



**MEMORANDUM**  
**Office of the City Attorney**

Legistar No.: 021198

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

**SECOND READING**

May 23, 2005

~~FIRST READING~~

~~DATE: May 9, 2005~~

**TO:** Mayor and Commissioners  
**FROM:** Marion J. Radson, City Attorney

**SUBJECT: ORDINANCE NO.: 0-04-97**  
**FALSE FIRE ALARM**

An ordinance of the City of Gainesville relating to false fire alarms; creating and adding a new Article IV to Chapter 10 to be titled False Fire Alarms; adding a short title; providing definitions; requiring permits for alarm operators; providing for fees and fines; providing for suspension, revocation and reinstatement of permits; providing for appeals; providing for response to fire alarms; proscribing deactivation of audible alarms; requiring annual registration of alarm monitoring companies; providing for alarm verification; requiring annual registration of alarm contracting companies; prohibiting certain alarm devices; requiring auxiliary power supply; providing for civil citation; providing for disposition of fees and fines; disclaimer of public duty; providing for confidential records; amending section 2-339, of the Gainesville Code of ordinances relating to applicable codes and ordinances subject to civil citation; amending Appendix A, Schedule of Fees, Rates and Charges of the Gainesville Code of Ordinances, by creating a new subject heading titled "Fire/Rescue" and establishing fire alarm related fees therein; providing directions to the codifier; providing a severability clause; providing a repealing clause and providing an effective date of July 1, 2005.

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**RECOMMENDATION:** The City Commission adopt the proposed ordinance.

On November 24, 2003, the City Commission voted to authorize the City Attorney to draft, and the Clerk of the Commission to advertise an ordinance, however, before the ordinance came back for first reading, staff expressed some concerns about the effectiveness of the ordinance and requested more time to work out details.

The above-proposed ordinance was resubmitted on October 11, 2004, and the City Commission authorized the City Attorney to draft, and the Clerk of the Commission to advertise the ordinance to reduce the number of false fire alarms the Fire Rescue Department responds to by implementing a system of registration, permitting, and fees for false alarms.

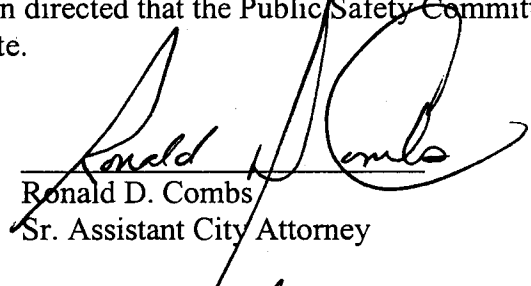
PASSED ON FIRST READING BY A VOTE OF 7-0.

The City Commission also directed that communication with the University of Florida continue in an effort to address its concerns. Written correspondence between the City and the University are attached for your information. The City maintains that the University is subject to this user fee ordinance if the University chooses to utilize false fire alarm systems as defined in the ordinance. The University maintains that as "an instrumentality of the State of Florida, the University is not subject to local ordinances such as the proposed false fire alarm ordinance..."

The structure of the ordinance, with some minor language differences, now mirrors the structure of the false burglar alarm ordinance. The Alachua County Sheriff's Office has agreed to administer the ordinance as it does the false burglar alarm ordinance. For your information, Alachua County has adopted a similar ordinance with the same effective date of July 1, 2005.

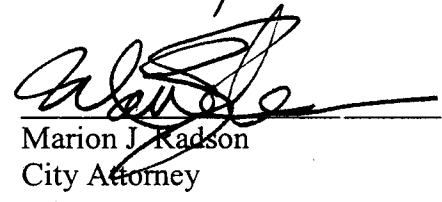
The City Commission directed that the Public Safety Committee review this ordinance one year after the effective date.

