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2 **ORDINANCE NO. 080155**
3 **0-08-52**
4

5 **An ordinance of the City of Gainesville, Florida, relating to the**
6 **City's retiree health insurance program and trust fund,**
7 **terminating the existing program and trust, creating a new**
8 **retiree health insurance program and trust fund as Article XII**
9 **of Chapter 2 of the City of Gainesville Code of Ordinances;**
10 **describing contributions and benefits provided under the**
11 **program and Trust, providing for administration of the**
12 **program and Trust; and protection against creditors;**
13 **providing directions to the codifier; providing a severability**
14 **clause; providing a repealing clause; and providing a**
15 **prospective effective date.**
16

17 **WHEREAS,** the City Commission of the City of Gainesville,
18 Florida, has in the past chosen to pay some of the premium costs for
19 continued health insurance coverage for retirees and/or their dependents,
20 the percent or amount of which payment for either the retiree or dependent
21 coverage has varied over the years and may continue to do so in the future;
22 and

23 **WHEREAS,** the City Commission of the City of Gainesville has
24 determined that, to the extent provided herein, it is in the best interest of
25 its employees and retirees, and its citizens and taxpayers, to hold in trust
26 for the benefit of the Retiree Health Insurance Program (as defined herein)
27 the accumulated assets and disburse payments for health insurance
28 premiums for retired employees and their dependents; and

29 **WHEREAS,** the Retiree Health Insurance Program provides that,
30 to the extent provided herein, the employer contributions are irrevocably
31 deposited for the benefit of the Retiree Health Insurance Program and that
32 the trusts assets are dedicated to paying the premium costs for health

1 insurance for eligible retirees and their dependents and beneficiaries
2 through the program of insurance and/or self insurance offered by the City
3 of Gainesville, while protecting the assets from creditors of the City; and

4 **WHEREAS**, the Government Accounting Standards Board
5 (GASB) has issued and interpreted accounting standards for, among other
6 things, post-employment benefits, such as those provided through the
7 Retiree Health Insurance Program and Trust Fund; and

8 **WHEREAS**, rapidly escalating health care costs and an increasing
9 number of retirees necessitate revisions to the Retiree Health Insurance
10 Program to increase the probability of the City funding a portion of the
11 retiree premium costs on a long-term basis.

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

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

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

21 **Section 1.** Article XII of Chapter 2 of the Code of Ordinances of the City
22 is created and added to the Code of Ordinances to read as follows:

1 **ARTICLE XII. RETIREE HEALTH INSURANCE PROGRAM AND**
2 **TRUST FUND**

3 **Sec. 2-640. Purpose.**

4 The purpose of the Retiree Health Insurance Program and Trust Fund is to
5 accumulate, invest and manage the funds described in Section 2-642 that are
6 necessary to meet the premium costs of providing health insurance to eligible
7 retirees and their eligible dependents and beneficiaries through the program of self
8 insurance and/or insurance provided by the City of Gainesville. This is
9 accomplished pursuant to a trust, which trust assets are dedicated to providing
10 benefits to eligible retirees and their eligible dependents through the payment of
11 health insurance premiums, and which trust assets are protected from the creditors
12 of the City. The program encourages use of other health care systems, such as
13 Medicare.

14 **Sec. 2-641. Definitions.**

15 City shall mean the City of Gainesville, Florida.

16 City Group Health Plan shall mean the group insurance or self insurance
17 plan(s) maintained by the City of Gainesville to provide health coverage for
18 eligible employees, retirees and dependents.

19 Credited Service shall mean service with the City upon which the
20 retirement benefit the retiree is receiving (or will be receiving in the case of
21 delayed retirement) is based, or would be based in the case of an “ICMA” retiree.

22 Current Premium Costs shall mean the payment of the current months
23 Premium owed or owing to the City Group Health Plan for such month’s retiree

1 health insurance coverage as of the effective date of the termination of the plan
2 pursuant to Section 2-652(b) hereof.

3 *DROP* means a deferred retirement option program as set forth in the City
4 of Gainesville Employees Pension Plan or the Consolidated Police Officers and
5 Firefighters Retirement Plan.

6 *Participant* means a retiree or dependent as defined in the City Group
7 Health Plan.

