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ORDINANCE NO. 130411

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2
3 **An ordinance of the City of Gainesville, Florida, amending**
4 **Chapter 2, Article VII, Division 8 (Consolidated Police Officers**
5 **and Firefighters Retirement Plan) of the Code of Ordinances**
6 **of the City of Gainesville; amending Section 2-596, Definitions;**
7 **amending the definition of accrued benefit relating to the**
8 **multiplier for firefighters; amending the definition of earnings**
9 **related to overtime pay and termination vacation pay for**
10 **firefighters; adding a definition of firefighter; amending the**
11 **definition of service credit rules related to service credit for**
12 **sick leave earned by firefighters; amending Section 2-599**
13 **related to contributions of firefighters; amending Section 2-**
14 **600, Retirement dates and benefits, related to years of service**
15 **and age required for normal retirement of firefighters and sick**
16 **leave credit for firefighters entering DROP; providing**
17 **directions to the codifier; providing a severability clause;**
18 **providing a repealing clause; and providing an immediate**
19 **effective date.**
20

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

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

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

30 **Section 1.** Section 2-596, Definitions, of the Code of Ordinances of the City of
31 Gainesville, is amended as follows (except as amended herein, the remainder of Section 2-596
32 remains in full force and effect):

33 **Sec. 2-596. - Definitions.**

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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 percent
3 or 2.625 percent of final average earnings times credited service. Except as otherwise provided
4 herein, credited service attributable to service prior to October 1, 2005 shall be multiplied by 2.5;
5 credited service attributable to service from October 1, 2005 on, shall be multiplied by 2.625.
6 For members who are police officers, credited service attributable to service prior to October 1,
7 2005 shall be multiplied by 2.5, credited service attributable to service from October 1, 2005 to
8 June 30, 2013 shall be multiplied by 2.625, and credited service attributable to service from July
9 1, 2013 on, shall be multiplied by 2.5. For members who are firefighters, credited service
10 attributable to service prior to October 1, 2005 shall be multiplied by 2.5, credited service
11 attributable to service from October 1, 2005 to December 31, 2013 shall be multiplied by 2.625,
12 and credited service attributable to service from January 1, 2014 on, shall be multiplied by 2.5.

13 *Earnings* shall mean only base pay (which shall include all paid leaves), all overtime pay
14 (which shall include time paid at time-and-a-half, double-time, and double-time-and-a-half),
15 working out of classification pay, longevity pay, State of Florida city firefighters supplemental
16 education incentive payments, State of Florida police officer educational salary incentive
17 payments, police security ("billable" overtime), special assignment pay, special duty assignment
18 pay, paramedic certification pay, stand-by pay, call-back pay, acting out of classification pay,
19 and termination vacation pay or for members entering a DROP any lump sum payment of some
20 or all such member's vacation balance upon entering the DROP, except as may be otherwise
21 expressly provided for herein or in collective bargaining agreements. To calculate earnings for
22 service earned on or after July 1, 2013 by members who are police officers, no more than 300
23 hours of overtime pay (including "billable" overtime) per year earned on or after July 1, 2013

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1 shall be included, nor shall termination vacation pay or any lump sum payment of a member's
2 vacation balance upon entering DROP earned on or after July 1, 2013 be included. To calculate
3 earnings for service earned on or after January 1, 2014 by members who are firefighters, no more
4 than 300 hours of overtime pay (including "billable" overtime) per year earned on or after
5 January 1, 2014 shall be included, nor shall termination vacation pay or any lump sum payment
6 of a member's vacation balance upon entering DROP earned on or after January 1, 2014 be
7 included. For any person who first becomes a member in any plan year beginning on or after
8 January 1, 1996, compensation for any plan year shall not include any amounts in excess of the
9 Internal Revenue Code § 401(a)(17) limitation (as amended by the Omnibus Budget
10 Reconciliation Act of 1993), which limitation of \$150,000.00 shall be adjusted as required by
11 federal law for qualified government plans and shall be further adjusted for changes in the cost of
12 living in the manner provided by Internal Revenue Code § 401(a)(17)(b). For any person who
13 first became a member prior to the first plan year beginning on or after January 1, 1996, the
14 limitation on compensation shall be not less than the maximum compensation amount that was
15 allowed to be taken into account under the plan as in effect on July 1, 1993, which limitation
16 shall be adjusted for changes in the cost of living since 1989 in the manner provided by Internal
17 Revenue Code s. 401(a)(17)(1991).

