


MEMORANDUM

TO: Mayor England
Vice Mayor Samora
Commissioner George
Commissioner Rumrell
Commissioner Torres

FROM: Max Royle, City Manager 

DATE: July 9, 2021

SUBJECT: Ordinance 21-08, Public Hearing and Final Reading, to Amend Chapter 16 (Police Department) of the General City Code to Delete Certain Obsolete Provisions

At your June 7, 2021, meeting, Chief Carswell brought to your attention that Chapter 16 of the City Code, which concerns the Police Department, needed to be updated. The memo he presented to you is attached as pages 1-2.

The result of the Chiefs presentation was that Mayor England asked the staff to prepare an ordinance, which the City Attorney did. The Ordinance is attached as pages 3-14.

You reviewed Ordinance 21-08 at your July 6th meeting, when you passed it on first reading. The Ordinance has been scheduled for a public hearing and final reading at your August 11th meeting.

ACTION REQUESTED

That you hold the public hearing and pass Ordinance 21-08 on final reading.



St. Augustine Beach Police Department

Daniel Carswell, Chief of Police



Memorandum

TO: Mayor Margret England
Vice Mayor Don Samora
Commissioner Undine George
Commissioner Dylan Rumrell
Commissioner Ernesto Torres

RE: Proposed City Code Update

FROM: Daniel Carswell, Chief of Police

DATE: May 24th, 2021

After a review of Chapter 16 of the city code entitled "Police," I am proposing a number of updates and deletions to this section. Excluding a few sections, this portion of our city code was established in 1963, prior the formal governmental structure and law enforcement agency we have in place currently. There is a large portion of this code that dictates policy and procedure for law enforcement. Some of these policies and procedures conflict with current SABPD policy and procedure which is in accordance with the Commission for Florida Law Enforcement Accreditation (CFA) standards.

The following is a submission of the proposed updates. I have included current SABPD policy that is in place that should replace the lined-out sections of this code. Other sections I believe should stay in place but need the suggested updates.

ARTICLE II- Law Enforcement Department

16-21- General Definitions

16-22- General Duties (See attached updates)

~~16-23- Operation and maintenance of department equipment~~ (Replaced with SABPD policy 5.0 Assigned Vehicles)

16-24- General Responsibilities of Officers

16-25- Off-Duty Hours

~~16-26- Orders of Superior Officers~~ (Replaced with SABPD policy 11.0 Code of Conduct)

~~16-27- Duties to Maintain Contact with the Sheriff~~ (No longer relevant)

~~16-28- Ranking Officers at the Scene~~ (Replaced with SABPD policy 8.1 Police Sergeant Duties)

~~16-29- Fires~~ (Replaced with SABPD policy 17.0 Patrol Function)

~~16-30- Reports of Homicides~~ (Replaced with SABPD policy 18.0 Investigations)

~~16-31- Infections or Epidemic Diseases~~ (Replaced with SABPD policy 29.0 Exposure Control)

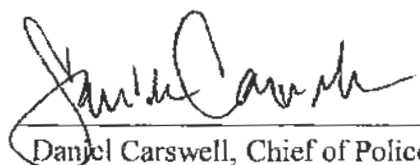
- ~~16-32- Divulging Police Information~~ (Replaced with SABPD policy 11.0 Code of Conduct)
- ~~16-33- Use of Firearms~~ (Replaced with SABPD policy 11.0 Code of Conduct)
- ~~16-34- Rewards, Presents, Gratuities, and Money~~ (Replaced with SABPD policy 11.0 Code of Conduct)
- ~~16-35- Arrests~~ (Replaced with SABPD policy 4.2 Arrests and Involuntary Examinations)

ARTICLE III- Police Reserve

- ~~16-46- Police Reserves Title~~ (Replaced with SABPD policy 6.0 Part-Time Police Officers)
- ~~16-47- Definitions~~ (Replaced with SABPD policy 6.0 Part-Time Police Officers)
- 16-48- Established (See attached updates)
- ~~16-49- Members and Bylaws~~ (Replaced with SABPD policy 6.0 Part-Time Police Officers)
- ~~16-50- Functions~~ (Replaced with SABPD policy 6.0 Part-Time Police Officers)