8 *Premium* shall mean the monthly amount(s) the City charges for retiree
9 health insurance coverage, including, if applicable, under a Medicare Supplement
10 Plan, as established by the City Manager.

11 *Retiree* shall mean:

12 (a) A former employee, who is a member of the city employees
13 pension plan or a member of the consolidated police officers and
14 firefighters retirement plan and received, immediately after
15 separation from employment, a monthly annuity pursuant to an
16 application for normal or early retirement, in accordance with the
17 provisions of these pension plans; or

18 (b) A former employee upon whose behalf employer contributions
19 were made to the ICMA deferred compensation program and/or
20 401(a) plan and who, at the time of their separation from the City,
21 would have met the age and/or service requirements for normal or
22 early retirement under the city employee pension plan or the
23 consolidated police officers and firefighters retirement plan as

1 applicable to the classification they held at the time of their
2 separation, and would have been entitled to the immediate receipt
3 of a monthly annuity; or

4 (c) A former employee, who is a member of the consolidated police
5 officers and firefighters retirement plan and is receiving a monthly
6 annuity pursuant to an approved application for disability
7 retirement in accordance with the provisions of that pension plan;

8 or

9 (d) A former employee of the city receiving a monthly benefit pursuant
10 to an approved application for disability retirement under the city
11 employee's disability plan.

12 Retiree Health Insurance Program shall mean the retiree health insurance
13 program established pursuant to this Ordinance No. 080155 as further described
14 herein to pay a portion of the premium costs of the City Group Health Plan for
15 eligible retirees of the City and their eligible dependents, and as may be amended.

16 **Sec. 2-642. Trust fund established; contributions.**

17 (a) Establishment. There is hereby created a trust fund to be known as the
18 Retiree Health Insurance Trust Fund (the "Trust Fund"). The creation and
19 maintenance of the Trust Fund's assets shall be in accordance with and for the
20 benefit of the Retiree Health Insurance Program, described in this Article. The
21 Trust Fund shall initially consist of an amount equal (i) all trust assets of the
22 retiree health insurance trust fund described in Article XI of Chapter 2 of the City
23 of Gainesville Code of Ordinances, which retiree health insurance program and

1 trust fund, all liabilities having been satisfied, is being terminated by this
2 Ordinance No. 080155, except for the principal and all earnings derived from the
3 issuance by the City of its City of Gainesville, Florida, Taxable and Other Post
4 Employment Benefits Obligations Bonds - Series 2005 (Retiree Health Plan), and
5 (ii) such other amount transferred from the assets of such terminated program and
6 trust as is necessary to fund the Retiree Health Insurance Program created by this
7 Ordinance, as determined by an actuarial valuation performed by the City, which
8 amounts shall be irrevocably transferred to said Trust Fund after adoption of this
9 ordinance. Any remaining assets of the terminated trust shall be returned to the
10 City, where they may be used for any lawful purpose.

11 (b) *Contributions.* In addition to premium payments made by retirees, gifts to
12 the fund accepted by the city, and earnings, the city manager shall irrevocably
13 transfer and/or deposit in the fund sum(s), which together with the other sources
14 of income to the fund shall be sufficient to pay for the premium for health
15 insurance benefits of the participants, including both the normal costs of such
16 benefits and those necessary to amortize the unfunded liability (excluding that
17 resulting from any implicit subsidy) for such benefits over a period of not longer
18 than 40 years. For the purpose of securing the necessary funds, the city
19 commission is hereby authorized to levy such taxes and generate such other
20 revenues as may be necessary to provide the appropriate level of city
21 contributions.

22 (c) *Disbursements.* Monies in this fund may be disbursed only to the City
23 Group Health Plan for the payment of premiums for retiree health insurance for

1 participants of the City Group Health Plan and for the costs associated with
2 managing, administering, and operating the Retiree Health Insurance Program and
3 the Retiree Health Insurance Trust Fund and any appropriate transfers as described
4 herein.

