

ORDINANCE NO. 0-07-22

An ordinance of the City of Gainesville, Florida, amending provisions relating to the Consolidated Police Officers and Firefighters Retirement Plan, Article VII, Division 8 of Chapter 2 of the Code of Ordinances, by amending section 2-596, Definitions; 2-598, Eligibility and participation; section 2-599, Contributions; section 2-600, Retirement dates and benefits; section 2-601, Optional forms of retirement income; section 2-602, Administration of the plan, section 2-606, Miscellaneous relating to beneficiaries; section 2-607, Cost of living adjustment of benefits; and section 2-633(d) of Article XI, Retiree Health Insurance Program and Trust Fund, of chapter 2 of the Code of Ordinances; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date, and limited retroactive effect.

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 to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

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; and

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

Section 1. Section 2-596, Definitions, City of Gainesville Code of Ordinances, is amended to read as follows:

Sec. 2-596. Definitions.

The following words and phrases used in this division shall have the meanings set forth below, unless a different meaning is plainly required by the context:

1 *Accrued benefit* shall mean, as of the date of termination or entry into the DROP,  
2 whichever is earlier, the member's monthly retirement benefit in an amount equal to 2.5  
3 percent ~~1/2~~ or 2.625 percent of final average earnings times credited service. Except as  
4 otherwise provided herein, credited service attributable to service prior to October 1,  
5 2005 shall be multiplied by 2.5; credited service attributable to service from October 1,  
6 2005 on, shall be multiplied by 2.625.

7 *Actuarial-Equivalent or equivalent actuarial value* shall mean a benefit of equivalent  
8 value to the benefit which otherwise would have been provided to the member, based on  
9 the 1994 Group Annuity Mortality Basic Table-Unisex 50/50 and an interest rate of 9.5  
10 percent, unless otherwise specified in this ordinance. ~~This table and interest rate are used~~  
11 ~~exclusively for calculation of actuarial equivalencies for optional forms of benefit~~

12 *Enrolled ~~a~~Actuary* shall mean an actuary who is enrolled under Subtitle C of Title III of  
13 the Employee Retirement Income Security Act of 1974 and who is a member of the  
14 Society of Actuaries or the American Academy of Actuaries. ~~individual who shall be a~~  
15 ~~member of the Society of Actuaries or Academy of Actuaries, and who shall be an~~  
16 ~~enrolled actuary, as defined by the provisions of the Employee Retirement Income~~  
17 ~~Security Act of 1974 (ERISA).~~

18 *Beneficiary* shall mean a person, or persons designated to receive benefits payable in the  
19 event of a member's death.

20 *Benefit determination date* shall mean the date(s) upon which calculations of benefits are  
21 based when determining final average earnings and credited service.

22 *Deferred retirement option program plan* means an optional program of the City of  
23 Gainesville's retirement systems or plans for deferring retirement income while

1 remaining in the active employ of the City. This shall also be known as a regular DROP  
2 or reverse DROP.

3 *Earnings* shall mean only base pay (which shall include all paid leaves), all overtime pay  
4 (which shall include time paid at time-and-a-half, double-time, and double-time-and-a-  
5 half), working out of classification pay, longevity pay, State of Florida city firefighters  
6 supplemental education incentive payments, State of Florida police officer educational  
7 salary incentive payments, police security ("billable" overtime), special assignment pay,  
8 special duty assignment pay, paramedic certification pay, stand-by pay, call-back pay,  
9 acting out of classification pay, and termination vacation pay or for members entering a  
10 DROP any lump sum payment of some or all such member's vacation balance upon  
11 entering the DROP, except as may be otherwise expressly provided for in Collective  
12 Bargaining Agreements. For any person who first becomes a member in any plan year  
13 beginning on or after January 1, 1996, compensation for any plan year shall not include  
14 any amounts in excess of the Internal Revenue Code s. 401(a)(17) limitation (as amended  
15 by the Omnibus Budget Reconciliation Act of 1993), which limitation of \$150,000 shall  
16 be adjusted as required by federal law for qualified government plans and shall be further  
17 adjusted for changes in the cost of living in the manner provided by Internal Revenue  
18 Code s. 401(a)(17)(b). Effective Oct. 1, 1996, earnings in excess of \$150,000.00 annually  
19 ~~shall be disregarded for all purposes of this plan. As of January 1 of each calendar year,~~  
20 ~~the dollar limitation as determined by the Commissioner of Internal Revenue for that~~  
21 ~~calendar year will become effective for the plan year commencing thereafter in lieu of the~~  
22 ~~dollar limitation provided in the preceding sentence. For any person who first became a~~  
23 member prior to the first plan year beginning on or after January 1, 1996, the limitation  
24 on compensation shall be not less than the maximum compensation amount that was

1 allowed to be taken into account under the plan as in effect on July 1, 1993, which  
2 limitation shall be adjusted for changes in the cost of living since 1989 in the manner  
3 provided by Internal Revenue Code s. 401(a)(17)(1991). ~~For an employee who became a~~  
4 ~~member of the plan prior to Oct. 1, 1996, this limitation shall not be applicable.~~

5 *Effective date* shall mean the date on which the operation of the plan is to commence.

6 *Eligible employee* shall mean any full-time regular ~~permanent~~ employee who is certified  
7 as a firefighter as a condition of employment in accordance with the provisions of section  
8 633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life, and to  
9 protect property, or any full-time regular ~~permanent~~ employee who is certified or  
10 required to be certified as a law enforcement officer in compliance with section 943.14,  
11 Florida Statutes, who is vested with authority to bear arms and make arrests, and whose  
12 primary responsibility is the prevention and detection of crime or the enforcement of the  
13 penal, criminal, traffic, or highway laws of the state. This definition includes all certified  
14 supervisory and command personnel whose duties include, in whole or in part, the  
15 supervision, training, guidance, and management responsibilities of full-time law  
16 enforcement officers, part-time law enforcement officers, or auxiliary law enforcement  
17 officers, but does not include part-time law enforcement officers or auxiliary law  
18 enforcement officers as the same are defined in section 943.10(~~65~~) and (~~87~~), Florida  
19 Statutes (2006), respectively. Employees whose work is primarily secretarial or clerical  
20 are not classified as eligible employees. An otherwise eligible employee may elect to  
21 waive, in accordance with section 2-579, certain claims/rights arising under this plan, and  
22 become an ineligible employee as described in section 2-598(c)(1)a. Based on October  
23 17, 2005 advice from the Municipal Members and Firefighters Trust Funds Office, a non-  
24 certified police officer or firefighter may be an eligible employee and earn credited

1 service in the Plan under the following circumstances: A non-certified employee that is  
2 hired in a firefighter or police officer position should be enrolled in the Plan upon hire  
3 and earn credited service while so employed. If the employee fails to meet the  
4 certification requirements under Chapters 633 or 943 within one year, then the  
5 employee's contributions should be refunded and the employee would be removed from  
6 the Plan and would not receive credited service in the Plan for that period of time. Such  
7 non-certified employee may not leave his/her contributions in the Plan, nor later repay  
8 such refunded contributions for the purpose of obtaining credited service for that period,  
9 nor purchase credited service for such period pursuant to section 2-600(n).

10 *Final average earnings* shall mean:

11 (1) The average of a member's monthly earnings for the 36 consecutive  
12 months which produces the highest average, as of the date of benefit determination. Final  
13 average earnings shall be determined by dividing the total earnings earned and received  
14 by the member during the applicable 36-month period by 36.

15 (2) If a member has been absent from work (performs no duties) due to an  
16 injury claimed to be compensable under F.S. Ch. 440 during the period of time which  
17 would be utilized to determine his/her final average earnings, then such period of absence  
18 shall not be considered months of employment for the purposes of this section. The  
19 months of employment immediately preceding the absence shall be deemed to be  
20 consecutive with the months of employment, if any, earned after his/her return to work.

21 *Gross pay* shall mean those types of compensation which ~~presently~~ (as of July 1, 1999)  
22 have member contributions deducted therefrom. Types of compensation created, or first  
23 applied to members after July 1, 1999 may, at the discretion of the city, have member  
24 contributions deducted therefrom provided that, unless otherwise agreed to, such types of

1 compensation shall also thereafter be included in earnings effective upon the date  
2 contributions are deducted therefrom.

3 *Member* shall mean any eligible employee who participates in the plan pursuant to  
4 section 2-598.

5 *Normal form of benefit* shall be a monthly annuity, payable for the lifetime of the  
6 member, in accordance with the provisions of this division.

7 *Plan* shall mean the Consolidated Police Officers and firefighters retirement plan, as set  
8 forth in this division, and as it may from time to time in the future be amended.

9 *Plan year* shall mean a twelve-month period beginning on October first and ending on  
10 September thirtieth.

11 *Retiree* shall mean a former employee who has entered retirement status. A member who  
12 enters the DROP shall be considered a retiree for all purposes of the Plan~~is receiving~~  
13 ~~monthly retirement benefit, or a current employee who has deferred receipt (into a DROP~~  
14 ~~account), a monthly retirement benefit.~~

15 Retirement or retire shall mean a member's separation from city employment as an  
16 eligible employee with immediate eligibility for receipt of benefits under the plan. For  
17 purposes of the Plan, "retire" also means the date a member commences the DROP.

18 *Service credit rules* shall mean the following:

- 19 (1) Day of service shall mean each day for which a member is:
- 20 a. Paid, or entitled to payment, by the city for performance of duties;
- 21 b. Paid, or entitled to payment, by the city on account of a period of
- 22 time during which no duties are performed (e.g., vacation, holiday,
- 23 illness, incapacity, layoff, jury duty, military duty or approved
- 24 leave of absence);

1 c. Each day for which back pay, irrespective of mitigation or  
2 damages, has been either awarded to or agreed to by the city;  
3 provided, however, that the same day shall not be credited as a day  
4 of service more than once.

5 (2) Month of service shall mean a one-month period beginning on the day of  
6 the month corresponding to a member's date of employment, during which the member  
7 has earned at least ten days of service; provided however, that ten days of service will be  
8 deemed to have been earned in each month of service in which occurs:

9 a. An approved leave of absence, not to exceed 90 days, authorized  
10 by the city, in accordance with a uniform policy applied on a  
11 nondiscriminatory basis to all members similarly situated; or

12 b. Voluntary or involuntary service in the armed forces of the United  
13 States for a period not greater than five years of the time spent in  
14 the military service of the Armed Forces of the United States shall  
15 be added to the years of actual service, if:

16 1. The member is in the City's active employ as an eligible  
17 employee prior to such service and leaves such position for the  
18 purpose of voluntary or involuntary service in the Armed Forces of  
19 the United States.

20 2. Such member is entitled to reemployment under the provisions  
21 of the Uniformed Services Employment and Reemployment Rights  
22 Act.

