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6-11-07

ORDINANCE NO. _____

0-07-42

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An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances of the City of Gainesville, relating to The General Employees Pension Plan; amending section 2-526, Benefits, relating to maximum benefits and direct transfers of eligible rollover distributions; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the Auditorium of City Hall in the City of Gainesville; and

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WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

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

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Section 1. Subsection (l) of section 2-526, Benefits, Code of Ordinances of the City of Gainesville, is amended to read as follows:

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(l) *Maximum benefit limitation.*

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(1) The maximum annual benefit payable under the plan shall be limited to \$90,000.00, subject to adjustment for increases in the cost of living in accordance with the following sentence. As of the first day of January of each calendar year, the maximum dollar limitation shall be adjusted automatically to an amount determined by the Commissioner of the Internal Revenue Service effective for that calendar year and shall apply only to that calendar year.

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1 Retirees in payment status whose benefits were limited in any year by the
2 application of this limitation shall have their benefits adjusted automatically in
3 subsequent years to take into account the then current dollar limit.

4 (2) In the event a member has earned a benefit which during a previous limitation
5 year has met all the requirements of I.R.C. section 415, and if the member's
6 accrued benefit exceeds the limitation of I.R.C. section 415 for the current
7 limitation year, the member's maximum annual benefit, as described in subsection
8 (1) of this section, shall not be less than the accrued benefit allowable under such
9 previous limitation year.

10 (3) If the retirement benefit is payable in a form other than a straight-life annuity or a
11 joint-and-survivor annuity with the spouse as joint annuitant, the annual benefit
12 limitation in any year shall be the actuarial equivalent (as defined in subsection
13 (56) of this section) of the maximum annual benefit for that year (payable in the
14 form of a straight-life annuity), as described above.

15 (4) ~~In the event payment of a retirement benefit under the plan to a member~~
16 ~~commences prior to the date the member attains age 62, the maximum annual~~
17 ~~benefit limitation shall be adjusted to be not more than the actuarial equivalent (as~~
18 ~~defined in subsection (6) of this section) of the then current dollar limit assumed~~
19 ~~to commence at age 62 for the purpose of applying the benefit limit described in~~
20 ~~subsection (1) of this section.~~

21 ~~For years subsequent to the payment commencement year, benefits payable shall~~
22 ~~be limited to the actuarial equivalent (as defined in subsection (6) of this section),~~
23 ~~determined as of the benefit commencement date, of the subsequent year's dollar~~
24 ~~limit assumed to commence at age 62 (or the then current age if greater).~~

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1 ~~Adjustments described in this subsection (4) shall not reduce the maximum~~
2 ~~annual benefit below \$75,000.00, if the retirement benefit commences on or after~~
3 ~~attainment of age 55, or if the benefit commences before age 55, the actuarial~~
4 ~~equivalent of the \$75,000.00 limitation for age 55.~~

5 (45) In the event payment of a retirement benefit under the plan to a member
6 commences after the date the member attains age 65, the maximum benefit
7 limitation shall be adjusted to be not more than the actuarial equivalent (as
8 defined in subsection (56) of this section) of the then current dollar limit
9 commencing at age 65 for the purpose of applying the benefit limit described in
10 subsection (1) of this section.

11 For years subsequent to the payment commencement year, benefits payable shall
12 be limited to the actuarial equivalent determined as of the benefit commencement
13 date, of the subsequent year's dollar limit assumed to commence at age 65.

14 (56) For the purpose of adjusting benefits in accordance with this section, actuarial
15 equivalent shall be determined using the 1994 ~~1983~~ Group Annuity Mortality
16 Table (50/50 Unisex) and the Plan's ~~an~~ interest rate of ~~five percent~~ for
17 adjustments under subsections (3) and; (4) ~~and~~ ~~(5)~~ of this section. For adjustment
18 under subsections (3) and; (4) ~~and~~ ~~(5)~~, no cost-of-living adjustment shall be taken
19 into account before the year for which such adjustment first takes effect.