5 **Sec. 2-643. City contributions for future retirees.**

6 For persons retiring, or applying for retirement, as applicable, after the
7 dates set forth in this section, the City contribution towards a monthly Premium
8 shall be determined as follows:

9 (a) Normal or early retirement. Subject to the provisions contained herein,
10 the amount that the City will contribute towards the required Premium for persons
11 first retired effective after August 31, 2008, under normal or early retirement, will
12 be calculated in accordance with the following formula:

13 Ten dollars (\$10) x (times) number of years of credited service and portion
14 thereof of:

15 (1) plus five dollars (\$5) x (times) number of years of age and portion
16 thereof over 65, on the date that retiree first accesses (enters) the
17 Retiree Health Insurance Program, or

18 (2) minus five dollars (\$5) x (times) number of years of age and
19 portion thereof under 65, on the date that retiree first accesses
20 (enters) the Retiree Health Insurance Program.

21 (b) DROP service. Employees who have entered a regular DROP after August
22 31, 2008, or who declare their intention to reverse DROP after August 31, 2008,
23 shall not have the period of employment while in regular DROP, or the period of

1 employment after the effective date of commencement of participation in the
2 (reverse) DROP, count as credited service under subsection (a) above.

3 (c) *Disability retirees.* The amount that the city will contribute towards the
4 required premium, for persons who became retirees based upon an application for
5 disability retirement submitted after August 31, 2008, will be:

6 (1) For approved “in-line-of-duty” disabilities under the Consolidated
7 Police Officers and Firefighters Retirement Plan or the City of
8 Gainesville Employees Disability Plan, the City will contribute
9 towards an individual premium an amount equal to 80% of the
10 individual premium of the least costly (lowest Premium) City
11 Group Health Insurance Plan option being offered at the time the
12 disability retirement is approved.

13 (2) For approved “in-line-of-duty” disabilities under the consolidated
14 Police Officers and Firefighters Retirement Plan of the City of
15 Gainesville Employees Disability Plan, the City will contribute
16 towards any other (than described in (1) above) tier of coverage an
17 amount equal to 150% of the individual premium of the least costly
18 (lowest Premium) City Group Health Insurance Plan option being
19 offered at the time the disability retirement is approved.

20 (3) For approved disabilities other than “in-line-of-duty”, the city will
21 contribute 50% of the amount described in (1) and (2) above.

22 **Sec. 2-644. City contribution for current retirees.**

1 For persons retiring or applying for retirement, as applicable, before the
2 dates set forth in this section, the City contribution towards a premium shall be
3 determined as follows:

4 (a) Normal or early retirement. Subject to the provisions contained herein,
5 the amount that the City will contribute towards the required Premium for persons
6 first retired effective before September 1, 2008, under normal or early retirement
7 will be calculated in accordance with the following formula:

8 Ten dollars (\$10) x (times) number of years of credited service and portion
9 thereof of:

10 (1) plus five dollars (\$5) x (times) number of years of age and portion
11 thereof over 65, on the date that retiree first accessed (enters) the
12 Retiree Health Insurance Program or January 1, 2009, whichever is
13 later; or

14 (2) minus five dollars (\$5) x (times) number of years of age and
15 portion thereof under 65, on the date that retiree first accesses
16 (enters) the Retiree Health Insurance Program or January 1, 2009,
17 whichever is later.

18 (b) DROP service. Employees who have entered a regular DROP before
19 September 1, 2008, or who have declared their intention to reverse DROP before
20 September 1, 2008, shall have the period of employment while in the regular
21 DROP, or the period of employment after the effective date of commencement of
22 participation in the (reverse) DROP, added to credited service for purposes of the
23 calculation under subsection (a) above.

1 (c) Disability retirees. (1) The amount that the city will contribute towards
2 the required Premium, for persons who became retirees based upon application for
3 disability retirement submitted before September 1, 2008, will be an amount equal
4 to 80% of the individual premium of the least costly (lowest Premium) City
5 Group Health Plan option being offered at that time.

6 (2) The City will contribute towards any other (than described in (1) above) tier
7 of coverage of an amount equal to 150% of the individual premium of the least
8 costly (lowest premium) City Group Plan option being offered at that time.

9 (d) Retirees at least 65 years of age January 1, 2009. For current retirees age
10 65 years or older on January 1, 2009, the amount the City will contribute towards
11 the required Premium will be the greater of the amount contributed for the month
12 of August 2008 or the amount determined under the provisions of this Ordinance
13 No. 080155. Said amount shall however be subject to the limitations and
14 adjustments described in Sections 2-646 and 2-647.

