

**Legislative #**  
**170717A**

..title

## Charter Review Commission (B)

..explanation

At the January 4, 2018 City Commission Meeting, at the request of Commissioner Hayes-Santos, the City Commission referred this issue to the General Policy Committee. As set forth in Section 5.01 of the City Charter, a Charter amendment may be proposed by a petition signed by 10 percent of the registered voters of the City, or by an ordinance adopted by a four-fifths vote (i.e., 6 of the 7 members) of the City Commission. Upon receipt of the voter petition or adoption of the ordinance, the proposed amendment is put to a vote of the electors at the next general election or at a special election called for that purpose. The full proposed amendment must be published once each week for 4 consecutive weeks prior to the election in a newspaper of general circulation published in the City. If the proposed amendment receives an affirmative vote of a majority of the votes cast, the amendment shall be effective not later than the 90th calendar day after the day on which the vote was taken unless otherwise provided in the proposed amendment. In addition, under State Law, the City Charter may be amended by Special Act of the Florida Legislature. The City Charter (without the lengthy legal description of the municipal corporate limits) is provided as back-up to this agenda item.

In the past (2005 was the last example), the City Commission has created a Charter Review Committee comprised of citizens appointed by individual Commissioners. The Charter Review Committee would consider any direction provided by the City Commission, hold public meetings to discuss proposed Charter amendments, receive citizen comment, and issue a written report to the City Commission with the recommendations of the Committee. The City Commission would then consider the proposed Charter amendments (if any) and upon adoption of an ordinance (by 4/5ths of the Commission) the Charter amendment would be submitted to vote of the electorate. The Final Report of the City of Gainesville 2005 Charter Review Committee dated October 10, 2005 (without its lengthy Appendix) is attached as back-up to this agenda item.

As an example of another amendment process, Article XI, Section 2 of the Florida Constitution requires that once every 20 years, a 37-member Constitution Revision Commission (CRC) is convened to conduct a thorough review and propose amendments to the Florida Constitution (the State's equivalent of a charter.) The amendments that the CRC approve go directly on the ballot for Florida voters to decide. The members of the CRC consist of: the Attorney General of Florida; fifteen members selected by the Governor; nine members selected by the Speaker of the House of Representatives and nine members selected by the President of the Senate; and three members selected by the Chief Justice of the Supreme Court of Florida with the advice of the Justices. A CRC was convened in 2017 and must complete its work by May 10, 2018, which is the deadline to submit its final report to the Florida Secretary of State. Any amendments approved by the 2017 CRC will be placed on the November 6, 2018 ballot. If a proposed

amendment is approved by at least 60% of the electors voting on the measure and, unless another date is specified in the amendment, the amendment shall become effective on January 8, 2019.

Fiscal Note: If the Commission considers appointing a Charter Review Committee, the Commission should consider the City resources (primarily cost and time/availability of City employees) necessary to staff the Charter Review Committee.

..Recommendation

Discuss as Committee deems appropriate.

## ARTICLE I. - ESTABLISHMENT, CORPORATE LIMITS, AND POWERS

## 1.01. - Establishment and general powers.

The City of Gainesville, created by chapter 12760, Laws of Florida, 1927, as amended, shall continue and is vested with all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, render municipal services, and exercise any power for municipal purposes, except as otherwise provided by law.

## 1.02. - Territorial limits.

The territorial limits and boundaries of the municipality existing in Alachua County under the name of the City of Gainesville shall embrace all of the territory described as follows:

**Editor's note**— At the discretion of the city, the legal description of the municipal corporate limits of the city, formerly set out in § 1.02, has been placed in Appendix I to the Charter.

## 1.03. - Construction.

- (1) The powers of the city shall be construed liberally in favor of the city, limited only by the State Constitution, general law, and specific limitations contained in this act.
- (2) If any provision of this act or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.
- (3) All powers and authority granted by this act are supplemental and additional to all other statutory and constitutional authority.
- (4) For purposes of this act, the term:
  - (a) "City" means the City of Gainesville.
  - (b) "Commission" means the city commission as established in Article II.
  - (c) "State" means the State of Florida.

