

Ordinance No. 970592
0-98-04

An ordinance of the City of Gainesville, Florida, amending Division 5 of the Gainesville Code of Ordinances, the Employees Pension Plan; amending section 2-521 of the Code relating to the definitions; amending section 2-524(b)(1) of the Code relating to member contributions; amending section 2-526 of the Code relating to benefits; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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 City Commission Meeting Room, First Floor, 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. Section 2-521, definition of *Actuarial equivalent*, of the Code of Ordinances is amended to read as follows:

Sec. 2-521. Definitions.

Actuarial equivalent shall mean a benefit of equal value or equal cost when computed ~~on the basis of such interest rates, mortality, and other actuarial tables as are in effect in the plan.~~ based on the 1994 Group Annuity Mortality Basic Table Unisex 50/50

1 and an interest rate of 9.5% except as otherwise specified in section 2-526. This table and
2 interest rate are used exclusively for calculation of actuarial equivalencies for optional
3 forms of benefit.

4
5 **Section 2.** Section 2-521, definition of *Earnings*, of the Code of Ordinances is amended
6 to read as follows:

7 **Sec. 2-521. Definitions.**

8 *Earnings* shall mean only base pay, (which shall include all paid leaves), all
9 overtime pay (which shall include time paid at time-and-a-half, double-time, and double-
10 time-and-a-half), stand-by pay, call-back pay, working out of classification pay, acting out
11 of classification pay, longevity pay, Christmas bonus, firefighter certification pay,
12 firefighters educational incentive pay, police officer incentive pay, special assignment pay,
13 and termination vacation pay, except as may be otherwise expressly provided for herein or
14 in Collective Bargaining Agreements. Effective October 1, 1996, earnings in excess of
15 \$150,000 annually shall be disregarded for all purposes of this plan. As of January 1 of
16 each calendar year, the dollar limitation as determined by the Commissioner of Internal
17 Revenue for that calendar year will become effective for the plan year commencing
18 thereafter in lieu of the dollar limitation provided in the preceding sentence. For an
19 employee who became a member of the plan prior to October 1, 1996, this limitation shall
20 not be applicable.

1 **Section 3.** Section 2-521, definition of *Permanent*, of the Code of Ordinances is amended
2 to read as follows:

3 **Sec. 2-521. Definitions.**

4 *Permanent or regular employee* shall mean an employee ~~of the city who works at~~
5 ~~least 20 hours per week on a continuous basis, 52 weeks per year~~ appointed to an
6 authorized and budgeted position on a regular and continuous basis.

7

8 **Section 4.** Section 2-521, definition of Plan year, of the Code of Ordinances is created to
9 read as follows:

10 **Sec. 2-521. Definitions.**

11 Plan year shall mean a twelve-month period beginning on October first and ending
12 on September thirtieth.

13

14 **Section 5.** Section 2-524(b)(1) of the Code of Ordinances is amended to read as follows:

15 **Sec. 2-524. Contributions and funding.**

16 (b) *Member contributions.*

17 (1) From the first complete payroll period after July 1, 1985, members (except
18 limited participants) shall contribute that amount necessary to fully fund the cost of
19 the plan attributable to the plan changes described in this division. Initially, the
20 amount so contributed shall be three and ninety-seven hundredths (3.97) percent of
21 the member's gross pay. Such amount shall be modified, without negotiation, in
22 conformance with actuarial valuations determining the member contribution rate

1 necessary to continue to fully fund the plan changes set forth in this division. An
2 actuarial valuation regarding the aforementioned contribution rate shall be obtained
3 at least as of September 30, 1986, and at least every two years thereafter. Any
4 changes in member contributions required as a result of such valuations shall
5 become effective as determined by the city. The opinion of the city's consulting
6 actuary regarding the required contributions shall be final. Effective January 1,
7 1998, the contributions made by each member to the plan shall be designated as
8 employer contributions pursuant to Section 414(h) of the Internal Revenue Code
9 of 1986. Such designation is contingent upon the contributions being excluded
10 from the member's gross income for Federal Income Tax purposes. For all other
11 purposes of the plan, such contributions shall be considered to be member
12 contributions.