23 3. The member returns to his or her employment as an eligible  
24 employee within 1 year from the date of his or her release from

1 ~~such active service. one enlistment, provided that the member is~~  
2 ~~legally entitled to reemployment pursuant to the provisions of any~~  
3 ~~federal law applicable to veterans' reemployment rights, and any~~  
4 ~~amendments thereto, and is reemployed by the city within the~~  
5 ~~manner provided by law and under the conditions prescribed by~~  
6 ~~law.~~

7 (3) A member shall not earn any days or months of service for any purpose  
8 under the plan after entering in a DROP, except as a re-employed retiree, if applicable.

9 (4) If the employment of a member is terminated, and such former member is  
10 subsequently reemployed by the city, the member's date of employment, for purposes of  
11 determining additional months of service, shall be reestablished as his/her date of  
12 reemployment.

13 (5) Credited service shall mean the aggregate total number of months of  
14 service with the city as an eligible employee, expressed in terms of full and fractional  
15 year, subject to the following:

16 a. \_\_\_\_\_ Additional months of service shall be credited for unused sick  
17 leave credits, assigning one day of service for each day of unused  
18 sick leave, unless otherwise provided in applicable personnel  
19 policies, collective bargaining agreements, or DROP provisions.  
20 Additional months of service and fractions thereof, as determined  
21 by the city, shall be credited to members for periods of  
22 employment while a CETA employee. Additional months of  
23 service attributable to public safety and military service prior to  
24 employment may be credited pursuant to Section 2-600(n).

1 Further ~~provided, that, if the employment of a member is~~  
2 ~~terminated, and the member is subsequently reemployed by the~~  
3 ~~city, the credited service to which he/she was entitled as of his/her~~  
4 ~~termination date shall be included in any further computation of~~  
5 ~~credited service under the following circumstances:~~

6 b. No member will receive credit for years or fractional parts of years  
7 of service if he or she has withdrawn his or her contributions to the  
8 fund for those years or fractional parts of years of service, unless  
9 the member repays into the fund the amount he or she has  
10 withdrawn, plus interest as determined by the board. The  
11 multiplier applied to such service, and interest payments associated  
12 with the repayment, shall utilize the multiplier in effect at the time  
13 repayment is made. The member shall have 90 days after his or  
14 her reemployment to make repayment, except if re-employed after  
15 March 1, 2004, but prior to June 12, 2007, in which case the  
16 member shall have three years and six months after his or her re-  
17 employment to make repayment.

18 c. A member may voluntarily leave his or her contributions in the  
19 fund for a period of five years after ceasing to be an eligible  
20 employee, pending the possibility of his or her being rehired as an  
21 eligible employee, without losing credit for the time he or she has  
22 participated actively as a member. If he or she is not reemployed  
23 as an eligible employee within five years, his or her contributions  
24 shall be returned to him or her without interest.

1 a. ~~If such a member was not entitled to a termination benefit in~~  
2 ~~accordance with section 2-600(e) and his/her number of calendar~~  
3 ~~months that he/she was not employed is less than his/her aggregate~~  
4 ~~months of service credited under the plan as of this termination~~  
5 ~~date and he/she has repaid withdrawn contributions as provided in~~  
6 ~~section 2-600(e)(5); or~~

7 b. ~~If the member was not entitled to a termination benefit, and he/she~~  
8 ~~remains in the continuous employ of the city for at least ten years~~  
9 ~~subsequent to his/her reemployment, and he/she has repaid~~  
10 ~~withdrawn contributions as provided in section 2-600(e)(5).~~

11 ~~Continuous employ shall not be deemed interrupted because of~~  
12 ~~absence, when the absence shall have been granted in accordance~~  
13 ~~with appropriate contract provisions or applicable personnel~~  
14 ~~policies as approved by the city commission. Approved absences~~  
15 ~~shall count as credited service under the plan, in accordance with~~  
16 ~~the terms of the plan.~~

17 c. ~~If a member was not entitled to a termination benefit, he or she~~  
18 ~~may voluntarily leave his or her contributions in the fund for a~~  
19 ~~period of five years after leaving the employ of the fire or police~~  
20 ~~department, pending the possibility of being rehired by the same~~  
21 ~~department, without losing credit for the time he or she has~~  
22 ~~participated actively as a firefighter or police officer. If the~~  
23 ~~firefighter or police officer is not reemployed as a firefighter or~~

1                                 ~~police officer, with the same department within five years, his or~~  
2                                 ~~her contributions shall be returned without interest.~~

3     *Trust fund* shall mean the cash and other assets accumulated, held and maintained by the  
4     board of trustees of the consolidated plan in accordance with this division, including  
5     individual accounts authorized under the DROP.

6                 **Section 2.** Section 2-598(e) and (f), Eligibility and participation, City of  
7     Gainesville Code of Ordinances, is amended to read as follows:

8     **Sec. 2-598. Eligibility and participation.**

9     (e)     *DROP participants.* Except as provided in (f) below, for all plan purposes, the  
10     credited service of an employee entering a DROP shall remain as it existed on the  
11     effective date of commencement (beginning of DROP period) of participation in the  
12     DROP. The participant shall not earn or be credited with any additional credited service  
13     under the plan, and service after the effective date of commencement in ~~entering~~ the  
14     DROP shall not be recognized by the plan or used for the calculation or determination of  
15     any benefits payable by the plan. After the effective date of commencement of  
16     participation in ~~Upon entry into~~ the DROP, a member shall be considered a retiree for all  
17     plan purposes, and for the period of his/her participation in the DROP to have deferred  
18     receipt of retirement benefits into his/her DROP account, while remaining an employee  
19     of the City of Gainesville.

20     (f)     *Re-employed retirees and recipients of termination benefits.* A former employee  
21     of the City of Gainesville receiving retirement or termination benefits from the City of  
22     Gainesville Employees Disability Plan, the City of Gainesville Employees Pension Plan,  
23     or retirement benefits or monthly termination benefits from this Plan may, upon  
24     becoming re-employed by the City of Gainesville become a member of this Plan, earn

1 credited service, and become entitled to receive an additional retirement benefit subject to  
2 the following conditions.

3 (1) Such member shall re-satisfy the eligibility requirements for participation  
4 in this Plan.

5 (2) Such member shall not be entitled to disability benefits under this Plan or  
6 the City of Gainesville Employees Disability Plan, or entitled to any other disability  
7 pension benefit payable from a retirement system or plan of the City of Gainesville.

8 (3) No service for which credit was received, or which remained unclaimed,  
9 at retirement or termination may be claimed or applied toward service credit earned  
10 following renewed membership.

11 (4) Such re-employed member shall not be entitled to purchase additional  
12 credit for service performed prior to re-employment for which retirement or termination  
13 benefits are being received.

14 **Section 3.** Section 2-599(a) and (b), Contributions, City of Gainesville Code of  
15 Ordinances, is amended to read as follows:

16 **Sec. 2-599. Contributions.**

17 (a) Member contributions.

18 (1) Effective the first full pay period following October 1, 1999, members,  
19 except members who have entered a DROP, will have a fixed employee contribution rate  
20 of 7 1/2 percent of gross pay. There shall be no member contributions deducted from a  
21 member's compensation after entering a DROP, except as a re-employed retiree, if  
22 applicable. Employee contributions made after the effective date of commencement of  
23 participation in a reverse DROP shall be returned without interest.

24 (2) Effective Jan. 1, 1998, the contributions made by each member to the plan

1 shall be designated as employer contributions pursuant to I.R.C. section 414(h) of 1986.  
2 Such designation is contingent upon the contributions being excluded from the member's  
3 gross income for federal income tax purposes. For all other purposes of the plan, such  
4 contributions shall be considered to be member contributions.

5 (3) The city manager shall cause contributions provided for in subsection  
6 (a)(1) to be deducted from the compensation of each member on each and every payroll,  
7 for each and every payroll, so long as each member is performing eligible service, and  
8 has not entered a regular DROP. A member's contribution provided for herein shall be  
9 made notwithstanding that the minimum compensation provided by law for any members  
10 shall be changed thereby. Each member shall be deemed to consent and agree to the  
11 deduction made and provided for in this section and payment of his/her compensation  
12 less such deduction shall be full and complete discharge of all claims and demands  
13 whatsoever for the service rendered by the member during the period covered by such  
14 payment, except as to the benefits provided by this plan. The city manager shall cause the  
15 amount to be deducted from the compensation of each member for each and every payroll  
16 as authorized by this division and when deducted shall be paid into the fund of the plan  
17 and shall be credited to the individual member from whose compensation such deduction  
18 was made.

19 (b) *Tax levies.* There is hereby assessed, imposed and levied, on every insurance  
20 company, corporation or other insurer, now or hereafter engaged in or carrying on the  
21 business of property insurance or casualty insurance, an excise or license tax, as  
22 authorized by F.S. §§ 175.101, 185.08, as amended, as follows:

23 (1) One and eighty-five hundredths percent of the gross amount of receipts or  
24 premiums from policyholders on all premiums collected on property insurance policies

1 covering property within the corporate limits of the city. In the case of multiple-peril  
2 policies with a combined premium for both the property and casualty coverage, 70  
3 percent of the premium shall be used as the basis for the tax specified above.

4 (2) Eighty-five hundredths percent of the gross amount of receipts or  
5 premiums from policyholders on all premiums collected on casualty insurance policies  
6 covering property within the corporate limits of the city. In the case of multiple-peril  
7 policies with a single premium for both property and casualty coverage, 30 percent of  
8 such premium shall be used as the basis for the tax specified above.  
9 Such tax shall be payable annually on the first day of March each year.

10 (3) The “base year” for premium tax receipts is established as the year in  
11 which benefit changes are implemented that qualify the Consolidated Police Officers’  
12 and Firefighters’ Plan as meeting the minimum benefit requirements under Chapter  
13 175/185, in this case 2005 calendar year premium tax monies received in 2006.  
14 Subsequent annual premium tax receipts in excess of the levels received during this base  
15 year must be reserved for “extra benefits” – benefits in excess of those received in this  
16 base year and in excess of those granted to General Employees’ Pension Plan members.

17 **Section 4.** Section 2-600, Retirement dates and benefits, City of Gainesville  
18 Code of Ordinances, is amended to read as follows:

19 **Sec. 2-600. Retirement dates and benefits.**

20 (a) *Normal retirement.* Normal retirement under the plan is retirement from the  
21 employ of the city on the normal retirement date. In the event of normal retirement, a  
22 member shall have a nonforfeitable right to his/her benefit, and payment of the retirement  
23 benefit shall be governed by the following provisions:

24 (1) Normal retirement date. The normal retirement date of a member shall be

1 the first day of the month coincident with or next following the completion of 20 years of  
2 credited service at any age, ~~or~~ the date the member has both completed at least ten years  
3 of credited service and attained age of 55, or has attained a combination of years of  
4 credited service and age that equals seventy (70).

