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# DRAFT 8-13-2013

## ORDINANCE NO. 130203

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4       **An ordinance of the City of Gainesville, Florida, amending**  
5       **Chapter 2, Article VII, Division 8 (Consolidated Police Officers**  
6       **and Firefighters Retirement Plan) of the Code of Ordinances of**  
7       **the City of Gainesville, for purposes of compliance with federal**  
8       **tax law and Chapters 175 and 185, Florida Statutes; amending**  
9       **Section 2-596, Definitions; amending Section 2-597,**  
10       **Establishment; amending Section 2-600, Retirement dates and**  
11       **benefits; amending Section 2-601, Optional forms of retirement**  
12       **income; amending Section 2-602, Administration of the plan;**  
13       **amending Section 2-605, Amendment; termination of plan;**  
14       **providing a severability clause; providing a repealing clause;**  
15       **and providing an immediate effective date.**

16  
17       **WHEREAS**, at least 10 days notice has been given of the public hearing once by  
18       publication in a newspaper of general circulation notifying the public of this proposed ordinance  
19       and of a public hearing in the City Commission meeting room, first floor, City Hall in the City of  
20       Gainesville; and

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

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

26       **Section 1.** Section 2-596, Definitions, of the Code of Ordinances of the City of  
27       Gainesville, is amended as follows (except as amended herein, the remaining definitions in  
28       Section 2-596 remain unchanged and in full force and effect):

29       **Sec. 2-596. Definitions.**

30       *Eligible employee* shall mean any full-time regular employee who is certified as a  
31       firefighter as a condition of employment in accordance with the provisions of section 633.35,  
32       Florida Statutes, and whose duty it is to extinguish fires, to protect life, and to protect property,

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1 or any full-time regular employee who is certified or required to be certified as a law enforcement  
2 officer in compliance with section 943.14, Florida Statutes, who is vested with authority to bear  
3 arms and make arrests, and whose primary responsibility is the prevention and detection of crime  
4 or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition  
5 includes all certified, supervisory, and command personnel whose duties include, in whole or in  
6 part, the supervision, training, guidance, and management responsibilities of full-time law  
7 enforcement officers or firefighters, part-time law enforcement officers or firefighters, or  
8 auxiliary law enforcement officers or firefighters, but does not include part-time law enforcement  
9 officers or firefighters or auxiliary law enforcement officers or firefighters ~~as the same are~~  
10 ~~defined in section 943.10(6) and (8), Florida Statutes (2006), respectively.~~ Employees whose  
11 work is primarily secretarial or clerical are not classified as eligible employees. An otherwise  
12 eligible employee may elect to waive, in accordance with section 2-579, certain claims/rights  
13 arising under this plan, and become an ineligible employee as described in subsection 2-  
14 598(c)(1)a. Based on October 17, 2005 advice from the Municipal Members and Firefighters  
15 Trust Funds Office, a non-certified police officer or firefighter may be an eligible employee and  
16 earn credited service in the plan under the following circumstances: A non-certified employee  
17 that is hired in a firefighter or police officer position should be enrolled in the plan upon hire and  
18 earn credited service while so employed. If the employee fails to meet the certification  
19 requirements under chapters 633 or 943 within one year, then the employee's contributions  
20 should be refunded and the employee would be removed from the plan and would not receive  
21 credited service in the plan for that period of time. Such non-certified employee may not leave  
22 his/her contributions in the plan, nor later repay such refunded contributions for the purpose of

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1 obtaining credited service for that period, nor purchase credited service for such period pursuant  
2 to subsection 2-600(n).

3 *Service credit rules* shall mean the following:

4 (1) Day of service shall mean each day for which a member is:

5 a. Paid, or entitled to payment, by the city for performance of duties;

6 b. Paid, or entitled to payment, by the city on account of a period of time  
7 during which no duties are performed (e.g., vacation, holiday, illness,  
8 incapacity, layoff, jury duty, military duty or approved leave of absence);

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

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

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

20 b. Voluntary or involuntary service in the Armed Forces of the United States  
21 for a period not greater than five years of the time spent in the military  
22 service of the Armed Forces of the United States shall be added to the  
23 years of actual service, if:

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1           1.     The member is in the city's active employ as an eligible employee  
2                   prior to such service and leaves such position for the purpose of  
3                   voluntary or involuntary service in the Armed Forces of the United  
4                   States.

