

LEGISTAR NO.

110309-A



MEMORANDUM

Office of the City Attorney

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

TO: Mayor and City Commission

DATE: October 6, 2011

FROM: Marion J. Radson, City Attorney

FIRST READING

SUBJECT: Ordinance No. 110309

An ordinance of the City of Gainesville, Florida, setting the dates for qualifying for the 2012 regular election; providing a severability clause; providing a preemption clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

The City Commission, at its meeting of September 15, 2011, authorized the City Attorney's Office to draft an ordinance setting the qualifying dates for the 2012 City Commission regular election.

On June 16, 2011, the City Commission adopted an ordinance setting the 2012 City Commission regular election date for January 31, 2012, the date currently set for the presidential preference primary. Florida law permits a municipality to move the date of any municipal election to a date concurrent with a state or federal election notwithstanding any charter or ordinance provisions to the contrary. The statute requires, however, that the names to appear on the ballot in the presidential preference primary will be furnished to the Supervisor of Elections offices "no later than the third Tuesday after the first Monday in November of the year preceding the presidential preference primary". The Supervisor of Elections notified the City that she will need the names no later than November 22, 2011. For this reason, the qualifying dates will need to be set as described above.

Prepared by:

Elizabeth A. Waratuke
Litigation Attorney

Submitted by:

Marion J. Radson
City Attorney

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ORDINANCE NO. 110309

An ordinance of the City of Gainesville, Florida, setting the dates for qualifying for the 2012 regular election; providing a severability clause; providing a preemption clause; and providing an immediate effective date.

WHEREAS, pursuant to Section 9-2(b) of the Code of Ordinances the City Commission adopted Ordinance No. 100928 on June 16, 2011 setting the 2012 regular election dates; and

WHEREAS, Florida Statutes Section 103.101(3) provides that the names to appear on the ballot in the presidential preference primary will be furnished to the Supervisor of Elections offices “no later than the third Tuesday after the first Monday in November of the year preceding the presidential preference primary”; 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 a Public Hearing in the Auditorium of City Hall in the City of Gainesville; and

WHEREAS, a Public Hearing was held pursuant to the published notice described at which hearing 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. The 2012 regular election for the City of Gainesville is currently scheduled to be held on January 31, 2012; and, pursuant to Section 9-2(a) of the Code of Ordinances, the date of the run-off election, if necessary, is scheduled to be held on February 28, 2012.

1 **Section 2.** The qualifying dates for any person who meets the eligibility
2 requirements described in Article II of the City Charter and Section 9-10 of the Code of
3 Ordinances to become a candidate in 2012 for a seat on the City Commission by filing the
4 necessary qualifying papers with the supervisor of elections shall run from noon on
5 Monday, November 14, 2011 to noon on Friday, November 18, 2011. To the extent that
6 the qualifying dates for the 2012 general election set forth herein conflict with the
7 requirements of Section 9-10 of the Code of Ordinances, the qualifying dates set forth
8 herein shall govern and control for the 2012 general election.

9 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be
10 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall
11 in no way affect the validity of the remaining portions of this ordinance.

12 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are, to the
13 extent of such conflict, hereby preempted by this ordinance.
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