



# MEMORANDUM

Office of the City Attorney

000796

Phone: 334-5011/Fax 334-2229  
Box 46

**TO:** Mayor and City Commission

**DATE:** February 26, 2001  
CITY ATTORNEY  
FIRST READING

**FROM:** City Attorney

**SUBJECT:** Ordinance No. 0-00-131

An Ordinance of the City of Gainesville, Florida, annexing a portion of the City of Gainesville Reserve Area Pursuant to Chapter 90-496, as amended, by Special Acts, Laws of Florida, known as the Alachua County Boundary Adjustment Act; making certain findings; including within the corporate limits of the City of Gainesville, Florida, that certain compact and contiguous area generally bounded on the north by the Gainesville city limits, on the west by the extension of N.W. 51<sup>st</sup> Street, on the east by the Gainesville city limits and on the south by the Gainesville city limits; providing for inclusion of the area in Appendix I of the City Charter; providing for a referendum election; providing directions to the City Manager and Clerk of the Commission; providing ballot language; providing for land use plan and zoning regulations; providing for enforcement of Alachua County land use plan, zoning and subdivision regulations; providing for persons engaged in any occupation, business, trade or profession; providing a severability clause; and providing an immediate effective date.

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Recommendation: The City Commission adopt the proposed ordinance.

The annexation ordinance for the Rustlewood Area was withdrawn from the City Commission meeting of January 22, 2001 because of concerns of some of the residents in the area. Staff has met with the residents and have worked through their concerns and issues.

The adoption of an annexation ordinance is the final stage in the annexation process under the provisions of the Alachua County Boundary Adjustment Act. On Monday, July 10, 2000, at a regular city commission meeting, the City Commission authorized the City Manager and Attorney to commence the annexation process. On October 23, 2000 and November 13, 2000, the City Commission held advertised public hearings and adopted the Urban Services Report as mandated by the Boundary Adjustment Act. A copy of the Report has been delivered to the Board of County Commissioners of Alachua County.

## ANNEXATION ORDINANCE

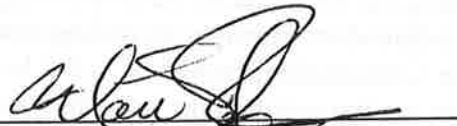
The annexation ordinance proposes to annex a contiguous, compact, unincorporated portion of the reserve area. The Boundary Adjustment Act requires the ordinance to be adopted

as a nonemergency ordinance and to include one reasonably compact area. The ordinance will be submitted to a vote of the registered electors for their approval in a mail ballot election conducted on Tuesday, June 19, 2001.

In the Ordinance the City Commission makes certain findings of fact related to the area proposed for annexation. The area must meet certain standards as required by the Boundary Adjustment Act. In this regard, your attention is drawn to Section 1 of this Ordinance and the presentation by the City Manager. The annexation is effective at 12:01 a.m. on June 20, 2001 unless there is a tie vote or majority vote against the annexation.

Sections 7 and 8 of the Ordinance relate to special matters which may be of interest to the owners and residents and those persons engaged in any business or occupation. The Alachua County land use plan and zoning or subdivision regulations will remain in effect until the City adopts a comprehensive plan amendment that includes the annexed area, and rezones the property to a city zoning category. During the interim period, the City may rezone the property in the annexed area to an Alachua County Zoning classification/category that conforms with the Alachua County Comprehensive Plan in accordance with Chapter 163, F.S. Those persons engaged in any occupation, business, trade or profession in the area proposed for annexation will have the right to continue their occupations, businesses, trades or professions and shall obtain an occupational license from the City of Gainesville for the term commencing on October 1, 2001.

Prepared and  
Submitted by:



Marion J. Radson  
City Attorney

MJR/afm

**D R A F T**

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ORDINANCE NO. \_\_\_\_\_  
0-00-131

An Ordinance of the City of Gainesville, Florida, annexing a portion of the City of Gainesville Reserve Area Pursuant to Chapter 90-496, as amended, by Special Acts, Laws of Florida, known as the Alachua County Boundary Adjustment Act; making certain findings; including within the corporate limits of the City of Gainesville, Florida, that certain compact and contiguous area generally bounded on the north by the Gainesville city limits, on the west by the extension of N.W. 51<sup>st</sup> Street, on the east by the Gainesville city limits and on the south by the Gainesville city limits; providing for inclusion of the area in Appendix I of the City Charter; providing for a referendum election; providing directions to the City Manager and Clerk of the Commission; providing ballot language; providing for land use plan and zoning regulations; providing for enforcement of Alachua County land use plan, zoning and subdivision regulations; providing for persons engaged in any occupation, business, trade or profession; providing a severability clause; and providing an immediate effective date.

