



MEMORANDUM

Office of the City Attorney

000053

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

TO: Mayor and Commissioner

FROM: Marion J. Radson, City Attorney

DATE: ~~August 14, 2000~~

FIRST READING:

SECOND READING: AUGUST 28, 2000

SUBJECT: **ORDINANCE NO.:0-00-35;
SECONDHAND GOODS CHAPTER 22**

An ordinance of the City of Gainesville amending Chapter 22 of the Gainesville Code of Ordinances relating to secondhand goods and secondhand dealers; repealing the "Junk dealers" category; incorporating statutory definitions; deleting local regulations relating to pawnbrokers and requiring pawnbrokers to obey state law; providing for enforcement by civil citation; changing the record requirements of secondhand transactions; modifying the holding period for property; defining the right of the police to inspect records and premises; prohibiting purchases from minors; amending section 2-339 to provide for enforcement by civil citations; 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.

The City Commission at its meeting on June 12, 2000 authorized the City Attorney to draft and the Clerk to advertise an ordinance amending Chapter 22 of the Code of Ordinances.

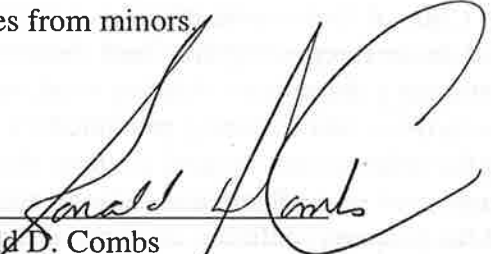
On September 13, 1999 the City Commission directed the City Attorney to amend Chapter 22 of the Gainesville Code of Ordinances, Secondhand Goods, by adding permitting requirements in conformance with statutory changes made in Chapter 538, Florida Statutes related to secondhand goods and Chapter 539 related to pawnbrokers. In preparing these changes, additional modifications were identified which would enhance and clarify Chapter 22. The additional changes do not fall within the phrase "adding permitting requirements" previously approved by the Commission,. It is more efficacious to make one change to the ordinance incorporating the additional items. This amendment will accomplish the following:

1. Conforming definitions to match those in the statute and deleting those which are no longer applicable.
2. Removing the reference to pawnbrokers except to require them to comply with the requirements of the applicable statute.

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

3. Adding DVD players, commercially produced audio and video tapes, commercially produced compact disc and commercially produced DVD discs to the definition of secondhand goods.
4. Redefining what and how records of transactions are kept.
5. Adding language qualifying when the holding period is not applicable.
6. Changing the length of a hold placed by police.
7. Defining the right of the police to inspect the records and premises of secondhand dealers.
8. Eliminating purchases from minors.

Prepared by:



Ronald D. Combs
Sr. Assistant City Attorney

Approved and
Submitted by:



Marion J. Radson
City Attorney

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Ordinance No. _____
0-00-35

An ordinance of the City of Gainesville amending Chapter 22 of the Gainesville Code of Ordinances relating to secondhand goods and secondhand dealers; repealing the "Junk dealers" category; incorporating statutory definitions; deleting local regulations relating to pawnbrokers and requiring pawnbrokers to obey state law; providing for enforcement by civil citation; changing the record requirements of secondhand transactions; modifying the holding period for property; defining the right of the police to inspect records and premises; prohibiting purchases from minors; amending section 2-339 to provide for enforcement by civil citations; 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 prior to adoption 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. Article 1 of Chapter 22, **SECONDHAND GOODS** is amended to read as follows:

Article I. In General

Sec. 22-1. ~~Junk dealers.~~ Reserved.

~~—Junk dealers shall keep a full and complete record of each transaction of their business showing from whom and when each article of their stock was purchased or acquired and to~~

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1 ~~whom sold, and date of the sale, and the record shall at all times be subject to the inspection of~~
2 ~~all police or peace officers.~~

3 Sec. 22-2. Pawnbrokers.

4 ~~—Pawnbrokers shall keep a complete and true record of all transactions showing from whom~~
5 ~~each article of their stock was purchased and the date of purchase, and the date and to whom each~~
6 ~~article was sold, which records shall at all times be subject to the inspection of all police or peace~~
7 ~~officers.~~

8 Pawnbrokers shall adhere to all requirements of Chapter 539, Florida Statutes.

9 Sec. 22-3. Violation; penalty.

10 Except as otherwise provided in this chapter, any person who violates any of the
11 provisions of this chapter shall be subject to punishment as provided in Section 1-9, General
12 penalty; abatement, of the City of Gainesville Code of Ordinances. The police officers may
13 issue a civil citation for violations of any provision of this chapter. The citation shall be issued in
14 accordance with Chapter 2, Article V, Division 6, Civil Citations, of the City of Gainesville Code
15 of Ordinances and §162.21, Florida Statutes.

