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ORDINANCE NO. 170591

An ordinance of the City of Gainesville, Florida, amending Chapter 2, Article VII, Division 8 (Consolidated Police Officers and Firefighters Retirement Plan) of the Code of Ordinances of the City of Gainesville; adding Section 2-609 to provide a supplemental retirement program for firefighters; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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

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

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

22 **Section 1.** Section 2-609 of Chapter 2, Article VII, Division 8 of the Code of Ordinances
23 of the City of Gainesville is hereby created and added to read as follows:

Sec. 2-609. - Supplemental Retirement Program for Firefighters.

24 (a) Definitions. The following words and phrases used in this section shall have the
25 meanings set forth below, unless a different meaning is plainly required by the
26 context:

27 (1) Additional premium tax revenues means the premium tax revenues received
28 from the state pursuant to Section 175.101 Florida Statutes, in plan years

1 1999 through and including 2006 that exceeded \$310,569.70 annually; and
2 premium tax revenues received from the state pursuant to Section 175.101,
3 Florida Statutes, in plan years 2007 and thereafter that exceed \$580,918.87
4 annually.

5 (2) Annual allocation means the pro rata amount for each share eligible
6 member, calculated on an annual basis, of premium tax revenues received
7 from the state in plan years 2016 and thereafter pursuant to Section 175.101
8 Florida Statutes, that exceed \$580,918.87, plus prior plan year forfeited
9 balances.

10 (3) Effective date means February 1, 2017, the date on which this supplemental
11 share program shall take effect.

12 (4) Forfeiture means the termination of a member's account, or eligibility for
13 annual or initial allocations, pursuant to Section 112.3173, Florida Statutes,
14 section 2-604, section 2-609(d)(3), or other forfeiture required by law, and
15 reversion of such funds to the plan.

16 (5) Initial allocation means the pro rata amount for each share eligible member,
17 calculated on an annual basis, of premium tax revenues received from the
18 state in each plan year 1999 through and including 2006 that exceeded
19 \$310,569.70, premium tax revenues received from the state in each plan
20 year 2007 through and including 2015 that exceeded \$580,918.87. Based on
21 the foregoing, the premium tax revenues available for pro rata distribution
22 for plan years 1999 through and including 2015 shall be as follows:

23 1999: \$29,907.09

1	<u>2000: \$54,481.26</u>
2	<u>2001: \$76,261.69</u>
3	<u>2002: \$94,392.76</u>
4	<u>2003: \$110,331.08</u>
5	<u>2004: \$168,037.44</u>
6	<u>2005: \$228,947.65</u>
7	<u>2006: \$58,129.99</u>
8	<u>2007: \$72,672.13</u>
9	<u>2008: \$5,543.40</u>
10	<u>2009: \$0.00</u>
11	<u>2010: \$0.00</u>
12	<u>2011: \$0.00</u>
13	<u>2012: \$0.00</u>
14	<u>2013: \$35,811.35</u>
15	<u>2014: \$16,687.50</u>
16	<u>2015: \$0.00</u>
17	<u>Sum Total: \$951,203.44</u>

(7) Member means any firefighter who was or is in the regular, full-time employ of the city on or after October 1, 1998.

(8) Premium tax revenue means the revenues received by the city from the tax assessed on premiums collected on casualty insurance policies pursuant to section 2-599(b)(2). Said tax is collected on policies issued in a calendar year within the city and remitted to the state. Following an annual review

1 and approval of the consolidated plan by the state, said tax, less state fees, is
2 provided to the board, in approximately August or September of the
3 following calendar year.

4 (9) Retired means any member who is receiving a retirement benefit under
5 sections 2-600(a), (b), or (c), a member who met the conditions set forth in
6 section 2-601(b)(4) regardless of the form of benefit, or a member who died
7 in the line of duty, as defined and determined by the board, regardless of
8 years of credited service, or months of credited service in the plan year prior
9 to death. A member eligible for re-employment under USERRA who died
10 while performing qualified military services as defined in USERRA shall be
11 deemed to have retired on the day before he died regardless of years of
12 credited service at time of death. Members who are employed by the city
13 and participants in the deferred retirement option program (DROP) under
14 the consolidated plan are not considered retired for purposes of this section.

