

Legislative #

210595

ORDINANCE NO. 210595

An ordinance of the City of Gainesville, Florida, amending Chapter 9 of the Code of Ordinances related to elections to conform to the charter amendments approved by voters on November 6, 2018; revising Chapter 9 to align the city election with the statewide primary election and the runoff election to coincide with the statewide general election; revising section 9-11 by changing the campaign contribution limit from \$250 to the limit set by statute; revising section 9-14 by providing that the county canvassing board will be used for the city election that coincides with the statewide primary election; updating section 9-14 to provide for vote-by-mail ballots instead of absentee ballots; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, the City Commission passed Ordinance No. 160876, which directed a proposed charter amendment relating to municipal elections to be presented to electors at the November 6, 2018 election; and

WHEREAS, on November 6, 2018, a majority of the electors of the City of Gainesville approved the amendments to Section 2.03 and 2.04 of the Charter Laws of the City of Gainesville; and

WHEREAS, it is necessary to revise Chapter 9 of the Code of Ordinances of the City of Gainesville to reflect the amendments to the Charter Laws passed in 2018; and

WHEREAS, other than ordinance changes necessitated by the amendments to the Charter Laws, additional revisions to Chapter 9 of the Code of Ordinances are needed in order to align the ordinances with current general law; and

WHEREAS, at least ten (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

31 hearings in the City Hall Auditorium located on the first floor of City Hall in the City of
32 Gainesville; and

33 **WHEREAS**, public hearings were held pursuant to the notice described above at which
34 hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

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

37 **Section 1.** Chapter 9 of the Gainesville Code or Ordinances is amended to read as
38 follows:

39 **Sec. 9-1. Applicability of general laws of state to city elections.**

40 The general law of the state on the subject of elections shall apply to and govern all city
41 elections insofar as there is no conflict with the provisions of this chapter or the provisions of
42 the Charter of the city.

43 **Sec. 9-1.1. – Election districts.**

44 (a) In accordance with Section 2.02 of the Charter of the city, the following election districts are
45 hereby established for the purpose of representation upon and election of four members to the
46 city commission:

47 **District No. 1**

48 District No. 1 shall be comprised of the following precincts: Precinct Nos. 13, 19, 25, 28, 30, 33,
49 34, 55, and 59.

50 **District No. 2**

51 District No. 2 shall be comprised of the following precincts: Precinct Nos. 12, 17, 21, 22, 37, 38,
52 45, 50, and 57.

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District No. 3

District No. 3 shall be comprised of the following precincts: Precinct Nos. 24, 26, 32, 36, 39, 40, 43, 48, 52, 54, and 61.

District No. 4

District No. 4 shall be comprised of the following precincts: Precinct Nos. 5, 7, 23, 27, 31, and 44.

A map identifying the election districts is attached to the ordinance from which this section derives as Exhibit A for illustrative purposes only and is on file in the office of the city clerk of the commission.

(b) As used in this section, the term “precincts” means the county election precincts of Alachua County, Florida, as established by the board of county commissioners and approved by the supervisor of elections. The boundaries of said precincts are the boundaries as they exist on the effective date of the ordinance from which this section derives or any amendatory ordinance, but only to the extent that they are located within the corporate limits of the city.

Sec. 9-2. - Date of regular elections for city commissioners and mayor.

(a) Date. Regular elections shall be held ~~in March or April of each year, on the date that coincides with the statewide primary election, on a date set by the city commission by ordinance,~~ for the election of city commissioners, including the mayor, whose terms of office expire or to fill vacancies that may occur. In the event no candidate receives a majority of the votes cast in an election to fill a district, mayoral or at large vacancy, a runoff election shall be held ~~on the sixth Tuesday following the first election~~ the date that coincides with the statewide general election between the two candidates for such district(s), mayoral or at large seat receiving the highest number of votes cast.