13
14 **Section 6.** Section 2-526(a)(3) of the Code of Ordinances is amended to read as follows:

15 **Sec. 2-526. Benefits.**

16 (a) *Eligibility for service retirement.*

17
18 (3) *Termination of employment.* A member whose employment with the city
19 terminates prior to the completion of at least five years of credited service, for any
20 reason, shall not be entitled to any benefits under the plan; provided however, that
21 amounts contributed by members shall be paid without interest to the member or,
22 as applicable, the member's beneficiary. A member whose employment with the
23 city terminates after the completion of at least five years of credited service, but

1 prior to retirement, shall be entitled to a termination benefit, or, if applicable,
2 return of contributions in accordance with subsections (e) and (f). Payment of the
3 termination benefit shall be governed by the following provisions of this section.

4 a. Benefit amount. A member who is entitled to a termination benefit
5 shall receive a monthly annuity equal to his/her accrued benefit, except as provided
6 in subsection (j), determined as of his/her date of termination.

7 b. Benefit commencement date. The benefit commencement date of a
8 member with at least five years' credited service but less than 20 years' credited
9 service shall be the first day of the month after the member has attained age 65.

10 c. Benefit payments. The termination benefits shall be payable on the
11 first day of each month. The first payment shall be made on the benefit
12 commencement date, and benefits shall be payable thereafter according to the
13 terms of the accrued benefit for the member's lifetime. A member may modify the
14 amount and conditions of payment described in this section by electing an annuity
15 option in accordance with the optional forms of benefit section, in which event the
16 termination benefit shall be paid in accordance with the terms of such option.

17 d. Benefit forfeitures. That portion of a terminated member's benefit
18 that is not vested shall be forfeited and used only to reduce future costs of the plan,
19 provided however that amounts contributed by such a terminated member shall be
20 paid without interest to the member or, as applicable, the members beneficiary.

21
22

1 **Section 7.** Section 2-526(a)(4) of the Code of Ordinances is created to read as follows:

2 **Sec. 2-526. Benefits.**

3 (a) Eligibility for service retirement.

4

5 (4) *Delayed retirement.* A member of the plan may continue in employment to
6 a date after eligibility for normal retirement. In such event, the member upon
7 termination of employment shall be entitled to and shall be paid an annuity
8 calculated in accordance with subsection (b).

9

10 **Section 8.** Section 2-526(b) is amended to read as follows:

11 **Sec. 2-526. Benefits.**

12 (b) *Service retirement pension.* In the event of normal retirement or early retirement
13 or delayed retirement the retiring employee shall be entitled to and shall be paid a monthly
14 pension beginning with the month of retirement and continuing until death, except as
15 provided in subsection (j), and subsection (g) of section 2-523. The amount of the monthly
16 pension to which a retired employee will be entitled will be equal to two percent of the
17 employee's final average earnings multiplied by the number of years of credited service
18 divided by 12, except as provided in subsection (j), and subsection (g) of section 2-523.

19

20 **Section 9.** Section 2-526(j) is amended to read as follows:

21 **Sec. 526. Benefits.**

22 (j) *Annuity options.* Upon a member becoming eligible to receive an annuity he/she
23 may elect to receive annuity benefits payable under the plan in the form of a joint survivor

1 annuity instead of a normal annuity form, which shall be the actuarial equivalent of the
2 annuity he/she would receive under the normal form. If any member who has a spouse at
3 his/her benefit commencement date fails to make such an election it will be assumed that
4 he/she elected option A below with his/her spouse as the beneficiary and if the member
5 does not have a spouse at his/her benefit commencement date, that the member elected the
6 normal form.

7 (1) Option A--Joint annuity option. A reduced monthly annuity benefit which
8 shall be payable during the joint lifetime of the member and his/her beneficiary, with two-
9 thirds of such reduced annuity amount continuing after the death of the member during the
10 lifetime of the beneficiary. If the beneficiary predeceases the member, 100 percent of the
11 reduced benefit will continue to be received by the member.

12 (2) Option B--Joint and last survivor annuity option. A reduced monthly
13 annuity benefit which shall be payable during the joint lifetime of the member and his/her
14 beneficiary, with two-thirds of such reduced benefit amount continuing automatically after
15 the death of either the member or his/her beneficiary, payable for the lifetime of the
16 survivor.