18 *Firefighter* shall mean any eligible employee who is who is certified as a firefighter as a
19 condition of employment in accordance with the provisions of section 633.35, Florida Statutes,
20 and whose duty it is to extinguish fires, to protect life, and to protect property. This definition
21 includes all certified, supervisory, and command personnel whose duties include, in whole or in
22 part, the supervision, training, guidance, and management responsibilities of full-time

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1 firefighters, part-time firefighters, or auxiliary firefighters, but does not include part-time
2 firefighters or auxiliary firefighters.

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
11 the 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. For service
8 earned on or after January 1, 2014 by members who are firefighters, no
9 additional months of service shall be credited for unused sick leave earned
10 on or after January 1, 2014. In calculating credited service on or after
11 January 1, 2014, the lesser number of months between the additional
12 months of service credited for unused sick leave earned on or before
13 December 31, 2013 and months of unused sick leave available to members
14 who are firefighters at the time of their retirement shall be used.
15 Additional months of service and fractions thereof, as determined by the
16 city, shall be credited to members for periods of employment while a
17 CETA employee. Additional months of service attributable to public
18 safety and military service prior to employment may be credited pursuant
19 to subsection 2-600(n).

- 20 b. No member will receive credit for years or fractional parts of years of
21 service if he or she has withdrawn his or her contributions to the fund for
22 those years or fractional parts of years of service, unless the member
23 repays into the fund the amount he or she has withdrawn, plus interest as

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1 determined by the board. The multiplier applied to such service, and
2 interest payments associated with the repayment, shall utilize the
3 multiplier in effect at the time repayment is made. The member shall have
4 90 days after his or her re-employment to make repayment, except if re-
5 employed after March 1, 2004, but prior to June 12, 2007, in which case
6 the member shall have three years and six months after his or her re-
7 employment to make repayment.

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

14 (6) Notwithstanding any provision of this plan to the contrary, effective as of
15 December 12, 1994, contributions, benefits and service credit with respect to
16 qualified military service will be provided in accordance with Section 414(u) of
17 the Internal Revenue Code of 1986, as amended, USERRA and Chapters 175 and
18 185, Florida Statutes, as applicable.

19 **Section 2.** Sub-section(a)(1) of Section 2-599, Contributions, of the Code of Ordinances
20 of the City of Gainesville, is amended as follows:

21 **Sec. 2-599. – Contributions.**

22 (a) *Member contributions.*

23 (1) Except as provided herein, effective the first full pay period following

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1 October 1, 1999, members, except members who have entered a DROP,
2 will have a fixed employee contribution rate of 7½ percent of gross pay.
3 Effective the first full pay period following January 1, 2014, members
4 who are firefighters, except members who have entered a DROP, will
5 have a fixed employee contribution rate of 9 percent of gross pay. There
6 shall be no member contributions deducted from a member's
7 compensation after entering a DROP, except as a re-employed retiree, if
8 applicable. Employee contributions made after the effective date of
9 commencement of participation in a reverse DROP shall be returned
10 without interest.

11 **Section 3.** Sub-sections (a)(1) and (k)(2) of Section 2-600, Retirement dates and benefits,
12 of the Code of Ordinances of the City of Gainesville, are amended as follows:

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

14 (a) *Normal retirement.* Normal retirement under the plan is retirement from the
15 employ of the city on the normal retirement date. In the event of normal
16 retirement, a member shall have a non-forfeitable right to his/her benefit, and
17 payment of the retirement benefit shall be governed by the following provisions:

18 (1) *Normal retirement date.* The normal retirement date of a member shall be
19 the first day of the month coincident with or next following the completion
20 of 20 years of credited service at any age, the date the member has both
21 completed at least ten years of credited service and attained age of 55, or
22 has attained a combination of years of credited service and age that equals
23 70, unless otherwise expressly provided for herein. For members whose

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1 most recent appointment to employment with the city as a police officer
2 occurred on or after July 1, 2013, the normal retirement date shall be the
3 first day of the month coincident with or next following the completion of
4 25 years of credited service at any age, the date the member has both
5 completed at least ten years of credited service and attained age of 55, or
6 has attained a combination of years of credited service and age that equals
7 70. For members whose most recent appointment to employment with the
8 city as a firefighter occurred on or after January 1, 2014, the normal
9 retirement date shall be the first day of the month coincident with or next
10 following the completion of 25 years of credited service at any age, the
11 date the member has both completed at least ten years of credited service
12 and attained age of 55, or has attained a combination of years of credited
13 service and age that equals 70.