15 **Sec. 2-645. Opting-Out and re-entry; Rehired Retirees;**

16 (a) A retired participant may exercise a one-time opt-out and re-enter the City
17 Group Health Plan or Medicare Supplement Plan in the future. The retiree and
18 any dependents covered at the time of the opt-out will be able to re-enter the City
19 Group Health Plan, subject to eligibility requirements of the of the City Group
20 Health Plan, without pre-existing condition waiting periods applying to such
21 retirees and dependent(s). In addition, a retiree/participant may choose to not
22 exercise his/her initial enrollment opportunity and this will not count as his/her
23 one-time opt-out. Also, an employee non-participant who was eligible to apply

1 for coverage during the most recent annual enrollment period (and any dependents
2 who would have been eligible for coverage at that time) who does not elect to
3 enter the Plan at the time of retirement (initial enrollment) will also not have this
4 count as his/her one-time opt-out.

5 Opt-out means the retiree's ability to terminate coverage with the City of
6 Gainesville Group Health Plan after becoming a retiree as defined by the City
7 Group Health Plan.

8 The opt-out applies to:

- 9 1. Termination of the contract
- 10 2. Dependents can be terminated subject to enrollment provisions of
11 the City Group Health Plan.

12 Termination of the contract effective date:

- 13 1. If during open enrollment period, end of the plan year
- 14 2. If voluntary, end of the month in which the election is made.

15 Termination of dependent coverage effective date:

- 16 1. When eligibility ends as defined by the City Group Health Plan
- 17 2. If voluntary, end of the month in which the election is made

18 (b) *Opting-Out and its Affect on the City Contribution.* The intent of the opt-
19 out provisions is to give the retiree an opportunity to decline or terminate
20 coverage under the City's Group Health Plan one-time without foregoing the
21 benefit (eligibility to participate in the City Group Health Plan) in the future. The
22 benefit to the City is the transfer of premium cost and claims risk to another health
23 plan during the opt-out period. Except as provided below, the City will

1 recalculate the City's contribution based on the retiree's age upon re-entry into the
2 City Group Health Plan or the Medicare Supplement Plan, if applicable. This will
3 potentially increase the City's contribution towards the retiree's monthly health
4 insurance premium.

5 (c) The retiree's City Contribution shall be recalculated upon re-entry to the
6 City Group Health Plan or Medicare Supplement Plan when opting-out results in a
7 transfer of claims risk from the City Group Health plan. A retiring employee
8 (participant or not) might elect to not enroll initially, or opt-out later when:

- 9 1. Retiree choosing coverage with a successor employer
- 10 2. Retiree becomes a covered dependent under a Non-city-Employee
11 spouse's health plan
- 12 3. Retiree is covered under an individual policy
- 13 4. Retiree elects not to carry health insurance
- 14 5. Retiree elects to participate in a City Sponsored Medicare
15 Supplement Plan.

16 (d) The retiree's City contribution shall not be recalculated when the opt-out
17 does not result in a transfer of claims risk from the City Group Health Plan.

18 Examples of this would be:

- 19 1. Retiree transfers coverage to a City Employee Spouse's plan. In
20 this case the spouse would be an active City Employee.
- 21 2. Rehired Retiree (see Rehired Retiree provision below)

22 In the cases immediately above, the retiree's city contribution will be
23 frozen at the initial city contribution (not recalculated upon re-entry but subject to

1 adjustment per Section 2-647) because decreasing the age reduction would be
2 inconsistent with the transfer of risk policy. Upon re-entry, the city contribution
3 would be based on calculation described in Sections 2-643(a) and 2-644(a) when
4 the retiree first entered the Plan, or was first eligible to enter the Plan.

5 (e) Opting-In (other than initial enrollment period) Effective Date of
6 Coverage.

7 The effective date of coverage upon re-entry to the City Group Health Plan
8 (opting-in) will be the first day of the month following the election to opt-in.

9 (f) Rehired Retirees. In the event a retiree is rehired by the City of
10 Gainesville as a regular employee, the rehired retiree is treated as an active
11 employee for the purposes of benefits during such period or re-employment. This
12 includes participation in the City Group Health Plan. If the rehired retiree
13 continues health insurance with the City of Gainesville, the retiree is considered
14 an active employee and will pay the premium associated with an active employee
15 in the same tier. Credited service earned as a rehired retiree shall not count as
16 credited service under Section 2-643(a) and Section 2-644(b). Upon re-entry to
17 the Retiree Health Insurance Program, the rehired retiree's benefit will not be
18 recalculated based upon age at re-entry (See (d) above).