5           2.     Such member is entitled to reemployment under the provisions of  
6                   the Uniformed Services Employment and Reemployment Rights  
7                   Act.

8           3.     The member returns to his or her employment as an eligible  
9                   employee within one year from the date of his or her release from  
10                  such active service.

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

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

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

20           a.     Additional months of service shall be credited for unused sick leave  
21                   credits, assigning one day of service for each day of unused sick leave,  
22                   unless otherwise expressly provided for herein, in applicable personnel  
23                   policies, collective bargaining agreements, or DROP provisions. For

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1 service earned on or after July 1, 2013 by members who are police  
2 officers, no additional months of service shall be credited for unused sick  
3 leave earned on or after July 1, 2013. In calculating credited service on or  
4 after July 1, 2013, the lesser number of months between the additional  
5 months of service credited for unused sick leave earned on or before June  
6 30, 2013 and months of unused sick leave available to members who are  
7 police officers at the time of their retirement shall be used. Additional  
8 months of service and fractions thereof, as determined by the city, shall be  
9 credited to members for periods of employment while a CETA employee.  
10 Additional months of service attributable to public safety and military  
11 service prior to employment may be credited pursuant to subsection 2-  
12 600(n).

- 13 b. No member will receive credit for years or fractional parts of years of  
14 service if he or she has withdrawn his or her contributions to the fund for  
15 those years or fractional parts of years of service, unless the member  
16 repays into the fund the amount he or she has withdrawn, plus interest as  
17 determined by the board. The multiplier applied to such service, and  
18 interest payments associated with the repayment, shall utilize the  
19 multiplier in effect at the time repayment is made. The member shall have  
20 90 days after his or her re-employment to make repayment, except if re-  
21 employed after March 1, 2004, but prior to June 12, 2007, in which case  
22 the member shall have three years and six months after his or her re-  
23 employment to make repayment.

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1 c. A member may voluntarily leave his or her contributions in the fund for a  
2 period of five years after ceasing to be an eligible employee, pending the  
3 possibility of his or her being rehired as an eligible employee, without  
4 losing credit for the time he or she has participated actively as a member.  
5 If he or she is not re-employed as an eligible employee within five years,  
6 his or her contributions shall be returned to him or her without interest.

7 (6) Notwithstanding any provision of this plan to the contrary, effective as of  
8 December 12, 1994, contributions, benefits and service credit with respect to  
9 qualified military service will be provided in accordance with Section 414(u) of  
10 the Internal Revenue Code of 1986, as amended, USERRA and Chapters 175 and  
11 185, Florida Statutes, as applicable.

12 **Section 2.** Sub-section (a) of Section 2-597, Establishment, of the Code of Ordinances of  
13 the City of Gainesville, is amended to read as follows:

14 **Sec. 2-597. Establishment.**

15 (a) *Declaration of plan.* There is hereby created for the police officers and firefighters  
16 of the city, a pension plan to be known as the "City of Gainesville Police Officers  
17 and Firefighters Consolidated Retirement Plan," also referred to in this division as  
18 the "plan" or "consolidated plan." The creation and maintenance of the assets of  
19 the plan, the benefits provided for and the administration of the plan shall be in  
20 accordance with the provisions of this division. Neither the city nor the board of  
21 trustees shall authorize or permit any part of the trust fund to be diverted for  
22 purposes other than for the exclusive benefit of members and their beneficiaries.

