether or not the firm reimburses the workers' authorized expenses, Ordinance #97-32 provides that it is obligated to do so. Also, the workers do not perform similar services to others, nor

do they advertise to do so, and they are guaranteed a specified monthly compensation.

Financial control is further evidenced in that the workers do not make business decisions affecting their profit or loss, i.e. rent/utilities, advertising, wage payments, inventory/cost of goods sold, etc. It must be borne in mind that "profit or loss" implies the use of capital by an individual in an independent business of his or her own. Thus, opportunity for higher earnings, such as from pay on a piecework basis or the possibility of gain or loss from a commission arrangement, is not considered profit or loss. Further, the risk that a worker will not receive payment for his or her services is common to both independent contractors and employees and thus does not constitute a sufficient economic risk to support treatment as an independent contractor.

Regarding the relationship of the parties, despite what's written into the City Charter and Ordinance #97-32, the substantive facts and circumstances of the relationship of the parties conclude that the workers render services for the firm as employees. The relationship of the parties is important because it reflects the parties' intent concerning control as embodied in their contractual relationship. However, according to Treasury Regulation section 31.3121(d)-1(a)(3), the facts and circumstances of a work relationship are determinative of a worker's status; this means that the substance of the relationship, not the contractual designation, governs the worker's status.

Based on the scope and function of the firm's municipal operation, the workers' services are merged into it and performed under its name, which indicates that the success or continuation of its municipal functions depends to an appreciable degree on their services. Since the workers are required to perform services personally, they cannot hire and pay others to perform their services for the firm on their behalf. Both the workers and the firm can terminate their relationship with the other at any time without incurring a liability.

The Internal Revenue Service has published revenue rulings examining the Federal employment tax status of individuals engaged in a variety of occupations. These revenue rulings apply the common law facts to each situation to establish whether or not an employer-employee relationship exists.

Revenue Ruling 58-549, advice has been requested relative to the statute, under the Self-Employment Contributions Act of 1954 (chapter 2, subtitle A, Internal Revenue Code of 1954) of an individual performing services as a commissioner, receiver, referee, appraiser, and guardian, pursuant to appointment by a state court as authorized by state statute.

Under the Government Code of the state of M, a superior court may appoint a commissioner, or commissioners, with power to hear and determine ex parte motions for orders and writs in the absence or inability of the judge or judges of the

court. Further powers granted to such appointed commissioners include the taking of proof and reporting conclusions upon information that is required by the court, the taking and approving of bonds, including examination of sureties thereon, the administering of oaths and affirmations, and the taking of affidavits.

The Code of Civil Procedure of the state of M provides that a receiver appointed by the court, or by a judge thereof, has, under the control of the court, power to bring and defend actions in his own name, as receiver, to take and keep possession of the property, to receive rents, collect debts, to compound for and compromise the same, to make transfers, and generally to do such acts respecting the property as the court may authorize.

With respect to the duties of a referee, the Code provides that such person must report his findings in writing to the court within a specified time after testimony, stating separately facts found and conclusions of law. The findings of the referee must stand as the finding of the court, and upon proper filing of the finding, judgment may be entered thereon in a manner the same as if the action had been tried by the court.

The Code of Civil Procedure provides, with respect to appraisers, that in any action or proceeding for the purpose of condemning property the court may appoint appraisers or other persons for the purpose of determining the value of such property and fixing the compensation thereof.

With respect to guardians, the Code provides that a general guardian or guardian ad litem appearing for an infant or incompetent person in any action or proceeding shall have power, with proper court approval, to compromise the same, to agree to the order or judgment to be entered therein for or against his ward, and to satisfy any judgment or order in favor of said ward or release or discharge any claim of said ward pursuant to such compromise.

The individual in question works in the capacity of clerk in the presiding judge's court, superior court of the state of M, and, in such connection, he receives a monthly salary. Also, he is under the retirement plan of the city and county of N. With respect to such services, he is admittedly an employee of the city and county of N. His appointments to act as commissioner, guardian, receiver, referee, and appraiser are made by the presiding judge. His services in those capacities are performed during his spare time and the appointments are not dependent upon the fact that he is a clerk of the court. He receives an average of fifteen appointments yearly to act in each capacity. His duties as an appraiser are to examine personal and real property and to place a fair valuation thereon. He receives separate appointments as an appraiser and his work in that capacity is not a part of his duties as commissioner or referee. When acting as guardian, it is his duty to marshal the assets of the ward or prepare inventories of such properties, receive and disburse the income of the estate, and to prepare and file a statement of account to be submitted to the court. He maintains an office in his home, provides his own

equipment and supplies, and pays all expenses incurred in connection with such activities. His services in the aforementioned capacities are performed without supervision or control by the judge. The fees for his services are fixed by the judge and are paid to him by the litigants in the case before the court. Occasionally, he engages individuals to assist in some phase of his work and pays them from his own funds. He has not been admitted to practice law in the state of M.