19 **Sec. 2-646. Limitations on contributions.**

20 (a) Except as may be required by the application of Section 2-644(d), in no
21 event shall the City's contribution toward a required Premium exceed the amount
22 of the Premium the City contributes for active employees for the least costly
23 (lowest Premium) City Group Health Plan option being offered at that time, for

1 the applicable tier of coverage involved. In the event that the eligible retiree has
2 elected to participate in the City sponsored, if any, Medicare Supplement Plan in
3 lieu of participating in the City Group Health Plan(s), the City's contribution shall
4 not exceed the amount of the Premium for the Medicare Supplement Plan.

5 (b) Retiree and dependents participating in the City Group Health Plan or
6 Medicare Supplement Plan will be required to authorize payment of premiums
7 from RHS accounts or pension annuities, where sufficient funds are reasonably
8 available for such purposes, in order to remain eligible to receive contributions
9 from the City towards the Premium.

10 **Sec. 2-647. Annual Adjustments.**

11 Subject to 2-646, limitations on contributions, the City's contribution towards the
12 required Premium will be adjusted annually at rate of 50% of the annual
13 percentage change in the individual premium for the least costly (lowest
14 Premium) City Group Health Plan option being offered, compared to the Premium
15 of the least costly (lowest Premium) option offered the prior Plan year.

16 **Sec. 2-648. Administration of the program.**

17 (a) General supervision. The general supervision of the Retiree
18 Health Insurance Program shall be the responsibility of a board of trustees
19 established in accordance with this section.

20 (b) Board of trustees. There is hereby created a board of trustees
21 whose duty shall be to administer, manage and operate the Retiree Health
22 Insurance Program carrying into effect its provisions. The members of the board
23 of trustees shall be the members of the city commission.

1 (c) Trustees' term. Members of the city commission shall serve as
2 trustees of the program during their term of office as members of the city
3 commission.

4 (d) Compensation of trustees. Trustees of the program shall serve
5 without compensation for their services as trustees.

6 (e) Meetings of the board; form.

7 (1) The board shall hold meetings as required, and shall designate the
8 time and place thereof. It shall adopt its own rules and procedures and
9 shall keep a record of its procedure. All meetings of the board shall be
10 public.

11 (2) The majority of the board shall constitute a quorum at any meeting
12 of the board. Each trustee shall be entitled to one vote at the meeting of
13 the board and at least four concurring votes shall be necessary for
14 decisions of the trustees.

15 (f) Retirement program officers:

16 (1) The mayor of the city commission shall be the chair of the board
17 and the mayor pro-tem of the commission shall be the chair pro-tem of the
18 board.

19 (2) The clerk of the city commission shall be the secretary of the
20 board.

21 (3) The director of finance shall be the treasurer of the program and
22 shall be custodian of the funds. The city manager shall be the program
23 administrator and shall have the power to finally approve members' or

1 beneficiaries' claims for benefits, to issue rules, and otherwise interpret the
2 program.

3 (4) The city attorney shall be legal advisor to the board.

4 (5) The program administrator shall employ such professional and
5 clerical services as required for the proper operation of the program and
6 provide for their compensation.

7 (g) *Actuarial evaluation; annual report.* The treasurer of the program
8 shall keep or cause to be kept such data as shall be necessary for an actuarial
9 valuation of the assets and liabilities of the program. On a periodic basis, at least
10 once every two years, the Retiree Health Insurance Program shall be subject to an
11 actuarial evaluation which shall determine the adequacy of the payments into the
12 fund to meet premium requirements and shall determine the changes in
13 contributions, if any, needed in such to achieve the funding through premiums,
14 earnings, and other sources of income that is deemed adequate to enable payment
15 through the indefinite future of the Retiree Health Insurance Program described
16 herein. As may be required, an actuarial report shall be prepared which shall
17 include a description of the current total premium, current retiree premium
18 payment, and current city contributions; a valuation of present assets based upon
19 statement value and prospective assets and liabilities of the Retiree Health
20 Insurance Program Fund and the extent of unfunded liabilities; a plan to amortize
21 any unfunded liabilities; a description of actions taken to reduce unfunded
22 liabilities; a description and explanation of actuarial assumptions, a schedule
23 illustrating amortization of any unfunded liabilities; a comparative review