## 1.04. - Special powers.

In addition to its general powers, the city may:

- (1) Acquire by purchase, gift, devise, lease, lease-purchase, condemnation, or otherwise, real or personal property, or any estate or interest in property, within or without the city limits, and for any of the purposes of the city, and to improve, sell, lease, mortgage, pledge, or otherwise dispose of its property or any part of its property.
- (2) Acquire, purchase, hire, construct, extend, maintain, own, operate, or lease local public utilities, including: cable television, transportation, electric, telephone, and telegraph systems; wastewater and stormwater facilities; works for supplying the city and its inhabitants with water, gas, and electric energy for illuminating, heating, or power purposes; water, electric, and gas production, transmission, and distribution systems; sanitary sewage facilities; wastewater transmission and disposal facilities; and any and all other utilities as the welfare of its residents reasonably demands.
- (3) Finance local public utilities through the sale of bonds, pledging revenue, general taxation, or otherwise; sell water, electricity, gas, wastewater, or any other service, product, or commodity gathered, provided, produced, or manufactured by the city from the public utilities systems and facilities owned or operated by the city to any consumer within or without the limits of the city; and locate utility plants, distribution facilities, or any appurtenances either within or without Alachua County.
- (4) Enter into agreements with other municipalities either within or without Alachua County, or with governmental units or private utility companies, for selling or buying utility services or other municipal services of any kind, wherever located; sell any surplus of water or electric energy it may have over and above the amount required to supply its own inhabitants and any other services to persons, firms, and corporations, public or private, on such terms and conditions as the commission considers appropriate; exercise all powers and authority of the city to acquire by purchase, gift, lease, lease-purchase, or otherwise, real or personal property; and exercise the power of eminent domain within Alachua County, and exercise the power of eminent domain anywhere outside the county where permitted by general law.
- (5)

Make reasonable rules and regulations for promoting the purity of its water supply and for protecting it from pollution, and for this purpose may exercise full police powers and sanitary control over all lands comprised within the limits of the watershed tributary to any such supply wherever such lands may be located in this state; impose and enforce any such rules and regulations; and prevent, by injunction, any pollution or threatened pollution of such water supply and any act likely to impair the purity of the water.

- (6) Acquire, build, construct, erect, extend, enlarge, improve, furnish, equip, and operate as a separate bulk power supply utility or system, electric generating plants, transmission lines, interconnections, and substations for generating, transmitting, distributing, and exchanging electric power and energy both within and without the limits of the city, including specifically all powers and immunities granted by chapter 75-375, Laws of Florida.
- (7) Fix the maximum rate and establish, impose, and enforce, by ordinance, the rates to be charged for gas, electric, wastewater, and all other public utilities or other services or conveniences whether operated, rendered, furnished, or owned by the city or by any person, firm, or corporation.
- (8) Require that all electric wires and all telephone and telegraph wires be placed in underground conduits; prescribe rules and regulations for constructing and using the conduits; enforce compliance with such rules and regulations; and, if the public utilities company fails or refuses to comply with such rules and regulations, construct such conduits and place the wires underground and maintain a lien against the franchises and property of such company.
- (9) Compel the abatement and removal of all nuisances within the city limits, or upon property owned by the city beyond its limits, at the expense of the person causing the nuisance or of the owner or occupant of the ground or premises where the nuisance is found; require all lands, lots, and other premises to be kept clean, sanitary, and free from weeds or make them so at the expense of the owner or occupant; regulate or prevent noisome or offensive businesses; regulate or prohibit the keeping of animals, poultry,

or other fowl, or the exercise of any dangerous or unwholesome business, trade, or employment within the city limits; and regulate the transportation of all articles through the streets of the city.

- (10) Provide and maintain, either within or without the city limits, charitable, recreative, curative, corrective, detention, or penal institutions.
- (11) Provide and regulate hospitals within and without the city limits; enforce the removal of persons afflicted with contagious or infectious diseases to hospitals provided for them; establish and maintain a quarantine ground within or without the city limits and such quarantine regulations against infectious and contagious diseases as the city sees fit to impose; and protect the health of the public.
- (12) Acquire by purchase, gift, devise, condemnation, or otherwise, lands, either within or without the city limits, to be used, kept, and improved as a place of interment of the dead; make and enforce all necessary rules and regulations for the protection and use of all cemeteries within the city limits; and generally regulate the burial of the dead.
- (13) Provide fire protection and other governmental services within and without the city limits and enter into contracts for such purposes.
- (14) License, tax, cause to be registered, control the drivers of, and fix the rate to be charged for the transportation of persons and property within the city limits and to the public works beyond the city limits; provide for parking spaces on the streets and regulate, vacate, or discontinue the right to use the parking spaces; and require bonds and sureties to be furnished for all vehicles operated for hire upon the streets of the city whether such operation is wholly within the city limits or between the city and places outside the city.
- (15) Exercise full police powers over the entire width of right-of-ways of all streets and public ways which lie within, adjacent to, or partially within the city limits.
- (16) Issue any bonds which municipalities are authorized to issue under the State Constitution or laws of the state, subject to the provisions of this act. For purposes of this subsection, the term "bonds" means ad valorem bonds, revenue bonds and certificates, certificates of indebtedness, special assessment bonds and certificates, tax anticipation notes, bond

anticipation notes, revenue anticipation notes, and other evidences of indebtedness. The term "revenue bonds" means bonds payable solely from the revenues derived from sources of revenue other than ad valorem taxes. The term "ad valorem bonds" means bonds and the interest thereon which are payable from the proceeds of ad valorem taxes levied on real and personal property situated within the city limits. Ad valorem bonds may be used in combination with other revenue sources.