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1           **Section 3.** Sub-sections (h)(1), (i)(2), (j)(2), and (m) of Section 2-600, Retirement dates  
2 and benefits, of the Code of Ordinances of the City of Gainesville, are amended to read as  
3 follows:

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

5           (h)    *Maximum benefit limitation.*

6           (1)    The maximum annual benefit payable under the plan shall be limited to  
7                    \$~~90~~205,000.00, subject to adjustment for increases in the cost of living in  
8                    accordance with the following sentence. As of the first day of January of  
9                    each calendar year, the maximum dollar limitation shall be adjusted  
10                   automatically to an amount determined by the Commissioner of the  
11                   Internal Revenue Service in accordance with Section 415 of the Internal  
12                   Revenue Code effective for that calendar year and shall apply only to that  
13                   calendar year.

14           (i)    *Distribution rules.* Notwithstanding any other provision of this plan to the  
15                   contrary, a form of retirement income payable from this plan after November 24,  
16                   1997, shall satisfy the following conditions:

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

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



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1           b.     The remaining interest is to be distributed over the life of the  
2                    spouse, issue, or dependent; and

3           c.     Such distribution begins within one year of the member's death  
4                    unless the member's spouse, ~~issue or dependent shall receive the~~  
5                    ~~remaining interest~~ is the sole designated beneficiary, in which case  
6                    the distribution need not begin before the date on which the  
7                    member would have attained age 70½ years, and if the member's  
8                    ~~spouse, issue or dependent~~ dies before the distribution to the  
9                    ~~spouse, issue or dependent~~ begins, this section shall be applied as if  
10                  the spouse, ~~issue or dependent~~ were the ~~plan~~ member.

11       (j)     *Direct transfers of eligible rollover distributions.*

12           (2)    *Definitions.*

13                    *Direct rollover.* A direct rollover is a payment by the plan to the eligible  
14                    retirement plan specified by the distributee. Effective as of January 1,  
15                    2008, a non-spouse beneficiary may make a direct rollover only to an  
16                    “inherited” individual retirement account as described in Section 408(b) of  
17                    the Internal Revenue Code.

18                    *Distributee.* A distributee includes an employee, or a former employee, a  
19                    surviving spouse as described in I.R.C. section 402(c)(9), or designated  
20                    beneficiary. Effective as of January 1, 2008, an employee's or former  
21                    employee's non-spouse beneficiary is a distributee with regard to the  
22                    interest of the employee or former employee.

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1           *Eligible rollover distribution.* An eligible rollover distribution is any  
2           distribution of all or any portion of the balance to the credit of the  
3           distributee, except that an eligible rollover distribution does not include:  
4           any distribution that is one of a series of substantially equal periodic  
5           payments (not less frequently than annually) made for life (or life  
6           expectancy) of the distributee, or the joint lives (or joint life expectancies)  
7           of the distributee and the distributee's designated beneficiary, or for a  
8           specified period of ten years or more; any distribution to the extent such  
9           distribution is required under I.R.C. section 401(a)(9); and the portion of  
10          any distribution that is not includable in gross income, i.e., member  
11          contributions made prior to 1998.

12          *Eligible retirement plan.* An eligible retirement plan as defined in I.R.C.  
13          section 402(c)(8)(B), an individual eligible retirement account described in  
14          I.R.C. section 408(a), an individual retirement annuity described in I.R.C.  
15          section 408(b), an annuity plan described in I.R.C. section 403(a), an  
16          annuity contract described in I.R.C. section 403(b), a qualified trust  
17          described in I.R.C. section 401(a) that accepts the distributee's eligible  
18          rollover distribution, or an eligible deferred compensation plan described  
19          in I.R.C. section 457(b) maintained by a state, political subdivision of a  
20          state, or any agency or instrumentality of a state or political subdivision of  
21          a state and which agrees to separately account for amounts transferred into  
22          such plan from this plan.

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1 (m) *Rollovers to IRA's*. A mandatory distribution in excess of \$1,000.00 made  
2 pursuant to subsection 2-600~~(k)(1)~~(1), or an involuntary return of employee  
3 contributions in excess of \$1,000.00, shall be paid in a direct rollover to an IRA  
4 designated by the plan administrator if, after notice, the member does not elect to  
5 either receive the distribution directly or have it paid in a direct rollover to an  
6 eligible retirement plan. In addition, such payments shall be made only upon a  
7 written request by the participant in a form and manner determined by the board  
8 of trustees.