5 (2) Benefit amounts. The monthly normal retirement benefit payable to a  
6 member shall be equal to his/her accrued benefit, except as provided in section 2-601, as  
7 defined in section 2-596, determined as of his/her normal retirement date.

8 (3) Benefit payments. The monthly retirement income payable in the event of  
9 normal retirement will be payable on the first day of each month. The first payment will  
10 be made on the member's normal retirement date, or on the first day of the month  
11 coincident with or next following the member's actual retirement, if later, and the last  
12 payment will be the payment due next preceding the member's death; except that, in the  
13 event the member dies after retirement but before receiving retirement benefits for a  
14 period of 10 years, the same monthly benefit will be paid to the beneficiary (or  
15 beneficiaries) as designated by the member for the balance of such 10-year period, or, if  
16 no beneficiary is designated, to the estate of the member, as provided in section 2-606. If  
17 a member continues in the service of the city beyond his or her normal retirement date  
18 and dies prior to the date of actual retirement, without an option made pursuant to section  
19 2-601 being in effect, monthly retirement income payments will be made for a period of  
20 10 years to a beneficiary (or beneficiaries) designated by the member as if the member  
21 had retired on the date on which death occurred, or, if no beneficiary is designated, to the  
22 estate of the member, as provided in section 2-606. Retirement benefits shall be payable  
23 on the first day of each month. The first payment shall be made on the member's normal  
24 retirement date, and payments shall continue according to the terms of accrued benefit for

1 ~~the member's lifetime~~. A member may modify the amount and conditions of payments by  
2 electing an option in accordance with section 2-601, in which event the retirement benefit  
3 shall be paid in accordance with the terms of such option.

4 (b) ~~Early Delayed~~ retirement.

5 Early retirement under the plan is retirement from the employ of the city, as of the first  
6 day of any calendar month which is prior to the member's normal retirement date but  
7 subsequent to the date as of which the member has both attained the age of 50 years and  
8 completed 10 years of credited service. In the event of early retirement, payment of  
9 retirement income will be governed as follows:

10 (1) The early retirement date shall be the first day of the calendar month  
11 coincident with or immediately following the date a member retires from the service of  
12 the city under the provisions of this section prior to his or her normal retirement date.

13 (2) The monthly amount of retirement income payable to a member who  
14 retires prior to his or her normal retirement date under the provisions of this section shall  
15 be his or her accrued benefit, taking into account his or her credited service to the date of  
16 actual retirement and his or her final average earnings as of such date, such amount of  
17 retirement income to be actuarially reduced to take into account the member's younger  
18 age and the earlier commencement of retirement income payments. In no event shall the  
19 early retirement reduction exceed 3 percent for each year by which the member's age at  
20 retirement preceded age 55.

21 (3) The retirement income payable in the event of early retirement will be  
22 payable on the first day of each month. The first payment will be made on the member's  
23 early retirement date and the last payment will be the payment due next preceding the  
24 retired member's death; except that, in the event the member dies before receiving

1 retirement benefits for a period of 10 years, the same monthly benefit will be paid to the  
2 beneficiary(ies) designated by the member for the balance of such 10-year period, or, if  
3 no designated beneficiary is surviving, the same monthly benefit for the balance of such  
4 10-year period shall be payable as provided in s. 2-606.

5 ~~(1) A member of the plan may continue in employment to a date after eligibility~~  
6 ~~for normal retirement. In such event the member's delayed retirement date shall be the~~  
7 ~~first day of the month coincident with or next following the date of termination of~~  
8 ~~employment.~~

9 ~~(2) Benefit amounts. The monthly delayed retirement benefit payable to a~~  
10 ~~member shall be equal to his/her accrued benefits shall be, except as provided in section~~  
11 ~~2-601, as defined in section 2-596, determined as of his/her delayed retirement date.~~

12 ~~(3) Benefit payments. Delayed retirement benefits shall be payable on the first day of~~  
13 ~~each month. The first payment shall be made on the member's delayed retirement date,~~  
14 ~~and payment shall continue according to the terms of the accrued benefit for the~~  
15 ~~member's lifetime. A member may modify the amount and conditions of payment by~~  
16 ~~electing an option in accordance with section 2-601, in which event the delayed~~  
17 ~~retirement benefit shall be paid in accordance with the terms of such option.~~

18 (c) *Disability retirement.* Except for employees who have entered into a DROP, or  
19 are re-employed pursuant to section 2-598(f), a member who has met the eligibility  
20 requirements for disability retirement may retire under the plan if he/she becomes totally  
21 and permanently disabled, as defined herein. In the event of disability retirement,  
22 payment of disability benefits shall be governed by subsections (1) through (8) of this  
23 section, except as provided below. Employees making the election/request described in  
24 section 2-598(c)(1)a.2. shall not be eligible for disability retirement under this section,

1 but shall instead be eligible for disability retirement under Article VII, Division 6 of this  
2 chapter.

3 (1) Eligibility for disability benefits.

4 a. Line of duty.

5 (i) \_\_\_\_\_ A member who becomes totally and permanently disabled,  
6 as defined in (2)(a) below~~herein~~, while in the line of duty, as defined by  
7 the board and in (ii) below, shall be eligible for a disability benefit ~~on the~~  
8 ~~later of the date 30 days after the commencement of disability or the date~~  
9 ~~the board approves payment of the disability benefit.~~ For the purposes of  
10 this subsection (a) paragraph, a member shall be eligible for a disability  
11 benefit ~~an eligible employee shall be considered a member~~ on his/her first  
12 day of service.

13 (ii) \_\_\_\_\_ Any condition or impairment of health of any and all police  
14 officer members caused by tuberculosis, hypertension, heart disease, or  
15 hardening of the arteries, resulting in total or partial disability or death,  
16 shall be presumed to be accidental and suffered in line of duty unless the  
17 contrary be shown by competent evidence. Any condition or impairment  
18 of health caused directly or proximately by exposure, which exposure  
19 occurred in the active performance of duty at some definite time or place  
20 without willful negligence on the part of the police officer member,  
21 resulting in total or partial disability, shall be presumed to be accidental  
22 and suffered in the line of duty, provided that such member shall have  
23 successfully passed a physical examination upon entering such service,  
24 which physical examination including electrocardiogram failed to reveal

1 any evidence of such condition. Any condition or impairment of health of  
2 a firefighter member caused by tuberculosis, hypertension, or heart disease  
3 resulting in total or partial disability or death shall be presumed to have  
4 been accidental and suffered in the line of duty unless the contrary is  
5 shown by competent evidence, provided that such firefighter member shall  
6 have successfully passed a physical examination before entering into such  
7 service, which examination failed to reveal any evidence of such  
8 condition.

9 b. Not in line of duty.

10 (i) A member who becomes totally and permanently disabled,  
11 as defined in (2)(a) below~~herein~~, while not in the line of duty,  
12 having 10 or more years of credited service on the commencement  
13 of disability, shall be eligible for a disability benefit,~~provided~~  
14 ~~he/she has completed at least five years credited service as of the~~  
15 ~~commencement of disability.~~

16 (ii) A member who becomes totally and permanently disabled  
17 as described in (2)(b) below, while not in the line of duty, having  
18 at least five years, but less than 10 years, of credited service on  
19 commencement of disability shall be eligible for a disability  
20 benefit.

21 (iii) A member who becomes totally and permanently disabled  
22 as described in (2) below, while not in the line of duty, having less  
23 than five years of credited service as of the commencement of the  
24 disability, shall not be eligible for a disability benefit.

- 1           (2)    Total and permanent disability.
- 2                   a.        A member shall be considered totally and permanently disabled by
- 3                                a disability incurred in the line of duty if, in the opinion of the
- 4                                board, he/she is wholly prevented from rendering useful and
- 5                                efficient service as a police officer or firefighter, by reason of a
- 6                                medically determinable physical or mental impairment and the
- 7                                member is likely to remain so disabled continuously and
- 8                                permanently. which can be expected to result in death or to be of a
- 9                                ~~long continued and indefinite duration.~~
- 10                   b.        A member shall be considered totally and permanently disabled by
- 11                                a disability suffered while not in the line of duty if, in the opinion
- 12                                of the board, he/she is wholly prevented from rendering useful and
- 13                                efficient service as a police officer or firefighter or wholly
- 14                                prevented from rendering useful and efficient service in a vacant
- 15                                position for which he/she is qualified and in which he/she may be
- 16                                placed anywhere in the city as approved by the city manager, by
- 17                                reason of a medically determinable physical or mental impairment
- 18                                and the member is likely to remain so disabled continuously and
- 19                                permanently. which can be expected to result in death or to be of a
- 20                                ~~long continued and indefinite duration.~~
- 21                   c.        The decision of the board of these questions shall be final and
- 22                                binding subject to the claims procedure set forth in the
- 23                                "administration of the plan" section.

24           (3)    Nonadmissible causes of disability. A member shall not be entitled to

1 receive disability benefits if the disability is the result of any of the following:

2 a. Excessive and habitual use by the member of drugs, intoxicants, or  
3 narcotics;

4 b.e Injury or disease sustained by the member while willfully  
5 participating in acts of violence, riots, civil insurrections, or while  
6 committing a felony.

7 cb. Injury or disease sustained by the member while serving in any  
8 armed forces or as a result of warfare.

9 de. Injury or disease sustained by a member after his/her employment  
10 has terminated.

11 ed. Intentional, self-inflicted injury.

12 f. Injury or disease sustained by the member while working for  
13 anyone other than the city, including self-employment, and arising  
14 out of such employment.

