

Legistar No. 980736

CITY OF GAINESVILLE
Office of the City Attorney

Memorandum

334-5011/Fax 334-2229
Box No. 46

TO: Mayor and City Commission

FROM: Marion J. Radson, City Attorney


DATE: January 11, 1999
~~December 14, 1998~~
~~FIRST READING~~
SECOND READING

SUBJECT: Ordinance No. 0-99-17
An ordinance of the City of Gainesville, Florida, amending chapter 9 of the Code of Ordinances relating to elections; updating the list of precincts in each district to match realignments approved by the Supervisor of Elections; repealing portions of the chapter concerning inspectors and clerks that duplicate state law; updating language on qualifying for office; providing minor modifications to clarify language; permitting absentee ballots to be run through tabulating equipment after polls open on election day; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.


Recommendation: The City Commission adopt the proposed ordinance.

At its meeting of November 9, 1998, the City Commission authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance removing outdated language and precinct information from Chapter 9 of the Code of Ordinances, relating to elections.

Prepared by:


Patricia M. Carter
Assistant City Attorney

Approved and
Submitted by:


Marion J. Radson
City Attorney

MJR:PC:sw

PASSED ON FIRST READING BY A VOTE OF 5-0.

Ordinance No. 0-99-17

An ordinance of the City of Gainesville, Florida, amending chapter 9 of the Code of Ordinances relating to elections; updating the list of precincts in each district to match realignments approved by the Supervisor of Elections; repealing portions of the chapter concerning inspectors and clerks that duplicate state law; updating language on qualifying for office; providing minor modifications to clarify language; permitting absentee ballots to be run through tabulating equipment after polls open on election day; providing directions to the codifier; 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 Auditorium in City Hall, 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. Chapter 9 of the Code of Ordinances of the City of Gainesville is amended to read as follows:

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

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

Sec. 9-1.1. Election districts.

(a) In accordance with section 2.02 of the Charter of the city, the following election districts are hereby established for the purpose of representation upon and election of three members to the city commission:

District No. 1

District No. 1 shall be comprised of the following precincts: Precinct Nos. 13, 16, 19, 23, 25, 28,
29 and 33. ~~39, 29, 33, 16, 25, 19, 28, 13 and 23.~~

District No. 2

District No. 2 shall be comprised of the following precincts: Precinct Nos. 7, 12, 17, 21, 27, 37,
38 and 45. ~~38, 37, 21, 17, 12, 7, 27 and 45.~~

District No. 3

District No. 3 shall be comprised of the following precincts: Precinct Nos. 4, 5, 24, 26, 31, 32
and 40. ~~40, 24, 26, 4, 31, 32, 44 and 5.~~

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 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) Regular elections shall be held in March or April of each year, 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 second Tuesday following the first election between the two
candidates for such district(s), mayoral or at large seat receiving the highest number of votes
cast.

1 (b) The clerk of the commission shall recommend a date for the next regular election to the
2 commission at or before the first regular city commission meeting in May of each year. The city
3 commission shall determine the date and direct an ordinance be drafted and advertised setting the
4 election date of the next regular election. This ordinance shall be adopted no later than July 1 of
5 each year.

6 (c) If for any reason the city commission does not adopt an ordinance setting the date of the
7 next regular election by July 1 of any year, the next regular election shall be held on the third
8 Tuesday in March of the following year.

9 (d) When considering the date of the next election, the city commission may consider factors
10 including, but not limited to,

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

13 (2) The transition time between the election and the start of the terms of
14 office of the new commissioners; and

15 (3) The dates of county-wide or state-wide elections occurring at about the
16 same time.

17 **Sec. 9-3. Designation, elections, runoff elections.**

18 Candidates for the commission shall, at the time of qualifying, designate the district seat or at
19 large seat for which they intend to run. The district candidate receiving a majority of the votes
20 cast in a particular district shall be elected. The at large or mayoral candidate receiving a
21 majority of the votes cast within the city at large shall be elected. In the event no candidate
22 receives a majority of the votes cast in a district or the city at large, as applicable, a runoff
23 election shall be held between the two candidates in such district(s) or at large, as applicable,
24 receiving the highest number of votes cast. The candidate receiving the highest number of votes
25 cast in such runoff election shall be elected. In the case of a tie the candidates shall be selected

1 for the runoff election in the same manner as provided by Florida Statutes ~~in section 100.091,~~
2 ~~Florida Statutes, 1985.~~

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

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

5 (1) When there has been no choice of any city commissioner or the mayor officer
6 who should have been elected at a regular or special ~~general~~ election;

7 (2) When a vacancy exists ~~shall occur~~ in any office due to ~~by~~ resignation, death or
8 otherwise. If any vacancy shall occur less than three months before a regular election, it
9 shall be within the discretion of the city commission to call a special election.