9 **Section 4.** Sub-sections (a) and (b) of Section 2-601, Optional forms of retirement  
10 income, of the Code of Ordinances of the City of Gainesville, are amended to read as follows:

## 11 **Sec. 2-601. Optional forms of retirement income.**

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

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

20 b. A retirement income of a modified monthly amount, payable to the  
21 member during the joint lifetime of the member and a joint-~~pensioner~~  
22 annuitant designated by the member, and following the death of either of

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1           them, 100 percent, 75 percent, 66 2/3 percent, or 50 percent of such  
2           monthly amount payable to the survivor for the lifetime of the survivor.

3           c.       A reduced monthly retirement benefit which shall be payable  
4           during the joint lifetime of the member and his/her beneficiary, with two-  
5           thirds of such reduced annuity amount continuing after the death of the  
6           member during the lifetime of the beneficiary. If the beneficiary  
7           predeceases the member, 100 percent of the reduced benefit will continue  
8           to be received by the member.

9           d.       Such other amount and form of retirement payments or benefit as,  
10          in the opinion of the board of trustees, will best meet the circumstances of  
11          the retiring member.

12       (2)       The member upon electing any option of this section ~~will~~ must designate  
13       the joint ~~pensioner~~ annuitant or beneficiary (~~or beneficiaries~~) to receive the  
14       benefit, if any, payable under the plan in the event of the member's death, and ~~will~~  
15       ~~have the power to~~ may change such designation only twice, but any such change  
16       shall be deemed a new election and ~~will be~~ is subject to approval by the board.  
17       Such designation ~~will~~ must name a joint ~~pensioner~~ annuitant or one or more  
18       primary beneficiaries where applicable. If a member has elected an option with a  
19       joint ~~pensioner~~ annuitant or beneficiary and his or her retirement income benefits  
20       have commenced, he or she may ~~thereafter~~ change the designated joint ~~pensioner~~  
21       annuitant or beneficiary but only if allowed by law and if the board of trustees  
22       consents to such change and if the joint ~~pensioner~~ annuitant last previously  
23       designated by the member is alive when he or she files with the board of trustees a

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1 request for such change. Except as otherwise required by law, the consent of a  
2 member's joint ~~pensioner~~ annuitant or beneficiary to any such change ~~shall~~ is not  
3 ~~be~~ required. To the extent allowed by law, the board of trustees may request such  
4 evidence of the good health of the joint ~~pensioner~~ annuitant that is being removed  
5 ~~as it may require~~ and to the extent allowed by law, the amount of the retirement  
6 income payable to the member upon the designation of a new joint ~~pensioner~~  
7 annuitant shall be actuarially redetermined taking into account the ages and ~~sex~~  
8 gender of the former joint ~~pensioner-annuitant~~, the new joint ~~pensioner~~ annuitant,  
9 and the member. Each ~~such~~ designation ~~will~~ must be made in writing on a form  
10 prepared by the board of trustees, and ~~on completion will be~~ filed with the board  
11 of trustees. ~~In the event that~~ If no designated beneficiary survives the member,  
12 such benefits as are payable in the event of the death of the member subsequent to  
13 his or her retirement shall be paid as provided in section 2-606. Notwithstanding  
14 the provisions of this paragraph, a retired member may change his or her  
15 designation of joint annuitant or beneficiary up to two times as provided herein  
16 without the approval of the board or the current joint annuitant or beneficiary.  
17 Under such circumstances, the retiree is not required to provide proof of the good  
18 health of the joint annuitant or beneficiary being removed, and the joint annuitant  
19 or beneficiary being removed need not be living.

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

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1 (1) If a member dies prior to his or her normal retirement date or early  
2 retirement date, whichever first occurs, no benefit will be payable under the  
3 option to any person, but the benefits, if any, will be determined under subsection  
4 2-600(d).