1 illustrating the level of funds available to the plan from premiums, investment
2 income, and other sources realized over the period covered by the report with the
3 assumptions used; and a statement by the actuary that the report is complete and
4 accurate and that in his opinion the techniques and assumptions used are
5 reasonable and meet the requirements and intent of this article. The board shall
6 cause to be made an annual audit showing the fiscal transactions of the program
7 for the preceding fiscal year. The most recent report showing the financial
8 condition of the program by means of an actuarial valuation of its assets and
9 liabilities shall be attached to the report.

10 (h) Administrative regulations. The program administrator may
11 promulgate regulations not in conflict with the terms of this division to cover the
12 operation of any phase or part of the Retiree Health Insurance Program that is
13 defined in this division. Copies of the rules and regulations shall be furnished to
14 any eligible retiree or dependent participant upon request and at least one copy
15 thereof shall be kept available in the office of the clerk of the city commission for
16 examination by any interested person at any time during ordinary business hours.
17 The most current report of pertinent financial and actuarial information on the
18 solvency and actuarial soundness of the Retiree Health Insurance Program shall be
19 kept available in the office of the clerk of the city commission for examination
20 and shall be provided at no cost to the program members upon their request.

21 (i) Interpretation of the Retiree Health Insurance Program, denial of
22 benefits. The board and administrator have the power to construe the provisions
23 and terms of the Retiree Health Insurance Program, and their construction made in

1 good faith shall be final and conclusive. There shall be timely, adequate written
2 notice given to any whose claim for eligibility under the terms of the Retiree
3 Health Insurance Program have been denied, setting forth the specific reasons for
4 such denial and the program administrator shall provide procedures for appeals of
5 such decisions.

6 (j) Agents and employees. The program administrator shall have the
7 power to select, employ and compensate, or cause to compensate from time to
8 time such consultants, actuaries, accountants, investment counsel, and other
9 agents and employees as the Retiree Health Insurance Program administrator may
10 deem necessary and advisable in the proper and efficient administration of the
11 program. The City Attorney shall have the power to select, employ and
12 compensate, or cause to compensate, from time to time an attorney as the City
13 Attorney may deem necessary and advisable in the proper and efficient
14 administration of the Retiree Health Insurance Program.

15 (k) Other powers and duties. The powers and duties of the board or of
16 any other person as set out herein are not intended to be complete and exclusive
17 but each such body or person shall have powers and duties as they are reasonably
18 implied under the terms of this article.

19 (l) Duties of the secretary. It shall be the duty of the secretary to keep
20 minutes and records of the acts of the board under this program separate and apart
21 from minutes of the city commission meetings and these shall be maintained in
22 the office of the clerk of the city commission.

1 (m) Membership records. All notices, elections, designations and
2 changes in beneficiary, and similar writings pertaining to the operation of the
3 program shall be made and preserved in writing on such forms as the
4 administrator may direct. A service record for each member shall be maintained
5 in the risk management department which shall show, at least:

6 (1) For each participant of the system, a number or other means of
7 identification, date of birth, sex, date of employment, current address,
8 period of credited service;

9 (2) Beginning date of participation, date and type of retirement and
10 amount of monthly benefit, and type of survivor benefit.

11 In order to receive benefits under this program, the participant or beneficiary,
12 upon request, shall be required to submit, or authorize the administrator to secure,
13 any information concerning his/her entitlement to eligibility and contributions or
14 other information reasonably related to the operation of the program.

15 (n) Fiduciary duties. The board of trustees and retirement program
16 officers shall, in the performance of program duties, discharge their duties with
17 respect to the program solely in the interest of the participants and beneficiaries
18 for the exclusive purpose of providing benefits to participants and their
19 beneficiaries and defraying reasonable expenses of administering the program.
20 The program may purchase insurance for its fiduciaries to cover liabilities or
21 losses incurred by reason or acts or omissions of the fiduciaries.

22 (o) Investment of funds. The program administrator shall have full
23 power to invest and reinvest all funds within its control and to make investments

1 of all kinds except as otherwise provided by statute or ordinance or policy
2 direction of the board of trustees.

