



MEMORANDUM

Office of the City Attorney

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

TO: Mayor and City Commission

FROM: Marion J. Radson, City Attorney

SUBJECT: Ordinance No. 0-02-26

DATE: July 8, 2002

SECOND READING


An ordinance of the City of Gainesville, Florida; approving certain amendments to the Charter Laws of the City of Gainesville; providing for additional duties of the City internal auditor; providing for creation of the charter officer position entitled "equal opportunity director" to be appointed by the city commission; providing powers and duties of such officer; making the charter officers responsible for implementing the equal opportunity and human relations ordinances and programs in their respective departments; providing for application to persons covered under collective bargaining agreements; providing for submission of the charter amendments to the voters for approval or rejection at the November 5, 2002 special municipal election; approving the question to be placed on the ballot; providing directions to the codifier; providing for transition; providing directions to the clerk of the commission; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

On June 10, 2002, the City Commission authorized the City Attorney to prepare and the Clerk of the Commission to advertise the ordinance amending the city charter to create the charter officer position of equal opportunity director. The proposed ordinance amends the charter in the same manner as House Bill 711 (Senate Bill 2542). After adoption of the ordinance by the city commission, the charter amendments are subject to approval by the voters at a special municipal election to be held on November 5, 2002. This is the same date as the state general election.

The ordinance must also contain the ballot language. By law, the language cannot exceed 75 words.

Prepared and
Submitted by:



Marion J. Radson, City Attorney

Passed on first reading by a vote of 5-0.

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ORDINANCE NO. _____
0-02-26

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4 **An ordinance of the City of Gainesville, Florida; approving certain**
5 **amendments to the Charter Laws of the City of Gainesville; providing for**
6 **additional duties of the City internal auditor; providing for creation of the**
7 **charter officer position entitled "equal opportunity director" to be appointed**
8 **by the city commission; providing powers and duties of such officer; making**
9 **the charter officers responsible for implementing the equal opportunity and**
10 **human relations ordinances and programs in their respective departments;**
11 **providing for application to persons covered under collective bargaining**
12 **agreements; providing for submission of the charter amendments to the**
13 **voters for approval or rejection at the November 5, 2002 special municipal**
14 **election; approving the question to be placed on the ballot; providing**
15 **directions to the codifier; providing for transition; providing directions to**
16 **the clerk of the commission; providing a severability clause; providing a**
17 **repealing clause; and providing an immediate effective date.**

18
19 **WHEREAS**, the City Commission has duly considered the charter amendments and by
20 passage of this ordinance indicates its desire to approve the charter amendments as set forth
21 herein, subject to approval of the electorate at a special municipal election; and

22 **WHEREAS**, the City Commission desires to amend the Charter Laws of the City of
23 Gainesville, Florida, pursuant to the procedures provided by law; and

24 **WHEREAS**, at least 10 days notice has been given by publication in a newspaper of
25 general circulation notifying the public of this proposed ordinance and of a Public Hearing in the
26 Auditorium of City Hall in the City of Gainesville; and

27 **WHEREAS**, the Public Hearings were held pursuant to the published notice described at
28 which hearings the parties in interest and all others had an opportunity to be and were, in fact,
29 heard;

30 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
31 **CITY OF GAINESVILLE, FLORIDA:**

32 **Section 1.** Section 3.05 of Article III of the Charter of the City of Gainesville, as created

1 by Chapter 90-394, Laws of Florida, is amended to read:

2 **3.05.** City internal auditor.--

3 (1) The commission may appoint a city internal auditor who shall serve at the will of
4 the commission. The city internal auditor shall:

5 (a) Shall perform financial and compliance audits.

6 (b) Shall assist the commission in all its accountability functions.

7 (c) Shall perform compliance audits on the implementation of the city's human
8 relations and equal opportunity ordinances, policies, and programs pertaining to the activities of
9 the city within all departments of the city in accordance with schedules prescribed by the
10 commission.

11 (d) Shall perform all other duties assigned by the commission.

12 (2) All financial and compliance audits and other reports of the city internal auditor
13 shall be filed in the office of the clerk of the commission.

14 **Section 2.** Section 3.08 is added to Article III of the Charter of the City of Gainesville, as
15 created by Chapter 90-394, Laws of Florida, to read:

16 **3.08.** Equal opportunity director. -- The commission shall appoint an equal opportunity
17 director who shall serve at the will of the city commission. The equal opportunity director:

18 (1) Shall investigate complaints of discrimination, harassment, retaliation, and other
19 related matters, and propose remedial action, as prescribed by the city's human relations and
20 equal opportunity ordinances. No city employee shall suffer retaliation for filing a complaint or
21 testifying, assisting, or participating in any investigation under these ordinances, and such
22 complaints shall be held confidential to the extent allowed by federal and state law.

23 (2) Shall make reports, including an annual report, to the charter officers and the

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1 commission, as appropriate, as to the activities of the year and the need, if any, to revise the
2 city's human relations and equal opportunity ordinances, policies, and programs pertaining to,
3 but not limited to, equal opportunity, affirmative action, local minority business and local small
4 business enterprise procurement program, fair housing, unlawful harassment, and accessibility to
5 the city's programs, services, and activities.

6 (3) Shall propose policies for the implementation of comprehensive equal opportunity
7 and diversity programs and adherence to equal opportunity laws, policies, procedures, and related
8 matters.