- (17) Exercise the power of eminent domain to acquire property located within Alachua County, and exercise the power of eminent domain outside the county where permitted by general law, for the purpose of locating electrical generating, transmission, or distribution facilities; sanitary sewerage or other waste collection, treatment, or disposal facilities; water production, treatment, transmission, and distribution facilities; and for use by the city in the performance of any of its duties, rights, and authority.
- (18) Levy ad valorem taxes in accordance with the State Constitution and laws of the state and to levy other taxes authorized by general law.
- (19) Enact ordinances relating to the repair, closing, demolition and removal of dwelling unfit for human habitation, including specifically all powers and immunities granted by chapter 63-1359, Laws of Florida.
- (20) Adopt urban renewal and community development ordinances.
- (21) Provide, own, and operate a public transportation system within and without the city limits and on the campuses of the University of Florida and Santa Fe Community College, unless otherwise provided by those institutions, and provide for an adequate public transportation system by contract with other agencies, either public or private, on such terms and conditions as the city commission determines, and including specifically all powers and immunities granted by chapter 67-1413, Laws of Florida.

## ARTICLE II. - CITY COMMISSION

### 2.01. - Composition.

- (1) Population under 110,000.
  - (a)



As long as the population of persons within the city remains under 110,000, the legislative power of the city is vested in a city commission of five members. Three members shall be elected by the qualified voters of each of three districts and two members shall be elected by the qualified voters of the city at large.

- (b) For the regular election in 1998, the at large seat then available shall become and remain the mayor's seat. Candidates shall designate at time of qualifying that they are running for mayor. The mayor shall be elected by the qualified voters of the city at large, and shall be considered a member of the commission, except as expressly provided herein.
- (2) Population of 110,000 and over. At any time the population within the City reaches or exceeds 110,000 persons, as ascertained as of the effective date of any annexation under either: 1) the most recent decennial census of the population produced by the U.S. Bureau of the Census, or 2) the most recent estimates of populations of municipalities produced by the State of Florida, Office of the Governor, or the designated agency thereof, whichever number is greater, then the commission shall adopt a resolution which ratifies the number of persons in the City and authorizing the increase in the number of commissioners as provided in subsection (3). Until such time as the additional commissioners are elected and placed in office, however, the legislative power of the city shall remain vested in a commission of five members.
- (3) The legislative power of the city shall be vested in a city commission of seven members including the mayor (when the population within the City reaches or exceeds 110,000 persons as provided in Subsection (2) above) elected in accordance with Sec. 2.04 of this Charter. Four members shall be elected by the qualified voters of each of four districts and two members and the mayor shall be elected by the qualified voters of the city at large as provided in Sec. 2.04.

(Ord. No. 3752, § 1, 12-16-91, referendum of 3-10-92; Ord. No. 4053, § 1, 1-23-95)

## 2.02. - Districts.

- (1) For the purpose of electing three members of the commission (as long as the population within the City remains under 110,000 as provided in Sec. 2.01(1)), the commission shall, by ordinance, apportion the city into three consecutively numbered districts and shall adjust the boundary lines of the districts by

subsequently enacted ordinances whenever, in its judgment, the districts are not ratably or equally proportioned in accordance with the State Constitution and the Constitution of the United States, but not less frequently than within the second year following each decennial census.

- (2) For the purpose of electing four members of the commission (when the population within the City reaches or exceeds 110,000 as provided in Sec. 2.01 (2)), the commission shall, by ordinance, apportion the city into four consecutively numbered districts and shall adjust the boundary lines of the districts by subsequently enacted ordinances whenever, in its judgment, the districts are not ratably or equally proportioned in accordance with the State Constitution and the Constitution of the United States, but not less frequently than within the second year following each decennial census.

(Ord. No. 3752, § 1, 12-16-91; referendum of 3-10-92; Ord. No. 4053, § 1, 1-23-95)

#### 2.03. - Eligibility.

Each candidate for a district seat must be a qualified voter who is a resident of the district from which the person seeks to be elected for a period of not less than 6 months prior to the date the person qualifies to run for office. Each commissioner elected from a district shall continuously reside in the district during the commissioner's term of office, except that any commissioner who is removed from a district by redistricting may continue to serve during the remainder of the commissioner's term of office. Each candidate for an at-large seat, including the mayor's seat, must be a qualified voter of the city for at least six (6) months prior to the date the person qualifies to run for office. Each at-large commissioner and the mayor shall continuously reside within the city during their terms of office. Candidates for the commission shall, at the time of qualifying, designate the district seats, the mayor's seat, or at-large seats for which they intend to run. A commissioner may not serve on the commission for more than two (2) consecutive three-year terms. The mayor may not serve as mayor for more than two (2) consecutive three-year terms. For purposes of this section, service as the elected mayor shall not be considered to be service as a commissioner.