5 (2) If the designated beneficiary (~~or beneficiaries~~) or joint ~~pensioner~~ annuitant  
6 dies before the member's retirement under the plan, the option elected ~~will be~~ is  
7 canceled automatically and a retirement income of the normal form and amount  
8 ~~will be~~ is payable to the member upon his or her retirement as if the election had  
9 not been made, unless a new election is made in accordance with ~~the provisions of~~  
10 this section or a new beneficiary is designated by the member ~~prior to~~ before his  
11 or her retirement and within 90 days after the death of the beneficiary.

12 (3) If both the retired member and the designated beneficiary (~~or beneficiaries~~)  
13 die before the full payment has been effected under any option providing for  
14 payments for a period certain and life thereafter, made pursuant to the provisions  
15 of subsection (a)(1)c. of this section, the board of trustees may, in its discretion,  
16 direct that the commuted value of the remaining payments be paid in a lump sum  
17 and in accordance with section 2-606.

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

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1           **Section 5.** Sub-section (t) of Section 2-602, Administration of the plan, of the Code of  
2 Ordinances of the City of Gainesville, is amended to read as follows:

3 **Sec. 2-602. Administration of the plan.**

4           (t)     Method of making payments. Except as otherwise provided in the plan, all  
5                    payments from the fund shall be made according to charter provisions governing  
6                    the disbursement of moneys from the city's general fund provided that no payment  
7                    shall be made from the funds of the plan unless the payment has been previously  
8                    authorized by the board. All payments shall be made monthly except that  
9                    payments which would amount to less than \$100.00 may be made quarterly,  
10                  semiannually or annually, as the case may be. The board of trustees may, upon  
11                  written request by the retiree of the plan, or by a dependent, when authorized by  
12                  the retiree or the retiree's beneficiary, authorize the plan administrator to withhold  
13                  from the monthly retirement payment those funds that are necessary to pay for the  
14                  benefits being received through the city, including payments to the Retiree Health  
15                  Insurance Trust Fund, to pay the certified bargaining agent of the governmental  
16                  entity, and to make any payments for child support or alimony. A member who is  
17                  retired pursuant to section 2-600(b) or (c) and has separated as an eligible  
18                  employee may then elect to have some or all of the annuity she or he receives as a  
19                  result of normal or disability retirement distributed directly to an accident or  
20                  health insurance plan, as payment of qualified health insurance premiums for her  
21                  or him and her or his spouse and dependents, to the extent such distribution  
22                  complies with the requirements of section 402(1) of the Internal Revenue Code  
23                  2006.

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1           **Section 6.** Sub-section (b) of Section 2-605, Amendment; termination of the plan, of the  
2 Code of Ordinances of the City of Gainesville, is amended to read as follows:

3 **Sec. 2-605. Amendment; termination of plan.**

4 (b) *Termination of plan.*

5           (1) The board of trustees expects to continue this plan indefinitely, but reserves  
6           the right to terminate the plan and its city contributions thereunder at any time.  
7           In the event of the termination or partial termination of the plan, or complete  
8           discontinuance of contributions under the plan, the rights, if any, of all  
9           members to benefits accrued to the date of the termination, partial termination,  
10          or discontinuance, to the extent funded as of that date, shall be nonforfeitable.

11          (2) Upon receipt of written notice of termination of the plan, the board shall  
12          arrange for the trust fund to be ~~apportioned and distributed after preparing a~~  
13          ~~list of members, showing for each, as of the date of plan termination, in~~  
14          accordance with the following procedure:

15           a.       The board shall determine the date of distribution and the asset  
16           value required to fund all the nonforfeitable benefits after taking into  
17           account the expenses of such distribution. The board shall inform the city  
18           if additional assets are required, in which event the city shall continue to  
19           financially support the plan until all nonforfeitable benefits have been  
20           funded. ~~For each member and beneficiary receiving payment of benefits,~~  
21           ~~the amount and terms of the benefits;~~

22           b.       The board shall determine the method of distribution of the asset  
23           value, whether distribution shall be by payment in cash, by the



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1 maintenance of another or substituted trust fund, by the purchase of  
2 insured annuities, or otherwise, for each member entitled to benefits under  
3 the plan as specified in Section 2-605(b)(2)c.~~For each terminated member~~  
4 ~~entitled to a deferred benefit, the amount, commencement date and terms~~  
5 ~~of payment of the benefit;~~

