

ORDINANCE NO. 2022-704

An ordinance of the City of Gainesville, Florida, amending the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) relating to public notice requirements by amending Sections 30-3.7 – *Public Participation* and 30-3.8 – *Public Notice*; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, secures for municipalities the broad exercise of home rule powers granted by Article VIII, Section 2 of the Florida Constitution, including the exercise of any power for municipal purposes not expressly prohibited by law; and

WHEREAS, Sections 163.3167 and 163.3177(1), Florida Statutes, requires the City of Gainesville to maintain a Comprehensive Plan to guide the future development and growth of the city by providing the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental and fiscal development of the city; and

WHEREAS, the City of Gainesville is required by Section 163.3202, Florida Statutes, to adopt or amend and enforce land development regulations that are consistent with and implement the Comprehensive Plan, and that are combined and compiled into a single land development code for the city (the City of Gainesville's Land Development Code is Chapter 30 of the Code of Ordinances); and

WHEREAS, this ordinance, which was noticed as required by law, will amend the text of the Land Development Code as described herein; and

WHEREAS, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant

to Section 163.3174, Florida Statutes, held a public hearing and voted to make a recommendation to the City Commission regarding this text change to the Land Development Code; and

WHEREAS, at least ten days' notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings in the City Hall Auditorium located on the first floor of City Hall in the City of Gainesville; and

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

WHEREAS, the City Commission finds that the Land Development Code text amendment described herein is consistent with the City of Gainesville Comprehensive Plan.

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

SECTION 1. Section 30-3.7. – *Public Participation* of the Land Development Code is amended as follows.

Section 30-3.7. – Public Participation.

A. *Purpose and intent.* Public participation requirements are intended to encourage applicants to be good neighbors and to allow for informed decision making, although not necessarily to produce complete consensus on all applications, by:

1. Ensuring that applicants pursue early and effective citizen participation in conjunction with their applications, giving the applicants the opportunity to understand and try to mitigate any real or perceived impacts their applications may have on the neighborhood; and
2. Ensuring that the public has an adequate opportunity to learn about applications that may affect them and to work with the applicant to resolve concerns at an early stage of the review and decision-making process.

B. *Applicability.* Every application that requires board approval, including future land use map changes, rezonings, right-of-way vacations, special use permits, subdivisions, or development plans shall first hold a neighborhood workshop and shall include in the application a public

participation report. Development plans that meet or exceed the thresholds for intermediate or major development review must also include a neighborhood workshop and public participation report. The following development applications are exempt from the requirements of this section:

1. Text changes to the Comprehensive Plan or Land Development Code.
2. City-initiated amendments to the future land use map of the Comprehensive Plan that change the future land use from Alachua County to City of Gainesville categories.
3. City-initiated amendments to the zoning map that change the zoning from Alachua County to City of Gainesville districts.
4. Development plan applications for nonresidential projects of 10,000 square feet or less of floor area when not abutting or adjacent to property zoned for single-family residential use.
5. Development plan applications for residential projects of ten units or less.
6. Environmental remediation or safety improvements required by local, state, and federal agencies.

C. *Workshop and public participation report.* When required in accordance with this section, the applicant shall as part of the development application hold a workshop and submit a written public participation report documenting the results of the public participation effort.