15 (4) Determination of eligibility. No member shall be permitted to retire under  
16 the provisions of this section until examined by a duly qualified physician or surgeon, to  
17 be selected by the board of trustees for that purpose, and is found to be disabled in the  
18 degree and in the manner specified in this section. Any member retiring under this  
19 section may be examined periodically by a duly qualified physician or surgeon or board  
20 of physicians and surgeons to be selected by the board of trustees for that purpose, to  
21 determine if such disability has ceased to exist. ~~The board of trustees shall consider and~~  
22 ~~secure such information as the board desires and determines appropriate. Following~~  
23 ~~thorough consideration, the board of trustees will determine the eligibility of the~~  
24 ~~employee for benefits as provided in this plan. The board of trustees may attach such~~

1 ~~conditions and safeguards to its findings and determinations as may be deemed~~  
2 ~~appropriate in order to carry out the intent and purpose of this division. The~~  
3 ~~determination of the board of trustees on any matters related to this article, its~~  
4 ~~interpretation or the entitlement of one to its benefits shall rest solely with the board of~~  
5 ~~trustees, and its final determination shall be binding.~~

6 (5) Amount of disability benefit. The benefit payable to a member who  
7 retires from the service of the city with a total and permanent disability as a result of a  
8 disability is the monthly income payable for 10 years certain and life for which, if the  
9 member's disability occurred in the line of duty, his or her monthly benefit shall be the  
10 accrued benefit, but shall not be less than 42 percent of his or her final average earnings  
11 as of the member's disability retirement date. If the disability is other than in the line of  
12 duty, the member's monthly benefit, if any, shall be the accrued benefit, but shall not be  
13 less than 25 percent of his or her average monthly compensation as of the member's  
14 disability retirement date. A member shall receive a monthly disability benefit,  
15 commencing on his/her disability eligibility date, equal to his/her accrued benefit,  
16 determined as of his/her disability eligibility date, based on the member's credited service  
17 and final average earnings as of such date. Provided further, however, the member's  
18 benefit as determined (before adjustment, if any, as provided in section 2-600(f)) shall  
19 not be less than 42 percent of his/her final average earnings for in-line of duty disability,  
20 and not less than 25 percent of his/her final average earnings for not in-line of duty  
21 disability.

22 (6) Benefit payments. The monthly retirement income for a member in the  
23 event of his or her disability retirement shall be payable on the first day of the first month  
24 after the board of trustees determines such entitlement. However, the monthly retirement

1 income shall be payable as of the date the board determines such entitlement, and any  
2 portion due for a partial month shall be paid together with the first payment. The last  
3 payment will be, if the member recovers from the disability, the payment due next  
4 preceding the date of such recovery or, if the member dies without recovering from his or  
5 her disability, the payment due next preceding death or the 120th monthly payment,  
6 whichever is later. In lieu of the benefit payment as provided in this subsection, a  
7 member may select an optional form as provided in s. 2-601. Any monthly retirement  
8 income payments due after the death of a disabled member shall be paid to the member's  
9 designated beneficiary (or beneficiaries) as provided in ss. 2-606 and 2-600(d). The  
10 ~~disability benefit payable in the event of disability shall be payable on the first day of~~  
11 ~~each month. The first payment shall be made on the disability eligibility date, and~~  
12 ~~subsequent payments shall be made according to the terms of the accrued benefit for the~~  
13 ~~member's lifetime, or until recovery from disability, if sooner, as provided below.~~  
14 ~~Provided further that should a member die while receiving disability benefits, amounts~~  
15 ~~contributed in excess of benefits paid to the member shall be paid without interest to the~~  
16 ~~member's beneficiary.~~

17 (7) Termination of disability benefit. If the board of trustees finds that a  
18 member who is receiving a disability retirement income is no longer disabled, as  
19 provided herein, the board of trustees shall direct that the disability retirement income be  
20 discontinued. Recovery from disability as used herein shall mean the ability of the  
21 member to render useful and efficient service as an eligible employee, or in the case of  
22 disability benefit awarded pursuant to (c)(2)b, other city employment.

23 ~~If the member's disability ceases prior to his/her normal retirement date, and he/she is~~  
24 ~~requested to reenter the employ of the city and he/she does not do so within 30 days after~~

1 such request, all rights of the member in and to a disability benefit shall cease, and he/she  
2 shall be entitled solely to the benefits, if any, available under the termination of  
3 employment section, based on his/her credited service and final average earnings as of  
4 his/her disability eligibility date, provided that if such request is made prior to six months  
5 following cessation of disability, the member shall have 30 days after the expiration of  
6 that period in which to reenter the employ of the city.

7 If the member's disability ceases prior to his/her normal retirement date, and he/she is  
8 reemployed by the city within 30 days following the date such disability ceases, his/her  
9 employment will be deemed to have been continuous, and that period from his/her  
10 disability eligibility date to the date of reemployment shall be considered as credited  
11 service for purposes of the plan, and his/her final average earnings during such period  
12 will be based on the assumption that his/her rate of compensation in effect on the  
13 disability eligibility date was continued to his/her date of reemployment.

14 If the member's disability ceases subsequent to his/her normal retirement date, such  
15 member shall continue to receive benefits as provided by the plan, according to the terms  
16 of the accrued benefit for the member's lifetime.

17 (8) If the member recovers from disability and reenters the service of the city  
18 as an eligible employee, his or her service will be deemed to have been continuous, but  
19 the period beginning with the first month for which the member received a disability  
20 retirement income payment and ending with the date he or she reentered the service of  
21 the city may not be considered as credited service for the purposes of the plan.

22 (d) *Death prior to retirement; refunds of contributions or payment of death benefits.*

23 (1) If an eligible employee dies before being eligible to retire, the heirs,  
24 legatees, beneficiaries, or personal representatives of such deceased member shall be

1 entitled to a refund of 100 percent, without interest, of the contributions made to the Plan  
2 by such deceased member. ~~Death while an active member. If a member actively~~  
3 ~~employed by the city dies prior to his/her normal retirement date, no death benefits shall~~  
4 ~~be payable from the plan, provided, however, that amounts contributed by members shall~~  
5 ~~be paid without interest to the member's beneficiary.~~

6 ~~If a member actively employed by the city dies subsequent to his/her normal retirement~~  
7 ~~date, and had selected an optional form of benefit, as provided in section 2-601, benefit~~  
8 ~~payments will be made to the beneficiary in accordance with said option as though the~~  
9 ~~member had retired on the day before he/she died and if he/she has elected the normal~~  
10 ~~form amounts contributed by the member shall be paid without interest to the member's~~  
11 ~~beneficiary.~~

12 (2) If an eligible employee having at least 10 years of credited service dies  
13 prior to retirement, his or her beneficiary is entitled to the benefits otherwise payable to  
14 the member at early or normal retirement age, based upon his or her accrued benefit at  
15 time of death. ~~Death subsequent to termination of employment but prior to retirement~~  
16 ~~eligibility. If a member dies subsequent to termination of employment but prior to~~  
17 ~~eligibility for retirement, no death benefits shall be payable, provided however, that~~  
18 ~~amounts contributed by members shall be paid without interest to the member's~~  
19 ~~beneficiary.~~

20 (3) ~~Death subsequent to retirement but prior to benefit commencement. If a~~  
21 ~~member dies subsequent to retirement but prior to benefit commencement and had~~  
22 ~~elected an optional form of benefit, as provided in section 2-601, benefit payments will~~  
23 ~~be made to the beneficiary in accordance with the terms of said option as though the~~  
24 ~~employee had commenced benefits on the day before he/she died, provided, however,~~

1 ~~that amounts contributed by members who elected the normal form shall be paid without~~  
2 ~~interest to the member's beneficiary.~~

3 ~~(4) — Death after benefit commencement. If a member dies subsequent to~~  
4 ~~his/her benefit commencement date, no death benefit shall be payable unless the member~~  
5 ~~had elected an optional form of benefit, as provided in section 2-601, in which case the~~  
6 ~~terms of the optional form selected shall apply, provided, however, that amounts~~  
7 ~~contributed by members in excess of retirement benefits paid to the member under the~~  
8 ~~normal form shall be paid without interest to the member's beneficiary.~~

9 (e) *Termination of employment.* A member whose employment with the city  
10 terminates prior to the completion of at least ten years of credited service, for any reason  
11 other than his/her disability shall not be entitled to any benefits under the plan, provided,  
12 however, that, except as provided in subsection (6) below, amounts contributed by  
13 members shall be paid without interest to the member or, as applicable, the member's  
14 beneficiary. A member whose employment with the city terminates after the completion  
15 of at least ten years of credited service shall be entitled to a termination benefit, or if s/he  
16 elects ~~applicable~~, return of contributions without interest. ~~with Section 2-600(d)(1) and~~  
17 ~~(2).~~ Payment of the termination benefit shall be governed by the following provisions of  
18 this section:

19 (1) A member who has at least 10 years of credited service and elects to leave  
20 his or her contributions in the trust fund may, upon attaining age 50 years or more, may  
21 then receive at the actuarial equivalent of the amount of such retirement income  
22 otherwise payable to him or her, as provided in section 2-600(b), or, upon attaining age  
23 55 years, may then receive the retirement income as provided in section 2-600(a).

24 ~~Benefit amount. A member who is entitled to a termination benefit shall receive a~~

1 monthly retirement equal to his/her accrued benefit, except as provided in section 2-601,  
2 determined as of his/her date of termination.

3 (2)(5) Reemployed members. In the event employment of a member, entitled to  
4 a termination benefit pursuant to ~~this subsection (1) above,~~ is terminated, and he/she is  
5 subsequently reemployed as an eligible employee by the city prior to receiving a  
6 termination benefit, ~~his/her benefit commencement date~~ he/she shall continue to be  
7 entitled to the credited service he/she had previously earned, and shall again participate in  
8 the plan and accrue benefits after such date of reemployment, in accordance with the  
9 terms of the plan. A member ~~whose employment with the city terminated prior to his/her~~  
10 ~~entitlement to any termination benefits and~~ who has had the amount, if any, he/she  
11 contributed to this plan repaid without interest, shall no longer be a member of the plan  
12 and shall not be entitled to receive any benefits under the plan. If such member is  
13 subsequently reemployed as an eligible employee by the city, he/she may recoup his/her  
14 previous credited service to which he/she was previously entitled, as described in Section  
15 2-596 "Credited Service." ~~under the following circumstances:~~

16 ~~Benefit commencement date. The benefit commencement date of a member with at least~~  
17 ~~ten years credited service but less than 20 years credited service shall be the first day of~~  
18 ~~the month after he/she has attained age 60.~~

19 ~~(3) Benefit payments. The termination benefits shall be payable on the first day of each~~  
20 ~~month. The first payment shall be made on the benefit commencement date, and benefits~~  
21 ~~shall be payable thereafter according to the terms of the accrued benefit for the member's~~  
22 ~~lifetime. A member may modify the amount and conditions of payment described in this~~  
23 ~~section by electing an option in accordance with the optional forms of benefit section, in~~  
24 ~~which event the termination benefit shall be paid in accordance with the terms of such~~

1 option.