3 (p) Errors. Should any change or error in the records result in any
4 participant or beneficiary contributing to the program more or less than he/she
5 would have been entitled had the records been correct, the program administrator
6 shall correct such error and as far as practical shall adjust the contributions in such
7 manner that so as to correct such error or underpayment within a reasonable
8 period of time.

9 **Sec. 2-649. Separability and construction.**

10 If any section, subsection, sentence, clause, or phrase of this article be held
11 to be invalid or unconstitutional, such adjudication shall not in any manner affect
12 the remaining portions of this article, which shall be, and remain, in full force and
13 effect, as fully as if the portion so adjudicated invalid or unconstitutional were not
14 originally a part thereof. The section headings included in this article shall not be
15 construed to limit the text included thereunder.

16 **Sec. 2-650. Protection against fraud and deceit.**

17 Whosoever with intent to deceive shall make or cause to be made any
18 statement, report, certificate, election, notice, claim or other instrument,
19 authorized or required under this article, whether of the enumerated classes or
20 otherwise, which shall be untrue, or shall falsely or cause to be falsified any
21 record comprising a part of the operation or administration of this program
22 contemplated by this article shall be punished as provided in section 1-9 of the
23 Code of Ordinances.

1 **Sec. 2-651. Miscellaneous.**

2 Limitations of assignment. None of the assets shall be subject to the claim
3 or to any legal process of any creditor of the participant or the City. No
4 participant or other persons or entity shall have any interest in, or right in or to, the
5 trust fund or any part thereof, or any assets comprising the same, except only as to
6 the extent expressly provided in this article.

7 **Sec. 2-652. Amendment; termination of the program.**

8 (a) Power to amend. The city commission shall have the right, at any
9 time, to amend any or all of the provisions of the Retiree Health Insurance
10 Program; provided, however, that no such amendment shall authorize or permit
11 any part of the Trust Fund to be diverted for purposes other than for the exclusive
12 benefit of retirees and their dependents and beneficiaries.

13 (b) Termination of program. The city commission expects to continue
14 the Retiree Health Insurance Program indefinitely, but reserves the right to
15 terminate the Retiree Health Insurance Program and/or city contributions
16 hereunder at any time. In the event of the termination of the Retiree Health
17 Insurance Program, the rights, if any, of all participants to assets utilized to pay
18 Premiums of participants up to the date of termination shall be non-forfeitable.
19 Notwithstanding anything herein to the contrary, in the event of termination of the
20 Retiree Health Insurance Program and Trust Fund, if arrangements have been
21 made for the payment of the full amount of the Current Premium Costs for the
22 benefits provided under the Retiree Health Insurance Program for the participants
23 and their dependents and beneficiaries, through the Trust Fund, so that the Retiree

1 Health Insurance Program has no unfunded liability under the Retiree Health
2 Insurance Program remaining, then the remaining assets in the Retiree Health
3 Insurance Trust Fund shall be returned to the City to be used for any legally
4 permitted purpose, and the City shall have no further liability under the Retiree
5 Health Insurance Program after the effective date of such termination.

6 **Section 2.** Article XI of Chapter 2 of the City of Gainesville Code of
7 Ordinances, entitled RETIREE HEALTH INSURANCE PROGRAM AND
8 TRUST FUND is hereby terminated and repealed in its entirety as of January 1,
9 2009, as follows:

10 ARTICLE XI. *Reserved.*

11 **Section 3.** It is the intention of the City Commission that the provisions of
12 Section 1 of this ordinance shall become and be made a part of the Code of
13 Ordinances of the City of Gainesville, Florida, and that the Sections and
14 Paragraphs of this Ordinance may be renumbered or relettered in order to
15 accomplish such intentions. It is the intention of the City Commission that, as
16 provided in Section 2, Article XI of Chapter 2 be removed from the Code of
17 Ordinances.

18 **Section 4.** If any word, phrase, clause, paragraph, section or provision of
19 this ordinance or the application hereof to any person or circumstance is held
20 invalid or unconstitutional, such finding shall not affect the other provisions or
21 applications of the ordinance which can be given effect without the invalid or
22 unconstitutional provisions or application, and to this end the provisions of this
23 ordinance are declared severable.

