

# DRAFT

7/23/09

ORDINANCE NO. \_\_\_\_\_  
0-09-43

An Ordinance of the City of Gainesville, Florida, annexing a portion of the City of Gainesville Reserve Area; making certain findings; including within the corporate limits of the City of Gainesville, Florida, that certain compact and contiguous area located generally East of Morningside Nature Center Park on East University Avenue, South of N.E. 5<sup>th</sup> Avenue, West of N. E. 51<sup>st</sup> Street and S.E. 51<sup>st</sup> Street, also including Tax Parcel No. 16177-001-000, North of the northern boundary of Section 13, Township 10 South, Range 20 East, North of Lake View Estates Subdivision and North of S.E. 24<sup>th</sup> Avenue and East of SE 27<sup>th</sup> Street and the City Limits, as more particularly described in the ordinance; providing for inclusion of the area in Appendix I of the City Charter; providing for a referendum election; providing directions to the City Manager and Clerk of the Commission; providing ballot language; providing for land use plan and zoning regulations; providing for persons engaged in any occupation, business, trade or profession; providing a severability clause; and providing effective dates.

**WHEREAS**, Chapter 90-496, Special Acts, Laws of Florida, as amended by Chapter 91-382 and Chapter 93-347, Special Acts, Laws of Florida, created the "Alachua County Boundary Adjustment Act" (hereinafter collectively referred to as "the Act") which sets forth procedures for the annexation of contiguous, compact, unincorporated territory within a municipality's reserve area; and

**WHEREAS**, on January 10, 2006, the Board of County Commissioners of Alachua County designated the Reserve Area for the City of Gainesville pursuant to the Act; and

**WHEREAS**, on July 22, 2009, the City Commission of the City of Gainesville adopted Ordinance No. 090115, which adopted the Urban Services Report setting forth the plans to provide

# DRAFT

7/23/09

1 urban services to that portion of the Reserve Area, a portion of which is proposed to be annexed in  
2 accordance with the procedures provided in the Act; and

3 **WHEREAS**, a copy of the Urban Services Report was filed with the Alachua County Board  
4 of County Commissioners; and

5 **WHEREAS**, the City of Gainesville desires to annex a certain portion of its Reserve Area  
6 which is compact and contiguous to the present corporate limits of the City; and

7 **WHEREAS**, pursuant to law, at least seven days notice has been given once by publication  
8 in a newspaper of general circulation notifying the public of the first Public Hearing of this proposed  
9 Ordinance to be held in the City Commission meeting room, First Floor, City Hall, in the City of  
10 Gainesville; and

11 **WHEREAS**, pursuant to law, at least five days notice has been given once by publication in  
12 a newspaper of general circulation notifying the public of the second Public Hearing of this proposed  
13 Ordinance to be held in the City Commission meeting room, First Floor, City Hall, in the City of  
14 Gainesville; and

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

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

19 **Section 1.** The City Commission finds that the Area described in Section 2 of this  
20 Ordinance (hereinafter referred to as the "Area") is reasonably compact and contiguous to the  
21 present corporate limits of the City of Gainesville, and that no part of the Area is within the

1 boundary of another municipality or county. The City Commission finds the Area to be within its  
2 Reserve Area and the annexation does not create an enclave. The City Commission finds that the  
3 area has a total resident population equal to at least 2 persons for each acre of land. The City  
4 Commission finds that part or all of the Area is developed for urban purposes because it has a total  
5 resident population equal to at least one person for each acre of land included within its boundaries  
6 and is subdivided into lots and tracts so that at least 60 percent of the total number of lots and tracts  
7 are 1 acre or less in size.

8 **Section 2.** The following described Area is annexed and incorporated within the corporate  
9 limits of the City of Gainesville, Florida:

10 See Legal Description attached hereto as Exhibit "A", and made a  
11 part hereof as if set forth in full.  
12

13 **Section 3.** Subject to the provisions of Section 4 of this Ordinance, the corporate limits of  
14 the City of Gainesville, Florida, as set forth in Article 1, Charter Laws of the City of Gainesville, are  
15 amended and revised to include the Area described in Section 2 within the corporate limits of the  
16 City of Gainesville, Florida.