10 (3) When ~~in the discretion of the city commission~~ determines in its sole discretion to
11 submit any question affecting the interest of the city ~~shall arise which might make it~~
12 ~~necessary to submit the question~~ to a vote of the qualified electors of the city; ~~provided,~~
13 ~~in case any vacancy shall occur at a time not more than three months before a regular~~
14 ~~election, it shall be within the discretion of the city commission whether a special~~
15 ~~election be called.~~

16 (b) The special election shall be ordered by the city commission by resolution instructing the
17 ~~mayor-commissioner~~ to issue a his/her proclamation calling the election in the same manner and
18 form as provided for in the case of regular elections.

19 **Sec. 9-5. ~~Mayor-commissioner~~ to issue proclamation; contents; publication.**

20 Thirty days prior to any and all elections for mayor or commissioners the ~~mayor-commissioner~~
21 shall issue a his/her proclamation calling the election. The proclamation shall specify what
22 officers are to be elected, the length of time the officers are to serve and the time and date of
23 holding the election. Such proclamation shall be published once each week for four consecutive
24 weeks in a newspaper of general circulation published in the city.

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

3 The supervisor of elections of Alachua County, Florida, hereinafter referred to as "supervisor," is
4 hereby designated as the registration and qualifying officer for the city. The supervisor shall
5 maintain the registration records of city electors as provided in the general law of the state. The
6 supervisor is also designated as the official in charge of all administrative duties pertaining to
7 city elections. The city shall reimburse the supervisor, in accordance with the agreement between
8 the city and the supervisor, for the cost of conducting the elections.

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

11 The supervisor shall appoint the necessary clerks and inspectors for the conduct of the election.

12 The clerks and inspectors shall have the rights, duties and responsibilities provided in chapter
13 102, F.S. who shall open the polls of the election at 7:00 a.m. on the morning of the election and
14 ~~shall keep the polls open until 7:00 p.m. of the election day. If for any reason any clerk or~~
15 ~~inspector is not present or able to serve at the polls, the supervisor shall appoint a replacement.~~
16 ~~No elector who cannot read and write the English language shall be appointed or chosen clerk or~~
17 ~~inspector of any election.~~

18 ~~Sec. 9-8. Oath of inspectors and clerks.~~

19 ~~The inspectors and clerks shall take and subscribe an oath or affirmation, which shall be written~~
20 ~~or printed, to the effect that they will perform the duties of inspectors and clerks of the election~~
21 ~~according to law, and will endeavor to prevent all fraud, deceit or abuse in conducting the same.~~
22 ~~The oaths may be taken before an officer authorized to administer oaths, or before either of the~~
23 ~~persons who are to act as inspectors and clerks; one of them swear the others and one of the~~
24 ~~others thus sworn in turn to administer the oath to him/her who has not been sworn. The oaths~~
25 ~~shall be returned with the returns of the election to the supervisor.~~

1 ~~Sec. 9-9. — Clerks to be chairpersons of election boards; decision of majority to decide~~
2 ~~questions.~~

3 ~~The clerks at the respective polling places of the election shall be the chairperson of their boards.~~

4 ~~In any and all questions that may arise before the inspectors and clerks at any polling places of~~
5 ~~the election, the decision of the majority of them shall decide the question.~~

6 ~~Sec. 9-10. — Election officials to maintain order.~~

7 ~~The inspectors and clerks shall possess full authority to maintain good order at the polls and to~~
8 ~~enforce obedience to their lawful commands during an election, the canvass and estimate of the~~
9 ~~votes.~~

10 **Sec. 9-11. Qualifications of candidates for city commission; campaign finance reports.**

11 (a) Any person who meets the eligibility requirements described in Article II of the Charter
12 may become a candidate for the office of mayor or city commissioner of the city by filing the
13 necessary qualifying papers as provided in Florida Statutes with ~~taking an oath before the~~
14 supervisor, at any time after noon of the first day for qualifying which shall be the fiftieth day
15 prior to the day of the election, but not later than noon of the 46th day prior to the day of the
16 election, ~~that the person possesses the qualifications to become a candidate for such office and~~
17 ~~designating the district seat or at large seat for which the candidate will run.~~ Provided, however,
18 as a condition precedent to having his/her name printed on the ballot for such election such
19 person shall pay to the supervisor the election assessment imposed by F.S. § 99.093(1), or be
20 exempted from such payment of assessment pursuant to the provisions of F.S. § 99.093(2). Any
21 person who is seeking election as a write-in candidate shall not be required to pay a filing fee or
22 submit a petition. A write-in candidate shall not be entitled to have his/her name printed on any
23 ballot; however, space for his/her name to be written in shall be provided on the ballot. No
24 person may qualify as a write-in candidate if the person has also otherwise qualified for

1 ~~county canvassing board to be used, is are~~ as follows: The ~~mayor chair of the city commission,~~
2 the ~~mayor chair~~ pro tempore of the city commission, and the clerk of the commission.