14 (k) *Deferred retirement option program.*

15 (2) A member who is an eligible employee is eligible for participation in the
16 DROP on the first day of the month coincident with or next following the
17 completion of 25 years of limited participant service, or meeting the rule
18 of 70 including limited participant service, and continuing up to 30 years
19 of service as a regular employee, except as provided in subsection (7)
20 below. In the case of a reverse DROP, such requirement must be met as of
21 the effective date of commencement of participation in the DROP,
22 including if applicable the lesser of the sick leave balances described
23 below. Except as otherwise expressly provided for herein, upon entering

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1 into a regular DROP, members may elect to apply unused sick leave hours
2 to attain the requisite years of credited service for eligibility to enter and
3 for determining their accrued benefit, or retain some or all of their unused
4 sick leave for use during their employment while participating in the
5 regular DROP. For service earned by members who are police officers on
6 or after July 1, 2013, upon entering regular or reverse DROP, no
7 additional months of service shall be credited for unused sick leave earned
8 on or after July 1, 2013. In calculating service earned by members who
9 are police officers on or after July 1, 2013, the lesser number of months
10 between the additional months of service credited for unused sick leave
11 earned on or before June 30, 2013 and months of unused sick leave
12 available to a member at the time of his or her entry into DROP shall be
13 used. For service earned by members who are firefighters on or after
14 January 1, 2014, upon entering regular or reverse DROP, no additional
15 months of service shall be credited for unused sick leave earned on or after
16 January 1, 2014. In calculating service earned by members who are
17 firefighters on or after January 1, 2014, the lesser number of months
18 between the additional months of service credited for unused sick leave
19 earned on or before December 31, 2013 and months of unused sick leave
20 available to a member at the time of his or her entry into DROP shall be
21 used. Sick leave hours used in computing cash outs of sick leave balances
22 upon retirement are considered already "used" and may not be converted
23 to credited service, or used as sick leave during participation in the regular

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1 DROP. Sick leave balances retained upon entry into the regular DROP and
2 accrued while participating in the regular DROP shall not count as days or
3 months of credited service when determining the maximum period of
4 participation in the DROP, in accordance with subsections (6) and (7)
5 below. Any unused sick leave remaining at the expiration of the regular
6 DROP participation or period will be forfeited. Except as otherwise
7 expressly provided for herein, in the case of a reverse DROP, members
8 may utilize the lesser of the vacation and sick leave balances in existence
9 on the effective date of commencement of participation or the balances in
10 existence 90 days after declaration of intention to enter the reverse DROP.
11 Any cash outs shall be included in the FAE calculations for the month
12 prior to the effective date of commencement of participation in the reverse
13 DROP, at the member's base pay rate on that date.

14 **Section 4.** It is the intention of the City Commission that the provisions of Sections 1
15 through 3 of this ordinance shall become and be made a part of the Code of Ordinances of the
16 City of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
17 renumbered or relettered in order to accomplish such intentions.

18 **Section 5.** If any word, phrase, clause, paragraph, section or provision of this
19 ordinance or the application hereof to any person or circumstance is held invalid or
20 unconstitutional, such finding shall not affect the other provisions or applications of the
21 ordinance which can be given effect without the invalid or unconstitutional provisions or
22 application, and to this end the provisions of this ordinance are declared severable.

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

3 **Section 7.** This ordinance shall become effective immediately upon final adoption.

4 PASSED AND ADOPTED this ____ day of December, 2013.

5

6

7

EDWARD B. BRADY

8

MAYOR

9

10

ATTEST:

Approved as to form and legality

11

12

13

KURT M. LANNON
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

14

15

16

This ordinance passed on first reading this ____ day of November, 2013.

17

This ordinance passed on second reading this ____ day of December, 2013.