

ORDINANCE NO. 200657

An ordinance of the City of Gainesville, Florida, amending
Section 2-608 of the Code of Ordinances of the City of
Gainesville to modify the eligibility rules associated with the
Supplemental Retirement Program for Police Officers;
providing a severability clause; providing a repealing clause;
and providing an immediate effective date.

WHEREAS, the City of Gainesville maintains a retirement plan for police officers

governed by Chapter 185, Florida Statutes; and

WHEREAS, the plan includes a Supplemental Retirement Program that allocates shares
of State Premium Tax Revenues to eligible police officers; and

WHEREAS, the City and the collective bargaining units who represent the members of
the Supplemental Retirement Program for Police Officers faithfully bargained an amendment to
the eligibility rules for the Program; and

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 public hearings to be
held in the City Commission meeting room on the first floor of City Hall in the City of
Gainesville; and

WHEREAS, the public hearings were held pursuant to the published notice described at
which hearings 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. Sec. 2-608 titled "Supplemental retirement program for police officers" is

1 amended as follows. Except as amended herein, the remainder of Sec. 2-608 remains in full
2 force and effect.

3 **Sec. 2-608. Supplemental retirement program for police officers.**

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

7 (1) *Additional premium tax revenues* means the premium tax revenues
8 received from the state pursuant to ~~F.S. §185.10~~ Chapter 185, Florida Statutes, in
9 plan years 2001 through and including 2006 that exceeded \$485,156.16 annually;
10 and premium tax revenues received from the state pursuant to ~~F.S. §185.10~~
11 Chapter 185, Florida Statutes, in plan years 2007 and thereafter that exceed
12 \$558,361.13 annually.

13 (2) *Annual allocation* means the pro rata amount for each share eligible
14 member, calculated on an annual basis, of premium tax revenues received from
15 the state in plan years 2013 and thereafter pursuant to ~~F.S. §185.10~~ Chapter 185,
16 Florida Statutes, that exceed \$558.361.13, plus prior plan year forfeited balances.

17 (3) *Effective date* means July 1, 2013, the date on which this
18 supplemental share program shall take effect.

19 (4) *Forfeiture* means the termination of a member's account, or eligibility
20 for annual or initial allocations, pursuant to F.S. § 112.3173, section 2-604,
21 section 2-608(d)(3), or other forfeiture required by law, and reversion of such
22 funds to the plan.

(5) *Initial allocation* means the pro rata amount for each share eligible member, calculated on an annual basis, of premium tax revenues received from the state in each plan year 2001 through and including 2006 that exceeded \$485,156.16, premium tax revenues received from the state in each plan year 2007 through and including 2012 that exceeded \$558,361.13. Based on the foregoing, the premium tax revenues available for pro rata distribution for plan years 2001 through and including 2012 shall be as follows:

2001: \$47,489.07

2002: \$92,473.27

2003: \$128,534.50

2004: \$113,964.78

2005: \$122,126.39

2006: \$147,619.49

2007: \$55,989.29

2008: \$83,458.87

2009: \$109,443.49

2010: \$55,897.01

2011: \$51,242.95

1 2012: \$41,547.90

2 Sum total: \$1,049,787.01

3 (6) *Member* means any police officer who was or is in the regular, full-
4 time employ of the city on or after October 1, 2000.

5 (7) *Premium tax revenue* means the revenues received by the city from the
6 tax assessed on premiums collected on casualty insurance policies pursuant to
7 section 2-599(b)(2). Said tax is collected on policies issued in a calendar year
8 within the city and remitted to the state. Following an annual review and approval
9 of the consolidated plan by the state, said tax, less state fees, is provided to the
10 board, in approximately August or September of the following calendar year.

11 (8) *Retired* means any member who is receiving a retirement benefit under
12 sections 2-600(a), (b), or (c), a member who met the conditions set forth in section
13 2-601(b)(4) regardless of the form of benefit, or a member who died in the line of
14 duty, as defined and determined by the board, consistent with F.S. § 185.34,
15 regardless of years of credited service, or months of credited service in the plan
16 year prior to death. A member eligible for re-employment under USERRA who
17 died while performing qualified military services as defined in USERRA shall be
18 deemed to have retired on the day before he died regardless of years of credited
19 service at time of death. Members who are employed by the city and participants in
20 the deferred retirement option program (DROP) under the consolidated plan are not
21 considered retired for purposes of this section.