20 (67) If a retirement benefit is payable to a member who has less than ten years of plan
21 participation, the limitation described in subsection (1) of this section shall be
22 multiplied by a fraction, the numerator of which is the member's years of plan
23 ~~participation and the denominator of which is ten.~~

1 ~~(8) If the city maintains a tax-qualified, defined contribution plan covering the same~~
 2 ~~member, the total of such member's "Defined Contribution Fraction" and his~~
 3 ~~"Defined Benefit Fraction" (both as defined in I.R.C. section 415) at the end of~~
 4 ~~any limitation year shall not exceed 1.0. If a reduction in a member's benefits is~~
 5 ~~required so that the sum of the two fractions described above will not exceed 1.0,~~
 6 ~~the numerator of the "Defined Benefit Fraction" shall be adjusted downward~~
 7 ~~sufficiently to insure that the two plan limitation described above is not exceeded.~~
 8 ~~This limitation shall not be applicable for years beginning on and after January 1,~~
 9 ~~2000.~~

10 **Section 2.** Subsection (n) of section 2-526, Direct transfers of eligible rollover
 11 distributions, Code of Ordinances of the City of Gainesville, is amended to read as follows:

12 (n) *Direct transfers of eligible rollover distributions.*

13 (1) General. Notwithstanding any provisions of the plan to the contrary that would
 14 otherwise limit a distributee's election under this section, a distributee may elect,
 15 at the time and in the manner prescribed by the board, to have any portion of an
 16 eligible rollover paid directly to an eligible retirement plan specified by the
 17 distributee in a direct rollover.

18 (2) Definitions.

19 a. Eligible rollover distribution. An eligible rollover distribution is any
 20 distribution of all or any portion of the balance to the credit of the
 21 distributee, except that an eligible rollover distribution does not include:
 22 any distribution that is one of a series of substantially equal periodic
 23 payments (not less frequently than annually) made for life (or life
 24 expectancy) of the distributee, or the joint lives (or joint life expectancies

1 of the distributee and the distributee's designated beneficiary, or for a
2 specified period of ten years or more; any distribution to the extent such
3 distribution is required under I.R.C. section 401(a)(9); and the portion of
4 any distribution that is not includable in gross income, i.e., member
5 contributions made prior to 1998.

6 b. Eligible retirement plan. An eligible retirement plan as defined in I.R.C.
7 section 402(c)(8)(B), including an individual eligible retirement account
8 described in I.R.C. section 408(a), an individual retirement annuity
9 described in I.R.C. section 408(b), an annuity plan described in I.R.C.
10 section 403(a), an annuity contract described in I.R.C. section 403(b) or a
11 qualified trust described in I.R.C. section 401(a) that accepts the
12 distributee's eligible rollover distribution, or an eligible deferred
13 compensation plan described in I.R.C. section 457(b).

14 c. Distributee. A distributee includes an employee, or a former employee, a
15 surviving spouse as described in I.R.C. section 402(c)(9), or designated a
16 ~~beneficiary as described in subsections 2-526(g) and (h), receiving~~
17 ~~amounts contributed by the member (before 1/1/98) in excess of~~
18 ~~retirement benefits, if any, paid.~~

19 d. Direct rollover. A direct rollover is a payment by the plan to the eligible
20 retirement plan specified by the distributee.

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22 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1
23 and 2 of this ordinance shall become and be made a part of the Code of Ordinances of the City of

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1 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered
2 or relettered in order to accomplish such intentions.

3 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be
4 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no
5 way affect the validity of the remaining portions of this ordinance.

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

8 **Section 6.** This ordinance shall become effective immediately upon final adoption.

9 **PASSED AND ADOPTED** this ____ day of _____, 2007.

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PEGEEN HANRAHAN
MAYOR

16 ATTEST: Approved as to form and legality

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KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

22 This Ordinance passed on first reading this ____ day of _____, 2007.

23 This Ordinance passed on second reading this ____ day of _____, 2007.