76 ~~(b) Early Voting and Vote-by-Mail Voting. The clerk of the commission shall recommend a~~
77 ~~date for the next regular election to the commission at or before the first regular city~~
78 ~~commission meeting in May of each year. The city commission shall determine the date~~
79 ~~and direct an ordinance be drafted and advertised setting the election date and early voting~~
80 ~~dates for the general election and runoff election if necessary. This ordinance shall be~~
81 ~~adopted no later than July 1 of each year. Early voting and vote-by-mail voting may occur~~
82 ~~in connection with municipal regular and runoff elections as consistent with the respective,~~
83 ~~concurrent statewide primary and general elections.~~

84 ~~(c) If for any reason the city commission does not adopt an ordinance setting the date of the~~
85 ~~next regular election by July 1 of any year, the next regular election shall be held on the~~
86 ~~third Tuesday in March of the following year and the early voting dates shall be as~~
87 ~~provided for in state law.~~

88 ~~(d) When considering the date of the next election, the city commission may consider factors~~
89 ~~including, but not limited to:~~

90 ~~(1) The schedules for Spring Break of the Alachua County School Board, Santa Fe~~
91 ~~Community College and the University of Florida;~~

92 ~~(2) The transition time between the election and the start of the terms of office of the new~~
93 ~~commissioners; and~~

94 ~~(3) The dates of county wide or state wide elections occurring at about the same time.~~

95 **Sec. 9-3. Designation, elections, runoff elections, pollworker training.**

96 (a) Candidates for the commission shall, at the time of qualifying, designate the district seat or at
97 large seat for which they intend to run. The district candidate receiving a majority of the
98 votes cast in a particular district shall be elected. The at large or mayoral candidate receiving

99 a majority of the votes cast within the city at large shall be elected. In the event no candidate
100 receives a majority of the votes cast in a district or the city at large, as applicable, a runoff
101 election shall be held between the two candidates in such district(s) or at large, as applicable,
102 receiving the highest number of votes cast. The candidate receiving the highest number of
103 votes cast in such runoff election shall be elected. In the case of a tie the candidates shall be
104 selected for the runoff election in the same manner as provided by Florida Statutes.

105 (b) For purposes of poll worker training mandated by state law, the regular and runoff elections
106 shall be considered as one election. Therefore, in a city election where there is a runoff
107 election, one training is required.

108 **Sec. 9-4. - Special elections required; proclamation.**

109 (a) Special elections shall be held in the following cases:

110 (1) When there has been no choice of any city commissioner or the mayor who should have
111 been elected at a regular or special election;

112 (2) In circumstances, as provided by the City Charter. ~~When when~~ a vacancy exists in any
113 office due to resignation, death or otherwise. ~~If any vacancy shall occur less than three~~
114 ~~months before a regular election, it shall be within the discretion of the city commission~~
115 ~~to call a special election.~~

116 (3) When the city commission determines in its sole discretion to submit any question
117 affecting the interest of the city to a vote of the qualified electors of the city.

118 (b) The special election shall be ordered by the city commission by resolution instructing the
119 mayor to issue a proclamation calling the election ~~in the same manner and form as provided~~
120 ~~for in the case of regular elections.~~

121 ~~(c) Early voting and vote-by-mail voting may occur in a special municipal election at the~~
122 ~~discretion of the city commission as allowed by general law, and in coordination with the~~
123 ~~supervisor of elections, as appropriate.~~

124 **Sec. 9-5. - Mayor to issue proclamation; contents; publication.**

125 At least, 30 days prior to any and all elections for mayor or commissioners the mayor
126 shall issue a proclamation calling the election. The proclamation shall specify what officers are
127 to be elected, the length of time the officers are to serve and the time and date of holding the
128 election, qualifying dates, including any provision for early voting as allowed in this chapter.
129 Such proclamation shall be published once in a newspaper of general circulation published in
130 the city.