WHEREAS, Chapter 90-496, Special Acts, Laws of Florida, as amended by Chapter 91-382 and Chapter 93-347, Special Acts, Laws of Florida, created the "Alachua County Boundary Adjustment Act" (hereinafter collectively referred to as "the Act") which sets forth procedures for the annexation of contiguous, compact, unincorporated territory within a municipality's reserve area; and

WHEREAS, on January 13, 1998, the Board of County Commissioners of Alachua County designated the Reserve Area for the City of Gainesville pursuant to the Act; and

WHEREAS, on November 13, 2000, the City Commission of the City of Gainesville adopted Ordinance No. 000495, which adopted the Urban Services Report setting forth the plans to

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1 provide urban services to that portion of the Reserve Area proposed to be annexed in accordance  
2 with the procedures provided in the Act; and

3         **WHEREAS**, a copy of the Urban Services Report was filed with the Alachua County  
4 Board of County Commissioners; and

5         **WHEREAS**, the City of Gainesville desires to annex a certain portion of its Reserve Area  
6 which is compact and contiguous to the present corporate limits of the City; and

7         **WHEREAS**, pursuant to law, at least ten days notice has been given once by publication in  
8 a newspaper of general circulation notifying the public of this proposed Ordinance and of Public  
9 Hearings to be held in the City Commission meeting room, First Floor, City Hall, in the City of  
10 Gainesville; and

11         **WHEREAS**, Public Hearings were held pursuant to the published notice described above at  
12 which hearings the parties in interest and all others had an opportunity to be and were, in fact,  
13 heard.

14         **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
15 **CITY OF GAINESVILLE, FLORIDA:**

16         **Section 1.** The City Commission finds that the Area described in Section 2 of this  
17 Ordinance (hereinafter referred to as the "Area") is reasonably compact and contiguous to the  
18 present corporate limits of the City of Gainesville, and that no part of the Area is within the  
19 boundary of another municipality or county. The City Commission finds the Area to be within its  
20 Reserve Area and the annexation does not create an enclave. The City Commission finds that part

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1 or all of the Area is developed for urban purposes because it is developed so at least 60% of the  
2 total number of lots and tracts in the area at the time of annexation are used for urban purposes, and  
3 it is subdivided into lots and tracts so that at least 60% of the total acreage, not counting the acreage  
4 used at the time of annexation for nonresidential urban purposes, consists of lots and tracts 5 acres  
5 or less in size.

6 **Section 2.** The following described Area is annexed and incorporated within the corporate  
7 limits of the City of Gainesville, Florida:

8 See Legal Description attached hereto as Exhibit "A", and  
9 made a part hereof as if set forth in full.

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11 **Section 3.** Subject to the provisions of Section 4 of this Ordinance, the corporate limits of  
12 the City of Gainesville, Florida, as set forth in Article 1, Charter Laws of the City of Gainesville,  
13 are amended and revised to include the Area described in Section 2 within the corporate limits of  
14 the City of Gainesville, Florida.

15 **Section 4.** Pursuant to Section 8 of the Act, this Ordinance shall be submitted to a vote of  
16 the registered electors of the Area described in Section 2 of this Ordinance at a special election  
17 called for the purpose of holding the referendum. The referendum election shall be held on  
18 Tuesday, June 19, 2001. The referendum shall be conducted by the Alachua County Supervisor of  
19 Elections "Supervisor" in accordance with the provisions of the Act and Chapter 9, Gainesville  
20 Code of Ordinances, as applicable. The Supervisor is requested and authorized to conduct a mail  
21 ballot election in this referendum in accordance with the provisions of the Mail Ballot Election Act

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1 as codified in Chapter 101, Florida Statutes. The City Manager is authorized and directed to pay all  
2 lawful expenses associated with the election.

3 **Section 5.** The Clerk of the Commission is authorized to publish notice of the referendum  
4 on annexation as prescribed by law.

5 **Section 6.** Pursuant to Section 8 of the Act, the language to appear on the ballot of the  
6 referendum election called in Section 4 shall be:

7 "For annexation of property described in Ordinance Number \_\_\_\_ of  
8 the City of Gainesville"

9  
10 "Against annexation of property described in Ordinance Number \_\_\_\_  
11 of the City of Gainesville"

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13 **Section 7.** In accordance with Section 171.062, Florida Statutes, the Alachua County land  
14 use plan and zoning or subdivision regulations shall remain in full force and effect in the Area  
15 described in Section 2 of this Ordinance until the City adopts a comprehensive plan amendment  
16 that includes the annexed area. The Gainesville Code Enforcement Board and code enforcement  
17 officers shall have jurisdiction to enforce these regulations during the interim period through the  
18 Gainesville Code Enforcement Board process as described in Division 8 of Chapter 2 of the Code  
19 of Ordinances of the City of Gainesville. During the interim period, the City may rezone properties  
20 in the annexed area to an Alachua County Zoning classification/category that conforms with the  
21 Alachua County Comprehensive Plan.