Prepared by:



Ronald D. Combs  
Sr. Assistant City Attorney

Approved and Submitted by:



Marion J. Radson  
City Attorney

RDC/bs

## INDEX TO COMMUNICATIONS

- Letter from U of F President Machen to Mayor Hanrahan dated July 23, 2004
- Letter from Mayor Hanrahan to U of F President Machen dated September 1, 2004
- Letter from U of F President Machen to Mayor Hanrahan dated September 21, 2004
- Letter from Ed Poppell, U of F Vice President for Finance & Administration, to Mayor Hanrahan dated October 15, 2004
- Letter from Barbara Lipscomb, Interim, City Manager, to Ed Poppell, U of F Vice President for Finance & Administration dated March 16, 2005
- Letter from Ed Poppell, U of F Vice President for Finance & Administration, to Barbara Lipscomb, Interim, City Manager dated April 26, 2005
- Memo from Edmond Taylor, Assistant Fire Chief, to Marion Radson, City Attorney, dated April 26, 2005



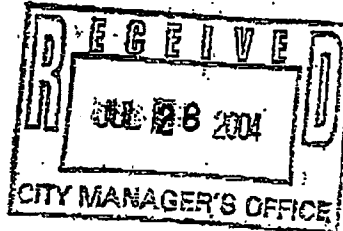
CITY OF GAINESVILLE  
CITY COMMISSION

2004 JUL 27 AM 10:44

J. BERNARD MACHEN  
President

226 Tigert Hall  
PO Box 113150  
Gainesville, FL 32611-3150  
(352) 392-1311  
jbmachen@ufl.edu

July 23, 2004



Mayor Pegeen Hanrahan  
City of Gainesville - MS 19  
P. O. Box 490  
Gainesville, Florida 32602

Dear Pegeen:

I have recently been advised that the City of Gainesville is currently pursuing two issues that will significantly impact the University of Florida.

The first issue is an increase in the cost of water. It is my understanding that a 20% increase is proposed for October 1, 2004, and another 16% proposed for 2005. As you know, the University of Florida's water rates have been dictated by legislative language, which requires a direct correlation to the City's cost of water. While we appreciate that costs do increase, we believe the University, as your largest water customer, is somewhat unique and this should be reflected in the proposed increases. We are very conscious of conservation efforts and the need to preserve our water resources. The University represents 11% of your customer base for water. We believe some consideration should be given for our size and impact.

The second issue is the proposed "False Fire Alarm Ordinance" that may financially penalize the University for false fire alarms. The University, with thousands of residents living on campus, recognizes the need to limit the number of false alarms. We would propose working with City staff on corrective measures prior to going forward with this ordinance. Through this discussion, we may identify the areas of system weaknesses and areas of vulnerability and reduce the false alarms without the need for enacting this legislation.

Pegeen, I would ask that you review these two issues so we might discuss the impacts and have our collective staffs discuss mutually beneficial solutions.

Thanks.

Sincerely,

J. Bernard Machen

cc: CCUM  
CITY MGR  
GEN MGR

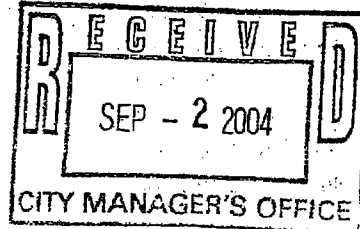


# City of Gainesville

*Pegeen Hanrahan, Mayor*

September 1, 2004

J. Bernard Machen, President  
University of Florida  
P.O. Box 113150  
Gainesville, FL 32611-3150



Dear President Machen:

Thank you for your letter of July 23, 2004 regarding possible adjustments to the cost of water to the University of Florida and the proposed False Fire Alarm Ordinance. Both of these issues are being analyzed at the staff level, and have not yet come before the City Commission for final consideration. I appreciate your willingness to raise concerns and provide the opportunity for us to find middle ground.