Section 1402(c) of the Self-Employment Contributions Act of 1954, supra, provides, in part, that the term 'trade or business,' when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162 (relating to trade or business expenses), except that such term shall not include (1) the performance of the functions of a public office, and (2) the performance of services by an individual as an employee (with certain exceptions not here material) as defined in the Federal Insurance Contributions Act (chapter 21, subtitle C, Internal Revenue Code of 1954).

It is held that the services performed by the individual in his capacity as commissioner, receiver, and referee under appointments by the judge of the court pursuant to the provisions of the state law are excluded from the term 'trade or business' under section 1402(c) of the Self-Employment Contributions Act of 1954 as services performed by an officer or employee of the court. Accordingly, the tax (self-employment tax) imposed by that Act is not applicable to his remuneration for such services. End of ruling.

It is determined that the workers' services are similar and/or identical to those of the commissioner described in the above revenue ruling and are excluded from the term 'trade or business' under section 1402(c) of the Self-Employment Contributions Act of 1954.

The status for federal employment tax purposes of workers performing service for state and local governments and whether they are employees or independent contractors is determined under the same rules as those for private industry.

Section 3121(d)(4) of the Code defines an employee as any individual who performs services that are included under a section 218 agreement.

Section 3306(c)(7) of the Code excepts from the FUTA tax service performed for any state, political subdivision thereof, or any wholly owned instrumentality thereof.

If it is determined that the worker is an employee, there are additional rules that apply with regard to the social security and Medicare taxes imposed under the FICA. We have outlined these rules below, and we urge that the firm read these rules carefully to determine which provisions may be applicable.

1. First, the firm must determine if a section 218 agreement applies to the services performed by the worker. A section 218 agreement is a contract the state,

political subdivision, or instrumentality has entered into with the Department of Health and Human Services under section 218 of the Social Security Act. A section 218 agreement covers positions and not individuals. If the position is covered by such a contract, the employer and the employee are subject to both the social security and Medicare taxes. The firm should contact the State Social Security Administrator for its State to learn if the position is covered.

2. For a position not covered by a section 218 agreement, the employer and the employee are liable for both the social security and the Medicare taxes on wages paid for services performed after July 1, 1991. However, there is no liability if the worker is covered by a pension plan that meets certain Internal Revenue Service requirements. See section 31.3121(b)(7)-2 of the Federal Employment Tax Regulations. If the worker is covered by the pension plan and it meets the Internal Revenue Service requirements, the employer and employee will be liable for the Medicare portion of the tax only on workers hired after March 31, 1986.
3. For a position not covered by a section 218 agreement and the worker's employment involves services performed before July 2, 1991, the employer and the worker will be liable for the Medicare tax, but not the social security tax if the worker was hired after March 31, 1986. If the worker's service also covers periods after July 1, 1991, liability for the social security and Medicare taxes on wages paid for services after July 1, 1991 will depend upon the pension coverage of the workers. See 2 above.
4. For a position not covered by a section 218 agreement, and the worker was hired before April 1, 1986, there is no social security liability for either the social security or the Medicare taxes until July 2, 1991. Liability for social security and Medicare taxes on wages paid for services after July 1, 1991 will depend upon the pension coverage of the worker. See 2 above.

According to section 31.3401(a)-2(b) of the Income Tax Regulations, authorized fees paid to public officials such as notaries public, clerks of courts, sheriffs, etc., for services rendered in the performance of their official duties are excepted from wages and hence are not subject to withholding. However, salaries paid such officials by the Government, or by a Government agency or instrumentality, are subject to withholding.

For further guidance and information regarding state and local government workers, please see Publication 963, Federal-State Reference Guide.