131 **Sec. 9-6. - Registration and qualifying officer designated; registration books to be kept;**
132 **contents.**

133 The city clerk of the commission is hereby designated as the registration and qualifying
134 officer for the city. Alternatively, the city may contract with the Supervisor of Elections of
135 Alachua County to serve as the registration and qualifying officer for the city. The supervisor
136 of elections shall maintain the registration records of city electors as provided in the general
137 law of the state.

138 ~~Sec. 9-6.5. - Early voting.~~

139 ~~(a) As a convenience to the voter, early voting shall be allowed in municipal general~~
140 ~~elections that are not held in conjunction with county or state elections. The provisions of~~
141 ~~this section shall apply only to municipal general elections that are not held in conjunction~~
142 ~~with county or state elections. Early voting in municipal elections that are held in~~
143 ~~conjunction with county or state elections shall be governed as provided by state law.~~

144 ~~(b) This section shall not apply to municipal special elections that are not held in conjunction~~
145 ~~with county or state elections.~~

146 ~~(c) Early voting pursuant to this section shall be at such sites as are allowed by state law and~~
147 ~~designated as early voting sites by the city commission.~~

148 ~~(d) Early voting for municipal general elections and runoff general elections pursuant to this~~
149 ~~section shall be conducted at dates and times set forth in the election ordinance adopted~~
150 ~~annually by the city commission, provided that such dates and times are not inconsistent~~
151 ~~with state law.~~

152 **Sec. 9-7. - Appointment of inspectors and clerks; opening and closing polls; substitute**
153 **inspectors and clerks; qualifications.**

154 The supervisor of elections shall appoint the necessary clerks and inspectors for the
155 conduct of the election. The clerks and inspectors shall have the rights, duties and
156 responsibilities provided in general law F.S. Ch. 102.

157 **Sec. 9-8. – Paper ballots in annexation elections where number of registered voters is**
158 **under 500.**

159 The use of paper ballots, which means that printed sheet containing the proposition
160 submitted to the electorate, on which sheet of paper the elector casts his or her vote, shall be
161 permitted (both for poll and mail in ballot voting) for exclusive use in annexation elections
162 where the number of registered voters in the area to be annexed is 500 or less. The votes shall
163 be tabulated and counted by hand by the board of canvassers.

164 **Sec. 9-9. – Reserved.**

165 **Sec. 9-10. - Qualifications of candidates for city commission.**

166 (a) Any person who meets the eligibility requirements described in Article II of the Charter
167 may become a candidate for the office of mayor or city commissioner of the city by filing
168 the necessary qualifying papers as provided in Florida Statutes with the supervisor
169 registration and qualifying officer for the city during the qualifying period.

170 (b) The qualifying period for a regular election shall coincide with the qualifying period
171 provided by general law to qualify for election to a county office. at any time after noon of
172 the first day for qualifying which shall be the fiftieth day prior to the day of the election,
173 but not later than noon of the 46th day prior to the day of the election. Provided, however,
174 as

175 (c) As a condition precedent to having his/her the candidate's name printed on the ballot for
176 such election such person shall pay to the supervisor registration and qualifying officer for
177 the city the election assessment imposed by F.S. § 99.093(1) general law, or be exempted
178 from such payment of assessment pursuant to the provisions of F.S. § 99.093(2) general
179 law.

180 (d) Any person who is seeking election as a write-in candidate shall not be required to pay a
181 filing fee or submit a petition. A write-in candidate shall not be entitled to have his/her the
182 candidate's name printed on any ballot; however, space for his/her the candidate's name to
183 be written in shall be provided on the ballot. No person may qualify as a write-in
184 candidate if the person has also otherwise qualified for nomination or election to such
185 office. All write-in candidates must submit their qualifying paperwork to the supervisor
186 registration and qualifying officer for the city by the end of the qualifying period set out
187 above.