3 (2) If any member of the board of canvassers is a candidate in the election to be canvassed
4 and is not running uncontested, the ~~mayor chair of the city commission~~ shall appoint another
5 member of the city commission who is not a candidate in the election to replace that member of
6 the board of canvassers.

7 (3) The ~~mayor chair of the city commission~~ shall have authority to designate an additional
8 city commissioner, or commissioners, to serve as a member of the board of canvassers in the
9 absence of any member of the said board.

10 (4) The ~~mayor chair of the city commission~~ or the appointed replacement of the ~~mayor chair~~
11 shall serve as the chair of the board of canvassers.

12 (b) Powers and duties. The board may begin the canvassing of absentee ballots ~~at on~~ or after
13 7:00 a.m. on the fourth day before the election, but shall begin not later than noon on the day
14 following the election; however, the counting of votes on absentee ballots shall begin no earlier
15 than 7:00 p.m. on the day of the election. In addition, whenever electronic tabulating equipment
16 is used, the processing of absentee ballots through such tabulating equipment may begin upon the
17 opening of the polls on election day. However, notwithstanding any such authorization to begin
18 canvassing or otherwise processing absentee ballots early, no result or tabulation of absentee
19 ballots shall be made until after the close of the polls on election day. The board shall canvass
20 the election returns of the inspectors and clerks of the election and the absent electors' ballots to
21 declare the result of the election. In the event it may be necessary in order to come to a proper
22 decision, the board shall have the power to examine witnesses and to take testimony.

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

24 The supervisor shall certify the total number of voted ballots to the board of canvassers on a
25 composite form of certificate to be used by the board of canvassers which shall provide for the

1 entry of the number of votes for each candidate and upon each question cast at the several polling
2 places in the city, and for the entry of the number of votes for each candidate or upon each
3 question cast by absentee voters' ballots, and for the total number of votes cast for each candidate
4 or upon each question. Such certificate shall be signed in duplicate by each member of the board
5 of canvassers present at the time the canvass of the election was made; one copy of such
6 certificate shall be incorporated in the minutes of the next regular meeting of the city commission
7 following the canvass of the election and the other copy of the certificate shall be publicly posted
8 at the city hall.

9 **~~Sec. 9-15. — Violations.~~**

10 ~~Unless otherwise provided in this chapter, any person violating any of the provisions of this~~
11 ~~chapter shall be subject to the penalties of section 1-9.~~

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

14 (a) Any petition form proposing an amendment to the Charter of the City of Gainesville
15 shall be submitted to the supervisor of elections for approval as to format prior to the petition
16 being circulated for signatures. Such submission shall be in writing and shall include a copy or a
17 facsimile of the petition form proposed to be circulated. The supervisor of elections shall review
18 the form as to the sufficiency of the format only and render a decision. No review of the legal
19 sufficiency of the text of the proposed charter amendment is to be undertaken by the supervisor
20 of elections.

21 (b) The ~~beginning date of any petition drive shall~~ start on ~~commence upon~~ the date of
22 approval by the supervisor of elections of the ~~as to~~ form of the petition and ~~said drive~~ shall
23 terminate 90 days after that date, not counting the date of the approval. In the event sufficient
24 signatures are not acquired during that 90-day period, the petition initiative shall be rendered null

1 and void and none of the signatures may be carried over ~~on~~ to another ~~identical or similar~~
2 petition.

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

4 (a) A petition proposing a charter amendment shall be circulated for signatures only if the
5 format of the petition is deemed sufficient by the supervisor of elections. To be sufficient, the
6 petition form must be printed on separate cards or individual sheets of paper. The minimum size
7 of such forms shall be ~~three inches by five inches (3" X 5")~~, and the maximum size shall be ~~eight~~
8 ~~and one-half inches by eleven inches (8 1/2" X 11")~~; as measured at the outer boundary of the
9 form. ~~The petition form's size shall be computed by utilizing the outer boundary of the form.~~

10 Additional material may be attached; however, when detached, the petition must be consistent
11 with the dimensions and content of the form approved by the supervisor of elections. Each form
12 shall contain space for only one elector's signature. Forms providing for multiple signatures shall
13 not be approved by the supervisor of elections.