Section 3509 of the Code provides the following guidance when an employer fails to deduct and withhold any tax under chapter 24 (income tax withholding) or subchapter A of Chapter 21 (employee portion of FICA tax) with respect to any worker not treated as an employee. The employer's liability is 1.5 percent of the employee's wages plus 20 percent of the **employee's** portion of the FICA tax. The employer's liability is doubled in cases where the employer failed to meet the

reporting requirements of sections 6041(a) or 6051 consistent with the treatment of the employees as independent contractors. You must pay the full amount of the **employer's** share of FICA taxes and the full amount of tax under the FUTA.

Section 3509(c) provides that the reduced rates of section 3509 do not apply in cases of an employer's intentional disregard of the requirement to deduct and withhold such tax.

Section 3509(d)(3) provides that Section 3509 does not apply to an individual described in paragraph 3121(d)(3) relating to statutory employees.

Please see NAR BUR Notice 514 for further information concerning your eligibility for section 3509 rates.

Section 530 of the 1978 Revenue Act established a safe haven from an employer's liability for employment taxes arising from an employment relationship. This relief may be available to employers who have misclassified workers if they meet certain criteria. This is explained more fully in the enclosed fact sheet.

As we are not in a position to personally judge the validity of the facts provided, our determination is based on the information presented. This ruling is directed only to the taxpayers to whom it is addressed, however, it is applicable to any other individuals engaged by the firm under similar circumstances. Section 6110(k)(3) of the Code provides it may not be used or cited as precedent.

**We have submitted an Information Report to the IRS office having examination jurisdiction for the firm's area for whatever action they deem necessary.**

It is possible that the statute of limitation has expired for the assessment of taxes for the tax years prior to 1998. If so, it will not be necessary for the firm to amend tax returns for those years. Internal Revenue Code (IRC) Section 6501(a) provides that the statute of limitations for assessment generally expires three years from the due date of the return, or three years after the date the return was actually filed, whichever is later. IRC Section 6501(b)(2) provides that for certain employment tax returns, the three years would begin April 15 of the following year for which the return was due. IRC Section 6511(a) provides that a claim for credit or refund of an overpayment shall be filed within three years from the date the return was filed, or two years from the date the tax was paid, whichever expires later.

**Otherwise, the firm is encouraged to correct its payroll tax returns with regards to the workers' services from tax year 1998 to present.** For information and instructions concerning the filing/amendment of the firm's employment tax returns, please see the enclosed Information Guide, NAR BUR Notice 514, "Frequently Asked Questions When IRS Reclassifies Workers as Employees". **However, if the firm deems that it would meet the criteria for section 530 relief as explained in the enclosed fact sheet,**

it should NOT amend its returns at this time. To do so may nullify its eligibility for relief of payment of employment taxes in this matter.

If further assistance is needed to correct the firm's employment tax returns due to the workers' reclassification, please call the IRS help line at 1-800-829-1040. Call 1-866-455-7438 for assistance in preparing or correcting Forms W-2, W-3, 1099, 1096, or other information returns.

Internal Revenue Code Section 7436 concerns reclassifications of worker status that occur during IRS examinations. As this determination is not related to an IRS audit, it does not constitute a notice of determination under the provisions of Section 7436.

Sincerely,

*Richard R. Hammond*

Richard R. Hammond  
Territory Manager

Enclosures: Notice 441 & copy of letter for section 6110 purposes  
NAR BUR Notice 514  
Forms/Pubs.: 941 and 941c  
1998-1999-2000-2001: 1099-MISC, 1096, W-2, W-3  
Revenue Ruling 58-549

\*To order forms & publications, please call 1-800-TAX-FORM, or visit us online @ [www.irs.gov](http://www.irs.gov).

cc: Joseph E. Fink  
Roy E. Hall, Jr.  
Richard A. Lockhard  
George D. Mullen  
Thomas L. Williamson  
Rue S. Berryman  
Barbara L. Gross



## City of North Port

### ORDINANCE NO. 2012-28

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING CHAPTER 2, ARTICLE II, SECTION 2-23, OF THE NORTH PORT CITY CODE, RELATING TO CITY COMMISSION COMPENSATION; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:**

SECTION 1. AMENDMENT OF SECTION 2-23, DECLARATION OF COMPENSATION; PAYMENT

1.01 Chapter 2, Article II, Section 2-23 of the City of North Port Code of Ordinances relating to City Commissioner compensation is amended to read as follows:

**Sec. 2-23 Declaration of compensation; payment**

The North Port City Commissioner compensation shall be paid as follows:

