



# MEMORANDUM

Office of the City Attorney

002185

Phone: 334-5011/Fax 334-2229  
Box 46

TO: Mayor and City Commissioners

DATE: ~~December 10, 2001~~  
January 14, 2002

FROM: City Attorney

~~FIRST READING~~

SUBJECT: Ordinance No. 0-01-72

SECOND READING

An ordinance of the City of Gainesville, Florida, amending Division 5 of Chapter 2 of the Code of Ordinances of the City of Gainesville relating to the General Employees Pension Plan; amending section 2-526(n) related to eligible retirement plans to which certain distributions can be made; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing a retroactive effective date.

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Recommendation: The City Commission adopt the proposed ordinance.

Recent federal legislation modified some provisions of the Internal Revenue Code relating to qualifications of retirement plans under the Code. The changes generally involve liberalizing the types of retirement plans to which distributions (generally lump sum) from the General Employees Pension Plan or the Consolidated Pension Plan can be made as "direct rollovers." This allows the money to remain tax-sheltered, i.e., the distribution and direct transfer to the other plan is not a taxable event to the employee or beneficiary. Some of the changes affect distributions made after December 31, 2001, and some changes may only impact events occurring after September 31, 2002. The City Attorney's Office requests authorization to make the technical amendments dealing with distributions occurring after December 31, 2001, while continuing to study, in conjunction with management, proposed changes which may be effective on or before September 30, 2002.

Prepared by:

Charles L. Hauck  
Sr. Assistant City Attorney

Approved and  
Submitted by:

Marion S. Radson  
City Attorney

H:CLH/pension/General Employees Pension Plan

PASSED ON FIRST READING BY A VOTE OF 5-0.

**D R A F T**

11-26-01

ORDINANCE NO. \_\_\_\_\_

0-01-72

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**An ordinance of the City of Gainesville, Florida, amending Division 5 of Chapter 2 of the Code of Ordinances of the City of Gainesville relating to the General Employees Pension Plan; amending section 2-526(n) related to eligible retirement plans to which certain distributions can be made; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing a retroactive effective date.**

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

**WHEREAS**, a Public Hearing was held pursuant to the published notice described at which hearing the parties in interest and all others had an opportunity to be and were, in fact, heard;

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

**Section 1.** Subsections (n)(2)(b) and (c) in section 2-526 of the Code of Ordinances of the City of Gainesville are amended to read as follows:

Sec. 2-526. Benefits.

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

**D R A F T**

11-26-01

1 ~~However, in the case of an eligible rollover distribution of the surviving spouse, an eligible~~  
2 ~~retirement plan is an individual retirement account or individual retirement annuity.~~

3 (c) *Distributee.* A distributee includes an employee, or a former employee, a  
4 surviving spouse as described in I.R.C. section 402(c)(9), or a beneficiary as described in section  
5 2-526(g) and (h), receiving amounts contributed by the member (before 1/1/98) in excess of  
6 retirement benefits, if any, paid.

7 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of this  
8 Ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville,  
9 Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered  
10 in order to accomplish such intentions.

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

14 **Section 4.** All ordinances or parts of ordinances in conflict herewith are to the extent of such  
15 conflict hereby repealed.

16 **Section 5.** This ordinance shall become retroactive to January 1, 2002.

17 **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2001.

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20 \_\_\_\_\_  
21 THOMAS D. BUSSING, MAYOR

22 ATTEST:  
23 \_\_\_\_\_  
24 Approved as to form and legality

25 KURT M. LANNON  
26 CLERK OF THE COMMISSION  
27 \_\_\_\_\_  
28 MARION J. RADSON, CITY ATTORNEY

27 This Ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2001.

28 This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2002.

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

