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**ORDINANCE NO. 110370**

**An ordinance of the City of Gainesville, Florida, amending Chapter 2, Article VII of the Code of Ordinances of the City of Gainesville, relating to the City of Gainesville General Employees Pension Plan and the City of Gainesville Employees' Disability Plan; amending Sections 2-533 and 2-549 of each plan to expressly provide that the corpus and income of the plan are to be used for the exclusive benefit of the plan participants and their beneficiaries; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing a retroactive effective date.**

16           **WHEREAS**, the Internal Revenue Service issued Revenue Ruling 2011-1, which  
17 requires government pension plans to include certain exclusive benefit rule language in order for  
18 the pension plans to continue to invest in group trusts and not affect the tax status of the group  
19 trust invested in by the pension plans; and

20           **WHEREAS**, at least 10 days notice has been given of the public hearing once by  
21 publication in a newspaper of general circulation notifying the public of this proposed ordinance  
22 and of a public hearing in the City Commission meeting room, first floor, City Hall in the City of  
23 Gainesville; and

24           **WHEREAS**, the public hearings were held pursuant to the published notice described at  
25 which hearings the parties in interest and all others had an opportunity to be and were, in fact,  
26 heard.

27           **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE  
28 CITY OF GAINESVILLE, FLORIDA:**

29           **Section 1.** Subsection (a)(1) of Section 2-533, "Amendment; termination of plan", of the  
30 Code of Ordinances of the City of Gainesville, is amended to read as follows:

31           **Sec. 2-533. – Amendment; termination of plan.**

**(a) *Power to amend:***

1 (1) The city commission shall have the right, at any time, to amend any or all of the  
2 provisions of the employees pension plan; provided, however, that ~~no such amendment~~  
3 ~~shall authorize or permit any part of the trust fund to be diverted for purposes other than~~  
4 ~~for the exclusive benefit of members and their beneficiaries.~~ it is impossible for any part  
5 of the corpus or income of the trust fund to be used for, or diverted to, purposes other  
6 than the exclusive benefit of the plan participants and their beneficiaries.

7 **Section 2.** Subsection (c) of Section 2-549, "Administration", of the Code of Ordinances  
8 of the City of Gainesville, is amended to read as follows:

9 **Sec. 2-549. – Administration.**

10 **(c) Future changes in plan, power to amend.** It is contemplated, and all original and new  
11 members of the plan shall be deemed to have notice, that the city commission may in the future  
12 decide that it is in the best interest of the city and/or the members of the plan to modify any of the  
13 benefits or procedures contained in this division, or of the terms and conditions contained in this  
14 division; provided, however, it is impossible for any part of the corpus or income of the trust  
15 fund to be used for, or diverted to, purposes other than the exclusive benefit of the plan  
16 participants and their beneficiaries.

17 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1  
18 and 2 of this ordinance shall become and be made a part of the Code of Ordinances of the City of  
19 Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be renumbered  
20 or relettered in order to accomplish such intentions.

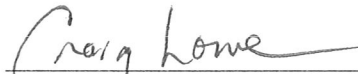
21 **Section 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance  
22 or the application hereof to any person or circumstance is held invalid or unconstitutional, such  
23 finding shall not affect the other provisions or applications of the ordinance which can be given

1 effect without the invalid or unconstitutional provisions or application, and to this end the  
2 provisions of this ordinance are declared severable.

3 **Section 5.** All ordinances or parts of ordinances, in conflict herewith are to the extent of  
4 such conflict hereby repealed.

5 **Section 6.** This ordinance shall become effective retroactive to January 10, 2011 upon  
6 final adoption.

7 **PASSED AND ADOPTED** this 17<sup>th</sup> day of November, 2011.

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11 CRAIG LOWE  
12 MAYOR

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14 ATTEST:

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17 KURT M. LANNON  
18 CLERK OF THE COMMISSION

19 Approved as to form and legality

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21 MARION J. RADSON  
22 CITY ATTORNEY

23 NOV 17 2011

24 This Ordinance passed on first reading this 3<sup>rd</sup> day of November, 2011.

This Ordinance passed on second reading this 17<sup>th</sup> day of November, 2011.