188 ~~(b)~~ (e) For purposes of determining the eligibility requirements of Article II of the Charter, a
189 person who resides in an area that is redistricted into another district (hereinafter the
190 "new district") shall be deemed to be a resident of the new district if the person resides
191 anywhere within the area that is placed in the new district for a period of not less than
192 six months prior to the date the person qualifies to run for office.

193 **Sec. 9-11. - Campaign contribution limitations; campaign finance reports.**

194 (a) Candidates shall not accept campaign contributions made by persons or political
195 committees as defined in F.S. § 106.011, in an amount exceeding ~~\$250.00~~ the amount set
196 by general law per election per person or political committee. For purposes of this section,
197 a runoff election is considered a separate election. This limitation does not apply to
198 contributions from political parties.

199 (b) Reports of all contributions received, and all expenditures made by a candidate or a
200 political committee, as that term is defined in F.S. ch. 106, that has made contributions or
201 expenditures to influence the results of a city election, shall be filed monthly once a
202 campaign treasurer is appointed and on the 25th, 11th and ~~fourth~~ 4th days immediately
203 preceding the regular or special election, and, if a run-off is required, on the 11th and
204 ~~fourth~~ 4th days immediately preceding the run-off election.

205 **Sec. 9-12. - Ballots; contents.**

206 The names of all qualified candidates for election to the city commission, except for
207 write-in candidates, shall be placed upon the ballot as a candidate for a particular district, or at
208 large, as the case may be, as provided by general law. However, when there is only one
209 qualified candidate for an office, the name of the candidate shall not be printed on the election
210 ballot, and such candidate shall be deemed to have voted for ~~himself/herself~~ themselves and be

211 declared elected to the office. ~~Each district, mayoral or at large seat shall be clearly separated~~
212 ~~and the candidates' names for each office shall be listed in alphabetical order according to~~
213 ~~surnames; provided, no person's name shall be printed on the ballot if that person notifies the~~
214 ~~supervisor not less than 42 days prior to the election that he/she will not accept the nomination.~~
215 ~~The supervisor of elections may use discretion and allow a candidate to withdraw after the~~
216 ~~42nd day before an election upon receipt of written notice, sworn under oath, that the candidate~~
217 ~~will not accept the nomination or office for which he/she qualified.~~

218 **Sec. 9-13. Qualifications of electors.**

219 Electors in the city shall have the qualifications as set forth in F.S. §§ 97.041 and
220 166.032.

221 **Sec. 9-14. Board of canvassers; composition; powers and duties.**

222 (a) All regular and runoff elections occurring concurrently with the statewide primary and
223 general elections shall be conducted in accordance with general law, and use the services of
224 the county canvassing board.

225 (b) Any special election held separately from a statewide primary or general election shall be
226 conducted in accordance with general law, and use a municipal board of canvassers
227 appointed by the city commission for that purpose.

228 ~~(a)~~ (1) *Composition.*

229 ~~(A)~~ (A) The municipal board of canvassers for all elections held solely for
230 election of city commissioners or mayor and for questions submitted to a
231 vote of the people, ~~except when state law requires the county canvassing~~
232 ~~board to be used~~ that does not coincide with a statewide primary or
233 general election, is as follows: the mayor, the mayor pro tempore, or a

234 member of the commission; a citizen appointed by the city commission;
235 and the city clerk of the commission or designee.

236 ~~(2)~~(B) If either the mayor, the mayor pro tempore, or a member of the city
237 commission is: a) unable to serve; b) is a candidate who has opposition in
238 the election to be canvassed, or c) is an active participant in the campaign
239 or candidacy of any candidate who has opposition in the election being
240 canvassed, then the city auditor or designee shall replace that member of
241 the municipal board of canvassers.

242 ~~(3)~~ (C) The mayor, the mayor pro tempore, or a member of the city commission
243 or their replacement shall serve as the chair of the municipal board of
244 canvassers.