22 (9) *Service credit rules* shall mean the following:

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

2 i. Paid, or entitled to payment, by the city for
3 performance of duties as a police officer;

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

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

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

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

21 ii. Voluntary or involuntary service in the Armed Forces
22 of the United States for a period not greater than five years of the

1 time spent in the military service of the Armed Forces of the
2 United States shall be added to the years of actual service, if: the
3 member is in the city's active employ as an eligible employee prior
4 to such service and leaves such position for the purpose of
5 voluntary or involuntary service in the Armed Forces of the United
6 States; such member is entitled to re-employment under the
7 provisions of the USERRA; and the member returns to his or her
8 employment as a police officer as an eligible employee within one
9 year from the date of his or her release from such active service.

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

13 d. If the employment of a member as a police officer with the
14 city is terminated, and such former member is subsequently re-employed
15 by the city as a police officer, the member's date of employment, for
16 purposes of determining credited service, shall be based on the member's
17 subsequent re-employment date as a police officer.

18 e. Credited service shall mean the aggregate number of months
19 of service with the city as a police officer, expressed in terms of full and
20 fractional year, subject to the following:

21 i. No additional months of service shall be credited for
22 unused sick leave.

1 ii. No member shall receive credit for years or fractional
2 parts of years of service if he or she has withdrawn his or her
3 contributions to the consolidated plan for those years or fractional
4 parts of years of service, even if the member repays into the
5 consolidated plan the amount he or she has withdrawn, plus
6 interest as determined by the board.

7 (10) *Share eligible member* means a member of the program who meets
8 the eligibility criteria set forth in section 2-608(c).

9 (11) *Supplemental share program, share program, or program* means the
10 Supplemental Retirement Program for Police Officers, as set forth in this section,
11 and as it may be amended from time to time in the future.

12 (b) *Establishment.* There is hereby created for the police officers of the city a
13 program to be known as the "Supplemental Retirement Program for Police Officers," also
14 referred to in this section as the "program," "supplemental share program," or "share
15 program." The creation and maintenance of the assets of the program, the benefits
16 provided for and the administration of the program shall be in accordance with the
17 provisions of this section.

18 (c) *Eligibility.*

19 (1) *Eligibility to receive the initial allocation.*

20 a. For members retired on or before the effective date to be
21 eligible to receive the initial allocation for each plan year from 2001 to
22 2012, an individual must be a member of the program and must have:

1 i. Retired and terminated employment in connection
2 therewith;

3 ii. Been employed by the city as a police officer for the
4 entire plan year.

5 b. For members employed by the city after the effective date to
6 be eligible to receive the initial allocation for each plan year from 2001 to
7 2012, an individual must be a member of the program and must have been
8 employed by the city as a police officer for the entire plan year.

9 (2) *Eligibility to receive the annual allocation of share program funds*
10 *received on or before September 30, 2019.*

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

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

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

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

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

1 ii. Been employed by the city as a police officer for the
2 entire plan year.

3 (3) Eligibility to receive the annual allocation of share program funds
4 received after September 30, 2019.

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

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

10 ii. Been employed as a law enforcement officer for the
11 entire plan year; and

12 iii. A minimum of 19 years of credited service at the
13 beginning of the plan year.

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

17 i. Been employed as a law enforcement officer for the
18 entire plan year; and

19 ii. A minimum of 19 years credited service at the
20 beginning of the plan year.

1 (34) *Forfeiture.* Members whose retirement benefits have been forfeited
2 pursuant to F.S. § 112.3173, section 2-604, or any other law, and members who
3 terminate their employment with the city as a police officer prior to the
4 completion of at least ten years of credited service are not eligible for any
5 distributions or allocations under the share program.

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

13 a. Such member shall re-satisfy the eligibility requirements for
14 participation in this program.

15 b. No service for which credit was received, or which remained
16 unclaimed, at retirement or termination may be claimed or applied toward
17 service credit earned following renewed membership.

18 c. Such re-employed member shall not be entitled to purchase
19 additional credit for service performed prior to re-employment for which
20 retirement or termination benefits are being received.