My understanding is that your Physical Plant staff and our utility staff had jointly realized that our earlier agreed-upon cost formula for water is in need of reassessment. Our utility staff has developed a proposal that, if accepted by the University, would provide for a substantially smaller increase to UF's water rates than previously provided to your staff. This readjustment is the result of conducting additional cost-of-service studies performed on the University's behalf. As a result, instead of a 20.5% increase to the usage charge, the University has been offered the opportunity for a 15.5% increase for on-campus usage and a 12.1% increase for off-campus usage. Please have your staff contact Ed Regan at 393-1260 to further discuss this amended proposal.

Under the City's agreement with the University, charges applicable to the University for water service exclude any transfer to the City's general fund. Distribution system costs are also excluded for water delivered to the main campus. Our staff has transmitted the appropriate studies to Mr. David O'Brien of your staff and a meeting is being scheduled to review them in detail. I am hopeful that this new proposal will better address our joint needs. It is worth sharing that UF did locate in Gainesville partly as a result of our clean, affordable and plentiful water supply, and we remain committed to providing the University excellent service. I've enclosed a graph that demonstrates that even with the proposed rate increase, Gainesville's water rates are among the lowest in Florida.

Regarding the fire alarm issue, The Gainesville Fire Rescue Department has been working on a proposed false-alarm ordinance for several years. The prospective ordinance is patterned after the highly successful false burglar alarm ordinance that is already in effect in both the City and Alachua County. The ordinance requires licensing of all alarm systems, performance of regular maintenance, and payment of a fee by property owners for all false alarms from the same system after the first false alarm. All buildings in the City, including governmental buildings, will be subject to the ordinance. This is not significantly different from requirements in many other communities and closely matches a national model ordinance recommended by the alarm industry.

President Machen  
September 1, 2004  
Page Two

The reasons to reduce false fire alarms are numerous and well known. Complacency, costs, and multiple risks are all increased by false fire alarms. In addition to the unnecessary waste of staff time, fuel, and risk of accidents while driving fire trucks urgently through traffic, false alarms also reduce the availability of our responders for real emergency situations. Also, when students, faculty and staff get used to frequent false alarms, they may be less vigilant about exiting buildings quickly and life and safety may be endangered.

By sharing the concerns and responsibilities that arise from false alarms between the city and alarm operators through fees, the proposed ordinance creates a financial incentive to reduce false alarms -- a needed change throughout our community. If it is as successful as the burglar alarm ordinance, then the risks and costs to our citizens will significantly decrease, as will the transferred costs to alarm owners.

Here are some figures on the total false fire alarms in the City along with a breakdown of those alarms associated with the University of Florida:

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004 YTD</u>
Total False Alarms	1327	1476	1415	927
University of Florida	225	237	284	114
Percentage of Total:	17%	16%	20%	12%

The City has involved interested parties in the development of the proposed ordinance throughout the process. We welcome participation from your staff in crafting an ordinance that reaches our intended goal. We are most eager to help the University pro-actively reduce false alarms and we want to craft a program that works for all parties. However, the time for considering amendments is limited. This process has been ongoing for several years, during which time there have been steady increases in the numbers of false alarms. Staff hopes to start making reductions in these as soon as the ordinance can be implemented. Please have your staff contact Assistant Fire Chief Tony Taylor at 334-5078 to work on our joint interests in this regard.

Again, I am grateful for your willingness to bring your concerns to my attention, and hope that you will encourage your staff to engage actively in finding solutions that work for all of us. Please feel free to call me if you have any questions or remaining concerns.

Sincerely,



Pegeen Hanrahan  
Mayor

PH/dsh  
enclosure

9/29 re WKKD  
EDT



UNIVERSITY OF  
FLORIDA

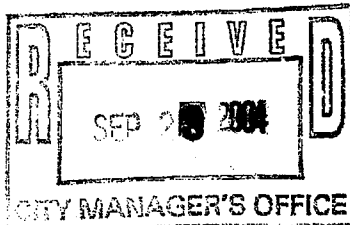
CITY OF GAINESVILLE  
CITY COMMISSION

J. BERNARD MACHEN  
President

2004 SEP 23 AM 10:27

226 Tigert Hall  
PO Box 113150  
Gainesville, FL 32611-3150  
(352) 392-1311  
jbmachen@ufl.edu

September 21, 2004



Pegeen Hanrahan, Mayor  
City of Gainesville  
P. O. Box 490  
Gainesville, FL 32602-0490

Dear Pegeen:

Thank you for your September 1, 2004 response addressing two significant issues for the University.