2 ~~(4) Benefit forfeitures. That portion of a terminated member's benefit that is not vested~~  
3 ~~shall be forfeited and used only to reduce future costs of the plan, provided, however, that~~  
4 ~~amounts contributed by such a terminated member shall be paid without interest to the~~  
5 ~~member or, as applicable, the member's beneficiary.~~

6 a. ~~If his/her period of absence is less than his/her period of credited service, as provided~~  
7 ~~in section 2-596, and if he/she, within 30 days from the date of his/her successful~~  
8 ~~completion of his/her probationary period after reemployment, repays the amount of~~  
9 ~~contributions paid out, plus interest at the plan's assumed rate as stated in the most recent~~  
10 ~~actuarial valuation report filed with the State of Florida, pursuant to F.S. § 112.63(2), for~~  
11 ~~each year and portion thereof of his/her absence and the period of time after~~  
12 ~~reemployment until the date of refund; or~~

13 b. ~~If the member was not entitled to a termination benefit, and he/she remains in the~~  
14 ~~continuous employ of the city for at least ten years subsequent to his/her reemployment,~~  
15 ~~and he/she has refunded withdrawn contributions as provided above. Continuous employ~~  
16 ~~shall not be deemed interrupted because of absence, when the absence shall have been~~  
17 ~~granted in accordance with appropriate contract provisions or applicable personnel~~  
18 ~~policies as approved by the city commission. Approved absences shall count as credited~~  
19 ~~service under the plan, in accordance with the terms of the plan.~~

20 (36) Reemployment within five years. If a member was not entitled to a termination  
21 benefit, he or she may voluntarily leave his or her contributions in the fund for a period of  
22 five years after ceasing to be an eligible employee, leaving the employ of the fire or  
23 police department, pending the possibility of being rehired as such, by the same  
24 department, without losing credit for the time he or she has participated actively as an

1 ~~eligible employee firefighter or police officer.~~ If the firefighter or police officer is not  
2 ~~so~~ reemployed as a ~~firefighter or police officer, with the same department~~ within five  
3 years, his or her contributions shall be returned without interest.

4 (f) Limitation of benefits. Members receiving benefits from sources funded in whole or  
5 in part by city contributions, such as workers' compensation indemnity benefits, social  
6 security benefits, and retirement benefits from the consolidated pension plan, which when  
7 totaled exceed 100 percent of the member's average weekly wage used for the purpose of  
8 computing workers' compensation benefits, shall have their workers' compensation  
9 indemnity benefits and, if necessary, plan benefits reduced, so as to provide for a  
10 combined total of benefits not exceeding 100 percent of the member's average weekly  
11 wage. Any lump sum workers' compensation payment shall be converted to the monthly  
12 equivalent of the weekly rate upon which the lump sum was based and paid until such  
13 time as the lump sum would be exhausted at the monthly equivalent rate. Such  
14 limitations, are based upon the initial amount of retirement benefits and social security  
15 benefits, and are not affected by subsequent increases in workers' compensation  
16 supplemental benefits, social security or plan benefits. In applying offsets necessary to  
17 limit combined benefits to 100 percent, workers' compensation benefits shall be reduced  
18 first, pursuant to F.S. § 440.15(910), ~~and this section~~, then if necessary, retirement plan  
19 benefits shall be reduced. The above-described limitations on plan benefits shall not,  
20 however, operate to lower the retiree's monthly benefit below two percent of each year of  
21 credited service multiplied by final average earnings.

22 (g) Restriction. No member of the plan shall be allowed to receive a retirement  
23 benefit or pension which is in part or in whole based upon any service with respect to  
24 which the member is already receiving, or will receive in the future, a retirement benefit

1 or pension from a different employer's retirement system or plan. This restriction does  
2 not apply to social security benefits or federal benefits under 10 U.S.C. Chapter 1223  
3 2006.

4 ~~Payments from other plans. If any member receives a retirement benefit from another~~  
5 ~~retirement plan funded in whole or in part by public funds (other than social security~~  
6 ~~benefits) which is based on a period of credited service to which the member has received~~  
7 ~~credit under this plan, the benefit otherwise payable from this plan shall be offset by~~  
8 ~~benefits payable from such other plans that are attributable to such duplicate service~~  
9 ~~periods.~~

10 (h) Maximum benefit limitation.

11 (1) The maximum annual benefit payable under the plan shall be limited to  
12 \$90,000.00, subject to adjustment for increases in the cost of living in accordance with  
13 the following sentence. As of the first day of January of each calendar year, the  
14 maximum dollar limitation shall be adjusted automatically to an amount determined by  
15 the Commissioner of the Internal Revenue Service effective for that calendar year and  
16 shall apply only to that calendar year.

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

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

1 limitation year.

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

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

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

17 ~~Adjustments described in this subsection (4) shall not reduce the maximum annual  
18 benefit below \$75,000.00, if the retirement benefit commences on or after attainment of  
19 age 55, or if the benefit commences before age 55, the actuarial equivalent of the  
20 \$75,000.00 limitation for age 55.~~

21 ~~For a "qualified participant," as defined in I.R.C. section 415(b)(2)H(), this  
22 subsection (4) shall not apply.~~

23 ~~————(5)————~~In the event payment of a retirement benefit under the plan to a member  
24 commences after the date the member attains age 65, the maximum benefit limitation

1 shall be adjusted to be not more than the actuarial equivalent (as defined in subsection  
2 ~~(56)~~, below) of the then current dollar limit commencing at age 65 for the purpose of  
3 applying the benefit limit described in subsection (1).

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

7 ~~(56)~~ For the purpose of adjusting benefits in accordance with this section,  
8 actuarial equivalent shall be determined using the 1994 ~~1983~~-Group Annuity Mortality  
9 Table (50/50 Unisex) and an interest rate of 9.5 ~~five~~-percent for adjustments under  
10 subsections (3); and ~~(4) and (5)~~. For adjustment under subsections (3) and; ~~(4) and (5)~~,  
11 no cost-of-living adjustment shall be taken into account before the year for which such  
12 adjustment first takes effect.

13 ~~(67)~~ If a retirement benefit is payable to a member who has less than ten years  
14 of plan participation, the limitation described in subsection (1), shall be multiplied by a  
15 fraction, the numerator of which is the member's years of plan participation and the  
16 denominator of which is 10.

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

1 (i) Distribution rules. Notwithstanding any other provision of this plan to the  
2 contrary, a form of retirement income payable from this plan after November 24, 1997,  
3 shall satisfy the following conditions:

4 (1) If any retirement income is payable before the member's death:

5 a. It shall either be distributed or commence to the member not later  
6 than April 1 of the calendar year following the later of the calendar  
7 year in which the member attains age 70 1/2 years or the calendar  
8 year in which he retires.

9 b. The distribution shall commence not later than the calendar year  
10 defined in paragraph a. and (1) shall be paid over the life of the  
11 member or over the lifetimes of the member and his spouse, issue  
12 or dependent, or (2) shall be paid over the period extending not  
13 beyond the life expectancy of the member and his spouse, issue or  
14 dependent.

15 Where a form of retirement income payment has commenced in accordance with the  
16 preceding paragraphs and the member dies before his entire interest in the plan has been  
17 distributed, the remaining portion of such interest in the plan shall be distributed no less  
18 rapidly than under the form of distribution in effect at the time of the member's death.

19 (2) If the member's death occurs before the distribution of his interest in the  
20 plan has commenced, his entire interest in the plan shall be distributed within five years  
21 of his death, unless it is to be distributed in accordance with the following rules:

22 a. The member's remaining interest in the plan is payable to his  
23 spouse, issue or dependent.

24 b. The remaining interest is to be distributed over the life of the

1 spouse, issue, or dependent; and

2 c. Such distribution begins within one year of the member's death  
3 unless the member's spouse, issue or dependent shall receive the  
4 remaining interest in which case the distribution need not begin  
5 before the date on which the member would have attained age 70  
6 1/2 years, and if the spouse, issue or dependent dies before the  
7 distribution to the spouse, issue or dependent begins, this section  
8 shall be applied as if the spouse, issue or dependent were the plan  
9 member.

10 (j) Direct transfers of eligible rollover distributions.

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

16 (2) Definitions.

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

1 more; any distribution to the extent such distribution is required  
2 under I.R.C. section 401(a)(9); and the portion of any distribution  
3 that is not includable in gross income, i.e., member contributions  
4 made prior to 1998.

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

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

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

22 (k) Deferred retirement option program ~~plan~~.

23 (1) A deferred retirement option program ~~plan~~ is hereby created for eligible  
24 employees.

1           (2)     A member who is an eligible employee is eligible for participation in the  
2 DROP on the first day of the month coincident with or next following the completion of  
3 25 years of limited participant service, or meeting the rule of 70 including limited  
4 participant service, and continuing up to 30 years of service as a regular employee, except  
5 as provided in subsection (7) below. In the case of a reverse DROP, such requirement  
6 must be met as of the effective date of commencement of participation in the DROP,  
7 including if applicable the lesser of the sick leave balances described below. Upon  
8 entering into a regular ~~the~~ DROP, members may elect to apply unused sick leave hours to  
9 attain the requisite years of credited service for eligibility to enter and for determining  
10 their accrued benefit, or retain some or all of their unused sick leave for use during their  
11 employment while participating in the regular DROP. Sick leave hours used in  
12 computing cash outs of sick leave balances upon retirement are considered already "used"  
13 and may not be converted to credited service, or used as sick leave during participation in  
14 the regular DROP. Sick leave balances retained upon entry into the regular DROP and  
15 accrued while participating in the regular DROP shall not count as days or months of  
16 credited service when determining the maximum period of participation in the DROP, in  
17 accordance with subsections (6) and (7) below. Any unused sick leave remaining at the  
18 expiration of the regular DROP participation or period will be forfeited. In the case of a  
19 reverse DROP, members may utilize the lesser of the vacation and sick leave balances in  
20 existence on the effective date of commencement of participation or the balances in  
21 existence ninety (90) days after declaration of intention to enter the reverse DROP. Any  
22 cash outs shall be included in the FAE calculations for the month prior to the effective  
23 date of commencement of participation in the reverse DROP, at the member's base pay  
24 rate on that date.

1           (3)     On the date of a member's entry into the DROP or date of deemed entry  
2 into a reverse DROP, the member's credited service, accrued benefit, and final average  
3 earnings shall be calculated as if the member had actually separated from service on that  
4 date and retired. There shall be no further member contributions after entry into the  
5 DROP, except as a re-employed retiree, if applicable, and employee contributions made  
6 after the effective date of commencement of participation in a reverse DROP shall be  
7 returned without interest. No additional credited service shall be earned after entering the  
8 DROP, except as re-employed retiree, if applicable. Any changes in plan benefits shall  
9 not apply to members in the DROP, unless otherwise applicable to retired members of the  
10 plan.

11           (4)     Members otherwise eligible to receive longevity pay and who are eligible  
12 to and who elect to enter a DROP must, in order to enter and to continue to participate in  
13 the DROP, make an irrevocable election upon entry into the DROP as hereinafter  
14 provided. The member may (1) continue to receive longevity payments and merit  
15 increases (assuming merit increases are provided and applicable), but forego receipt of all  
16 future general (COLA) salary increases, or (2) continue to receive general (COLA) salary  
17 increases and merit increases (assuming merit increases are provided and applicable) but  
18 become ineligible for future receipt of longevity pay, or (3) in the case where the  
19 applicable pay plan does not provide separately for general and merit increases, the  
20 member may forego either future receipt of longevity payments, or any and all future  
21 salary increases. In those cases where the member elects to forego receipt of future  
22 longevity payments, entry into the DROP shall be treated as separation from service for  
23 the purposes of section 2-484. This subsection does not apply to members in a reverse  
24 DROP.