14 (b) The top of the petition form shall be clearly and conspicuously entitled "Charter
15 Amendment Petition Form" followed by "I, the undersigned, a registered voter of the City of
16 Gainesville, hereby petition pursuant to Section 5.01 of the Charter of the City of Gainesville and
17 Chapter 9 of the City of Gainesville Code of Ordinances, to have the following proposed
18 amendment to the Charter of the City of Gainesville submitted to a vote of the electors at a
19 regular city election, a state-wide general election, or at a special election called by the City
20 Commission for the City of Gainesville for that purpose." The petition form shall conspicuously
21 contain the full text of the amendment being proposed which shall be presented in a legislative
22 strike-through(delete)/underline(addition) format. Should the text be required to be printed on
23 both sides of the form, it shall clearly indicate that the text is continued or begins on the other
24 side. The petition form shall conclude with adequate space for the signer's ~~signee's~~ printed name,
25 residence street address, city, precinct number, date signed, and signature. Additional materials

1 supporting the proposed amendment, or providing a method by which the petition form may be
2 returned by mail to the sponsors, may be attached to the form. The supervisor of elections shall
3 not review the ~~accuracy or content~~ context of such material.

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

6 (d) Petition forms may be reproduced in newspapers, magazines, and other forms of printed
7 mass media, provided such forms are reproduced in the same dimensions and format as approved
8 by the supervisor of elections. The petition forms may be included within a larger advertisement,
9 provided the forms are clearly defined by a solid- or broken-line border of ~~are consistent with~~ the
10 approved dimensions and format. Forms included within a larger advertisement must be , and are
11 removed from the larger advertisement prior to being submitted to the supervisor of elections
12 ~~submission~~ for signature verification and counting.

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

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

17 The person or organization sponsoring the petition shall submit signed and dated petition forms
18 on or before the expiration of the 90-day period, and upon submission pay all fees as required by
19 F.S. § 99.097. The supervisor of elections shall verify the signatures on the submitted approved
20 petition forms in accordance with the provisions of F.S. § 99.097 to determine whether or not ten
21 percent of the registered voters of the city as of the last preceding municipal regular election
22 have petitioned for an amendment to the city charter. The supervisor of elections shall within 45
23 days of submission (not including the day of submittal) verify the signatures thereon and certify
24 to the city commission whether or not the requisite number of signatures has been verified. If the
25 supervisor of elections certifies that the requisite number of signatures were verified, the city

1 commission shall place the proposed amendment on the ballot of either the next state-wide
2 general election, as defined in F.S. § 100.131, or the next City of Gainesville regular election,
3 whichever first occurs on or after 135 days from the day all the petition forms were submitted to
4 the supervisor of elections (not counting the day of the submittal). Alternatively, the city
5 commission may at its discretion place the proposed amendment before the electors at a special
6 election called for the purpose. This special election shall not be held earlier than 90 days
7 following the date of the supervisor's certification, not counting the date of the certification.

8 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of this
9 Ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville,
10 Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered
11 in order to accomplish such intentions.

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

15 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of such
16 conflict hereby repealed.

17 **Section 5.** This ordinance shall be effective immediately upon final adoption.

18
19 **PASSED AND ADOPTED** this _____ day of _____, 1999.
20
21

22
23 _____
24 PAULA M. DeLANEY
25 MAYOR
26

27 ATTEST:

Approved as to form and legality

28
29
30
31 _____
32 KURT M. LANNON
CLERK OF THE COMMISSION

31 _____
MARION J. RADSON
CITY ATTORNEY

- 1 This Ordinance passed on first reading this _____ day of _____, 1998.
- 2 This Ordinance passed on second reading this _____ day of _____, 1999.
- 3
- 4 carter:ordinances:0-99-17 election code

nomination or election to such office. All write-in candidates must submit their qualifying paperwork to the supervisor by the end of the qualifying period set out above.

(b) Reports of all contributions received, and all expenditures made, as described in F.S. § 106.07(1)(a), shall be filed on the thirty-second, eighteenth and fourth days immediately preceding the regular or special election, and, if a run-off is required, on the fourth day immediately preceding the run-off election.

Sec. 9-12. Ballots; contents.

The names of all qualified candidates for election to the city commission, except for write-in candidates, shall be placed upon the ballot as a candidate for a particular district, or at large, as the case may be. However, when there is only one qualified candidate for an office, the name of the candidate shall not be printed on the election ballot, and such candidate shall be deemed to have voted for himself/herself and be declared elected to the office. Each district, mayoral or at large seat shall be clearly separated and the candidates' names for each office shall be listed in alphabetical order according to surnames; provided, no person's name shall be printed on the ballot if that person notifies the supervisor not less than 42 days prior to the election that he/she will not accept the nomination. The supervisor of elections may use discretion and allow a candidate to withdraw after the 42nd day before an election upon receipt of written notice, sworn under oath, that the candidate will not accept the nomination or office for which he/she qualified.

Sec. 9-13. Qualifications of electors.

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

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

(a) Composition.

(1) The board of canvassers for all elections held for election of city commissioners or mayor and for questions submitted to a vote of the people, except when state law requires the