Our Physical Plant staff has reviewed the water rate proposal based on the cost of service studies. They also had an opportunity to meet with the GRU staff to ask questions and ensure complete understanding of the studies and their conclusions. We are appreciative of the new proposed rates and accept the 15.5% rate increase for on-campus usage and the 12.1% increase for off-campus usage.

The University is committed to the protection of our people and buildings from the threat of fire. I feel that we do a conscientious job in the maintenance and upgrading of our alarm systems to provide state of the art performance. I agree that a monetary penalty system may create an incentive for improvement for institutions that are negligent in the training of their personnel or maintenance of their alarm systems, but this is not an effective tool in our case. All of our alarm systems are maintained by trained and appropriately certified technicians. We conduct fire drills to test the alarm systems and the response of building occupants. In cases where false alarms are caused by human malicious behavior, every effort is made to identify the offender and take action to implement the appropriate adjudication.

I have asked Dr. William Properzio, Director of Environmental Health and Safety, to contact Assistant Fire Chief Tony Taylor to investigate alternate cooperative efforts that the University and GFR might undertake to further improve our fire alarm performance.

Again, we appreciate the open dialogue and the cooperation of the City to address issues of mutual interest that hopefully will culminate in results benefiting the City of Gainesville and the University of Florida.

Sincerely yours,

J. Bernard Machen

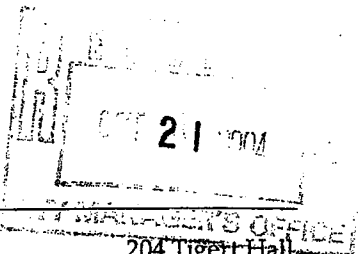
cc: COUN  
CITY MGR - FYE  
GEN MGR - FYE



UNIVERSITY OF FLORIDA

CITY OF GAINESVILLE CITY COMMISSION

2004 OCT 21 AM 9:55



Finance and Administration Office of the Vice President

October 15, 2004

204 Tigert Hall PO Box 113100 Gainesville, FL 32611-3100 (352) 392-1336 Fax (352) 392-6278

Via U.S. Mail

Honorable Pegeen Hanrahan Mayor, City of Gainesville PO Box 490 Gainesville, FL 32602-0490

Memo to Richard cc Mayor

RE: Proposed False Fire Alarm Ordinance

Dear Pegeen:

Pursuant to our conversation, I am writing to you to convey the University's comments with regard to the proposed City of Gainesville False Fire Alarm Ordinance.

As I mentioned, our legal counsel has advised me that as an instrumentality of the State of Florida, the University is not subject to local ordinances such as the proposed false fire alarm ordinance, particularly those provisions which would impose a fine or penalty on the University. You may recall this issue was addressed approximately two years ago with respect to the Alachua County/City of Gainesville false burglar alarm ordinances. We developed a workable alternative and I would hope we can address this proposed ordinance in a similar fashion.

The University is sincerely interested in actions that improve fire safety. A key element in achieving this goal is the support which has been provided by Gainesville Fire Rescue (GFR) and the positive working relationship that exists between GFR and the University.

In reviewing the statistical data contained in your letter of September 1st to President Machen; it does not appear that the 550 separate fire alarm systems installed in our campus buildings are a significant contributor to the City's false alarm experience. I would suspect that the vast majority of the fire alarm systems in the City are not subjected to the rigorous standards employed by the University with its systems. All of our systems are maintained by trained and appropriately certified technicians. Moreover, as part of the State, our systems are inspected by the State Fire Marshall and problems or violations are promptly corrected. We routinely conduct fire drills to train building occupants and test the operational status of our systems. When false alarms are caused by malicious behavior every effort is made to identify the offender(s) and implement appropriate discipline.