16 Secs. 22-4--22-15. Reserved.

17 ARTICLE II. SECONDHAND DEALERS, ~~IN JEWELRY, METALS AND COINS*~~

18 Sec. 22-16. Definition.

19 ~~For purposes of this article, the term "secondhand dealer" shall mean a person engaging~~
20 ~~in, conducting, managing or carrying on the business of buying, selling or otherwise dealing in~~
21 ~~secondhand jewelry, precious and semiprecious stones, metals containing gold or silver and~~
22 ~~imitations thereof, watches, rings, bracelets, coins and other similar goods, wares and~~

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1 ~~merchandise. This definition includes pawnshops conducting, managing or carrying on the~~
2 ~~above described business.~~

3 (1) For the purposes of this article, the term:

4 (a) "Consignment shop" means a shop engaging in the business of accepting for sale, on
5 consignment, secondhand goods which, having once been used or transferred from the
6 manufacturer to the dealer, are then received into the possession of a third party.

7 (b) "Department" means the Gainesville Police Department.

8 (c) "Pledge" means pawn or buy-sell agreement.

9 (d) "Precious metals" means any item containing any gold, silver, or platinum, or any
10 combination thereof, excluding:

11 1. Any chemical or any automotive, photographic, electrical, medical, or dental materials
12 or electronic parts.

13 2. Any coin with an intrinsic value less than its numismatic value.

14 3. Any gold bullion coin.

15 4. Any gold, silver, or platinum bullion that has been assayed and is properly marked as to
16 its weight and fineness.

17 5. Any coin which is mounted in a jewelry setting.

18 (e) "Precious metals dealer" means a secondhand dealer who normally or regularly
19 engages in the business of buying used precious metals for resale. The term does not include
20 those persons involved in the bulk sale of precious metals from one secondhand or precious
21 metals dealer to another.

22 (f) "Secondhand dealer" means any person, corporation, or other business organization or
23 entity which is not a secondary metals recycler as defined in Section 538.18(8), F.S., and which

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1 is engaged in the business of purchasing, or consigning. However, secondhand dealers are not
2 limited to dealing only in items defined as secondhand goods in paragraph (g). Except as
3 provided in subsection (2), the term means jewelers, precious metals dealers, garage sale
4 operators, secondhand stores, and consignment shops.

5 (g) "Secondhand goods" means personal property previously owned or used, which is not
6 regulated metals property regulated under Chapter 538, F.S., Part II, and which is purchased,
7 consigned, or pawned as used property. Such secondhand goods shall be limited to watches;
8 diamonds, gems, and other precious stones; fishing rods, reels, and tackle; audio and video
9 electronic equipment, including television sets, compact disc players, DVD players, radios,
10 amplifiers, receivers, turntables, tape recorders; video tape recorders; speakers and citizens' band
11 radios; computer equipment; radar detectors; depth finders; trolling motors; outboard motors;
12 sterling silver flatware and serving pieces; photographic equipment, including cameras, video
13 and film cameras, lenses, electronic flashes, tripods, and developing equipment; microwave
14 ovens; animal fur coats; marine equipment; video games and cartridges; commercially produced
15 audio and video tapes; commercially produced compact discs; commercially produced DVD
16 discs; power lawn and landscape equipment; office equipment such as copiers, fax machines, and
17 postage machines but excluding furniture; sports equipment; golf clubs; weapons, including
18 knives, swords, and air guns; telephones, including cellular and portable; firearms; tools;
19 calculators; musical instruments, excluding pianos and organs; lawnmowers; bicycles;
20 typewriters; motor vehicles; gold, silver, platinum, and other precious metals excluding coins;
21 and jewelry, excluding costume jewelry.

22 (h) "Secondhand store" means the place or premises at which a secondhand dealer is
23 registered to conduct business as a secondhand dealer, or conducts business.

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1 (i) "Transaction" means any title loan, purchase, consignment of secondhand goods by a
2 secondhand dealer.

3
4 (2) This chapter does not apply to:

5 (a) Any secondhand goods transaction involving an organization or entity registered with
6 the state as a nonprofit, religious, or charitable organization or any school-sponsored association
7 or organization.

8 (b) A law enforcement officer acting in an official capacity.

9 (c) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof
10 of such status to the secondhand dealer.

11 (d) Any public official acting under judicial process or authority who has presented proof
12 of such status to the secondhand dealer.