(Ord. No. 4053, § 1, 1-23-95)

#### 2.04. - Election and terms.

- (1) (a) Candidates for election to the commission shall qualify in the manner

prescribed by ordinance.

- (b) Except as provided in Subsection (1)(c) herein, each commissioner shall be elected for a term of 3 years.
  - (c) For the purpose of providing more evenly staggered terms of office, in the regular municipal election held in 2003, the district seat added pursuant to Sec. 2.01(3) of this Charter shall be elected for an initial term of office of one year, and the at-large seat added pursuant to Sec. 2.01(3) of this Charter shall be elected for an initial term of two years. Thereafter, the terms of office for said seats shall be 3 years.
  - (d) The regular municipal election shall be held on the date as prescribed by ordinance.
  - (e) Upon the occurrence of a vacancy on the commission, a special election may be held to fill the vacancy for the remainder of the unexpired term as may be prescribed by ordinance.
- (2) The district candidate receiving a majority of the votes cast in a particular district shall be elected. The at-large candidate and the candidate for mayor receiving a majority of the votes cast within the city at large for such seat shall be elected. If a candidate does not receive a majority of the votes cast for a particular seat, as applicable, a runoff election shall be held between the two (2) candidates for that seat receiving the highest number of votes cast. In the case of a tie, the candidates shall be selected for the runoff election in the same manner as provided for other offices by general law. The candidate receiving more votes in the runoff election shall be elected.
- (3) The terms of office of commissioners shall be staggered so that the terms of office of all commissioners do not expire the same year. Commissioners hold office from 12 o'clock noon of the Thursday following the first Tuesday in May of the year in which they are elected until their successors in office are elected and qualified or until recalled as provided by law. If a runoff election is necessary, commissioners hold office from 12 o'clock noon of the Thursday following the third Tuesday in May of the year in which they are elected.
- (4) Vacancies in office shall be filled in one of the following ways:
- (a)

If less than 6 months remain in the unexpired term or until the next regular election, the commission by a majority vote of the remaining members shall choose and appoint a successor, who is otherwise eligible under section 2.03 of this act, to serve until a newly elected commissioner is qualified.

- (b) If more than 6 months remain in the unexpired term and a general election is not scheduled within 6 months, the commission shall fill the vacancy by a special election to be held not more than 60 days after the occurrence of the vacancy.

(Ord. No. 4053, § 1, 1-23-95; Ord. No. 020289, § 1, 8-27-02)

#### 2.05. - Recall of commissioners.

Commissioners including the mayor are subject to recall as provided by law.

#### 2.06. - Commission as judge of qualifications of members; election of mayor-commissioner pro tempore; rules of procedure; punishment of members for misconduct; and quorum.

The commission shall be the judge of the qualifications of its own members, subject to review by the courts, and shall elect one member as the mayor-commissioner pro tempore. The commission may determine its own rules of procedure and may punish its own members for misconduct. A majority of all the members of the commission constitutes a quorum to do business but a smaller number may adjourn.

(Ord. No. 4053, § 1, 1-23-95)

#### 2.07. - Commission actions; majority vote necessary for adoption of ordinances and resolutions.

The commission shall act by motion, proclamation, resolution, or ordinance. Unless otherwise provided in this act or by law, a motion or a proclamation is adopted when approved by the votes of a majority of the members present, and an ordinance or resolution is adopted when approved by the votes of four or more members of the commission.

(Ord. No. 4053, § 1, 1-23-95; Ord. No. 020749, § 1, 2-10-03)

#### 2.08. - Mayor.

The mayor shall be the presiding officer of the commission and shall exercise such powers conferred and implied by, and perform all duties imposed by, this act, the ordinances of the city, and the laws of the state. The mayor shall have a voice and a vote in the proceedings of the commission, but no veto power. The mayor shall be the official head of the city for receipt of service of legal processes, the purposes of military law, and all ceremonial purposes, but shall have no administrative duties. The mayor-commissioner pro tempore shall perform the functions and duties of the office of mayor in the absence of the mayor.

(Ord. No. 4053, § 1, 1-23-95)

2.09. - Commissioner forfeiture of office and interest in contracts.