ARTICLE IV- Law Enforcement User Charge

- 16-100- Charge Imposed (See attached updates)
- 16-101- Definitions
- 16-102- Computation of Charges
- 16-103- Invoices, Payment (See attached updates)
- 16-104- Failure to Pay Invoice (See attached updates)
- 16-105- Appeal (See attached updates)

 5/24/21
Daniel Carswell, Chief of Police

ORDINANCE NO. 21-08

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE BEACH, FLORIDA AMENDING CHAPTER 16 -- "POLICE" OF CITY OF SAINT AUGUSTINE BEACH CODE OF ORDINANCES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WITNESSETH:

WHEREAS, the City Commission continues to seek to promote law and order;

WHEREAS, Chief Daniel Carswell was promoted to interim, and now, Chief of Police for the City of Saint Augustine Beach after the election of previous Chief of Police, Robert A. Hardwick, to Sheriff of Saint Johns County, Florida in its November 2020 election;

WHEREAS, Chief Daniel Carswell has reviewed the Law Enforcement Department section of the City of Saint Augustine Beach, Florida's City Code and recommended the following updates to that Code;

WHEREAS, many of these updates are moving sections from City Code to the Policy Manual for the City of Saint Augustine, Florida so they can more easily be kept up to date.

WHEREAS, the City Commission hereby finds that adoption of this ordinance serves the best interest and welfare of the residents of the City of Saint Augustine Beach.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF SAINT AUGUSTINE BEACH:

SECTION 1. Recitals Adopted: The recitals set forth above are true and correct and incorporated herein by this reference.

SECTION 2. Amend Chapter 16 "Police" of the City's Code of Ordinances as follows:

Chapter 16 POLICE

ARTICLE I. IN GENERAL

Sec. 16-1—16-20. Reserved.

ARTICLE II. LAW ENFORCEMENT DEPARTMENT

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Sec. 16-21. 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:

Civil rights means an American citizen's individual rights as defined by the Constitution of the United States of America.

Duty means action required of a law enforcement officer and that which a person is morally bound to do.

General order means a permanent order issued by the chief of police not relating to a specific instance or circumstance.

Leased motor vehicle means a vehicle owned, maintained and insured by a person and leased to the city when additional vehicles are required.

Off duty means that period during which an officer is free from routine duties.

Officer means every sworn member of the law enforcement department regardless of sex or rank.

On call means that period during which an officer, while not actually on duty, is available for immediate duty.

On duty means that period during which an officer is at his assigned station, normally in the police vehicle, performing the routine duties of a law enforcement officer.

Order means instructions given by a superior officer to a subordinate.

Police vehicle means a vehicle used for police related duties that is owned, maintained and insured by the city.

Report means a written communication.

Special order means an order issued by the chief of police to cover some particular circumstance or situation.

Superior officer means any officer having supervision, either temporarily or permanently, over officers of lower rank.

(Ord. No. 21, § I, 11-4-63)

Sec. 16-22. General duties.

(a) The duties of the individual members of the law enforcement department are as follows:

(1) *Chief of police.* The chief of police shall be the head of the law enforcement department. He shall attend the meetings of the city commission and, through the city manager, make

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monthly reports to the city commission concerning all matters pertaining to his department, ~~keep updated the policies and procedures of the City of Saint Augustine Beach Police Department, keep up the accreditation standards for the City of Saint Augustine Beach Police Department,~~ and shall perform such other duties as may be required by the Charter, by the laws and the ordinances of the city. The chief of police shall receive such compensation as may be fixed by the city ~~commission, and commission and~~ shall be furnished with the requisite uniforms.

(2) *Assistant chief of police.* The assistant chief of police shall be the assistant head of the law enforcement department, and shall, in the absence of the chief of police, perform the duties of the chief of police. The assistant chief of police shall receive such compensation as may be fixed by the city ~~commission, and commission and~~ shall be furnished with the requisite uniforms.

(3) *Police officers.* Each police officer is subject to the orders of the chief of police and the assistant chief of police. Each police officer shall enforce all laws and ordinances.

