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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: City of Gainesville Charter Amendment; Equal Opportunity Director


DATE: June 10, 2002
CITY ATTORNEY

Recommendation: The City Commission approve the ballot language and the form of the proposed ordinance.

On May 13, 2002, the City Commission authorized the City Attorney to prepare an 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

MJR/afm

CITY OF GAINESVILLE CHARTER AMENDMENT

EQUAL OPPORTUNITY DIRECTOR

“SHALL THE CITY OF GAINESVILLE’S CHARTER BE AMENDED TO CREATE THE CHARTER OFFICER POSITION OF EQUAL OPPORTUNITY DIRECTOR, APPOINTED BY THE CITY COMMISSION, HAVING CERTAIN DUTIES RELATING TO DISCRIMINATION AND EQUAL OPPORTUNITY, ADDING DUTIES OF THE INTERNAL AUDITOR, AND REQUIRING ALL CHARTER OFFICERS IMPLEMENT WITHIN THEIR OFFICES EQUAL OPPORTUNITY AND HUMAN RELATIONS ORDINANCES AND PROGRAMS OF THE CITY, AS PROPOSED BY ORDINANCE NO. 002722”.

YES

NO

ORDINANCE NO. _____
0-02-26

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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 directions to the clerk of the commission; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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

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

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

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

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

Section 1. Section 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:

20 **CITY OF GAINESVILLE CHARTER AMENDMENT**

21 **EQUAL OPPORTUNITY DIRECTOR**

22 “SHALL THE CITY OF GAINESVILLE’S CHARTER BE AMENDED TO
23 CREATE THE CHARTER OFFICER POSITION OF EQUAL OPPORTUNITY
24 DIRECTOR, APPOINTED BY THE CITY COMMISSION, HAVING CERTAIN

1 DUTIES RELATING TO DISCRIMINATION AND EQUAL OPPORTUNITY,
2 ADDING DUTIES OF THE INTERNAL AUDITOR, AND REQUIRING ALL
3 CHARTER OFFICERS IMPLEMENT WITHIN THEIR OFFICES EQUAL
4 OPPORTUNITY AND HUMAN RELATIONS ORDINANCES AND
5 PROGRAMS OF THE CITY, AS PROPOSED BY ORDINANCE NO. 002722”.

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

11 **Section 7.** In the event that the amendment is approved, the Clerk of the Commission is
12 directed to file a true copy of this ordinance with the Florida Department of State.

13 **Section 8.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
14 or unconstitutional by any court of competent jurisdiction, then said holding shall in no way
15 affect the validity of the remaining portions of this ordinance.

16 **Section 9.** All ordinances or parts of ordinances in conflict herewith are to the extent of
17 such conflict hereby repealed.

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1 **Section 10.** This ordinance shall become effective immediately upon final adoption.

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

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Thomas D. Bussing, Mayor

9 **ATTEST:**

Approved as to form and legality

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13 _____
Kurt M. Lannon
14 Clerk of the Commission

Marion J. Radson
City Attorney

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

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

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