

NOTICE OF INTENT

ATTACHMENT # 1

NOTICE IS HEREBY GIVEN to all concerned that the Gadsden County Board of County Commissioners at their regularly scheduled meeting on Tuesday, February 5, 2013 at 6:00 p.m. intends to hear at first reading:

Public Hearing – A first reading for an Ordinance to amend Chapter 5, Subsection 5003.B of the Gadsden County Land Development Codes to allow the continuance of non-residential, non-conforming uses beyond the terms of existing ownership as indicated in the Ordinance title:

AN ORDINANCE AMENDING CHAPTER 5, DEVELOPMENT STANDARDS, SECTION 5000, GENERAL STANDARDS, SUBSECTION 5003.B, NON-CONFORMING USE AND STRUCTURES OF THE LAND DEVELOPMENT CODE OF GADSDEN COUNTY, SUBSECTION (5); TO ALLOW THE CONTINUANCE OF NON-RESIDENTIAL NON-CONFORMING USES BEYOND THE TERMS OF EXISTING OWNERSHIP CONSISTENT WITH POLICY 1.3.1 OF THE GADSDEN COUNTY COMPREHENSIVE PLAN AS AMENDED BY ORDINANCE NUMBER 2009-028; AND SUBSECTION (6) AMENDING THE PERIOD OF TIME TO TWO YEARS AFTER WHICH A USE MAY CEASE OR BE DISCONTINUED PRIOR TO BEING BROUGHT INTO CONFORMANCE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

The public hearing will be held in the County Commission chambers located at 7 E. Jefferson Street, Quincy, FL. Persons wishing to review the agenda packet for the above project may review it on the County website at gadsdengov.net or come to the Planning & Community Development Department at 1B E. Jefferson St., Quincy, FL.

A public hearing for a second reading and final adoption will be held February 19, 2013.

In accordance with the Americans with Disabilities Acts, persons needing assistance in obtaining any information from the County or attending the public hearing should contact the County by communicating with the Planning and Community Development Department at (850) 875-8663 at least 48 hours prior to the hearing.

If any person wishes to appeal any decision made with respect to this matter at the public hearing, they will need to ensure that a verbatim record of the proceedings is made recording the testimony and evidence presented.

ORDINANCE 2013-_____

AN ORDINANCE AMENDING CHAPTER 5, DEVELOPMENT STANDARDS, SECTION 5000, GENERAL STANDARDS, SUBSECTION 5003.B, NON-CONFORMING USE AND STRUCTURES OF THE LAND DEVELOPMENT CODE OF GADSDEN COUNTY, SUBSECTION (5), TO ALLOW THE CONTINUANCE OF NON-RESIDENTIAL NON-CONFORMING USES BEYOND THE TERMS OF EXISTING OWNERSHIP CONSISTENT WITH POLICY 1.5.1 OF THE GADSDEN COUNTY COMPREHENSIVE PLAN AS AMENDED BY ORDINANCE NUMBER 2009-028; AND SUBSECTION (6) AMENDING THE PERIOD OF TIME TO ~~TWO~~ YEARS AFER WHICH A USE MAY CEASE OR BE DISCONTINUED [↑] PRIOR TO BEING BROUGHT INTO CONFORMANCE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

THREE

Whereas, Gadsden County has developed over time some uses and/or structures that were made non-conforming with adoption of the Gadsden County Comprehensive Plan and Land Development Code; and

Whereas, the County has received complaints of economic hardship from property-owners and citizens who wish to sell a non-residential use in an existing non-residential structure on parcels within the County; and

Whereas, the County Commission did not intend for the non-conforming provisions of the code to expire when a property is sold; and

Whereas, the County wishes to retain the non-conforming provisions as they pertain to non-residential structures and uses; and

Whereas, the proposed ordinance will facilitate the continued use and sale of non-conforming non-residential uses without creating additional conflicts or impacts on

adjacent property owners and to extend the amount of time before a nonconforming non-residential use is discontinued; and

Whereas, the Gadsden County Comprehensive Plan, Policy 1.5.1 was amended in the year 2009 to remove the following language: “Non-conforming non-residential uses shall not be grandfathered beyond the term of the existing ownership.” ; and

Whereas, Subsection 5302.B(5) of the Land Development Code will be revised to be consistent with Comprehensive Plan Policy 1.5.2 by removing said language; and

Whereas, the provisions of this ordinance are in no way are intended to allow for the establishment of non-conforming uses, structures or densities but only allow for the sale and continuance of non-residential, non-conforming uses and structures in existence prior to enactment of the Gadsden County Comprehensive Plan.

Section 1: ADOPTION OF ORDINANCE.

Subsection 5003.B Non-Conforming Uses, Subsection (5) of the Land Development Code of Gadsden County, Florida, is hereby amended to read as follows:

5. Redevelopment on non-conforming lots shall be required to incorporate buffers or other measures to mitigate the impacts of the non-conforming use.

Subsection 5003.B Non-Conforming Uses, Subsection (6) of the Land Development Code of Gadsden County, Florida, is hereby amended to read as follows:

6. If a non-residential non-conforming use of a structure or use of land ceases, or if that use has been discontinued for a period of three (3) years as determined by evidence gathered by the Planning and Community Development Department, use of the structure, or structure and use of land, shall thereafter conform to the standards of this Code.

Section 2: SEVERABILITY

The sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance are severable so that if any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this Ordinance, for the board of county commissioners declares that it is its intent that it would have enacted this Ordinance without such invalid or unconstitutional provision(s).