~~(b) — Verbal reports must be confirmed in writing before going off duty.~~

(Ord. No. 21, §§ I(a), III(2), 11-4-63)

Commented [LT1]: Replaced with SABPD policy 17.0
Patrol Function

~~Sec. 16-23. Operation and maintenance of departmental equipment.~~

~~(a) — Area of operations of police vehicles. The police vehicles shall normally be operated within the corporate limits of the city. The following are exceptions to this general rule:~~

~~(1) — When in pursuit of a lawbreaker for an offense committed in the city.~~

~~(2) — When an official business to the county jail or another county agency.~~

~~(3) — When assistance is specifically requested, by a designated authorized law enforcement agency.~~

~~(b) — General operational rules.~~

~~(1) — Officers shall at all times operate motor vehicles with due caution and at moderate speeds, taking into consideration the conditions existing.~~

~~(2) — No officer shall operate a police vehicle in excess of the legal speed limit unless the nature of his immediate duty demands that time be of the essence. If such is the case, the emergency equipment shall be in operation and the officer shall exercise extreme caution and not endanger the lives of others.~~

~~(3) — Officers shall avoid establishing a set pattern as to times and routes when conducting routine patrols.~~

~~(4) — Except for persons taken into custody and persons authorized by the mayor-commissioner, only authorized officers or city commissioners, on duty shall be permitted to ride in police vehicles.~~

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~~(5) — In case of an accident, regardless of the amount of damages, the officer driving the vehicle shall submit a report in writing to the city commission, giving complete details.~~

~~(6) — Officers driving police vehicles shall refrain from undue rough usage.~~

~~(7) — When an officer is operating a police vehicle, he shall do so in a manner that would reflect credit to a sensible and safe driver, and he shall bear in mind that he is demonstrating to the public the correct manner of driving and he shall not deviate from this unless conditions warrant.~~

~~(c) — Leased vehicles. The fee to be paid the owner of the leased police vehicle for such use shall be determined by the city commission and the employment of such leased police vehicles shall be authorized by the mayor-commissioner.~~

~~(d) — Special equipment. All officers shall handle special equipment with extreme due caution and care. When an officer has knowledge that any piece of the special equipment needs repairs or replacement, he shall immediately give the facts to the chief of police who shall in turn notify the city commission.~~

~~(Ord. No. 21, §§ 1(8), IV, 11-4-63)~~

Commented [LT2]: Replaced with SABPD policy 5.0
Assigned Vehicles

Sec. 16-24. General responsibilities of officers.

Officers shall at all times:

- (1) Preserve the peace;
- (2) Protect life and property;
- (3) Apprehend criminals;
- (4) Prevent crimes;
- (5) Enforce city, state and federal laws;

(6) Follow all policies and procedures set by the City of Saint Augustine Police Department in the furtherance of all their responsibilities.

(Ord. No. 21, § 1(1), 11-4-63)

Sec. 16-25. Off duty hours.

Officers are held to be always on duty although periodically relieved from the routine performance of it. They are at all times subject to orders from superior officers and to calls from civilians. Being technically "off duty" does not relieve officers from the responsibilities of taking proper police action in matters coming to their attention.

(Ord. No. 21, § 1(2), 11-4-63)

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~~Sec. 16-26. Orders of superior officers.~~

~~Officers shall perform all duties required of them by their superior officers regardless of whether or not such duties are specifically assigned to them. If such an order conflicts with any previous order issued by the superior officer or with a general or special order, the officer to whom such order is issued shall respectfully call attention to such conflict. If the superior officer giving such an order does not change such order so as to eliminate such conflict, the order shall stand and the responsibility shall rest upon the superior officer. It is sufficient for the officer obeying the order to know that the person giving the order is in proper command. Should an order appear unjust or improper to the officer to whom it is directed, he shall perform same and afterwards call it to the attention of the mayor-commissioner through official channels.~~

~~(Ord. No. 21, § II(3), 11-4-63)~~

~~Sec. 16-27. Duty to maintain contact with sheriff.~~

~~Officers on duty or when on call shall at all times maintain contact with the sheriff's office. If sent on an investigation which requires an unusually long time, the officer shall notify the sheriff's office of his location and the circumstances and shall notify the dispatcher when the investigation is completed.~~