Honorable Pegeen Hanrahan  
October 15, 2004  
Page 2

As I mentioned previously, we recognize that a cooperative working relationship with the City in relation to campus fire safety is mutually beneficial. To this end, I would propose two actions to further this goal. ~~First, we establish a jointly maintained data base to track false alarms emanating from University alarm systems.~~ Individual alarm performance would be tracked by both UF and GFR. In turn, this would allow us to investigate and track the cause of all alarm activations and identify specific problems that may need attention. ~~Second, we would develop a training program jointly with GFR to provide fire safety information to building occupants.~~

Again, please accept our willingness to cooperate with the City in this regard and please feel free to call me to discuss this matter further.

Sincerely,



Ed Poppell  
Vice President for  
Finance and Administration

cc: ccom  
CITY MAR



## CITY OF GAINESVILLE

*Office of the City Manager*

March 16, 2005

Mr. Ed Poppell  
Vice President for Finance and Administration  
University of Florida  
P. O. Box 113100  
Gainesville, FL 32611-3100

RE: Proposed False Fire Alarm Ordinance

Dear Mr. Poppell:

The City is in receipt of your letter dated October 15, 2004, where you expressed concerns regarding the proposed false fire alarm ordinance. Subsequently, Assistant Fire Chief Elmond Taylor met with Dr. William Properzio, UF Director of the Division of Environmental Health & Safety, on January 13, 2005, at which time he detailed the City's continuing intent to implement a false fire alarm ordinance on July 1, 2005. He explained to Dr. Properzio that the ordinance establishes a user fee versus a tax and that, as such, all entities, including those considered non-taxable, would be held subject to it. As an example of a similar fee, he noted to Dr. Properzio that other governmental subdivisions, including local, state and federal units, were currently paying a countywide Burglar Alarm permitting fee, which is viewed as payment for direct services rendered, and not as a general tax.

There are many reasons for reducing false fire alarms in the city, but as presented to the City Commission they are: improved safety, reduced risk to our citizens and firefighters, and reduced financial liability for those risks. A false alarm is any electronic activation that causes a dispatch of our fire department when no fire has occurred. Just as proper engineering and maintenance of systems provides timely notification, the same methods can be applied to prevent continuous false activations.

The proposed ordinance is patterned for an already highly successful burglar alarm ordinance in the city and county. It creates a permit as a means of identifying the alarm-system based-users of our service. The permit fee is a small and reasonable charge for maintaining the information to identify the alarm operator and record activations. Dual-purpose alarm systems, registered through the burglar alarm ordinance, require no additional fee.

The proposed false fire alarm ordinance creates a user fee for all buildings, including government buildings (Gainesville, Alachua County, Alachua County Schools, Tacachale and other state facilities, the Federal Courthouse, etc.). The City plans a first and second reading of the ordinance in the next few months. The proposed effective date will be July 1, 2005. This date was selected to allow time for government agencies to appropriately budget both for the fees and any programs they may wish to implement to reduce false alarms, i.e. a comprehensive alarm study by a fire-protection engineering firm. Our delayed implementation will also allow Alachua County to adopt the same ordinance countywide, on the same effective date, with the same fees, and, of course, for the same purposes.

In response to Dr. Properzio's position that the University is not subject to the fee to reduce false alarms, please be informed that the City of Tallahassee levies a fire assessment fee city-wide since October 1, 1999 to pay the full cost of fire suppression services. In contrast, the City of Gainesville only seeks to impose a small user fee to reduce the number of false fire alarms and unnecessary calls for service.