17 The election of either joint survivor option (for an unmarried member), or the
18 election of option B or the normal form (by a married member) must be requested by the
19 member at least three months prior to the date of benefit commencement. Such election, if
20 made, may not be changed by the member within three months prior to the date of benefit
21 commencement. The election of a joint survivor option shall be deemed automatically
22 canceled at the death of the proposed beneficiary prior to the member's benefit

1 commencement date. Provided, however, anything otherwise contained in this section or
2 any other section of this division to the contrary notwithstanding, a member receiving an
3 annuity may change his/her option after benefit commencement either from an annuity
4 option or to an annuity option in the event of (1) a divorce or legal separation, when the
5 same has been considered and approved by the court granting same as a part of the
6 settlement; or (2) the marriage of an unmarried employee who becomes married after the
7 date of benefit commencement. Such change shall be effective no sooner than three
8 months after the filing of a written election to effect such change with the personnel
9 department. The benefits paid under such changed annuity shall be the actuarial equivalent
10 to the remaining value of the former annuity determined as of the date of the benefit
11 change.

12 ~~No option may be elected or approved unless the distribution is for a term not~~
13 ~~exceeding the life (lives) of the member, or the member and his/her spouse, if applicable,~~
14 ~~measured as of the benefit commencement date, or if the beneficiary is not the member's~~
15 ~~spouse over the life expectancy of the member, or the life expectancies of the member and~~
16 ~~his/her spouse, if applicable.~~

17

18 **Section 10.** Sections 2-526(l), (m) and (n) are created to read as follows:

19 **Sec. 526. Benefits.**

20 (l) Maximum benefit limitation.

21 (1) The maximum annual benefit payable under the plan shall be limited to
22 \$90,000, subject to adjustment for increases in the cost of living in accordance

1 with the following sentence. As of the first day of January of each calendar year,
2 the maximum dollar limitation shall be adjusted automatically to an amount
3 determined by the Commissioner of the Internal Revenue Service effective for that
4 calendar year and shall apply only to that calendar year.

5 Retirees in payment status whose benefits were limited in any year by the
6 application of this limitation shall have their benefits adjusted automatically in
7 subsequent years to take into account the then current dollar limit.

8 (2) In the event a member has earned a benefit which during a previous
9 limitation year has met all the requirements of Section 415 of the Internal Revenue
10 Code (IRC), and if the member's accrued benefit exceeds the limitation of IRC 415
11 for the current limitation year, the member's maximum annual benefit, as described
12 in subsection (1) of this section, shall not be less than the accrued benefit allowable
13 under such previous limitation year.

14 (3) If the retirement benefit is payable in a form other than a straight-life
15 annuity or a joint-and-survivor annuity with the spouse as joint annuitant, the
16 annual benefit limitation in any year shall be the actuarial equivalent (as defined in
17 subsection (6) of this section) of the maximum annual benefit for that year (payable
18 in the form of a straight-life annuity), as described above.

19 (4) In the event payment of a retirement benefit under the plan to a member
20 commences prior to the date the member attains age 62, the maximum annual
21 benefit limitation shall be adjusted to be not more than the actuarial equivalent (as
22 defined in subsection (6) of this section) of the then current dollar limit assumed to

1 commence at age 62 for the purpose of applying the benefit limit described in
2 subsection (1) of this section.

3 For years subsequent to the payment commencement year, benefits payable shall
4 be limited to the actuarial equivalent (as defined in subsection (6) of this section),
5 determined as of the benefit commencement date, of the subsequent year's dollar
6 limit assumed to commence at age 62 (or the then current age if greater).

7 Adjustments described in this subsection (4) shall not reduce the maximum
8 annual benefit below \$75,000, if the retirement benefit commences on or after
9 attainment of age 55, or if the benefit commences before age 55, the actuarial
10 equivalent of the \$75,000 limitation for age 55.

11 (5) In the event payment of a retirement benefit under the plan to a member
12 commences after the date the member attains age 65, the maximum benefit
13 limitation shall be adjusted to be not more than the actuarial equivalent (as defined
14 in subsection (6) of this section) of the then current dollar limit commencing at age
15 65 for the purpose of applying the benefit limit described in subsection (1) of this
16 section.