1. The applicant shall hold a workshop prior to submittal of the development application. The applicant shall provide notification of the workshop by ~~certified~~ mail to all owners of property located within 400 feet of the subject property and to all neighborhood associations registered with the city and located within one-half-mile of the property, as well as to any other persons, organizations, or agencies as deemed appropriate by the city manager or designee. The applicant shall provide proof of mailing by submitting a signed and notarized affidavit, on a form acceptable to the city, attesting to the date of the mailing and the number of notices sent. If requested, the city manager or designee may provide mailing labels to the applicant. The applicant shall mail these notices with proper postage at least 15 calendar days before the date of the workshop. The applicant shall also post notice signs of the workshop at the property that is the subject of the application at least 15 calendar days before the date of the workshop which notice must include a description of the application, potential uses, and other information as required by the city manager or designee, as well as the date, time, and location of the workshop.
2. The workshop shall start between 6:00 p.m. and 8:00 p.m. on a weekday or between 9:00 a.m. and 5:00 p.m. on a weekend. If held in person, the workshop must be held in a location generally near the subject property and must be held in a facility that is ADA compliant. Applicants may hold a virtual workshop in lieu of an in-person workshop by both using an interactive online video conferencing software as well as providing attendees the ability to call in with a telephone with no internet access. Virtual workshops must meet all applicable requirements provided in this section and the applicant must provide virtual attendees with the ability to receive all information that would be available in an in-person workshop.
3. The applicant shall hold an additional workshop(s) if the initial workshop has occurred more than three months prior to submittal of the application, or if subsequent to the initial workshop there has been in the subject development application a 20 percent or greater increase in

proposed building area, an increased number of proposed floors, or the addition of or increase of intensity of a drive-through use.

4. The public participation report must be on or in a form as approved by the city manager or designee and must at a minimum include the following information:

a. A list of the owners of property located within 400 feet of the subject property, all neighborhood associations registered with the city and located within one-half-mile of the property, as well as any other persons, organizations, or agencies deemed appropriate by the city manager or designee for notice of the workshop, together with a description of how the applicant will inform those parties any time the development application has a 20 percent or greater increase in proposed building area, an increased number of proposed floors, or the addition of or increase of intensity of a drive-through use.

b. A narrative description of the methods the applicant used to involve the public, which may include: a) dates and locations of all meetings where the public or the parties listed above were invited to discuss the application, including the required workshop; b) the contents, dates mailed, and number of mailings, including letters, meeting notices, newsletters, and all other forms of notice used; c) a general description of where all parties listed above are located; and d) the number of people who participated in the process.

c. A summary of the substance of concerns and issues expressed during the process, and a description of how the applicant has addressed or intends to address the concerns and issues expressed or, in the alternative, why the expressed concerns and issues will not be addressed.

SECTION 2. Section 30-3.8. – *Public Notice* of the Land Development Code is amended as follows. Except as amended herein, the remainder of Section 30-3.8 remains in full force and effect.

Section 30-3.8. – Public Notice.

B. *Mailed notice.* Unless otherwise provided by law, addresses for mailed notice required by this chapter must be obtained from the latest ad valorem tax records provided by the county property appraiser. The failure of any person to receive notice will not invalidate an action if a good faith attempt was made to comply with the notice requirements. The notice must identify the physical address of the subject property; the date, time, and location of the public hearing; and a description of the application including the nature and degree of the request, potential uses, and other information as required by the city. The notice must be mailed ~~by certified mail~~ at least 15 calendar days prior to the date of the hearing to all real property owners whose land will be affected and whose property lies within 400 feet of any affected property.

SECTION 3. It is the intent of the City Commission that the provisions of Sections 1 and 2 of this ordinance become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the sections and paragraphs of the Code of Ordinances may be renumbered or relettered in order to accomplish such intent.

SECTION 4. If any word, phrase, clause, paragraph, section, or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding will not affect the other provisions or applications of this ordinance that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 6. This ordinance will become effective immediately upon adoption.

PASSED AND ADOPTED this 2nd day of March, 2023.



HARVEY L. WARD
MAYOR

Attest:



OMICHELE D. NATTIEL-WILLIAMS
CITY CLERK

Approved as to form and legality:



DANIEL M. NEE
CITY ATTORNEY

This ordinance passed on first reading this 16th day of February, 2023.

This ordinance passed on second reading this 2nd day of March, 2023.



Omichele D. Nattiel-Williams
City Clerk

OFFICE OF THE CITY CLERK

I hereby certify that a true record of this Ordinance Number 2022-704 was made by me and filed in Ordinance Book No. _____ on this 7th day of March 2023.

Omichele D. Nattiel-Williams
City Clerk

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