13 (e) A sale on the execution, or by virtue of any process issued by a court, if proof thereof
14 has been presented to the secondhand dealer.

15 (f) Any garage sale operator who holds garage sales less than 10 weekends per year.

16 (g) Any person at antique, coin, or collectible shows or sales.

17 (h) Any person who sells household personal property as an agent for the property owner
18 or their representative pursuant to a written agreement at that person's residence.

19 (i) The purchase or consignment of secondhand goods from one secondhand dealer to
20 another secondhand dealer when the selling secondhand dealer has complied with the
21 requirements of this chapter.

22 (j) Any person accepting a secondhand good as a trade-in for a similar item of greater
23 value.

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1 (k) Any auction business.

2 (l) Any business that is registered with the Florida Department of Revenue for sales tax
3 purposes as an antique dealer pursuant to Chapter 212, F.S., and that purchases secondhand
4 goods from the property owner or her or his representative at the property owner's residence
5 pursuant to a written agreement that states the name, address, and telephone number of the
6 property owner and the type of property purchased.

7 (m) Any person purchasing or consigning secondhand goods ordered by mail, computer-
8 assisted shopping, media-assisted, media-facilitated, or media-solicited shopping or shopping by
9 other means of media communication, including, but not limited to, direct mail advertising,
10 unsolicited distribution of catalogs, television, radio, or other electronic media, telephone,
11 magazine, or newspaper advertising, so long as such person is in this state at the time of the
12 order.

13 (n) A motor vehicle dealer as defined in Section 320.27, F.S.

14 (3) This part does not apply to secondary metals recyclers or businesses that deal in ferrous
15 metals.

16 Sec. 22-17. Requirements are in addition to other Code requirements.

17 The requirements of this article are in addition to any other requirements of the
18 Gainesville Code of Ordinances, such as but not limited to zoning and occupational license
19 requirements.

20 Sec. 22-18. Permit.

21 (a) Required. No person shall engage in, manage, conduct or carry on the business of a
22 secondhand dealer without obtaining a written permit from the police department and the
23 payment of a fee in accordance with the schedule set out in Appendix A.

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1 (b) Contents. The permit shall contain the name and home address of the permittee and
2 the address of the business being permitted and shall be signed by the police chief or his/her
3 designee.

4 (c) Expiration, renewal. All permits shall expire on the thirtieth day of September and
5 shall be renewed before the first day of October. The permit shall be renewed at the police
6 department and requires the payment of a renewal fee in accordance with the schedule set out in
7 Appendix A.

8 Sec. 22-19. Change of location.

9 A change of location may be endorsed on a permit by the police department upon written
10 application by the permittee accompanied by a change of location fee in accordance with the
11 schedule set out in Appendix A.

12 Sec. 22-20. Records.

13 ~~(a) Contents, exception. Every secondhand dealer shall keep a record of purchases, which~~
14 ~~record shall contain:~~

15 ~~(1) The full name; residence address; home telephone number, if any; place of~~
16 ~~employment; business telephone number, if any; and age, race, and sex of each person from~~
17 ~~whom the precious metal is purchased; the signature of the seller, together with the driver's~~
18 ~~license number or the number from another form of identification issued by a governmental~~
19 ~~agency, one (1) other identifying number, and a thumbprint of the seller;~~

20 ~~(2) A specific description of the precious metal item, which description is accurate and~~
21 ~~is reasonably complete as the nature of the item permits. The description of the precious metal~~
22 ~~item shall include:~~

23 a. ~~The type of item;~~

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1 ~~b. The substance of which the item is made, whether gold, silver, or platinum;~~

2 ~~e. The manufacturing company, if that can be determined; and~~

3 ~~d. Any permanent initialing or marking on the item, including a brand, monogram, or~~
4 ~~hallmark.~~

5 ~~(3) The quantity of the precious metal purchased;~~

6 ~~(4) The date of the purchase;~~

7 ~~(5) The amount paid by the dealer for the item.~~

8 ~~The thumbprint requirement shall apply in all instances except in the purchase and sale of gold~~
9 ~~and silver coins and gold and silver bullion, when the purchase and sale is conducted by a person~~
10 ~~whose primary business is dealing in gold or silver coins and gold and silver bullion.~~

11 ~~(b) Subject to inspections. The records shall at all times be subject to inspection by all~~
12 ~~law enforcement officers and shall be preserved for a period of three (3) years after purchase.~~

13 ~~(c) Submission of copy to police department. A copy of the record of each item purchased~~
14 ~~shall be submitted to the police department within twenty four (24) hours after the purchase.~~

15 (1) Secondhand dealers shall maintain records of all transactions of secondhand goods on
16 the premises. Within 24 hours of the acquisition of any secondhand goods by purchase, a
17 secondhand dealer shall deliver to the police department a record of the transaction on a form
18 approved by the police department. Such record shall contain:

19 (a) The time, date, and place of the transaction.