~~(Ord. No. 21, §§ I(6), II(4), 11-4-63)~~

~~Sec. 16-28. Ranking officers at scene.~~

~~The ranking officer shall always take charge at fires, riots, or serious crimes.~~

~~(Ord. No. 21, § II(5), 11-4-63)~~

~~Sec. 16-29. Fires.~~

~~An officer discovering a fire shall promptly turn in an alarm from the nearest telephone unless he can give the alarm more quickly by radio. Such officer shall immediately secure the safety of all people in the building. At night he shall see that all persons in burning or threatened buildings are awakened. Officers shall post themselves in the street in the vicinity of the fire and shall divert vehicular traffic. The officer in command at the fire shall establish fire lines and shall keep all unauthorized persons beyond danger and prevent them from interfering with the work of the fire department. The ranking officer of the fire department is in command at the scene of a fire.~~

~~(Ord. No. 21, §§ I(6), 11-4-63)~~

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~~Sec. 16-20. Reports of homicide.~~

~~All deaths resulting from other than natural causes shall be reported to the sheriff's office.~~

~~(Ord. No. 21, § II(7), 11-4-63)~~

~~Sec. 16-31. Infections or epidemic diseases.~~

~~Officers shall be vigilant in the matter of cases of infectious or epidemic diseases not known to the health department and shall promptly make a report of such cases to the health department. Whenever an officer has reason to believe that a person is infected with a contagious disease, he shall make a report of same to the health department.~~

~~(Ord. No. 21, § II(8), 11-4-63)~~

~~Sec. 16-32. Divulging police information.~~

~~All police information shall be treated as confidential and shall not be divulged except when authorized by the chief of police.~~

~~(Ord. No. 21, § II(10), 11-4-63)~~

~~Sec. 16-33. Use of firearms.~~

~~Officers shall not display revolvers unnecessarily.~~

~~(Ord. No. 21, § II(11), 11-4-63)~~

~~Sec. 16-34. Rewards, presents, gratuities and money.~~

~~Officers shall not receive gifts or compensation for the performance or omission of their duty. Officers shall not solicit rewards, presents or gratuities. They shall not collect or receive any money or anything from citizens or others, circulate subscriptions, papers, books or sell tickets for any purpose whatsoever without permission of the city commission. Officers shall not participate in any public gift contest nor give testimonials.~~

~~(Ord. No. 21, § II(12), 11-4-63)~~

~~Sec. 16-35. Arrests.~~

~~(a) — Arrests must be lawful. It is the duty of members of the law enforcement department to enforce city Ordinances, state and federal laws by arresting persons who have committed crimes defined by such ordinances and laws, but no officer shall make an arrest unless he has the lawful~~

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right to do so. Officers will inform the person whose arrest is sought of their authority and purpose in making the arrest, and if the officer is acting under the authority of a warrant, he will so inform the person and will also show or read the warrant if requested. When arresting a person without a warrant, the officer will inform such person of his authority and the cause of the arrest.

(b) — Search of arrested person. Upon making an arrest, officers will immediately search the person arrested for concealed weapons so as to avoid the possibility of assault or escape.

(c) — Handling arrested persons. Officers making an arrest shall convey the prisoner or persons taken into custody or cause them to be conveyed to the county jail without undue delay. An officer may not accompany a prisoner to his home, a room or elsewhere, except for the purpose of investigation or to obtain evidence.

(d) — Use of force. In making an arrest, officers will use only such force as is necessary and proper to take the person into custody and if any force is necessary, the subject will be charged with resisting arrest and the officer shall report circumstances and action taken in detail. If such person taken into custody is injured, it will be the duty of the arresting officer to secure necessary medical care for the subject.

(e) — Promises to arrested persons. No officer shall be directly or indirectly concerned in any compromise or agreement between one accused of a crime and the person or persons who have suffered from criminal actions, with the purpose of allowing the accused to escape punishment.

(f) — Seniority regarding arrests. When two (2) or more officers are engaged in the apprehension of a law violator the senior officer will make the arrest and the other officers will be listed on the arrest as witnesses.