6 c. The board shall distribute the asset value as of the date of  
7 termination in the manner set forth herein, on the basis that the amount  
8 required to provide any given retirement income is the actuarially  
9 computed single-sum value of such retirement income, except that if the  
10 method of distribution determined under Section 2-605(b)(2)b. involves  
11 the purchase of an insured annuity, the amount required to provide the  
12 given retirement income is the single premium payable for such annuity.  
13 The actuarial single-sum value may not be less than the employee's  
14 accumulated contributions to the plan, with interest if provided by the  
15 plan, less the value of any plan benefits previously paid to the employee.  
16 ~~For each active member, the amount of his accrued benefit.~~

17 d. If there is asset value remaining after the full distribution specified  
18 in Section 2-605(b)(2)c., and after the payment of any expenses incurred  
19 with such distribution, such excess shall be returned to the city, less return  
20 to the state of the state's contributions, provided that, if the excess is less  
21 than the total contributions made by the city and the state to date of  
22 termination of the plan, such excess shall be divided proportionately to the  
23 total contributions made by the city and the state.

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1 e. The board shall distribute, in accordance with Section 2-  
2 605(b)(2)b., the amounts determined under Section 2-605(b)(2)c.

3 ~~(3) In the event of termination of the plan, the board shall allocate the assets of the~~  
4 ~~trust fund (available to provide benefits) among the members and their~~  
5 ~~beneficiaries under the plan, provided that assets attributable to tax levies as~~  
6 ~~authorized by F.S. §§ 175.101, 185.08, if required to be separately identified, shall~~  
7 ~~be allocated separately to fire members (F.S. Ch. 175) and police members (F.S.~~  
8 ~~Ch. 185) respectively prior to allocation of the remaining portion of the trust~~  
9 ~~funds. Assets so separated shall be allocated in the following order:-~~

10 a. ~~Priority Class (A): In the case of benefits payable as an annuity, equally~~  
11 ~~among members and beneficiaries whose benefits were in pay status;-~~

12 b. ~~Priority Class (B): Equally, among active members who are eligible for~~  
13 ~~normal retirement, but who have not yet retired;-~~

14 c. ~~Priority Class (C): Equally, between all other vested accrued benefits of~~  
15 ~~both active and terminated members;-~~

16 d. ~~Priority Class (D): The portion of members' accrued benefits which is~~  
17 ~~derived from member contributions (if any);-~~

18 ~~—— e. Priority Class (E): All other nonvested accrued benefits under the plan.-~~

19 ~~(4) If the allocated assets are insufficient to provide in full the benefits in each~~  
20 ~~priority class the remaining portion of the trust fund shall be distributed to provide~~  
21 ~~in full the benefits in each priority class. If the assets are insufficient to provide~~  
22 ~~the benefits in full for any class, such assets are to be allocated in full to provide a~~  
23 ~~uniform percentage of benefits to the members of that priority class. If there be~~

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~~residual assets remaining after the allocation specified above, the excess shall be returned to the city, less return of state's contributions to the state, provided that, if the excess is less than the total contributions made by the city and the state to date of termination of the plan the excess shall be divided proportionately to the total contributions made by the city and state.~~

**Section 7.** It is the intention of the City Commission that the provisions of Sections 1 through 6 of this ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be renumbered or relettered in order to accomplish such intentions.

**Section 8.** If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

**Section 9.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

**Section 10.** This ordinance shall become effective immediately upon final adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of September, 2013.

\_\_\_\_\_  
EDWARD B. BRADDY  
MAYOR

ATTEST: Approved as to form and legality

\_\_\_\_\_  
KURT M. LANNON

\_\_\_\_\_  
NICOLLE M. SHALLEY

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1 CLERK OF THE COMMISSION CITY ATTORNEY

2 This Ordinance passed on first reading this \_\_\_\_\_ day of September, 2013.

3 This Ordinance passed on second reading this \_\_\_\_\_ day of September, 2013.