1           (5)     The member shall select the retirement option as provided for in section 2-  
2 601 and shall designate any beneficiary in accordance with plan provisions and practices  
3 applicable to normal and delayed retirements.

4           (6)     The maximum period of participation in the DROP is 60 months from date  
5 of entry, or in the case of a reverse DROP 60 months from the effective date of  
6 commencement of participation. Except as provided in subsection (7), participation in  
7 the DROP must cease at the conclusion of a total of 30 years of regular employment with  
8 the City of Gainesville and, if applicable, a successor employer under F.S. § 112.0515  
9 (1997). In the case of a reverse DROP, the end of the DROP period, and termination of  
10 employment, must occur at no later than a total of 30 years of regular employment with  
11 the City of Gainesville and, if applicable, a successor employer under F.S. § 112.0515  
12 (1997)

13           (7)     Members who have more than 27 years of limited participant service in  
14 the Plan as of October 1, 1999, shall have until December 30, 1999 to elect to enter into  
15 the DROP, on or before February 1, 2000, and to then be eligible to participate for a  
16 maximum of 36 months from the date of entry. Such members making an election on or  
17 after December 31, 1999, to enter into the DROP shall be governed by normal eligibility  
18 and duration requirements described herein.

19           (8)     A member may cease participating in the regular DROP prior to the  
20 expiration of the agreed upon (not to exceed the maximum allowed) DROP period only  
21 by terminating regular employment with the city. In the event that a member participating  
22 in the DROP fails to terminate regular employment on or before the conclusion of the  
23 DROP period, then the member's monthly retirement benefit shall cease at the conclusion  
24 of the DROP period until such time as the member terminates regular employment. In

1 the case of a reverse DROP, a member's employment terminates simultaneously with  
2 commencement of participation in the reverse DROP, which is ninety (90) days after the  
3 member makes a declaration of his/her intention to enter the reverse DROP.

4 (9) For members entering the regular DROP prior to June 12, 2007, dDuring  
5 such a member's participation in the DROP, an amount equal to the member's monthly  
6 retirement benefit shall be transferred to an account within the plan designated by the  
7 member for investment. Such mMembers may direct their DROP money to any of the  
8 investment options offered by the third party administrator approved by the board.  
9 Monthly retirement benefits paid into DROP accounts shall be adjusted to take into  
10 account any retiree cost-of-living adjustments available under the plan to retired  
11 members. There shall be no guaranteed rate of investment return on these DROP  
12 accounts. Upon transfer of the DROP money to the account designated by the member,  
13 neither the city nor the board shall have any obligation to the member concerning  
14 investment gains or losses. Transfers between accounts shall be in accordance with the  
15 rules of the third party administrator.

16 (10) Members entering a regular DROP or declaring his/her entry into a reverse  
17 DROP on or after June 12 , 2007 shall have his/her monthly benefits accrue in the fund  
18 on behalf of the member, plus interest at 5.5% compounded monthly on the prior months  
19 accumulated ending balance up to the month of termination, or death, or established  
20 termination date, whichever occurs first. If the Plan's 2006-2007 assumed rate of return  
21 of 8.5% changes, then the interest rate will be prospectively adjusted from the date of the  
22 change to 65% of the Plan's new assumed rate of return compounded monthly on the  
23 prior months accumulated ending balance up to the month of termination, or death, or  
24 established termination date, whichever occurs first. A separate accounting of each

1 participant's accrued benefits shall be calculated and provided to the participants  
2 annually. Monthly retirement benefits paid into DROP accounts shall be adjusted to take  
3 into account any retiree cost-of-living adjustments available under the plan to retired  
4 members.

5 (11) The decision to participate in the regular DROP is irrevocable once DROP  
6 payments begin. Once the employee has completed participation in the DROP, his/her  
7 regular employment will end and he/she shall be separated from employment; this  
8 separation shall be processed as a voluntary resignation.

9 (12) Upon entry into the DROP, a member shall no longer be eligible for  
10 disability benefits under the Plan or the City of Gainesville Employees Disability Plan. In  
11 the event of death during the DROP period or thereafter, the member shall be presumed  
12 to have retired on a normal ~~or delayed~~ retirement upon entry into the DROP for the  
13 purposes of section 2-600(a)(3)~~(d)(1), (3) or (4)~~. Distribution from the DROP account  
14 shall be made to the member, or in the case of the member's death, to the member's  
15 designated beneficiary.

16 (13) Upon the termination of a member's (who has entered a DROP) regular  
17 City employment (for any reason, whether by retirement, resignation, discharge or death),  
18 the retirement benefits payable to the member or to the member's beneficiary (if the  
19 member selected an optional form of retirement benefit which provides for payments to  
20 the beneficiary) shall be paid to the member or beneficiary and shall not be deposited into  
21 the member's deferred retirement option account or continue to accrue in the Plan.  
22 Following the termination of a member's regular employment, the balance in the  
23 member's DROP account shall be payable in accordance with options made available by  
24 the third party administrator, or in the case of accounts accruing within the Plan,

1 distributed in accordance with the rules of the Plan. Regardless of the option selected by  
2 the member, the board of trustees has the right to accelerate payments in order to comply  
3 with Section 401(A)(9) of the Internal Revenue Code and the right to defer payments to  
4 comply with Section 415 of the Internal Revenue Code.

5 (14) Nothing herein shall be construed to remove members who have entered  
6 the DROP from the scope of § 8(d), Art. II of the State Constitution, and § 112.3173,  
7 paragraph (5)(f). Members who commit a specified offense while employed will be  
8 subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those  
9 provisions of law.

10 (15) During regular DROP participation, a member shall be considered a  
11 retiree with deferred receipt of benefits for all plan purposes. A member who fails to  
12 terminate regular employment during or at the conclusion of the regular DROP period  
13 shall be considered a retiree for all plan purposes, except that the member shall not be  
14 entitled to receive, or defer receipt of, monthly retirement benefits while continuing to  
15 remain employed as a regular employee. For other purposes, the employee shall be  
16 considered an active employee of the city entitled to all rights of employment, except as  
17 otherwise provided.

18 (l) Lump-sum payment of small retirement income. Notwithstanding any provisions  
19 of the plan to the contrary, if the monthly retirement income payable to any person  
20 entitled to benefits hereunder is less than \$100.00, or if the single-sum value of the  
21 accrued retirement income is less than \$5,000.00 for a firefighter or \$2,500.00 for a  
22 member, as of the date of retirement or termination of service, whichever is applicable,  
23 the board of trustees, in the exercise of its discretion, may specify that the actuarial  
24 equivalent of such retirement income be paid in a lump sum.

1 (m) Rollovers to IRA's. A mandatory distribution in excess of \$1,000.00 made  
2 pursuant to subsection 2-600(k)(1), or an involuntary return of employee contributions in  
3 excess of \$1,000.00, shall be paid in a direct rollover to an IRA designated by the plan  
4 administrator if, after notice, the member does not elect to either receive the distribution  
5 directly or have it paid in a direct rollover to an eligible retirement plan.

6 (n) Public Safety and Military service prior to employment. Members who are  
7 regular employees actively employed after June 12, 2007, and not then participating in  
8 the regular DROP, may have the year(s) that the member served as a police officer or  
9 firefighter, as defined in subsections (8) and (9), and years of military service, prior to  
10 initial employment with the city, added to his or her years of credited service provided  
11 that:

12 (1) The member contributes to the fund an actuarially determined amount so  
13 that crediting of the purchased service does not result in any cost to the plan. The  
14 multiplier applied to purchased credited service shall correspond to the multiplier in  
15 effect at the time the purchase is completed. The Plan shall absorb the cost of  
16 professional services for obtaining one actuarial estimate for a member. Any subsequent  
17 estimates shall be paid for in advance by the requesting member.

18 (2) Purchase of credited service for service as a police officer or firefighter, or  
19 military service, prior to employment, shall be in increments of one or more whole years,  
20 except where the remaining service available to be purchased is less than one (1) year.  
21 Lump sum purchases may not be made more frequently than once every 12 months.  
22 Such purchase of service may be made during 2007 and during the months of November,  
23 December and January each year thereafter. "Financed" purchases may be arranged  
24 during 2007 and during the months of November, December and January each year

1 thereafter. Failure to complete a “financed” purchase shall preclude any future  
2 “financed” purchases by the member. Lump sum purchase of service and complete  
3 payment of “financed” service must occur prior to entry into a regular DROP and prior to  
4 declaration of intention to enter a reverse DROP.

5 (3) Payment by the member of the required amount may be made in one lump  
6 sum payment or “financed” at the plans assumed rate of interest as follows: 4-5 years  
7 may be paid for over a maximum sixty month period from the date purchase is first  
8 arranged (Subsection 2 above); 3 plus years – 48 month maximum; 2 plus years – 36  
9 month maximum, 1 plus year – 24 month maximum. Outstanding balances shall be  
10 charged interest compounded monthly at the plan’s assumed rate of return for that month,  
11 thus the total “financed” payment, and required monthly payments will change. In no  
12 event shall any credit be given until total payment is completed. Failure to complete  
13 payment within the prescribed period shall result in amounts paid being then returned  
14 without interest and no credit given.

15 (4) The maximum credit purchased under this subsection (n) shall be five  
16 years, provided that no more than four years of prior military service may be purchased.

17 (5) Credited service purchased pursuant to this subsection (n) shall count for  
18 all purposes under the Plan.

19 (6) Members may pay for prior service as provided in (2) and (3) above;  
20 however, credit for such shall not be granted unless and until the member has otherwise  
21 earned 10 years of credited service. A member who has paid for such service and whose  
22 employment terminates prior to the completion of 10 years of credited service shall have  
23 the amount paid returned without interest to the member, or as applicable to the  
24 member’s beneficiary, including as provided in subsection 2-606.