(g) — Searching females. All arrested females will be searched by a policewoman.

(h) — Civil rights. Under no circumstances shall an arrested person's civil rights be violated and it shall be the responsibility of each and every officer to acquaint himself with such laws governing such rights.

(i) — Officers may summons assistance. Any officer making a lawful arrest may orally summons as many persons as he deems necessary to aid him. Every person when so requested by an officer is required by state law to assist the officer in making an arrest.

(Ord. No. 24, § V, 11-4-63)

Secs. 16-36—16-45. Reserved.

ARTICLE III. POLICE RESERVE

Sec. 16-46. Short title.

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This article may be known as the "Police Reserve Ordinance."

(Ord. No. 54, § 1, 5-3-76)

~~Sec. 16-47. 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:~~

~~Bylaws means those rules and regulations which shall be established to control and maintain the operation and activities of the police reserve.~~

~~Police reserve shall mean an auxiliary unit of nonemployed persons who will assist the duly constituted chief of police and his police officers in the performance of normal police duty.~~

~~(Ord. No. 54, § 2, 5-3-76)~~

Sec. 16-48. Established.

There is established a police reserve unit. All Reserve, Part-Time, and Auxiliary police officers employed by the Saint Augustine Beach Police Department are required to complete the same selection process, basic law enforcement training and Field Training Program as any full-time member. These members will be governed by departmental policy and be selected by the Chief of Police or his/her designee.

(Ord. No. 54, § 4, 5-3-76)

~~Sec. 16-49. Members and bylaws.~~

~~(a) — Members of the police reserve unit shall serve without compensation or remuneration, in accordance with the bylaws of the organization.~~

~~(b) — The chief of police together with the commissioner in charge of police activities shall adopt and promulgate necessary bylaws consisting of rules and regulations governing the activities of the organization.~~

~~(c) — No person shall be denied membership in the police reserve by virtue of race, sex, religion or national origin. Membership shall be limited only by numbers of persons and shall consist of persons having good moral character without arrest records or convictions of crime, whether misdemeanor or felony, minor traffic violations excepted.~~

~~(d) — The chief of police may terminate any member of the organization for such cause as may be deemed to be in the best interest of the public safety, welfare, interest of the city and people of the city, or for such other reason as may be deemed appropriate in the sole discretion of the chief of police.~~

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~~(c) — The maximum number of members of the police reserve shall be determined by the bylaws of the organization.~~

~~(Ord. No. 54, § 4, 5-3-76)~~

~~Sec. 16-50. Functions.~~

~~The purpose of the police reserve unit is to render voluntary assistance to the chief of police and his police officers in the performance of normal police duties and activities.~~

~~(Ord. No. 54, § 4, 5-3-76)~~

Secs. 16-51—16-99. Reserved.

ARTICLE IV. LAW ENFORCEMENT USER CHARGE

Sec. 16-100. Charge imposed.

A law enforcement user charge ~~is~~ may be imposed upon every unit of real property for the consumption of law enforcement services in excess of four (4) incidents of service in any monthly period or in excess of ten (10) manhours of service in any monthly period, whichever occurs first, at the discretion of the Chief of Police.

(Ord. No. 94-4, § 1, 4-4-94)

Sec. 16-101. Definitions.

Consumption of law enforcement services means the presence of one or more certified law enforcement officers employed by the city in response to an event, occurrence, activity or condition on a unit of the property. The presence may be caused by request of any person upon the property or information developed by the police department from any source warranting a response to the property. Excluded from this definition are courtesy inspections, criminal investigations of matters not occurring on or connected with the property, paid outside details of police officers, responses caused by false reports from third parties with the intent of harassment, and responses arising from the conduct of persons who are on the property without the express or implied consent of a person in control or possession of the property. Consumption of law enforcement service shall also include preparations of written reports in connection with the furnishing of law enforcement services and transportation of suspects to the St. Augustine Beach Police Department and the St. Johns County Corrections Facility. For purposes of computing the

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threshold ten (10) manhours of service, and for computation of charges, the time spent includes the preparation of written reports and matters directly arising out of the response.