20 (b) A complete and accurate description of the goods acquired, including any serial
21 numbers, manufacturer's numbers, or other identifying marks or characteristics.

22 (c) A description of the person from whom the goods were acquired, including:

23 1. Full name, address, workplace, and home and work phone numbers.

1 2. Height, weight, date of birth, race, gender, hair color, eye color, and any other
2 identifying marks.

3 (d) Any other information required by the form approved by the Department of Law
4 Enforcement.

5 (1) The right thumbprint of the seller. In the event the seller can not submit the right
6 thumbprint another digit may be used.

7 (2) The secondhand dealer shall require verification of the identification by the exhibition
8 of a government-issued photographic identification card such as a driver's license or military
9 identification card. The record shall contain the type of identification exhibited, the issuing
10 agency, and the number thereon.

11 (3) The seller shall sign a statement verifying that the seller is the rightful owner of the
12 goods or is entitled to sell or pledge the goods.

13 Sec. 22-21. Holding period; exception.

14 Property acquired in the course of a permittee's business shall be held for a fifteen-day
15 period. ~~This holding period shall apply in all instances except in the purchase and sale of gold~~
16 ~~and silver coins and gold and silver bullion when the purchase and sale is conducted by a person~~
17 ~~whose primary business is dealing in gold or silver coins and gold and silver bullion.~~ Such
18 holding periods are not applicable when the person known by the secondhand dealer to be the
19 person from whom the goods were acquired desires to redeem, repurchase, or recover the goods,
20 provided the dealer can produce the record of the original transaction with verification that the
21 customer is the person from whom the goods were originally acquired.

22 Sec. 22-22. Hold orders issued by police.

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1 If a police officer has reasonable grounds to believe that an item acquired by a permittee
2 under this article in the course of his/her business is the subject of a criminal investigation, the
3 police officer may place a hold-order upon the property for a period of ~~ninety (90)~~ sixty (60) days
4 and upon release of the property, may require the permittee to keep a record of the disposition of
5 the property. It shall be unlawful for any person to dispose of any property contrary to any hold
6 order issued by a police officer.

7 Sec. 22-23. Alterations, repair, etc., of items during holding periods prohibited.

8 No permittee shall clean, alter, repair or otherwise change the appearance, melt, destroy,
9 sell, export, or otherwise dispose of any item described in section 22-16 obtained in the course of
10 his/her business until the fifteen-day period described in section 22-21 or the ~~ninety-day~~ sixty-day
11 period described in section 22-22 have expired.

12 Sec. 22-24. Inspection of records and premises.

13 (a) The premises and required records of each ~~precious metals dealer~~ secondhand dealer
14 ~~shall~~ can be inspected during regular business hours. ~~at least once every month by the sheriffs~~
15 ~~office of the county in which the dealer is located, if the dealer is located in the unincorporated~~
16 ~~area of the county, or by the police department. of the municipality in which the dealer is located.~~

17 ~~(b) The inspection required by subsection (a) above shall consist of an examination of the~~
18 ~~stock and required records to determine that the records are being maintained as required by~~
19 ~~sections 22-20 and 22-21 and that the holding period required by section 22-21 is being complied~~
20 ~~with.~~

21 Sec. 22-25. Purchase from minors.

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1 No secondhand dealer may purchase any precious metal from any person under eighteen
2 (18) years of age, ~~unless the person is accompanied by his/her parent or guardian and unless both~~
3 ~~the person and the parent or guardian sign the dealer's record pursuant to section 22-20(a)(1).~~

4 Sec. 22-26. Exceptions to article.

5 The provisions of sections 22-21 and 22-23 shall not apply to transactions by and
6 between secondhand dealers where the seller before the sale to another dealer has complied with
7 all of the provisions of this article.