9 (4) Shall develop, prepare, and monitor the city's affirmative action plan.

10 (5) Shall develop training, conduct workshops, and propose strategies and initiatives
11 related to diversity and equal opportunity and related matters in employment, purchasing,
12 services, programs, and activities.

13 (6) Shall review all proposed changes to current or proposed new city employment
14 policies, procedures, and guidelines, job descriptions, and purchasing policies, procedures, and
15 guidelines for compliance with equal opportunity laws, policies, procedures, and guidelines, and
16 related matters.

17 (7) Shall monitor all hires, transfers, demotions, promotions, and terminations for
18 compliance with equal opportunity laws, policies, procedures, guidelines, and related matters.

19 (8) Shall develop instruments to monitor adherence to diversity and equal opportunity
20 laws, policies, procedures, guidelines, and related matters for city services, programs, activities,
21 employment, and purchasing.

22 (9) Shall participate in the assessment and review of the city's employment practices,
23 including recruitment, appointment, and promotion, as they pertain to all employees and

1 applicants at all levels of city employment.

2 (10) Shall compile various equal opportunity reports and related reports required of the
3 city by state and federal agencies or that are necessary for compliance purposes.

4 (11) Shall perform all other functions as prescribed by ordinances or as otherwise
5 directed by the commission.

6 **Section 3.** Section 5.07 is added to Article V of the Charter of the City of Gainesville,
7 as created by Chapter 90-394, Laws of Florida, to read:

8 5.07 Equal opportunity; duties of charter officers. – The charter officers shall apply the
9 city’s human relations and equal opportunity ordinances and implement its human relations and
10 equal opportunity programs within their respective departments and shall coordinate the efforts
11 of the various departments to optimize the effectiveness of their efforts. The charter officers
12 shall, from time to time, make individual and collective recommendations to the commission
13 pertaining to the effectiveness of the city’s human relations and equal opportunity ordinances and
14 programs pertaining to the activities of the city.

15 **Section 4.** Nothing in this ordinance shall abrogate the provisions of any collective
16 bargaining agreement or the city’s responsibility to negotiate terms and conditions of
17 employment.

18 **Section 5.** The question to be placed on the ballot for the referendum shall read as
19 follows:
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21 **CITY OF GAINESVILLE CHARTER AMENDMENT**

22 **EQUAL OPPORTUNITY DIRECTOR**

23 “EQUAL OPPORTUNITY DIRECTOR IS CURRENTLY APPOINTED BY
24 THE CITY MANAGER. SHALL THE CITY OF GAINESVILLE’S CHARTER

1 BE AMENDED TO CREATE THE CHARTER OFFICER POSITION OF
2 EQUAL OPPORTUNITY DIRECTOR, APPOINTED BY THE CITY
3 COMMISSION, HAVING CERTAIN DUTIES RELATING TO
4 DISCRIMINATION AND EQUAL OPPORTUNITY, ADDING DUTIES OF
5 THE INTERNAL AUDITOR, AND REQUIRING ALL CHARTER OFFICERS
6 IMPLEMENT WITHIN THEIR OFFICES EQUAL OPPORTUNITY AND
7 HUMAN RELATIONS ORDINANCES AND PROGRAMS OF THE CITY, AS
8 PROPOSED BY ORDINANCE NO. 020024?"

9 **Section 6.** The amendments to the Charter Laws set out in Sections 1 thru 3 inclusive
10 of this ordinance are approved for submission to the voters of the City of Gainesville, Florida, for
11 approval or rejection at the special municipal election to be held on November 5, 2002. In the
12 event that the amendment is approved by the voters, the codifier is directed to incorporate these
13 amendments in the Charter Laws of the City of Gainesville.

14 **Section 7.** In the event that the amendment is approved by the voters, the City
15 Manager, General Manager for Utilities, City Attorney, City Auditor and Clerk of the
16 Commission shall continue to implement and apply the City's human relations and equal
17 opportunity ordinances, policies, and programs, as prescribed therein, until the appointment of
18 the Charter Officer of Equal Opportunity Director. Thereafter, the Equal Opportunity Director
19 shall perform the duties prescribed by the City Charter and the ordinances, programs and policies
20 of the City as prescribed in the Charter and the ordinances, programs and policies of the City.

21 **Section 8.** In the event that the amendment is approved by the voters, the Clerk of the
22 Commission is directed to file a true copy of this ordinance with the Florida Department of State.

23 **Section 9.** If any section, sentence, clause or phrase of this ordinance is held to be invalid

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1 or unconstitutional by any court of competent jurisdiction, then said holding shall in no way
2 affect the validity of the remaining portions of this ordinance.

3 **Section 10.** All ordinances or parts of ordinances in conflict herewith are to the extent of
4 such conflict hereby repealed.

5 **Section 11.** This ordinance shall become effective immediately upon final adoption.

6 **PASSED AND ADOPTED** this _____ day of _____, 2002.

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Thomas D. Bussing, Mayor

12 ATTEST:

Approved as to form and legality

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Kurt M. Lannon
Clerk of the Commission

Marion J. Radson
City Attorney

19 This Ordinance passed on first reading this _____ day of _____, 2002.

20 This Ordinance passed on second reading this _____ day of _____, 2002.

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