Any commissioner including the mayor who ceases to possess any of the qualifications required by this act shall forfeit the office of commissioner. Any contract of the city in which any commissioner has or may have a conflict of interest is voidable by the commission.

(Ord. No. 4053, § 1, 1-23-95)

2.10. - Interference with charter officers.

Neither the commission nor any commissioner, including the mayor, may dictate the appointment of any person to office or employment by the charter officers nor in any manner interfere with the independence of charter officers in the performance of their duties. Except for the purpose of an inquiry, the commission and its members, including the mayor, must deal with employees of the city solely through their respective charter officers, and neither the commission nor any commissioner, including the mayor, may give orders to any subordinates of the charter officers either publicly or privately. Any commissioner, including the mayor, who violates this section is guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083, Florida Statutes.

(Ord. No. 4053, § 1, 1-23-95)

2.11. - Oaths of office.

Before taking office for any term each commissioner shall swear or affirm:

"I do solemnly swear (or affirm) that I will support, honor, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State and under the charter of the City of Gainesville; and that I will well and faithfully perform the duties of (title of office) on which I am now about to enter."

(Ord. No. 4053, § 1, 1-23-95)

### ARTICLE III. - ADMINISTRATION

#### 3.01. - Charter officers.

The charter officers provided for in this article are vested with authority to administer the assigned duties of their offices including the employment and removal of all subordinate employees of their offices. They must make all appointments based on merit and fitness alone and, except as otherwise provided in this act, may remove nonprobationary personnel only for cause, obsolescence of position, budgetary restriction, or for other legitimate reasons. The charter officers may purchase and contract for supplies, materials, equipment, and services required to perform their assigned duties under procedures and limitations prescribed by the commission.

#### 3.02. - City manager.

- (1) *Appointment; administrative head of municipal government; qualifications; terms; bond.* The commission shall appoint a city manager who shall be the administrative head of the municipal government. The city manager is responsible for the efficient administration of all the departments except for those under the control of other charter officers. The city manager shall be appointed without regard to political beliefs, hold office at the will of the commission, and receive no salary for any portion of a salary period extending beyond termination of office. The city manager shall give bond for the faithful performances of this duty in such sum as the commission requires to protect the finances of the city.
- (2) *Powers and duties generally.* The city manager:
  - (a) Shall see that the laws and ordinances are enforced.
  - (b) Shall propose ordinances to designate the job title of subordinates who are directors of departments.

- (c) Shall appoint and, except as otherwise provided in this act, may remove any director of a department at will.
- (d) May remove any nonprobationary subordinate officer or employee in a department for cause, obsolescence of position, or to satisfy budgetary restrictions.
- (e) Shall administer all departments and divisions created by the commission, except as otherwise provided in this act.
- (f) Shall attend all meetings of the commission, except as excused, with the right to take part in the discussion, but having no vote.
- (g) Shall recommend to the commission all measures necessary and expedient for the proper governance and management of the city.
- (h) Shall keep the commission fully advised as to the management, governance, and needs of the city.
- (i) Is the purchasing agent for the city subject to rules adopted by the commission. However, the power of purchase and sale granted to the city manager does not include the power to dispose of any public utility owned by the city.
- (j) Shall recommend an annual budget to the commission.
- (k) Shall perform all other duties prescribed by law, this act, ordinance, or direction of the commission.

### 3.03. - City attorney.

The city attorney must be admitted to the practice of law in the state, and shall be the legal advisor to and attorney for the city. The city attorney shall serve at the will of the commission. The city attorney shall prosecute and defend all suits, complaints, and controversies for and on behalf of the city, unless otherwise directed by the commission, and shall review all contracts, bonds and other instruments in writing in which the city is to be a party, and shall endorse on each approval as to form and legality.

### 3.04. - Clerk of the commission.

The commission may employ a clerk of the commission who shall keep records and perform such other duties as are prescribed by this act or the commission. The clerk of the commission shall serve at the will of the commission.

**3.05. - City internal auditor.**

- (1) The commission may appoint a city internal auditor who shall serve at the will of the commission. The city internal auditor:
  - (a) Shall perform financial and compliance audits.
  - (b) Shall assist the commission in all its accountability functions.
  - (c) Shall perform compliance audits on the implementation of the city's human relations and equal opportunity ordinances, policies, and programs pertaining to the activities of the city within all departments of the city in accordance with schedules prescribed by the commission.
  - (d) Shall perform all other duties assigned by the commission.
- (2) All financial and compliance audits and other reports of the city internal auditor shall be filed in the office of the clerk of the commission.