1           (7) A member may not obtain a benefit, nor base the amount of benefit  
2 received, upon service purchased under this subsection (n) if such service is claimed for  
3 retirement purposes under any other federal, state, or local retirement or pension system  
4 where “length of service” is a factor in determining the eligibility for, or the amount of  
5 compensation received, except where credit for such service has been granted in a  
6 pension system providing retired pay for non-regular service in the Armed Forces of the  
7 United States as provided in 10 U.S.C. Chapter 1223. Any member claiming credit under  
8 this subsection (n) must certify on a form prescribed by the Plan that credit for such  
9 service has not and will not be claimed for retirement purposes under any other federal,  
10 state, or local retirement or pension system where “length of service” is a factor in  
11 determining the eligibility for, or the amount of compensation received, except where  
12 credit for such service has been granted in a pension system providing retired pay for  
13 non-regular service in the Armed Forces of the United States as provided in 10 U.S.C.  
14 Chapter 1223. Such certification shall also include written authorization for the Plan to  
15 have access to information from any above-described pension systems to confirm that the  
16 requirements of this subsection are being complied with. If the member dies prior to  
17 retirement, the member’s beneficiary must make the required certification before credit  
18 may be claimed. If such certification is not made by the member or the member’s  
19 beneficiary, credit for prior police officer, firefighter, or military service shall not be  
20 allowed. If it is determined that a benefit based upon such service leave has been claimed  
21 in violation of this section, no credit for such service will be allowed under this plan,  
22 which may effect the eligibility for, or amount of, any benefit provided under this Plan,  
23 and amounts contributed for purchase of such service shall be forfeited.

24           (8) Except as provided in subsection (9) below, the following words and

1 phrases as used in this subsection (n) shall have the respective meanings set forth:

2 a. *Military service* means active duty in the military service of the  
3 Armed Forces of the United States, the United States Merchant Marine or the United  
4 States Coast Guard, voluntarily or involuntarily, and honorably or under honorable  
5 conditions.

6 b. *Police officer* means any person who was elected, appointed, or  
7 employed full time by any municipality, in the State of Florida who is certified or  
8 required to be certified as a law enforcement officer in compliance with sec. 943.1395,  
9 F.S., who is vested with authority to bear arms and make arrests, and whose primary  
10 responsibility is the prevention and detection of crime or the enforcement officer of the  
11 penal, criminal, traffic, or highway laws of the state. This definition includes all certified  
12 supervisory and command personnel whose duties included, in whole or in part, the  
13 supervision, training, guidance, and management responsibilities of full-time law  
14 enforcement officers, part-time law enforcement officers, or auxiliary law enforcement  
15 officers, but does not include part-time law enforcement officers or auxiliary law  
16 enforcement officers as the same are defined in sec. 943.10(6) and (8), respectively.  
17 *Police officer* also includes a person who meets the above requirements and who was  
18 responsible for performing both police and fire services (public safety officer).

19 c. *Firefighter* means any person employed solely by a constituted fire  
20 department of any municipality or special fire control district in the State of Florida who  
21 was certified as a firefighter as a condition of employment in accordance with the  
22 provisions of sec. 633.35, F.S., and whose duty it was to extinguish fires, to protect life,  
23 or to protect property.

24 (9) To the extent allowed by law, the Board of Trustees may permit purchase

1 of credited service based upon service prior to employment with the City as a firefighter,  
2 certified in accordance with Section 633.35, Florida Statutes (2006), when the prior  
3 service was for a county, or state agency, of the State of Florida. To the extent allowed  
4 by law, the Board of Trustees may permit purchase of credited service based upon service  
5 prior to employment with the City as a law enforcement officer, as defined in Section  
6 943.10, Florida Statutes (2006), when the prior service was for a county, or state agency,  
7 of the State of Florida. The purchase of prior service as described in this subsection (9)  
8 shall be in accordance with, and subject to the limitations of, the procedures set forth in  
9 this section (n), as if the prior service was based upon prior service as a firefighter or  
10 police officer described in subsections (8)(b) and/or (c).

11 Provided further that in the event that the City of Gainesville or the Board of  
12 Trustees is notified by a regulatory agency, such as the Department of Management  
13 Services of the State of Florida, that permitting purchase of credited service as described  
14 in this subsection (9) is unlawful, or that such makes the Plan non-compliant with  
15 applicable statutory or regulatory requirements, then the City may unilaterally, after  
16 meeting and conferring with certified bargaining representatives of employees who are  
17 members of the Plan, direct the Board that further implementation of this subsection (9)  
18 cease, and amend the Plan to eliminate this subsection (9). Upon such direction, those  
19 members not yet retired who have availed themselves of the opportunity to purchase or  
20 arrange for purchase of credited service under this subsection (9) shall have any  
21 payments made returned without interest and shall receive no credited service for any  
22 service sought to be purchased under this subsection (9).

23 (o) Sources of funds for purchase of credited service. The plan will accept cash,  
24 direct rollover contributions, direct transfers and/or direct cash rollovers of distributions

1 for the purchase of credited service under the plan, as follows:

2 (1) Direct Rollovers or Transfers from Other Plans. The plan will  
3 accept a direct rollover of an eligible rollover distribution or a member contribution of an  
4 eligible rollover distribution from a qualified plan described in section 403(a) of the Code  
5 or an annuity contract described in section 403(b) of the Code, cash, or a direct transfer  
6 from a 401(a) qualified plan, or from an eligible plan under section 457(b) of the Code  
7 that is maintained by a state, political subdivision of a state, or any agency or  
8 instrumentality of a state or political subdivision of a state.

9 (2) Member Rollover Contribution from 401(a) plans and IRAs. The plan  
10 will accept a member rollover contribution of the portion of a distribution from a  
11 qualified plan described in section 401(a) of the Code, or from an individual retirement  
12 account or annuity described in section 408(a) of the Code, that is eligible to be rolled  
13 over and would otherwise be includible in the member's gross income.

14 **Section 5.** Section 2-601, Optional forms of benefit, City of Gainesville Code of  
15 Ordinances, is amended to read as follows:

16 **Sec. 2-601. Optional forms of retirement income~~benefit~~.**

17 (a)(1) In lieu of the amount and form of retirement income payable in the event of  
18 normal or early retirement as specified in section 2-600, a member, upon written request  
19 to the board of trustees, submitted at least three (3) months prior to the date of benefit  
20 commencement, and subject to the approval of the board of trustees, may elect to receive  
21 a retirement income or benefit of equivalent actuarial value payable in accordance with  
22 one of the following options:

23 a. A retirement income of larger monthly amount, payable to the  
24 member for his or her lifetime only.

1            b. A retirement income of a modified monthly amount, payable to the  
2 member during the joint lifetime of the member and a joint pensioner designated by the  
3 member, and following the death of either of them, 100 percent, 75 percent,  $66\frac{2}{3}$  percent,  
4 or 50 percent of such monthly amount payable to the survivor for the lifetime of the  
5 survivor.

6            c. Such other amount and form of retirement payments or benefit as,  
7 in the opinion of the board of trustees, will best meet the circumstances of the retiring  
8 member.

9            (2) The member upon electing any option of this section will designate the  
10 joint pensioner or beneficiary (or beneficiaries) to receive the benefit, if any, payable  
11 under the plan in the event of the member's death, and will have the power to change  
12 such designation only twice, but any such change shall be deemed a new election and will  
13 be subject to approval by the board. Such designation will name a joint pensioner or one  
14 or more primary beneficiaries where applicable. If a member has elected an option with a  
15 joint pensioner or beneficiary and his or her retirement income benefits have commenced,  
16 he or she may thereafter change the designated joint pensioner or beneficiary but only if  
17 allowed by law and if the board of trustees consents to such change and if the joint  
18 pensioner last previously designated by the member is alive when he or she files with the  
19 board of trustees a request for such change. Except as otherwise required by law, the  
20 consent of a member's joint pensioner or beneficiary to any such change shall not be  
21 required. To the extent allowed by law, the board of trustees may request such evidence  
22 of the good health of the joint pensioner that is being removed as it may require and to  
23 the extent allowed by law, the amount of the retirement income payable to the member  
24 upon the designation of a new joint pensioner shall be actuarially redetermined taking

1 into account the ages and sex of the former joint pensioner, the new joint pensioner, and  
2 the member. Each such designation will be made in writing on a form prepared by the  
3 board of trustees, and on completion will be filed with the board of trustees. In the event  
4 that no designated beneficiary survives the member, such benefits as are payable in the  
5 event of the death of the member subsequent to his or her retirement shall be paid as  
6 provided in section 2-606.

7 (b) Retirement income payments shall be made under the option elected in  
8 accordance with the provisions of this section and shall be subject to the following  
9 limitations:

10 (1) If a member dies prior to his or her normal retirement date or early  
11 retirement date, whichever first occurs, no benefit will be payable under the option to any  
12 person, but the benefits, if any, will be determined under section 2-600(d).

13 (2) If the designated beneficiary (or beneficiaries) or joint pensioner dies  
14 before the member's retirement under the plan, the option elected will be canceled  
15 automatically and a retirement income of the normal form and amount will be payable to  
16 the member upon his or her retirement as if the election had not been made, unless a new  
17 election is made in accordance with the provisions of this section or a new beneficiary is  
18 designated by the member prior to his or her retirement and within 90 days after the death  
19 of the beneficiary.

20 (3) If both the retired member and the designated beneficiary (or  
21 beneficiaries) die before the full payment has been effected under any option providing  
22 for payments for a period certain and life thereafter, made pursuant to the provisions of  
23 subparagraph (a)(1)c. of this section, the board of trustees may, in its discretion, direct

1 that the commuted value of the remaining payments be paid in a lump sum and in  
2 accordance with section 2-606.

3 (4) If a member continues beyond his or her normal retirement date and dies  
4 prior to actual retirement and while an option made pursuant to the provisions of this  
5 section is in effect, monthly retirement income payments will be made, or a retirement  
6 benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the  
7 member in the amount or amounts computed as if the member had retired under the  
8 option on the date on which death occurred.

9 (c) No member may make any change in his or her retirement option within three (3)  
10 months prior to benefit commencement, except that for a period of ninety (90) days after  
11 adoption of Ordinance No. 070012 a member may change his or her retirement option  
12 any time prior to benefit commencement.

13 ~~Upon a member becoming eligible to receive an annuity he/she may elect to receive~~  
14 ~~annuity benefits payable under the plan in the form of a joint survivor annuity instead of a~~  
15 ~~normal annuity form, which shall be the actuarial equivalent of the annuity he/she would~~  
16 ~~receive under the normal form. If any member who has a spouse at his/her~~  
17 ~~commencement date, fails to make such an election, it will be assumed that he/she elected~~  
18 ~~Option A below with his/her spouse as the beneficiary; and if the member does not have a~~  
19 ~~spouse at his/her benefit commencement date, that the member elected the normal form.~~  
20 ~~*Option A—Joint Annuity Option.* A reduced monthly retirement benefit which shall be~~  
21 ~~payable during the joint lifetime of the member and his/her beneficiary, with two thirds~~  
22 ~~of such reduced annuity amount continuing after the death of the member during the~~  
23 ~~lifetime of the beneficiary. If the beneficiary predeceases the member, 100 percent of the~~  
24 ~~reduced benefit will continue to be received by the member.~~

1 ~~Option B—Joint and Last Survivor Annuity Option.~~ A reduced monthly retirement benefit  
2 which shall be payable during the joint lifetime of the member and his/her beneficiary,  
3 with two-thirds of such reduced benefit amount continuing automatically after the death  
4 of either member or beneficiary, payable for the lifetime of the survivor.