8 **Section 2.** Section 2-339 is amended to read as follows:

9 **Sec. 2-339. Applicable codes and ordinances.**

10 The following ordinances are enforceable by the procedures described in this division:

Section	Description	<i>Class</i>	Penalty
Chapter 5 except as provided below	Animal Control	I	\$50.00
5-2(c)	Animal molesting or biting pedestrian or bicyclist	IV	\$200.00
6-3	104.1.1 of adopted Standard Building Code, as amended Building, electrical, plumbing, gas, and/or mechanical work within a required permit.	II	\$75.00
6-183(1)	False advertising	III	\$125.00
6-185	Acting as a contractor without a valid contractor certificate.	IV	\$200.00
6-186(b)(2)	No journeyman or certified craftsman on the job site	II	\$75.00
Article IX of Chapter 6	Downtown minimum property standards	I	\$50.00

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Chapter 10	All adopted fire prevention & protection codes, except NFPA 101 Chapters 5, 6, 7 and SFPC Chapters 6, 8, 31 and 42	II	\$75.00
Chapter 10	NFPA 101 Chapters 5, 6, 7 SFPC Chapters 6, 8, 31 and 42	IV	\$200.00
11.5-1	Availability of potable water	I	\$50.00
13-171	Insects, storage, trash and yard maintenance	I	\$50.00
14.5-1	Not having landlord permit	II	\$75.00
Chapter 15	Noise violations	I	\$50.00
16-19	Dangerous buildings/hazardous lands	I	\$50.00
17-2	Fliers on utility poles or other fixtures	I	\$50.00
19-2	Violation of regulations for peddling in Downtown Plaza	I	\$50.00
19-34	Violation of permit requirements for commercial peddlers, solicitors, or canvassers	I	\$50.00
19-52	Unauthorized solicitation of alms or financial assistance	I	\$50.00
19-53	Unauthorized sale or transfer of goods and services; religious and charitable organizations soliciting for contributions without a permit	I	\$50.00
19-55	Violation of restrictions and	I	\$50.00

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	requirements for permitted soliciting		
19-96	Operation of mobile food cart in prohibited area	I	\$50.00
19-97	Violation of regulations on permitted mobile food cart	I	\$50.00
Chapter 5 except as provided below	Animal control	I	\$50.00
19-112	Unauthorized soliciting of funds	I	\$50.00
21-53(b)(6)	Non-permitted, revoked or suspended alarm system	IV	\$200.00
21-58(a)	Failure to register alarm monitoring company	II	\$125.00
21-58(c)	Failure to maintain records	II	\$125.00
21-59	Failure to make alarm verified call	II	\$125.00
21-60(a)	Failure to register – Alarm system contractors	II	\$125.00
21-60(b)	Maintenance, repair, alter or service of system for compensation by noncontractor	II	\$125.00
21-60(c)	Failure to issue ID	I	\$50.00
21-60(d)	Use of equipment or methods below minimum standards	II	\$125.00
21-60(e)	Activation/servicing non-permitted alarm	II	\$125.00
21-60(f)	Causing false alarm during servicing	II	\$125.00
21.60(g)	Failure to provide blank alarm permit application	I	\$50.00
21-61(a)	Operating automatic dialing device	II	\$125.00

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21-61(b) 21-61(c)	Failure to remove non-permitted features	I	\$50.00
21-62	Operating alarm system without auxiliary power	II	\$125.00
<u>Chapter 22</u>	<u>Secondhand Goods</u> <u>Secondhand Dealers</u>	<u>III</u>	<u>\$125.00</u>
26-137	Abandoned vehicles	I	\$50.00
27-73	Solid waste violations except (4), (8) and (9)	I	\$50.00
27-76(b)(1)b.	Improper use of cart	I	\$50.00
27-79(a) and (f)	Commercial franchise violations	IV	\$200.00
Chapter 28	Taxicab regulation	I	\$50.00
30-51(c)	Permitted uses in single family districts	II	\$75.00
30-56(b) and (c)	Residential parking	I	\$50.00
30-315 et seq.	Violation of sign regulations	I	\$50.00

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2 Second violation of the same Class I or Class II offense shall be double the amount
3 shown on the penalty schedule.

4 Third and subsequent violations of the same Class I or II offense shall require a
5 mandatory court appearance.

6 Second and subsequent violations of the same Class III or Class IV offense shall require a
7 mandatory court appearance.

8 **Section 3.** It is the intention of the City Commission that the provisions 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.

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1 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
2 or unconstitutional by any court of competent jurisdiction, then said holding shall in no way
3 affect the validity of the remaining portions of this ordinance.

4 **Section 5.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
5 such conflict hereby repealed.

6 **Section 6.** This ordinance shall become effective immediately upon adoption.

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8 **PASSED AND ADOPTED** this _____ day of _____, 2000.

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PAULA M. DeLANEY
MAYOR

ATTEST

APPROVED AS TO FORM AND LEGALITY

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this _____ day of _____, 2000.

This Ordinance passed on second reading this _____ day of _____, 2000.