(Ord. No. 020024, § 1, 7-8-02)

**3.06. - General manager for utilities.**

- (1) *Appointment; administrative head of municipal utilities; qualifications; terms.* The commission shall appoint a general manager for utilities ("general manager") who shall be responsible to the commission. The general manager shall be responsible for the efficient administration of the Utility System. The general manager for utilities shall serve at the will of the commission.
- (2) *Powers and duties generally.* The general manager:
  - (a) Shall be responsible for and have exclusive management jurisdiction and control over operating and financial affairs of the Utility System including, but not limited to, the planning, development, production, purchase, sale, exchange, interchange, transmission and distribution of all electricity; the planning, development, purchase, sale, exchange, interchange, transmission and distribution of all natural gas; the planning, development, supply, treatment, transmission, distribution and sale of all potable water; and the planning, development, collection, treatment, disposal and billing of all wastewater now or hereafter provided by the city;
  - (b) Shall submit to the commission for its consideration a yearly budget for the operation of the Utility System;



- (c) Shall be the purchasing agent for all equipment, materials, supplies and services necessary for operating and maintaining the Utility System subject to policies promulgated by the commission;
- (d) Shall propose ordinances to designate the job titles of subordinates that are to be considered directors of department;
- (e) Shall appoint and, except as otherwise provided in this charter, remove all directors of departments at will;
- (f) Shall recommend to the commission all measures necessary and expedient for the proper governance and management of the Utility System;
- (g) Shall keep the commission fully advised as to the management, governance and needs of the Utility System;
- (h) Shall perform all other duties prescribed by law, this charter, ordinance, or direction of the commission.

### 3.07. - Audits and examinations of administrative departments.

In the absence of state law requiring the city to conduct an annual financial audit, the commission shall adopt an ordinance requiring an annual financial audit of the accounts and records of the city to be completed by an independent certified public accountant within 12 months after the end of each fiscal year.

### 3.08. - Equal opportunity director.

The commission shall appoint an equal opportunity director who shall serve at the will of the city commission. The equal opportunity director:

- (1) Shall investigate complaints of discrimination, harassment, retaliation, and other related matters, and propose remedial action, as prescribed by the city's human relations and equal opportunity ordinances. No city employee shall suffer retaliation for filing a complaint or testifying, assisting, or participating in any investigation under these ordinances, and such complaints shall be held confidential to the extent allowed by federal and state law.
- (2) Shall make reports, including an annual report, to the charter officers and the commission, as appropriate, as to the activities of the year and the need, if any, to revise the city's human relations and equal opportunity ordinances,

policies, and programs pertaining to, but not limited to, equal opportunity, affirmative action, local minority business and local small business enterprise procurement program, fair housing, unlawful harassment, and accessibility to the city's programs, services, and activities.

- (3) Shall propose policies for the implementation of comprehensive equal opportunity and diversity programs and adherence to equal opportunity laws, policies, procedures, and related matters.
- (4) Shall develop, prepare, and monitor the city's affirmative action plan.
- (5) Shall develop training, conduct workshops, and propose strategies and initiatives related to diversity and equal opportunity and related matters in employment, purchasing, services, programs, and activities.
- (6) Shall review all proposed changes to current or proposed new city employment policies, procedures, and guidelines, job descriptions, and purchasing policies, procedures, and guidelines for compliance with equal opportunity laws, policies, procedures, and guidelines, and related matters.
- (7) Shall monitor all hires, transfers, demotions, promotions, and terminations for compliance with equal opportunity laws, policies, procedures, guidelines, and related matters.
- (8) Shall develop instruments to monitor adherence to diversity and equal opportunity laws, policies, procedures, guidelines, and related matters for city services, programs, activities, employment, and purchasing.
- (9) Shall participate in the assessment and review of the city's employment practices, including recruitment, appointment, and promotion, as they pertain to all employees and applicants at all levels of city employment.
- (10) Shall compile various equal opportunity reports and related reports required of the city by state and federal agencies or that are necessary for compliance purposes.
- (11) Shall perform all other functions as prescribed by ordinances or as otherwise directed by the commission.

(Ord. No. 020024, § 2, 7-8-02)

#### ARTICLE IV. - BOARDS AND COMMITTEES

#### 4.01. - Boards and committees.

The commission may create advisory boards and committees as it deems necessary. The members of all boards and committees shall serve without compensation, shall consult with and advise the commission and the various departments, and shall perform all duties and powers prescribed by ordinance or resolution.