22 **Section 8.** (a) Except as provided in subsection (b) below, all persons who are lawfully  
23 engaged in any occupation, business, trade or profession within the area described in Section 2 of

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1 this Ordinance as of Tuesday, June 19, 2001, shall have the right to continue such occupation,  
2 business, trade or profession.

3 (b) All persons lawfully engaged in any occupation, business, trade or  
4 profession within the Area described in Section 2 of this Ordinance on or after Tuesday, June 19,  
5 2001, shall obtain an occupational license from the City of Gainesville for the term commencing on  
6 October 1, 2001, which license shall be issued upon payment of the appropriate fee in accordance  
7 with the Gainesville Code of Ordinances in effect on October 1, 2001.

8 **Section 9.** If any portion of this Ordinance is declared by a court of competent jurisdiction  
9 to be invalid or unenforceable, such declaration shall not be deemed to affect the remaining  
10 portions of this Ordinance.

11 **Section 10.** The Clerk of the Commission is directed to submit a certified copy of this  
12 Ordinance to: 1) the Executive Office of the Governor; 2) the Florida Department of State; and 3)  
13 the Clerk of the Circuit Court of the Eighth Judicial Circuit in and for Alachua County, Florida.

14 **Section 11.** Sections 1, 4, 5, 6, 8, 9, 10 and 11 of this Ordinance shall become effective  
15 immediately upon adoption. Sections 2, 3 and 7 shall become effective at 12:01 a.m. on June 20,  
16 2001, unless there is a tie vote or majority vote against the annexation at the special election called

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1 in Section 4 of this Ordinance.

2 **PASSED AND ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2001.

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Paula M. DeLaney, Mayor

10 **ATTEST:**

Approved as to form and legality

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\_\_\_\_\_  
KURT LANNON,  
CLERK OF THE COMMISSION

\_\_\_\_\_  
MARION J. RADSON,  
CITY ATTORNEY

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This Ordinance passed on first reading this \_\_\_ day of \_\_\_\_\_, 2001.

This Ordinance passed on second reading this \_\_\_ day of \_\_\_\_\_, 2001.



**EXHIBIT "A"**

For a Point of Beginning commence at the existing city limit at the intersection of the east right of way line of NW 51<sup>st</sup> Street and the south line of the north 1,029.87 feet of the southeast one quarter of Section 22, Township 9 South, Range 19 East, of Alachua County, Florida, said point also being the southwest corner of current tax parcel No. 6061; thence leaving said existing city limit, run Northerly, along said east right of way and the west line of said tax parcel a distance of approximately 1,029.87 feet to the existing city limit at the northwest corner of the southeast one quarter of said Section 22; thence along the perimeter of the existing city limit the following courses: East, leaving said right of way, along the north line of said southeast one quarter of Section 22 to the northwest corner of "Rustlewood", a subdivision as recorded in Plat Book "K", page 52 of the public records of Alachua County, Florida, said point also being the southwest corner of a drainage easement; thence along the perimeter of said drainage easement the following courses: North, perpendicular to and leaving said north line of the southeast one quarter of Section 22, a distance of 50 feet; thence East along the north line of the south 50 feet of the northeast one quarter of said Section 22 to a point of intersection in an easterly and northerly direction with a drainage right of way; thence leaving said north line of the south 50 feet, along the perimeter of said drainage right of way, the following courses: North, along the west boundary of said drainage right of way a distance of approximately 143.13 feet to a point of intersection in a northerly and easterly direction of said drainage right of way; thence East along the northerly boundary of said drainage right of way to a point on the westerly right of way line of NW 43<sup>rd</sup> Street; thence South, along said westerly right of way of NW 43<sup>rd</sup> Street, a distance of approximately 193.14 feet to the southeast corner of the northeast one quarter of said Section 22, Township 9 South, Range 19 East, said point also being the southeast corner of said drainage right of way and the northeast corner of said Rustlewood subdivision; thence South, leaving said drainage right of way and continuing along the westerly right of way line of said NW 43<sup>rd</sup> Street to its intersection with the south line of the north 628.58 feet of the south 2,003.02 feet of the east one half of the southeast one quarter of said Section 22, said line also being the

southerly boundary line of current tax parcel No. 6064-3; thence West, leaving said westerly right of way line, along said south line of the north 628.58 feet, also being the southerly boundary of said tax parcel 6064-3 to the southwest corner of the north 628.58 feet of the south 2,003.02 feet of the east one half of said southeast one quarter, also being the southwest corner of said tax parcel 6064-3; thence North along the westerly line of said east one half, also being the west line of said tax parcel 6064-3, to its intersection with the south line of the north 1,029.87 feet of the southeast one quarter of said Section 22, also being the south boundary line of said current tax parcel No. 6061; thence West along the south line of said north 1,029.87 feet, also being the south line of said tax parcel, to its intersection with the east right of way line of NW 51<sup>st</sup> Street at the existing city limit, said intersection also being the Point of Beginning.