Florida State University pays approximately \$700,000 per year to the City of Tallahassee for fire suppression service, and Florida A & M University pays approximately \$282,000 per year. There is also an existing false alarm ordinance in place, with a Bureau investigator who is responsible for the monitoring of all false fire alarm citations issued and ensuring compliance. To obtain more information about Tallahassee's fire assessment fee, you may contact Farr Miller, Tallahassee Office of Budget and Policy, 850-891-8153, and for specific details on the false fire alarm ordinance, Chief Tim Shealy may be reached at Tallahassee Fire's Bureau of Investigations, (850) 891-6610.

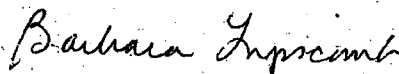
The City estimates that the *actual cost* of the proposed ordinance to the University is very modest. Based on 552 buildings with fire alarm systems – the number provided to them by UF staff, and assuming a permit is required for each alarm-equipped building, the City estimates the following impact:

\$15.75/ Permit X 552 buildings	\$ 8,694
1 <sup>st</sup> False Alarm per building	\$ 0
2 <sup>nd</sup> False Alarm X 100 buildings	\$ 2,500
3 <sup>rd</sup> False Alarm X 100 buildings	\$ 5,000
	<hr/>
	\$16,194

We appreciate the University of Florida's offer to both establish a joint database and conduct joint training with the City's fire rescue department. We are glad to participate in every opportunity to reduce the impacts of false alarms community-wide. However, the proposed false fire alarm ordinance, a user-based fee, will be applicable city-wide to all public and private institutions who use a fire alarm system, including the University of Florida.

In summary, we expect to undertake many cooperative efforts with all our customers in helping to reduce the false alarm problems – yet none of our customers will be exempt from the requirements of the ordinance. Obviously, if the program can be made more successful or less costly in future years, the ordinance can be amended to accomplish that – but the program cannot be fragmented. It must, for legal and equitable reasons, apply equally and fairly – imposing the same requirements, conditions, and costs, on each user based upon activations. The best way to eliminate the costs – and this has been our experience with our own buildings – is to devote significant attention to behavior and system design. We are ready to assist in those efforts.

Sincerely,



Barbara Lipscomb  
Interim City Manager

xc: Honorable Mayor and Members of the City Commission  
City Attorney Marion Radson  
Interim Fire Chief William K. Northcutt  
Assistant Fire Chief Elmond D. Taylor  
Dr. William Properzio



# UNIVERSITY OF FLORIDA

Finance and Administration  
Office of the Vice President

April 26, 2005

204 Tigert Hall  
PO. Box 113100  
Gainesville, FL 32611-3100  
(352) 392-1336  
Fax (352) 392-6278

Barbara Lipscomb  
Interim City Manager  
City of Gainesville  
P.O. Box 490  
Gainesville, FL 32602-0490

Dear Barbara:

This will acknowledge receipt of your letter to me dated March 16, 2005 regarding the proposed false alarm ordinance. I requested and have received legal advice from our Office of the General Counsel regarding the legal opinion presented in your letter. They have advised that the monetary structure proposed in the ordinance would be considered a tax and not fees and that the University as an instrumentality of the state, would be immune from taxation from a local authority.

I would also like to point out that the University responds to fire alarms in a manner that differs from most other entities in this community. All of our alarms initially report to the University Police Department. When an alarm is received an officer is immediately dispatched to the building to investigate the status of the alarm. If the officer is unable to determine that the alarm is false and the alarm will not reset, the police will notify Gainesville Fire Rescue. A similar protocol has been proposed by the City of Tampa Fire Department and has been implemented at the University of South Florida. The procedure will minimize the need for the fire department to respond to obvious false alarms, in turn accomplishing the goal of the proposed ordinance.

The University appreciates the positive working relationship that has been established with Gainesville Fire Rescue. Their actions provide a critical life safety service to the community and the University.

Should you need more information or would like to have our attorneys confer on the legal issues, please contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ed Poppell".

Ed Poppell  
Vice President  
for Finance and Administration