15 (10) Service credit rules shall mean the following:

16 a. Day of service shall mean each day for which a member is:

17 i. Paid, or entitled to payment, by the city for performance of
18 duties as a firefighter;

19 ii. Paid, or entitled to payment, by the city on account of a
20 period of time during which no duties are performed as a
21 firefighter (e.g., vacation, holiday, illness, incapacity,
22 layoff, jury duty, military duty or approved leave of
23 absence);

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

b. Month of service shall mean a one-month period beginning on the day of the month corresponding to a member's most recent date of employment with the city as a firefighter, during which the member has earned at least ten days of service; provided however, that ten days of service will be deemed to have been earned in each month of service in which occurs:

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

ii. Voluntary or involuntary service in the Armed Forces of the United States for a period not greater than five years of the time spent in the military service of the Armed Forces of the United States shall be added to the years of actual service, if: the member is in the city's active employ as an eligible employee prior to such service and leaves such position for the purpose of voluntary or involuntary service in the Armed Forces of the United States; such member is entitled to re-employment under the provisions of the

1 USERRA; and the member returns to his or her
2 employment as a firefighter as an eligible employee within
3 one year from the date of his or her release from such
4 active service.

5 c. A member shall earn days or months of service for purposes of
6 calculating benefits due under the share program after entering in a
7 DROP.

8 d. If the employment of a member as a firefighter with the city is
9 terminated, and such former member is subsequently re-employed by
10 the city as a firefighter, the member's date of employment, for
11 purposes of determining credited service, shall be based on the
12 member's subsequent re-employment date as a firefighter.

13 e. Credited service shall mean the aggregate number of months of service
14 with the city as a firefighter, expressed in terms of full and fractional
15 year, subject to the following:

16 i. No additional months of service shall be credited for
17 unused sick leave.

18 ii. No member shall receive credit for years or fractional parts
19 of years of service if he or she has withdrawn his or her
20 contributions to the consolidated plan for those years or
21 fractional parts of years of service, even if the member
22 repays into the consolidated plan the amount he or she has
23 withdrawn, plus interest as determined by the board.

1 (11) Share eligible member means a member of the program who meets the
2 eligibility criteria set forth in section 2-609(c).

3 (12) Supplemental share program, share program, or program means the
4 Supplemental Retirement Program for Firefighters, as set forth in this
5 section, and as it may be amended from time to time in the future.

6 (b) Establishment. There is hereby created for the firefighters of the city a program to be
7 known as the “Supplemental Retirement Program for Firefighters,” also referred to in
8 this section as the “program,” “supplemental share program,” or “share program.”
9 The creation and maintenance of the assets of the program, the benefits provided for
10 and the administration of the program shall be in accordance with the provisions of
11 this section.

12 (c) Eligibility.

13 (1) Eligibility to receive the initial allocation.

14 a. For members retired on or before the effective date to be eligible to
15 receive the initial allocation for each plan year from 1999 to 2015, an
16 individual must be a member of the program and must have:

17 i. Retired and terminated employment in connection therewith;

18 and

19 ii. Been employed by the city as a firefighter for the entire plan
20 year.

21 b. For members employed by the city after the effective date to be
22 eligible to receive the initial allocation for each plan year from 1999 to

1 2015, an individual must be a member of the program and must have
2 been employed by the city as a firefighter for the entire plan year.

3 (2) Eligibility to receive the annual allocation.

4 a. For retired members to be eligible to receive the annual allocation, an
5 individual must be a member of the program and must have:

6 i. Retired and terminated employment in connection therewith
7 prior to the actual receipt of premium tax revenues by the
8 board for the plan year; and

9 ii. Been employed by the city as a firefighter for the entire plan
10 year.

11 b. For members employed by the city to be eligible to receive the annual
12 allocation, an individual must be a member of the program and must
13 have:

14 i. Been employed on the date the premium tax revenues are
15 received by the board for the plan year; and

16 ii. Been employed by the city as a firefighter for the entire plan
17 year.

18 (3) Forfeiture. Members whose retirement benefits have been forfeited pursuant
19 to Section 112.3173, Florida Statutes, section 2-604, or any other law, and
20 members who terminate their employment with the city as a firefighter prior
21 to the completion of at least ten years of credited service and have not
22 received a disability retirement or have withdrawn their contributions from the

1 plan after termination of employment are not eligible for any distributions or
2 allocations under the share program.

3 (4) Re-employed retirees and recipients of termination benefits. A former
4 employee of the city receiving retirement or termination benefits from the
5 City of Gainesville Employees Disability Plan, the City of Gainesville
6 Employees Pension Plan, or retirement benefits or monthly termination
7 benefits under the consolidated plan may, upon becoming re-employed by the
8 city become a member of the share program, earn credited service, and
9 become entitled to receive a supplemental retirement benefit subject to the
10 following conditions:

- 11 a. Such member shall re-satisfy the eligibility requirements for
12 participation in this program.
- 13 b. No service for which credit was received, or which remained
14 unclaimed, at retirement or termination may be claimed or applied
15 toward service credit earned following renewed membership.
- 16 c. Such re-employed member shall not be entitled to purchase additional
17 credit for service performed prior to re-employment for which
18 retirement or termination benefits are being received.

19 (d) Funding and Benefits.

20 (1) Allocation of additional premium tax revenues.