245 ~~(b)~~ (2) *Powers and duties.* The municipal board of canvassers may begin the canvassing of
246 absentee vote-by-mail ballots at or after 7:00 a.m. on the fourth day before the election, but
247 shall begin not later than noon on the day following the election; ~~however, the counting of~~
248 ~~votes on absentee ballots shall begin no earlier than 7:00 p.m. on the day of the election.~~ In
249 addition, whenever electronic tabulating equipment is used, the processing of absentee vote-
250 by-mail ballots through such tabulating equipment may begin upon ~~the opening of the polls~~
251 ~~on election day~~ completion of the public testing of automatic tabulating equipment pursuant
252 to general law. However, notwithstanding any such authorization to begin canvassing or
253 otherwise processing absentee vote-by-mail ballots early, no results ~~or tabulation of~~
254 ~~absentee of vote-by-mail~~ ballots shall be ~~made~~ released until after the close of the polls on
255 election day. The board shall canvass the election returns of the inspectors and clerks of the
256 election and the absentee vote-by-mail electors' ballots to declare the result of the election.

257 In the event it may be necessary in order to come to a proper decision, the board shall have
258 the power to examine witnesses and to take testimony

259 **Sec. 9-14.1. Certificate of result.**

260 ~~The supervisor shall certify the total number of voted ballots to the board of canvassers~~
261 ~~on a composite form of certificate to be used by the board of canvassers which shall provide~~
262 ~~for the entry of the number of votes for each candidate and upon each question east at the~~
263 ~~several polling places in the city, and for the entry of the number of votes for each candidate or~~
264 ~~upon each question east by absentee voters' ballots, and for the total number of votes east for~~
265 ~~each candidate or upon each question. Such certificate shall be signed in duplicate by each~~
266 ~~member of the board of canvassers present at the time the canvass of the election was made;~~
267 The registration and qualifying officer for the city shall obtain copies of a certificate from the
268 canvassing board containing the results of the elections related to municipal offices and
269 questions. One ~~one~~ One copy of such certificate shall be incorporated in the minutes of the next
270 regular meeting of the city commission following the canvass of the election, and ~~the~~ another
271 copy of the certificate shall be publicly posted at the city hall.

272 **Sec. 9-15. Reserved.**

273 **Sec. 9-16. Submission of petition proposing Charter amendments to supervisor of elections.**

274 (a) Any petition form proposing an amendment to the Charter of the City of Gainesville shall
275 be submitted to the supervisor of elections for approval as to format prior to the petition
276 being circulated for signatures. Such submission shall be in writing and shall include a copy
277 ~~or a facsimile~~ of the petition form proposed to be circulated. The supervisor of elections
278 shall review the form as to the sufficiency of the format only and render a decision. No

279 review of the legal sufficiency of the text of the proposed charter amendment is to be
280 undertaken by the supervisor of elections.

281 (b) The petition drive shall start on the date of approval by the supervisor of elections of the
282 form of the petition and shall terminate 90 days after that date, not counting the date of the
283 approval. In the event sufficient signatures are not acquired during that 90-day period, the
284 petition initiative shall be rendered null and void and none of the signatures may be carried
285 over to another petition.

286 **Sec. 9-17. Petition format.**

287 (a) A petition proposing a charter amendment shall be circulated for signatures only if the
288 format of the petition is deemed sufficient by the supervisor of elections. To be sufficient,
289 the petition form must be printed on separate cards or individual sheets of paper. The
290 minimum size of such forms shall be 3" × 5", and the maximum size shall be 8½" × 11", as
291 measured at the outer boundary of the form. Additional material may be attached; however,
292 when detached, the petition must be consistent with the dimensions and content of the form
293 approved by the supervisor of elections. Each form shall contain space for only one elector's
294 signature. Forms providing for multiple signatures shall not be approved by the supervisor
295 of elections.