#### 4.02. - City plan board.

- (1) The commission shall create one or more city plan boards which shall:
  - (a) Plan for the proper development and growth of the city.
  - (b) Prepare comprehensive plans or elements or portions of plans to guide future development and growth.
  - (c) Make recommendations pertaining to comprehensive plans or elements or portions of plans.
  - (d) Monitor and oversee the effectiveness and status of the comprehensive plan, and recommend changes in the comprehensive plan as are from time to time required.
  - (e) Review proposed land development regulations and land development codes, or amendments thereto, and make recommendations as to the consistency of each proposal with the adopted comprehensive plan or element or portion of the plan.
  - (f) Perform all other functions, duties, and responsibilities assigned to it by the commission.
- (2) Each board shall issue reports and hold public hearings as required by law. The commission may not take final action on any matter pending before a board until the board has completed its report in accordance with law.
- (3) The commission may not declare itself as the city plan board with responsibility under this section.

#### 4.03. - Building and land development regulatory boards.

- (1)

*Creation and composition.* The commission may, by ordinance, create one or more building and land development regulatory boards. Each member of a building and land development regulatory board shall be appointed by the commission and may not be an official or an employee of the city. The commission may designate a city plan board to serve as a building and land development regulatory board.

- (2) *Powers and duties.* A building and land development regulatory board may:
- (a) Hear and decide appeals alleging an error in any order, requirement, decision, or determination made by an administrative official of a department in the enforcement of any building or land development regulation.
  - (b) Hear and decide any special exception under the jurisdiction of the board as prescribed by a building or land development regulation.
    1. The board may not grant a special exception unless it finds that the grant is in harmony with the purpose and intent of any building or land development regulation and will not adversely affect the public interest.
    2. The board may qualify any special exception with appropriate conditions and safeguards.
    3. The board may prescribe a reasonable time limit within which the action for which the special exception is required must be begun or completed, or both, after which the special exception automatically expires if the time limit has not been strictly satisfied.
  - (c) Grant variances to a regulation that are not contrary to the public interest when, owing to special conditions, a literal enforcement of the regulation would result in unnecessary and undue hardship. The board may prescribe appropriate conditions and safeguards in conformity with any building or land development regulation. The board may prescribe a reasonable time limit within which the action for which the variance is required must be begun or completed, or both, after which the variance automatically expires if the time limit has not been strictly satisfied. A variance to a building or land development regulation may not be granted unless the board first finds:
    1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings similarly situated;
    2. That the special conditions and circumstances do not result from the actions of the applicant;

3. That the requested variance will not confer on the applicant any special privilege that is denied by the regulation to other lands, buildings, or structures in the same land use category;
  4. That literal interpretation of the regulation would deprive the applicant of rights commonly enjoyed by other properties in the same land use or zoning category under the terms of the regulation and would work unnecessary and undue hardship on the applicant;
  5. That the variance granted is the minimum variance required to make possible the reasonable use of the land, building, or structure; and
  6. That the variance is in harmony with the general intent and purpose of the regulation and that such variance will not be injurious to the abutting lands or to the area involved or otherwise detrimental to the public welfare.
- (3) The commission may grant, by ordinance, any additional powers and duties to a building and land development regulatory board in accordance with applicable law.
- (4) The board may not grant any variance, special exception, or appeal which is not consistent with either the comprehensive plan or element or portion of the plan, or with the building or land development regulations, except as permitted under paragraph (2)(c).
- (5) A violation of conditions and safeguards prescribed under the terms of a granted variance or special exception constitutes a violation of the building or land development regulations.

## ARTICLE V. - SPECIAL PROVISIONS

### 5.01. - Charter amendments.

This act may be amended pursuant to this section or as otherwise provided by general law.

- (1) *Petition.* An amendment may be proposed by a petition signed by 10 percent of the registered voters of the city, or by an ordinance adopted by a four-fifths vote of the membership of the commission. The commission shall place the proposed amendment to a vote of the electors at the next general election or at a special election called for that purpose.

- (2) *Notice.* The full proposed amendment must be published once each week for 4 consecutive weeks prior to the election in a newspaper of general circulation published in the city.
- (3) *Effect of election.* A proposed amendment receiving an affirmative vote of a majority of the votes cast shall be effective as an amendment to this act not later than the 90th calendar day after the day on which the vote was taken unless otherwise provided in the proposed amendment.

#### 5.02. - Issuance of ad valorem bonds generally.

The city, in its corporate capacity, may issue ad valorem bonds of the city becoming due at such times and upon such conditions as are prescribed by ordinance. The proceeds from the sales of ad valorem bonds shall be used for such municipal purposes as may be provided by ordinance, and for the payment of ad valorem bonds and the interest thereon. The full faith and credit of the city, the ad valorem taxing power of the city, and the revenues obtained from the public utilities owned by the city may be pledged by ordinance, if, before the ad valorem bonds are issued, the amount and purposes of the proposed issue has been approved by a majority vote of the electors of the city voting on the question. The rate of interest shall be determined at the time of sale of the bonds. The commission may, by ordinance, prescribe provisions not inconsistent with this act for the control and direction of the expenditures of ad valorem bond moneys, and for the control and management of public utilities acquired by the city. The commission may levy ad valorem taxes upon real and tangible personal property within the city limits to raise funds to pay the principal and interest of the general obligation and ad valorem bonded indebtedness of the city and to provide a sinking fund for the payment of these ad valorem bonds.