- 21 a. Initial Allocation:
- 22 i. The board shall distribute the initial allocation to each share
23 program eligible member as described in section 2-609(e) based

1 upon his or her status as a share eligible member for each plan year
2 additional premium tax revenues were received by the board from
3 plan years 1999 to 2015.

4 ii. The board shall make the initial allocation within ninety (90) days
5 of the effective date.

6 b. Annual Allocation:

7 i. The board shall distribute the annual allocation to each share
8 program eligible member as described in section 2-609(e) based
9 upon his or her status as a share eligible member for each plan year
10 additional premium tax revenues are received by the board in plan
11 years 2016 and thereafter. If the board receives no additional
12 premium tax revenues or the administrative fees and expenses
13 exceed the additional premium tax revenues received, there shall
14 be no annual allocation to share eligible members.

15 ii. The board shall make the annual allocation no later than ninety
16 (90) days after its receipt of such additional premium tax revenues.

17 (2) City's contributions to the program. The city shall not be required to levy any
18 additional taxes on its residents or make any contributions to the supplemental
19 share program.

20 (3) Payment of costs, expenses and fees. All costs, expenses and fees of developing
21 and administering the supplemental share program shall be paid from the assets of
22 the share program in such fashion as the board shall reasonably determine. Any
23 direct distribution and any allocation to a share eligible member's account shall be

1 net of such member's pro rata portion of the share program's costs, expenses and
2 fees of administering the share program.

3 (e) Accounts; Distributions.

4 (1) Distributions to employee members.

- 5 a. For share eligible members who are employed by the city on or after
6 the effective date, initial and annual allocations shall be accounted for
7 in individual accounts on behalf of the member in accordance with this
8 section. Members' share accounts shall annually be credited or
9 debited with gains or losses equal to the overall market rate of return
10 on investments of the consolidated plan net of investment related
11 expenses and less any fees or expenses related to administration of the
12 share program, on or before December 31 each year. Upon
13 termination of a member's employment with the city as a firefighter
14 and becoming retired under the consolidated plan in connection
15 therewith, the balance of the member's account shall be paid to the
16 member or member's beneficiaries in a single lump sum or a member
17 may elect a direct rollover as allowed in section 2-600(j). Failure to
18 make an election will result in the payment being made in a lump sum.
- 19 b. Members who terminate their employment with the city as a firefighter
20 prior to the completion of at least ten years of credited service and
21 have not received a disability retirement shall forfeit their share of any
22 annual or initial allocation, shall not be eligible for any distribution

1 under this section, and their share shall revert to the plan for pro rata
2 allocation to eligible members during the following plan year.

3 c. For members who terminate their employment after the completion of
4 ten years of credited service but prior to retirement eligibility (early or
5 normal), there will be no additional shares earned and the share plan
6 balance will be distributed upon electing the receipt of the vested
7 benefit. A member who withdraws their accumulated contribution
8 after vesting, shall not be eligible to receive a share plan distribution.

9 (2) Distributions to retired members. For share eligible members who are no longer
10 employed by the city at the time the board makes allocations, such members or
11 members' beneficiaries shall be paid in a single lump sum or a member may elect
12 a direct rollover as allowed in section 2-600(j). Failure to make an election will
13 result in the payment being made in a lump sum.

14 (f) Miscellaneous.

15 (1) City's responsibilities. The City shall have no responsibility for the operation of
16 the share program except those specified herein and shall bear no expense in
17 connection therewith.

18 (2) USERRA. Notwithstanding any provision of the program to the contrary,
19 contributions, benefits and service credit with respect to qualified military service
20 shall be provided in accordance with Section 414(u) of the Internal Revenue
21 Code.

22 **Section 2.** It is the intention of the City Commission that the provisions of Section 1
23 of this ordinance shall become and be made a part of the Code of Ordinances of the City of

1 Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be renumbered
2 or relettered in order to accomplish such intentions.

3 **Section 3.** If any word, phrase, clause, paragraph, section or provision of this
4 ordinance or the application hereof to any person or circumstance is held invalid or
5 unconstitutional, such finding shall not affect the other provisions or applications of the
6 ordinance which can be given effect without the invalid or unconstitutional provisions or
7 application, and to this end the provisions of this ordinance are declared severable.

8 **Section 4.** All ordinances or parts of ordinances, in conflict herewith are to the extent
9 of such conflict hereby repealed.

10 **Section 5.** This ordinance shall become effective immediately upon final adoption.

11 PASSED AND ADOPTED this 18th day of January, 2018.

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14 LAUREN POE
15 MAYOR

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ATTEST:

Approved as to form and legality

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CLERK OF THE COMMISSION


NICOLLE M. SHALLEY
CITY ATTORNEY

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This ordinance passed on first reading this 4th day of January, 2018.

This ordinance passed on second reading this 18th day of January, 2018.