- (1) On or before the last day of each month, commissioners shall be paid for that current month.
- (2) If a commissioner leaves office mid-month, his/her compensation shall be prorated. The calculation shall be determined by the commissioner's last day in office, divided by the number of calendar days in the month.
- (3) If a commissioner begins office mid-month, his/her compensation shall be prorated. The calculation shall be determined by the commissioner's first day in office, divided by the number of calendar days in the month.
- (4) Compensation for the city commission shall be \$2,431.01 per month, the chairperson shall be \$2,531.01 per month, which shall not be automatically increased by five percent per annum for fiscal year 2013 or 2014 but shall be increased by five percent per annum for fiscal year 2015 thereafter. Any further changes shall be in compliance with Article III, Section 3.03 of the North Port City Charter.

SECTION 2. REPEALER

2.01 All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 3. SEVERABILITY

3.01 If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provisions shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. EFFECTIVE DATE

4.01 This Ordinance shall take effect November 6, 2012 pursuant to Article III, Section 3.03 of the North Port City Charter.

**READ BY TITLE ONLY** at first reading by the City Commission of the City of North Port, Florida in public session this ~~7th~~ day of September, 2012.

**PASSED and DULY ADOPTED** by the City Commission of the City of North Port, on the second and final reading in public session this ~~7th~~ day of October, 2012.

CITY OF NORTH PORT, FLORIDA

  
TOM JONES, Commission Chair

ATTEST:

  
HELEN RAIMBEAU, MMC, City Clerk

Approved as to form and correctness:

  
ROBERT K. ROBINSON, City Attorney



## City of North Port

ORDINANCE NO. 2014-32

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING CHAPTER 2, ARTICLE II, SECTION 2-23, OF THE NORTH PORT CITY CODE, RELATING TO CITY COMMISSION COMPENSATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

### SECTION 1. AMENDMENT OF SECTION 2-23, DECLARATION OF COMPENSATION; PAYMENT

1.01 Chapter 2, Article II, Section 2-23 of the City of North Port Code of Ordinances relating to City Commissioner compensation is amended to read as follows: [Note: additions are shown as underlined and deletions as strikethrough. These editorial notations shall not appear in the codified text.]

#### Sec. 2-23 Declaration of compensation; payment

The North Port City Commissioner compensation shall be paid as follows:

- (1) On or before the last day of each month, commissioners shall be paid for that current month.
- (2) If a commissioner leaves office mid-month, his/her compensation shall be prorated. The calculation shall be determined by the commissioner's last day in office, divided by the number of calendar days in the month.
- (3) If a commissioner begins office mid-month, his/her compensation shall be prorated. The calculation shall be determined by the commissioner's first day in office, divided by the number of calendar days in the month.
- (4) Compensation for the city commission shall be \$2,431.01 per month, and for the chairperson ~~and for the~~ mayor shall be \$2,531.01 per month, ~~which shall not be automatically increased by five percent per annum for fiscal year 2013 or 2014 but shall be increased by five percent per annum for fiscal year 2015 thereafter.~~ Any further changes shall be in compliance with Article III, Section 3.03 of the North Port City Charter.

Ordinance No. 2014-32

**SECTION 2. SEVERABILITY**

2.01 If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provisions shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

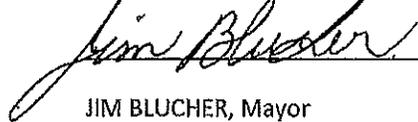
**SECTION 3. EFFECTIVE DATE**

3.01 This Ordinance shall take effect November 5, 2014 pursuant to Article III, Section 3.03 of the North Port City Charter.

**READ BY TITLE ONLY** at first reading by the City Commission of the City of North Port, Florida in public session this 8<sup>th</sup> day of September, 2014.

**PASSED and DULY ADOPTED** by the City Commission of the City of North Port, on the second and final reading in public session this 22<sup>nd</sup> day of September, 2014.

CITY OF NORTH PORT, FLORIDA

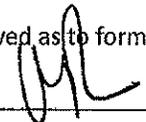
  
\_\_\_\_\_  
JIM BLUCHER, Mayor

ATTEST:

  
\_\_\_\_\_  
HELEN RAIMBEAU, MMC, City Clerk

HELEN RAIMBEAU, MMC, City Clerk

Approved as to form and correctness:

  
\_\_\_\_\_  
MARK MORIARTY, City Attorney

MARK MORIARTY, City Attorney