1	ORDINANCE NO. <u>121102</u>
2 3 4 5 6 7 8 9 10 11 12 13	An ordinance of the City of Gainesville, Florida, amending the Gainesville Code of Ordinances by creating a special magistrate position as an alternative to the code enforcement board to enforce compliance with City Of Gainesville ordinances; amending Chapter 2, Article V, Division 8, Code Enforcement Board to provide intent, provide minimum qualifications and requirements for appointment of special magistrates; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.
14	WHEREAS, at least 10 days' notice has been given once by publication in a
15	newspaper of general circulation notifying the public of this proposed ordinance and of a
16	public hearing to be held in the City Commission Auditorium, City Hall, City of
17	Gainesville; and
18	WHEREAS, the Public Hearings were held pursuant to the published notice
19	described at which hearings the parties in interest and all others had an opportunity to be
20	and were, in fact, heard.
21	NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION
22	OF THE CITY OF GAINESVILLE, FLORIDA:
23	Section 1. The title, Sec. 2-376 and Sec. 2-378 of Chapter 2, Article V, Division 8 of
24	the Gainesville Code of Ordinances, are hereby amended to read as set forth below.
25	DIVISION 8. CODE ENFORCEMENT BOARD; SPECIAL MAGISTRATE.
26	Sec. 2-376. Declaration of intent-; authorization of board or special magistrate.
27	It is the intent of this division to promote, protect, and improve the health, safety, and
28	welfare of the citizens of this city by authorizing the creation of an administrative board and
29	provision for a special magistrate, both of whom would be vested with authority to impose
30	administrative fines and other noncriminal penalties to provide an equitable, expeditious,

31 effective, and inexpensive method of enforcing any applicable codes, where a pending or 32 repeated violation continues to exist. The board and special magistrate would not exercise such 33 powers concurrently, but rather the city commission would by resolution adopted from time to 34 time, specify whether the board or the special magistrate is authorized to exercise such powers. This division is specifically authorized by F.S. Ch. Chapter 162, Florida Statutes, known as the 35 36 Local Government Code Enforcement Boards Act. Sec. 2-378. - Definitions. 37 38 As used in this chapter: 39 Special Magistrate shall mean a person authorized to hold quasi-judicial hearings and 40 assess fines against violators of the city code of ordinances and such other authority as may be 41 conferred by Chapter 162, Florida Statutes, or any other law. 42 **Section 2.** A new Sec. 2-391 titled Special Magistrates is created to read as follows: 43 Sec. 2-391. Special Magistrates 44 Alternative proceedings. In lieu of having the code enforcement board hear and 45 decide code violations, the city commission may appoint one or more special magistrates to hear and dispose of such matters. Special magistrates shall have the same status. 46 47 jurisdiction and authority as the code enforcement board. All references to the code 48 enforcement board in the Gainesville code of ordinances shall apply to the special 49 magistrate, except that no Sec. 2-384 legal counsel shall be appointed for magistrate 50 hearings. 51 (b) Minimum qualifications. The minimum qualifications to be eligible for service as a 52 special magistrate are as stated below. In addition, the city may specify further required qualifications in its solicitation for special magistrates. 53

54		(1)	Be an active member in good standing of the Florida Bar with a minimum of five
55			(5) years recent experience practicing law, which experience shall include
56			litigation and administrative hearing experience.
57		<u>(2)</u>	Reside in Alachua County.
58		<u>(3)</u>	Not be an employee of the city or hold any office with the city government, nor
59			hold any other elective or appointive office in the county or state while serving as
60			special magistrate.
61		<u>(4)</u>	Comply with the Code of Ethics of the State of Florida.
62	<u>(c)</u>	<u>Solici</u>	tation and appointment. Eligible candidates for special magistrate shall be solicited
63		throu	gh a request for proposals, or other competitive solicitation pursuant to the city's
64		purch	asing policy and procedures. The selection committee shall evaluate and make
65		recon	nmendations to the city commission for the appointment of special magistrates.
66		Term	s of appointment and compensation for the special magistrates shall be established
67		pursu	ant to a contract approved by the city commission. The city commission may
68		<u>appoi</u>	nt up to two alternate special magistrates to serve in the event of legal conflict of
69		intere	ests or in the absence of the special magistrate.
70	<u>(d)</u>	<u>Addit</u>	ional duties. The city commission may, by ordinance and contract, specify that the
71		specia	al magistrate appointed under this section shall perform additional duties as a
72		heari	ng officer conducting quasi-judicial hearings on other matters concerning the city
73		code	of ordinances.
74	<u>(e)</u>	<u>Remo</u>	eval. The special magistrate shall serve at the pleasure of the city commission and
75		may 1	be removed from service at any time, with or without cause, by a majority vote of a
76		quori	um of the city commission.

77	(f) Conflicts. In the event a legal conflict of interest prevents the special magistrate and any			
78	alternate special magistrate from hearing a case, the city manager, notwithstanding the			
79	language of sec.2-391.1(a)(2) above, may contract with any current special magistrate of			
80	another Florida jurisdiction to hear the case.			
81	Section 3. It is the intention of the City Commission that the provisions of Sections 1			
82	and 2 shall become and be made a part of the Code of Ordinances of the City of Gainesville,			
83	Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered			
84	in order to accomplish such intentions.			
85	Section 4. If any section, sentence, clause or phrase of this ordinance is held to			
86	be invalid or unconstitutional by any court of competent jurisdiction, then said holding			
87	shall in no way affect the validity of the remaining portions of this ordinance.			
88	Section 5. All ordinances, or parts of ordinances, in conflict herewith are to the			
89	extent of such conflict hereby repealed.			
90	Section 6. This ordinance shall take effect immediately upon final adoption.			
91 92	PASSED AND ADOPTED this 1st day of August, 2013.			
93 94	Efel B. Budday			
95 96	EDWARD B. BRADDY			
97	MAYOR			
98 99				
100	ATTEST:			
101				
102	Shower Welliams / Dutmin			
103/7	KURT M. LANNON for NICOLLE M. SHALLEY			
104	CLERK OF THE COMMISSION CITY ATTORNEY			
105				
107	This Ordinance passed on first reading this 18th day of July, 2013.			
108				

This Ordinance passed on second reading this 1st day of August, 2013.