#### 5.03. - Retirement and pension plan for city employees.

The commission shall, by ordinance approved by at least four-fifths of the members of the commission, adopt and implement a retirement and pension plan for the benefits of the employees of the city and shall make appropriations necessary for the plan.

#### 5.04. - Disposal of utilities.

The commission may not, in any manner, dispose of or agree to dispose of the city's electrical or water production or distribution facilities or any part thereof so as to materially reduce the capacity of the city to produce or distribute electrical energy or water, unless the commission does so by ordinance with the prior approval of a majority vote of the qualified electors of the city voting at an election for the purpose of approving the ordinance.

5.05. - Fresh pursuit and arrest by municipal officers.

Any police officer of the city may make fresh pursuit of any person from within the city to any point in Alachua County and there arrest the person, if the pursued person has violated a municipal ordinance of the city or committed a misdemeanor within the city in the presence of a police officer, or if the police officer has reasonable grounds to believe that the pursued person has committed or is committing a felony.

5.06. - Funds for construction of paved surfaces in designated areas.

The City of Gainesville, Florida shall not expend, use, seek, permit or allow the use of any city, county, state, private or federal funds for the construction of any paved surfaces for trails or transportation corridors on City-owned land designated as Conservation, as shown on the map dated May 1998 and on file in the Office of the Clerk of the Commission, within the Hogtown Creek Watershed. This provision is not intended to restrict paving for parking or recreational facilities constructed on land designated as Recreation on the aforementioned map.

(Ord. No. 041138, § 1, 1-9-06)

**Editor's note**— The above provision was a citizen initiative approved by the voters at the city regular election on March 17, 1998. It was included herein as § 5.06 with the city's approval.

5.07. - Equal opportunity; duties of charter officers.

The charter officers shall apply the city's human relations and equal opportunity ordinances and implement its human relations and equal opportunity programs within their respective departments and shall coordinate the efforts of the various departments to optimize the effectiveness of their efforts. The charter officers shall, from time to time, make individual and collective recommendations to the commission pertaining to the effectiveness of the city's human relations and equal opportunity ordinances and programs pertaining to the activities of the city.

(Ord. No. 020024, § 3, 7-8-02)

5.08. - Reserved.

5.09. - Sale or conversion of City-owned lands used or acquired for conservation, recreation, or cultural purposes.

- (1) A registry is hereby created, for the purpose of identifying real properties owned in fee simple by the City of Gainesville that are acquired or used for conservation, recreation, or cultural purposes, and that are deemed by the City Commission of the City of Gainesville to be worthy of the highest level of protection. The registry shall be known as the "City of Gainesville Registry of Protected Public Places." At a public hearing the City Commission may add properties to the Registry by adopting an ordinance by a five-sevenths vote of the membership of the City Commission. The ordinance shall contain the legal description(s) of the site(s) and a description of the value(s) that support their inclusion on the Registry, and shall be recorded in the official public records.
- (2) Real properties, or portions of real properties, on the City of Gainesville Registry of Protected Public Places may not be sold, or converted to a use that will result in a loss of a value or values, as determined by the City Commission, for which a property was placed on the Registry, except by a majority vote of the electors voting in a city-wide referendum election.
- (3) The above restrictions on divestiture or change of use of property shall not apply where the property is being taken for a public purpose by the state or federal government by way of eminent domain.

(Ord. No. 080576, § 1, 12-18-08)

#### ARTICLE VI. - TRANSITION SCHEDULE

6.01. - Former charter provisions.

All provisions of the charter of the City of Gainesville in effect immediately prior to the effective date of this act which are not contained in and are not inconsistent with this act are ordinances of the city subject to modification or repeal in the same manner as other ordinances of the city.

6.02. - Ordinances and resolutions preserved.



All ordinances and resolutions in effect immediately prior to the effective date of this act shall remain in full force and effect to the extent not inconsistent or in conflict with this act until repealed or changed in the manner provided by law.

6.03. - Rights of officers and employees.

Nothing in this act except as otherwise specifically provided in this act shall affect or impair the rights or privileges of persons who were city officers or employees immediately prior to the effective date of this act.

6.04. - Pending matters.

All rights, claims, actions, orders, and legal or administrative proceedings involving the city immediately prior to the effective date of this act shall continue, except as modified pursuant to the provisions of this act.