5 The election of either joint survivor option (for an unmarried member), or the election of  
6 Option B or the normal form (by a married member) must be requested by the member at  
7 least three months prior to the date of benefit commencement. Such election, if made,  
8 may not be changed by the member within three months prior to the date of benefit  
9 commencement. The election of a joint survivor option shall be deemed automatically  
10 canceled at the death of the proposed beneficiary prior to the member's benefit  
11 commencement date. Provided, however, anything otherwise contained in this or any  
12 other section of the Pension Ordinance to the contrary notwithstanding, a retired  
13 pensioner, including a member who has entered a DROP, may change his/her option after  
14 benefit commencement either from a retirement annuity option or to a retirement annuity  
15 option in the event of: (1) divorce or legal separation, when the same has been considered  
16 and approved by the court granting same as a part of the settlement; or (2) the marriage of  
17 an unmarried employee who becomes married after the date of benefit commencement.  
18 Such change shall be effective not sooner than three months after the filing of a written  
19 election to effect such change with the personnel department. The benefits paid under  
20 such changed annuity shall be the actuarial equivalent to the remaining value of the  
21 former annuity determined as of the date of the benefit change.

22 **Section 6.** Subsections (n), (s) and (t) of section 2-602, Administration of the  
23 Plan, are amended to read as follows:

24 **Sec. 2-602. Administration of the Plan.**

1 (n) *Deposits and disbursements.* Predecessor plan assets, gifts, bequests, devises and  
2 appropriations to the fund shall be received by the director of the department of  
3 management and financial services, who shall be liable for the safekeeping of the funds  
4 under his/her bond. The director of the finance department ~~of management and financial~~  
5 ~~services~~ shall transfer to the pension fund all pension funds appropriated by the city  
6 commission. City contributions shall be deposited in the plan fund as soon as practicable  
7 after they are received, provided, however, that in no event shall the contributions be  
8 deposited in the plan fund later than 30 days after the close of the budget or fiscal year of  
9 the plan. The director of the finance department ~~of management and financial services~~  
10 shall be responsible for making all payments and disbursements from pension funds.

11 (s) *Investment of funds.* The trustees shall, in acquiring, investing, reinvesting,  
12 exchanging, retaining, selling and managing property for the benefit of the City of  
13 Gainesville Consolidated Police Officers' and Firefighters' Retirement Plan, exercise the  
14 judgment and care under the circumstances then prevailing, which persons of prudence,  
15 discretion and intelligence exercise in the management of their own affairs, not in regard  
16 to speculation but in regard to the permanent disposition of their funds, considering the  
17 probable income as well as the probable safety of their capital. The foregoing standard of  
18 care shall not apply to, nor shall the board be responsible for, account investment options  
19 selected by the third party administrator or the gains or losses resulting from DROP  
20 participants' selections from among those options. Within the limitations of the foregoing  
21 standard, the trustees are authorized to acquire and retain all types of investments  
22 permitted by F.S. Chs. 175 and 185 and additionally may invest in the stocks, preferred  
23 or common, of any company regardless of the rating or lack thereof, assigned by a major  
24 rating service, which persons of prudence, discretion, and intelligence acquire or retain

1 for their own account. Anything the contrary notwithstanding, the board of trustees shall  
2 not invest more than 70 percent of the fund at market value in equities. If at any time the  
3 market value of equities exceeds 70 percent of the total fund, the fund shall be adjusted to  
4 be in compliance with the 70% allocation within a reasonable and prudent period of time.  
5 ~~at the beginning of the next quarter,~~ Individual DROP accounts established prior to June  
6 12, 2007 balances shall not be considered part of the "total fund" when evaluating  
7 percentages or types of investments in the fund.

8 (t) *Method of making payments.* Except as otherwise provided in the plan, all  
9 payments from the fund shall be made according to charter provisions governing the  
10 disbursement of moneys from the city's general fund provided that no payment shall be  
11 made from the funds of the plan unless the payment has been previously authorized by  
12 the board. All payments shall be made monthly except that payments which would  
13 amount to less than \$100.00 ~~40.00~~ may be made quarterly, semiannually or annually, as  
14 the case may be. The board of trustees may, upon written request by the retiree of the  
15 plan, or by a dependent, when authorized by the retiree or the retiree's beneficiary,  
16 authorize the plan administrator to withhold from the monthly retirement payment those  
17 funds that are necessary to pay for the benefits being received through the city, including  
18 payments to the Retiree Health Insurance Trust Fund, to pay the certified bargaining  
19 agent of the governmental entity, and to make any payments for child support or alimony.  
20 A member who is retired pursuant to section 2-600(b) or (c) and has separated as an  
21 eligible employee may then elect to have some or all of the annuity she or he receives as  
22 a result of normal or disability retirement distributed directly to an accident or health  
23 insurance plan, as payment of qualified health insurance premiums for her or him and her  
24 or his spouse and dependents, to the extent such distribution complies with the

1 requirements of section 402(1) of the Internal Revenue Code 2006.

2 **Section 7.** Section 2-606, Miscellaneous, is amended to read as follows:

3 **Sec. 2-606. Miscellaneous.**

4 (a) Beneficiaries.

5 (1) Each member shall, on a form provided for that purpose, signed and filed  
6 with the board of trustees, designate a choice of one or more persons, named sequentially  
7 or jointly, as his or her beneficiary (or beneficiaries) to receive the benefit, if any, which  
8 may be payable in the event of the member's death, and to the extent allowed, each  
9 designation may be revoked by such member by signing and filing with the board of  
10 trustees a new designation or beneficiary form.

11 (2) If no beneficiary is named in the manner provided by subsection (1), or if  
12 no beneficiary designated by the member survives him or her, the death benefit, if any,  
13 which may be payable under the plan with respect to such deceased member shall be paid  
14 by the board of trustees to the estate of such deceased member, provided that in any of  
15 such cases the board of trustees, in its discretion, may direct that the commuted value of  
16 the remaining monthly income payments be paid in a lump sum. Any payment made to  
17 any person pursuant to this subsection shall operate as a complete discharge of all  
18 obligations under the plan with regard to such deceased member and beneficiaries and  
19 shall not be subject to review by anyone, but shall be final, binding and conclusive on all  
20 persons ever interested hereunder.

21 (3) Notwithstanding any other provision of law to the contrary, the surviving  
22 spouse of any pension participant member killed in the line of duty shall not lose survivor  
23 retirement benefits if the spouse remarries.

1 ~~(b)(a)~~ *Exemption from execution.* The pensions, annuities, or any other benefits accrued  
2 or accruing to any person under this plan and the accumulated contributions and the cash  
3 securities in the funds created under this plan are hereby exempted from any state,  
4 county, or municipal tax and shall not be subject to execution or attachment or to any  
5 legal process whatsoever, and shall be unassignable.

6 ~~(c)~~ *Payments to legally incompetent.* If any member or beneficiary is a minor, or, in  
7 the judgment of the board of trustees is otherwise legally incapable of personally  
8 receiving and giving a valid receipt for any payment due him/her, the board of trustees  
9 may, unless claim shall have been made by a duly appointed guardian, direct that  
10 payments be made to the person's spouse, child, parent, brother, or sister, or other person  
11 deemed by the board to have assumed responsibility for the expenses of the member or  
12 beneficiary.

13 ~~(d)~~ *Disappearance of member or beneficiary.* If any member or beneficiary,  
14 receiving or entitled to receive benefits under the plan, should disappear and fail to  
15 respond within 60 days to a written notice sent by the board of trustees by registered or  
16 certified mail informing the member or beneficiary of his/her settlement to receive  
17 benefits under the plan, the board of trustees may pay the benefits, or any portion thereof  
18 which the board determines to be appropriate, to the dependents of the member or  
19 beneficiary, whichever is applicable, having regard to the needs of the dependents, until  
20 the member or beneficiary is located or until the benefits have been paid in full,  
21 whichever event shall first occur.

22 **Section 8.** Section 2-607(d), Cost of living adjustment of benefits, City of  
23 Gainesville Code of Ordinances, is amended to read as follows:

24 **Sec. 2-607. Cost of living adjustment of benefits.**

1 (d) A retired member who first receives a monthly normal or delayed retirement  
2 benefit for October, 1999, or later (first payable November 1, 1999, or later) which  
3 benefit is based upon 20 or more years of credited service but less than 25, or by retiring  
4 under the "Rule of 70" with less than 20 years of service, shall, upon the attainment of  
5 age 62 on or before October 1st, have his/her next monthly retirement benefit adjusted by  
6 two percent beginning with the benefit for the month of October next following or  
7 coincident with (October 1st birthday) the retiree's attainment of age 62. The monthly  
8 benefit payable to the retired member or the retired member's beneficiary, as the case  
9 may be, shall be adjusted by two percent each October thereafter for the duration of the  
10 annuity.

11 **Section 9.** Section 2-633(d), City contributions for participants, City of  
12 Gainesville Code of Ordinances, is amended to read as follows:

13 **Sec. 2-633. City contributions for participants.**

14 (d) *DROP service.* Employees who enter a DROP shall have benefit commencement  
15 for the purposes of determining the city contribution fixed and determined as the years of  
16 credited service and age upon entry into the regular DROP, or effective date of  
17 commencement of participation in a reverse DROP, and shall not earn credited service  
18 while participating in the DROP or thereafter.

19 **Section 10.** It is the intention of the City Commission that the provisions of  
20 sections 1 through 9 of this ordinance shall become and be made a part of the Code of  
21 Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of  
22 this Ordinance may be renumbered or relettered in order to accomplish such intentions.

23 **Section 11.** If any section, sentence, clause or phrase of this ordinance is held to  
24 be invalid or unconstitutional by any court of competent jurisdiction, then said holding

1 shall in no way affect the validity of the remaining portions of this ordinance.

2 **Section 12.** All ordinances, or parts of ordinances, in conflict herewith are to the  
3 extent of such conflict hereby repealed.

4 **Section 13.** This ordinance shall become effective immediately upon final  
5 adoption and the changes herein shall apply prospectively to eligible employees so  
6 employed, and not participating in the regular DROP on and after the effective date,  
7 except that such eligible employees' Accrued Benefit shall include the increased  
8 multiplier as described in Section 1 hereof.

9 **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2007.

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PEGEEN HANRAHAN,  
MAYOR

ATTEST:

Approved as to form and legality

\_\_\_\_\_  
KURT M. LANNON  
CLERK OF THE COMMISSION

\_\_\_\_\_  
MARION J. RADSON  
CITY ATTORNEY

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This Ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2007.

This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2007.