Section 3: EFFECTIVE DATE; FILING WITH DEPARTMENT OF STATE

This Ordinance shall take effect upon filing with the Department of State.

DULY PASSED AND ADOPTED BY a vote of 5 to 0 by the Board of County Commissioners of Gadsden County, Florida, this the 19 day of February 2013.

BOARD OF COUNTY COMMISSIONERS
OF GADSDEN COUNTY, FLORIDA

By: *Douglas Croley*
Douglas Croley, Chairman



Marcella Blocker, Deputy for
Nicholas Thomas
Clerk of the Circuit Court

GADSDEN COUNTY COMPREHENSIVE PLAN

FUTURE LAND USE ELEMENT

Policy 1.5.1: The County's development review procedures shall include definitions for nonconforming lots, uses of land, structures, characteristics of uses of structures and premises. Redevelopment on non-conforming lots shall be required to incorporate buffers or other measures to mitigate the impacts of the non-conforming use. (*Ordinance #2009-028, 7-16-09*)

Gadsden County Land Development Code (LDC)
Proposed Revisions (Strike & Add)

~~Strike thru~~ = Remove Language
Underline = Add New Language

GADSDEN COUNTY LAND DEVELOPMENT CODE
CHAPTER 5

DEVELOPMENT STANDARDS

Subsection 5003. Non-conforming Uses and Structures.

A. **Intent.** It is the intent of this subsection to promote the conversion of non-conforming uses and structures to conformance with the provisions of the Gadsden County Comprehensive Plan, 2001 and this Code. The regulations of this subsection allow non-conforming uses to continue until they are removed voluntarily, by economic forces, acts of God, by legal or other means, with the exception of non-conforming residential structures and uses. Non-conforming residential structures, including single family homes, mobile (manufactured) homes, and multiple-family residential structures and uses, shall be permitted to retain and re-establish such unit(s) if voluntarily or non-voluntarily removed from a non-conforming lot or parcel in accordance with Subsection 5003.B.7. The intent is also not to permit the re-establishment or replacement of any Recreational vehicle (RV) used as a dwelling unit in other than an approved RV park. These regulations are further intended to restrict additional investment in non-residential non-conformities and to provide incentives for their early conversion. No provision of this Code shall prohibit the replacement of a manufactured (mobile) home with a site built home.

(Ord. # 2006-023, 10-03-06)

B. **Non-Conforming Uses.** Lawful non-conforming uses or structures, with the exception of non-conforming residential structure(s), may continue in use but shall not be enlarged, expanded, extended, or otherwise modified, except for required repair and maintenance. Any proposed expansion or alteration of non-conforming uses and/or structures shall be in full compliance with all requirements of this Code. Lawful non-conforming residential uses and structures may be continued and re-established as designated herein, except RV units used as dwelling units, and may be expanded on a parcel if such expansion occurs in compliance with the existing Land Development Code and the Florida Building Code. (Ord. #

2006-023, 10-03-06)

Use of non-conformities shall be subject to the following conditions:

1. Where a non-conforming structure is located wholly or partially in the required setback from an abutting right-of-way, the Planning Director may

- waive the required setbacks to allow for alteration of said structure, or re-establishment/re-placement of a non-conforming residential structure/use provided such alterations do not enlarge any portions of the non-conforming structure within the required setback. (Ord. # 2006-023, 10-03-06)
2. Provision of required off-street parking or loading spaces is allowed, provided such extension does not involve structural alteration or enlargement of structure(s) containing the non-conforming use in question. (Ord. # 1996-002, 7-2-96)
 3. No non-conformity shall be moved, in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure or use shall thereafter conform to the requirements of this Code, the Gadsden County Comprehensive Plan, and any Code adopted by reference. Said restriction shall not apply to a pre-existing non-conforming residential structure(s)/uses provided that such structure(s)/uses are moved on a lot or parcel in compliance with required building setbacks. (Ord. # 2006-023, 10-03-06)
 4. No use or structure which is accessory to a principal lawful non-conforming use or structure shall continue after such principal use or structure shall have ceased or has been terminated. (Ord. # 1996-002, 7-2-96)
 5. Redevelopment on non-conforming lots shall be required to incorporate buffers or other measures to mitigate the impacts of the non-conforming use. ~~Non-conforming non-residential uses shall not be grandfathered beyond the term of the existing ownership.~~ (Ord. # 2006-023, 10-03-06)
 6. If a non-residential non-conforming use of a structure or use of land ceases, or if that use has been discontinued for a period of ~~one (1)~~ three (3) years as determined by evidence gathered by the Planning and Community Development Growth Management Department, use of the structure, or structure and use of land, shall thereafter conform to the standards of this Code. (Ord. # 2006-023, 10-03-06)
 7. A non-conforming residential use or density may be re-established or be replaced if the structure is replaced within two years of removal or date of destruction (i.e. a non-conforming mobile home may be replaced by a replacement mobile home.) No provision of this Code shall prohibit the replacement of a manufactured (mobile) home with a site built home (also see Subsection 5003.E.). (Ord. # 2006-023, 10-03-06)
 8. Any proposal to re-establish or replace a non-conforming residential use shall not be construed to supersede regulations of the Florida Department of Health. (Ord. # 2006-023, 10-03-06)
 9. Legally authorized construction of any structure whose placement, structural design or intended use is rendered non-conforming by adoption of this Code, and for which the final Certificate of Occupancy has not been issued as of the enactment date, may continue without change. (Ord. # 2006-023, 10-03-06)