17 **Section 4.** Pursuant to Section 8 of the Act, this Ordinance shall be submitted to a vote of  
18 the registered electors of the Area described in Section 2 of this Ordinance at a special election  
19 called for the purpose of holding the referendum. The referendum election shall be held on Tuesday,  
20 November 10, 2009. The referendum shall be conducted by the Alachua County Supervisor of  
21 Elections ("Supervisor") in accordance with the provisions of the Act and Chapter 9, Gainesville  
22 Code of Ordinances, as applicable. The Supervisor is requested and authorized to conduct a

# DRAFT

7/23/09

1 referendum election in accordance with the provisions of the Florida Statutes. The City Manager is  
2 authorized and directed to pay all lawful expenses associated with the election. The City Manager is  
3 also directed to prepare a statement specifying the population census effect and the affected land  
4 area if the annexation is approved by the electorate at the referendum election.

5 **Section 5.** The Clerk of the Commission is authorized to publish notice of the referendum  
6 on annexation as prescribed by law.

7 **Section 6.** Pursuant to Section 8 of the Act, the language to appear on the ballot of the  
8 referendum election called in Section 4 shall be:

9 "For annexation of property described in Ordinance Number 090249  
10 of the City of Gainesville"

11  
12 "Against annexation of property described in Ordinance Number  
13 090249 of the City of Gainesville"

14  
15 **Section 7.** In accordance with Section 171.062, Florida Statutes, the Alachua County land  
16 use plan and zoning or subdivision regulations shall remain in full force and effect in the Area  
17 described in Section 2 of this Ordinance until the City adopts a comprehensive plan amendment that  
18 includes the annexed area. The Gainesville Code Enforcement Board and code enforcement officers  
19 shall have jurisdiction to enforce these regulations during the interim period through the Gainesville  
20 Code Enforcement Board process as described in Division 8 of Article V of Chapter 2 of the Code of  
21 Ordinances of the City of Gainesville and the Civil Citation Process, as described in Division 6 of  
22 Article V of Chapter 2 of said Code. During the interim period, the City may rezone properties in  
23 the annexed area to an Alachua County Zoning classification/category that conforms with the  
24 Alachua County Comprehensive Plan.

**Section 8.** (a) Except as provided in subsections (b) and (c) below, all persons who are lawfully engaged in any occupation, business, trade or profession within the area described in Section 2 of this Ordinance as of June 1, 2010, shall have the right to continue such occupation, business, trade or profession.

(b) Except as provided in subsection (c) below, all persons who are lawfully engaged in any construction trade, occupation or business within the Area described in Section 2 of this Ordinance as of June 1, 2010, and who possess a valid certificate of competency issued by Alachua County shall have the right to continue the construction trade, occupation, or business within the entire corporate limits of the City of Gainesville, including the Area described in Section 2 of this Ordinance, subject to the terms, conditions and limitations imposed on the certificate by Alachua County, and provided such persons register the certificate with the Building Inspections Department of the City of Gainesville and the Department of Business and Professional Regulation of the State of Florida, if applicable, on or before 4:00 p.m. on June 1, 2010.

(c) All persons lawfully engaged in any occupation, business, trade or profession within the Area described in Section 2 of this Ordinance on or after October 1, 2010, shall obtain an occupational license from the City of Gainesville for the term commencing on October 1, 2010, which license shall be issued upon payment of the appropriate fee in accordance with the Gainesville Code of Ordinances in effect on October 1, 2010.

**Section 9.** If any portion of this Ordinance is declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not be deemed to affect the remaining portions of this Ordinance.

# DRAFT

7/23/09

**Section 10.** The Clerk of the Commission is directed to submit a certified copy of this Ordinance to: 1) the Executive Office of the Governor; 2) the Florida Department of State; 3) the Clerk of the Circuit Court of the Eighth Judicial Circuit in and for Alachua County, Florida; and 4) the Office of Economic and Demographic Research along with a statement specifying the population census effect and the affected land area.

**Section 11.** Sections 1, 4, 5, 6, 8, 9, 10 and 11 of this Ordinance shall become effective immediately upon adoption. Sections 2, 3, and 7 shall become effective at 12:01 a.m. on Tuesday, June 1, 2010, unless there is a tie vote or majority vote against the annexation at the special election called in Section 4 of this Ordinance.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
PEGEEN HANRAHAN  
MAYOR

ATTEST: Approved as to form and legality

\_\_\_\_\_  
Kurt Lannon,  
Clerk of the Commission

\_\_\_\_\_  
Marion J. Radson,  
City Attorney

This Ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2009.

This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2009.