17 For years subsequent to the payment commencement year, benefits payable shall
18 be limited to the actuarial equivalent determined as of the benefit commencement
19 date, of the subsequent year's dollar limit assumed to commence at age 65.

20 (6) For the purpose of adjusting benefits in accordance with this section,
21 actuarial equivalent shall be determined using the 1983 Group Annuity Mortality
22 Table (50/50 Unisex) and an interest rate of 5% for adjustments under subsections

1 (3), (4) and (5) of this section. For adjustment under subsections (3), (4) and (5),
2 no cost-of-living adjustment shall be taken into account before the year for which
3 such adjustment first takes effect.

4 (7) If a retirement benefit is payable to a member who has less than 10 years of
5 plan participation, the limitation described in subsection (1) of this section shall be
6 multiplied by a fraction, the numerator of which is the member's years of plan
7 participation and the denominator of which is 10.

8 (8) If the City maintains a tax-qualified, defined contribution plan covering the
9 same member, the total of such member's "Defined Contribution Fraction" and his
10 "Defined Benefit Fraction" (both as defined in Internal Revenue Code Section 415)
11 at the end of any limitation year shall not exceed 1.0. If a reduction in a member's
12 benefits is required so that the sum of the two fractions described above will not
13 exceed 1.0, the numerator of the "Defined Benefit Fraction" shall be adjusted
14 downward sufficiently to insure that the two-plan limitation described above is not
15 exceeded. This limitation shall not be applicable for years beginning on and after
16 January 1, 2000.

17 (m) *Distribution rules.* Notwithstanding any other provision of this plan to the
18 contrary, a form of retirement income payable from this plan after November 24, 1997,
19 shall satisfy the following conditions:

20 (1) If any retirement income is payable before the member's death:

21 a. It shall either be distributed or commence to the member not later
22 than April 1 of the calendar year following the later of the calendar year in

1 which the member attains age seventy and one-half (70-1/2) years or the
2 calendar year in which he retires.

3 b. The distribution shall commence not later than the calendar year
4 defined in paragraph a. above and (1) shall be paid over the life of the
5 member or over the lifetimes of the member and his spouse, issue or
6 dependent, or (2) shall be paid over the period extending not beyond the
7 life expectancy of the member and his spouse, issue or dependent.

8 Where a form of retirement income payment has commenced in
9 accordance with the preceding paragraphs and the member dies before his
10 entire interest in the plan has been distributed, the remaining portion of
11 such interest in the plan shall be distributed no less rapidly than under the
12 form of distribution in effect at the time of the member's death.

13 (2) If the member's death occurs before the distribution of his interest in the
14 plan has commenced, his entire interest in the plan shall be distributed within five
15 years of his death, unless it is to be distributed in accordance with the following
16 rules:

17 (a) The member's remaining interest in the plan is payable to his
18 spouse, issue or dependent.

19 (b) The remaining interest is to be distributed over the life of the
20 spouse, issue or dependent or over a period not extending beyond the life
21 expectancy of the spouse, issue or dependent; and

22 (c) Such distribution begins within one year of the member's death

1 unless the member's spouse, issue or dependent shall receive the remaining
2 interest in which case the distribution need not begin before the date on
3 which the member would have attained age seventy and one-half (70-1/2)
4 years, and if the spouse, issue or dependent dies before the distribution to
5 the spouse, issue, or dependent begins, this section shall be applied as if the
6 spouse, issue or dependent were the plan member.

7 (n) Direct transfers of eligible rollover distributions.

8 (1) General. Notwithstanding any provision of the plan to the contrary that
9 would otherwise limit a distributee's election under this section, a distributee may
10 elect, at the time and in the manner prescribed by the board, to have any portion of
11 an eligible rollover paid directly to an eligible retirement plan specified by the
12 distributee in a direct rollover.

13 (2) Definitions.