21 (d) *Funding and benefits.*

22 (1) *Allocation of additional premium tax revenues.*

1 a. *Initial allocation.*

2 i. The board shall distribute the initial allocation to each
3 share program eligible member as described in section 2-608(e)
4 based upon his or her status as a share eligible member for each
5 plan year additional premium tax revenues were received by the
6 board from plan years 2001 to 2012.

7 ii. The board shall make the initial allocation within 90
8 days of the effective date.

9 b. *Annual allocation.*

10 i. The board shall distribute the annual allocation to each
11 share program eligible member as described in section 2-608(e)
12 based upon his or her status as a share eligible member for each
13 plan year additional premium tax revenues are received by the
14 board in plan years 2013 and thereafter. If the board receives no
15 additional premium tax revenues or the administrative fees and
16 expenses exceed the additional premium tax revenues received,
17 there shall be no annual allocation to share eligible members.

18 ii. The board shall make the annual allocation no later
19 than 90 days after its receipt of such additional premium tax
20 revenues.

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

4 (3) *Forfeiture.* Members whose retirement benefits have been forfeited
5 pursuant to F.S. § 112.3173, section 2-604, or any other law, and members who
6 terminate employment with the city as a police officer prior to the completion of
7 at least ten years of credited service shall not be deemed a share eligible member
8 for the purposes of any allocation or distribution under this section and any
9 amounts of additional premium tax revenues which otherwise would be allocated
10 shall revert to the plan and, after final resolution of all claims, be included in the
11 next annual allocation.

12 (4) *Payment of costs, expenses and fees.* All costs, expenses and fees of
13 developing and administering the supplemental share program shall be paid from
14 the assets of the share program in such fashion as the board shall reasonably
15 determine. Any direct distribution and any allocation to a share eligible member's
16 account shall be net of such member's pro rata portion of the share program's
17 costs, expenses and fees of administering the share program.

18 (e) *Accounts; distributions.*

19 (1) *Distributions to employee members.*

20 a. For share eligible members who are employed by the city on
21 or after the effective date, initial and annual allocations shall be transferred
22 to individual accounts on behalf of the member in accordance with this

1 section. Members' share accounts shall annually be credited or debited
2 with gains or losses equal to the overall market rate of return on
3 investments of the consolidated plan, less any fees or expenses related to
4 administration of the share program, on or before December 31. Upon
5 termination of a member's employment with the city as a police officer
6 and becoming retired under the consolidated plan in connection therewith,
7 the balance of the member's account shall be paid to the member or
8 member's beneficiaries in a single lump sum or a member may elect a
9 direct rollover as allowed in section 2-600(j). Failure to make an election
10 will result in the payment being made in a lump sum.

11 b. After the completion of at least ten years of credited service,
12 share eligible members who are employed by the city may make a one-
13 time, irrevocable election, at the time and in the manner prescribed by the
14 board, to transfer the balance of their account to another account within
15 the plan designated by the member for investment. Such members may
16 direct their share money to any of the investment options offered by the
17 third party administrator approved by the board. There shall be no
18 guaranteed rate of investment return on these accounts. Upon transfer of
19 the share money to the account designated by the member, neither the city
20 nor the board shall have any obligation to the member concerning
21 investment gains or losses. Transfers between accounts shall be in
22 accordance with the rules of the third party administrator.

1 c. Members who terminate their employment with the city as a
2 police officer prior to the completion of at least ten years of credited
3 service shall forfeit their share of any annual or initial allocation, shall not
4 be eligible for any distribution under this section, and their share shall
5 revert to the plan for pro rata allocation to eligible members during the
6 following plan year.

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

12 (f) *Miscellaneous.*

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

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

20 **Section 2.** It is the intention of the City Commission that the provision of Section 1
21 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 3. 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 4. All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

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

PASSED AND ADOPTED this 4th day of February, 2021.



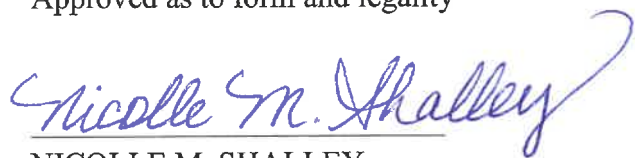
LAUREN POE
MAYOR

ATTEST:

Approved as to form and legality



OMICHELE D. GAINEY
CITY CLERK



NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this 21st day of January, 2021.

This ordinance passed on second reading this 4th day of February, 2021.