296 (b) The top of the petition form shall be clearly and conspicuously entitled "Charter
297 Amendment Petition Form" followed by "I, the undersigned, a registered voter of the City
298 of Gainesville, hereby petition pursuant to Section 5.01 of the Charter of the City of
299 Gainesville and Chapter 9 of the City of Gainesville Code of Ordinances, to have the
300 following proposed amendment to the Charter of the City of Gainesville submitted to a vote
301 of the electors at a regular city election, a state-wide general election, or at a special election

302 called by the City Commission for the City of Gainesville for that purpose." The petition
303 form shall conspicuously contain the full text of the amendment being proposed which shall
304 be presented in a legislative strike through (delete)/underline (addition) format. Should the
305 text be required to be printed on both sides of the form, it shall clearly indicate that the text
306 is continued or begins on the other side. The petition form shall conclude with adequate
307 space for the signer's printed name, residence street address, city, precinct number, date
308 signed, and signature. Additional materials supporting the proposed amendment, or
309 providing a method by which the petition form may be returned by mail to the sponsors,
310 may be attached to the form. The supervisor of elections shall not review the content of such
311 material.

312 (c) Each form shall be deemed a political advertisement as defined in F.S. § 106.011(17), and
313 must contain the information required by F.S. § 106.143.

314 (d) Petition forms may be reproduced in newspapers, magazines, and other forms of printed
315 mass media, provided such forms are reproduced in the same dimensions and format as
316 approved by the supervisor of elections. The petition forms may be included within a larger
317 advertisement, provided the forms are clearly defined by a solid- or broken-line border of
318 the approved dimensions and format. Forms included within a larger advertisement must be
319 removed from the larger advertisement prior to being submitted to the supervisor of
320 elections for signature verification and counting.

321 (e) Any change in a previously approved petition form, or additional types of petition forms for
322 the same proposed amendment, shall be submitted to the supervisor of elections for
323 approval in advance of circulation, in accordance with this section.

324 **Sec. 9-18. Verification of signatures on petition.**

325 The person or organization sponsoring the petition shall submit signed and dated petition
326 forms on or before the expiration of the 90-day period, and upon submission pay all fees as
327 required by F.S. § 99.097. The supervisor of elections shall verify the signatures on the
328 submitted approved petition forms in accordance with the provisions of F.S. § 99.097 to
329 determine whether or not ten percent of the registered voters of the city as of the last preceding
330 municipal regular election have petitioned for an amendment to the city charter. The supervisor
331 of elections shall within 45 days of submission (not including the day of submittal) verify the
332 signatures thereon and certify to the city commission whether or not the requisite number of
333 signatures has been verified. If the supervisor of elections certifies that the requisite number of
334 signatures were verified, the city commission shall place the proposed amendment on the ballot
335 of ~~either the next state-wide~~ statewide primary or general election, as defined in F.S. § 100.131,
336 ~~or the next City of Gainesville regular election, whichever first~~ which occurs on or after 135
337 days from the day all the petition forms were submitted to the supervisor of elections (not
338 counting the day of the submittal). Alternatively, the city commission may at its discretion place
339 the proposed amendment before the electors at a special election called for the purpose. This
340 special election shall not be ~~held~~ called earlier than 90 days following the date of the supervisor's
341 certification, not counting the date of the certification.

342 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of
343 this Ordinance shall become and be made a part of the Charter and the Code of Ordinances of the
344 City of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
345 renumbered or relettered in order to accomplish such intentions.

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

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

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

354 **PASSED AND ADOPTED THIS** _____ **DAY OF** _____, **2022.**

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LAUREN POE
MAYOR

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ATTEST:

Approved as to form and legality

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363

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365

OMICHELE D. GAINES
CITY CLERK

DANIEL M. NEE
INTERIM CITY ATTORNEY

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370 This ordinance passed on first reading this _____ day of _____, 2022.

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372 This ordinance passed on second reading this _____ day of _____, 2022.

373