14 a. Eligible rollover distribution. An eligible rollover distribution is any
15 distribution of all or any portion of the balance to the credit of the
16 distributee, except that an eligible rollover distribution does not include:
17 any distribution that is one of a series of substantially equal periodic
18 payments (not less frequently than annually) made for life (or life
19 expectancy) of the distributee, or the joint lives (or joint life expectancies
20 of the distributee and the distributee's designated beneficiary, or for a
21 specified period of ten (10) years or more; any distribution to the extent
22 such distribution is required under section 401(a)(9) of the Internal

1 Revenue Code; and the portion of any distribution that is not includable in
2 gross income, i.e., member contributions made prior to 1998.

3 b. Eligible retirement plan. An eligible retirement plan is an individual
4 retirement account described in section 408(a) of the Internal Revenue
5 Code, an individual retirement annuity described in section 408(b) of the
6 Internal Revenue Code, an annuity plan described in section 403(a) of the
7 Internal Revenue Code, or a qualified trust described in section 401(a) of
8 the Internal Revenue Code, that accepts the distributee's eligible rollover
9 distribution. However, in the case of an eligible rollover distribution of the
10 surviving spouse, an eligible retirement plan is an individual retirement
11 account or individual retirement annuity.

12 c. Distributee. A distributee includes an employee, or a former
13 employee, or a beneficiary as described in Section 2-526(g) and (h),
14 receiving amounts contributed by the member (before 1/1/98) in excess of
15 retirement benefits, if any, paid.

16 d. Direct rollover. A direct rollover is a payment by the plan to the
17 eligible retirement plan specified by the distributee.

18
19 **Section 11.** If any section, sentence, clause or phrase of this ordinance is held to be
20 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall
21 in no way affect the validity of the remaining portions of this ordinance.
22

1 **Section 12.** All ordinances, or parts of ordinances, in conflict herewith are to the extent
2 of such conflict hereby repealed

3

4 **Section 13.** This ordinance shall become effective immediately upon final adoption.

5

6 **PASSED AND ADOPTED** this 24th day of November, 1997.

7

8

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MAYOR-COMMISSIONER

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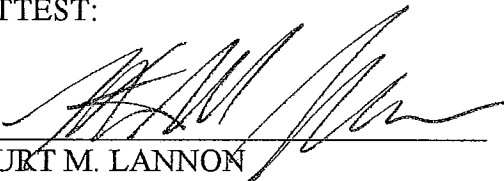
12 ATTEST:

Approved as to form and legality

13

14

15


KURT M. LANNON
CLERK OF THE COMMISSION


MARION J. RADSON
CITY ATTORNEY **NOV 25 1997**

18

19 This Ordinance passed on first reading this 10th day of November, 1997.

20 This Ordinance passed on second reading this 24th day of November, 1997.

**CITY OF GAINESVILLE
GENERAL EMPLOYEES' PENSION PLAN**

Statement of Actuarial Impact

Ordinance Amendments

The City Commission is considering modifications to the Ordinance pertaining to the City of Gainesville General Employees' Pension Plan. The Ordinance would contain the following changes in Plan provisions that differ from those that serve as a basis of the latest actuarial review of the Plan. The Statement of Actuarial Impact measures the impact on the contribution requirements of the Plan of making the proposed changes as described below:

An ordinance of the City of Gainesville, Florida, amending Division 5 of the Gainesville Code of Ordinances, the Employees' Pension Plan; amending section 2-521 of the Code relating to the definitions; amending section 2-524(b)(1) of the Code relating to member contributions; amending section 2-526 of the Code relating to benefits; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

The purpose of these changes is two-fold: first, to update the "qualified" status of the plan through compliance with current Internal Revenue Code ("IRC") as well as ADEA compliance; second, to update and clarify certain other provisions of the plan. Changes include:

- Actuarial Equivalent - Mortality table was updated for use in calculating optional forms of benefit;
- Earnings - Exclusions were clarified and an IRC earnings limit was added;
- Member Contributions - recharacterized as employer contributions per IRC Section 414(h);
- Delayed Retirement provisions have been specified (previously implicit);
- Maximum benefit provisions have been added according to IRC Section 415;
- Distribution commencement rules have been added; and
- Provisions for direct transfer of eligible rollover distributions have been added.

The impact of implementing the changes outlined above, based on the latest actuarial review of the Plan (October 1, 1996), in our opinion, is not significant. Most technical changes have no effect or would serve to slightly reduce ultimate

Plan costs; the cost to change actuarial equivalency is de minimis, and benefit limits have been valued in a way that already takes the change into account.