Incidents of service means each time one (1) or more law enforcement officers commence and completes a response to a unit of real property. An incident of service must be recorded by a written report of a law enforcement officer and contain the time of one (1) or more officers have expended as a direct result of the response.

Manhour of service means the consumption of law enforcement services of one (1) certified law enforcement officer of the city for a one-hour period of time.

Monthly period means any thirty-day period.

Unit of real property means any lot or parcel of land, including the buildings or structures thereon.

(Ord. No. 94-4, § 1, 4-4-94; Ord. No. 97-16, §§ 1—3, 5-5-97)

Sec. 16-102. Computation of charges.

The user charge shall be computed by multiplying the average hourly base salary of the law enforcement officer by two hundred (200) percent and by multiplying that product by time, computed in one-tenth-hour segments rounded to the nearest one-tenth ($\frac{1}{10}$), of each certified law enforcement officer responding to the incident in excess of four (4) incidents of service or ten (10) manhours of service in any thirty-day period, whichever comes first.

(Ord. No. 94-4, § 1, 4-4-94; Ord. No. 97-16, § 4, 5-5-97)

Sec. 16-103. Invoices; payment.

The police department shall determine the any law enforcement user charges due the city ~~in every monthly period for each unit of real property~~ at the end of each monthly period. Within the twenty (20) days from the end of each monthly period, the police department shall furnish by certified mail, return receipt requested, or by hand delivery, an invoice to each owner of a unit of real property which has incurred a law enforcement user charge. If the unit of real property is leased, the police department shall also furnish an invoice to the tenant. The owner and tenant shall be jointly and severally liable to the city for payment of the user charge. Such invoices shall be paid in full within thirty (30) days of the date thereon. An invoice shall not be issued when a user charge is less than ten dollars (\$10.00).

(Ord. No. 94-4, § 1, 4-4-94)

Sec. 16-104. Failure to pay invoice.

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If any invoice is not paid in full within thirty (30) days of the date thereon, a lien is hereby created in favor of the city upon the unit of real property in the amount of the invoice plus recordation and foreclosure costs, including attorneys' fees. The ~~City manager~~ Attorney shall record a notice of lien in the official public records maintained by the clerk of the circuit court of St. Johns County, and mail a copy of the recorded notice of lien by certified mail, return receipt requested, to the owner of the property. After recording the notice of lien, interest shall accrue on the lien at the rate of one (1) percent per month. Such lien shall be prior to all other liens on such lands except the lien of state, county, and municipal taxes, and shall be on a parity with the lien of such state, county, and municipal taxes. Such lien, when delinquent for more than ninety (90) days, may be foreclosed by the city as provided by the laws of Florida or in the manner provided by law for the foreclosure of mortgages on real property. As an additional remedy, the city may enforce the collection of the user charge by filing a civil action against the owner and/or tenant for the amount due the city, including the city's attorney fees in bringing the action. The person paying a user charge after the recording of a notice of lien shall also pay for the cost of recording a satisfaction of lien in the public records. The city manager may waive the collection of interest when the amount thereof is less than five dollars (\$5.00).

(Ord. No. 94-4, § 1, 4-4-94)

~~Sec. 16-105. Appeal.~~

~~Within thirty (30) days of the date of an invoice, the owner and/or tenant of a unit of real property may file with the office of the city manager an appeal of the imposition of the user charge. The city commission shall consider the appeal and review the correctness of the computation of the invoice and validity of the determination of the incidents of service and manhours. Ability of the owner and/or tenant to pay the user charge is not a basis for adjustment of the invoice. The city commission's decision upholding, modifying, or reversing the invoice shall constitute final administrative action.~~

~~(Ord. No. 94-4, § 1, 4-4-94)~~

SECTION 3. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 4. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

SECTION 5. This Ordinance shall take effect ten (10) days after passage, pursuant to Section 166.041(4), Florida Statutes

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Commission of the City of Saint Augustine Beach, Florida this ____ day of _____, 2021.

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MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____, 2021.

MAYOR

Published in the _____ on the ____ day of _____, 2021. Posted on www.staugbch.com on the ____ day of _____, 2021.

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