This Statement of Actuarial Impact has been prepared pursuant to Chapter 112, Section 112.63(3) of Florida Statutes and, in our opinion, the proposed change is in compliance with Part VII, Chapter 112, Florida Statutes, and Section 14, Article X, of the State Constitution.

Date: Oct 22, 1997

By: Michael Tierney
Michael J. Tierney
ASA, MAAA, FCA, EA #93-1337

The proposed change, as described above, was provided to the plan actuary and, to the best of our knowledge and belief, is in compliance with Part VII, Chapter 112, Florida Statutes, and Section 14, Article X, of the State Constitution.

Date: _____

By: _____
City of Gainesville
General Employees' Pension Plan

No 14100

THE GAINESVILLE SUN
Published Daily and Sunday
GAINESVILLE, FLORIDA

STATE OF FLORIDA
COUNTY OF ALACHUA

Before the undersigned authority personally appeared Naomi Williams-Jordan

who on oath says that he/she is Assistant Classified Mgr. of THE GAINESVILLE SUN, a daily newspaper published at Gainesville in Alachua County, Florida, that the attached copy of advertisement, being a Notice of Proposed Enactment of Ordinance

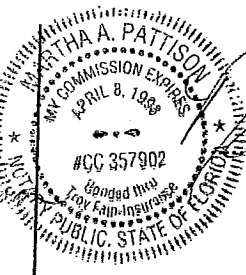
in the matter of

in the Court, was published in said newspaper in the issue of, November 6, 1997

Affiant further says that the said THE GAINESVILLE SUN is a newspaper published at Gainesville, in said Alachua County, Florida, and that the said newspaper has heretofore been continuously published in said Alachua County, each day, and has been entered as second class mail matter at the post office in Gainesville, in said Alachua County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount for publication in the said newspaper.

Sworn to and subscribed before me this

7 day of Nov, A.D., 1997
Martha A. Pattison
(Seal) Notary Public



Naomi Williams-Jordan

NOTICE OF PROPOSED ENACTMENT OF ORDINANCE BY CITY COMMISSION, GAINESVILLE, FLORIDA

Notice is hereby given that the proposed ordinance whose title is hereinafter set forth, will be considered for enactment on the 10th day of November, 1997, at the City Commission meeting starting at 10:00 a.m., or as soon thereafter as may be heard in the City Commission Auditorium, on the First Floor of City Hall, 200 East University Avenue, Gainesville, Florida, and if then adopted, for second reading and adoption on the 24th day of November, 1997. A copy of said ordinance may be inspected by any member of the public at the office of the Clerk of the Commission on the First Floor of City Hall, located at 200 East University Avenue, Gainesville, Florida, and at the Public Library, Main Branch, located at 401 East University Avenue. On both dates mentioned above, interested parties may apply to and be heard with respect to the proposed ordinance(s).

**ORDINANCE TITLE
ORDINANCE NO. 0-98-04**

An ordinance of the City of Gainesville, Florida, amending Code of Ordinance 2-521 of the Code of Ordinances, relating to the definition of "member" and "employee"; amending Code sections 2-526 of the Code of Ordinances relating to the procedure for the awarding of a severability clause; and providing an immediate effective date.

Note: "Be advised that any person who decides to appeal any decision made by the City Commission, its Boards, Committees, Agencies, Authorities, etc., is required to appear in person at such hearing (or hearing(s)), you proceedings, record of such purpose, and that, need to ensure that your verbal record of the proceedings is made, which includes the upon money and evidence to be which the appeal is to be based." (Refer to Florida Statutes 286.0105)

(14100) 11-5

970592

City of Gainesville

Clerk of the Commission

(352) 334-5015

STATE OF FLORIDA

COUNTY OF ALACHUA

I, Clerk of the Commission of the City of Gainesville, Florida, do hereby certify that a true record of Ordinance No. 970592 was made by me in Ordinance Book No. 58 on December 2, 19 97, and further certify that a true copy of said Ordinance was posted in the lobby of the Municipal Building from December 2, 19 97, to January 3, 19 98.



Clerk of the Commission