

1  
2  
3  
4  
5  
6  
7  
8  
9

**ORDINANCE NO. 2023-904**

10  
11  
12  
13  
14  
15  
16

**An ordinance of the City of Gainesville, Florida, amending Section 30-3.3 and Section 30-3.4 of the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) to delete the requirement for a probationary period for members of the City Plan Board and Development Review Board; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.**

17  
18  
19  
20  
21  
22  
23

**WHEREAS**, the City of Gainesville, Florida (“City”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and the Municipal Home Rule Powers Act; and

**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

24 for the city (the City of Gainesville’s Land Development Code is Chapter 30 of the Code of  
25 Ordinances); and

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

28 **WHEREAS**, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of  
29 the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant  
30 to Section 163.3174, Florida Statutes, held a public hearing on September 28, 2023, and voted to  
31 make a recommendation to the City Commission regarding the subject of this ordinance; and

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

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

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

39 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**

40 **FLORIDA:**

41 **SECTION 1.** Section 30-3.3 of the Land Development Code is amended as follows. Except as  
42 amended herein, the remainder of Section 30-3.3 remains in full force and effect.

43 **Section 30-3.3. City plan board.**

44 A. *Establishment and purpose.* The city plan board (CPB), which shall be designated as the  
45 local planning agency in accordance with F.S. § 163.3174, is hereby created and shall have  
46 the following duties:

- 47 1. Plan for the proper growth and development of the city, meaning the scientific,  
48 aesthetic, and orderly disposition of land, resources, facilities, and services with the  
49 goal of securing an environment for present and future generations that is  
50 environmentally sustainable, socially just and desirable, and economically sound. The  
51 board shall keep constantly informed of and in touch with the physical changes of the  
52 city and its surrounding environs and is authorized to gather information and make  
53 recommendations to the city commission with regard to such growth and  
54 development.
- 55 2. Prepare the City of Gainesville Comprehensive Plan and amendments thereto, and  
56 make recommendations to the city commission regarding the adoption or amendment  
57 of such plan.
- 58 3. Monitor and oversee the effectiveness and status of the Comprehensive Plan, and  
59 recommend to the city commission such changes in the Comprehensive Plan as may  
60 from time to time be required, including the periodic evaluation and appraisal of the  
61 Comprehensive Plan required by F.S. § 163.3191.
- 62 4. Review proposed land development regulations, the Land Development Code, or  
63 amendments thereto, and make recommendations to the city commission as to the  
64 consistency of each proposal with the adopted Comprehensive Plan.
- 65 5. Perform all other functions, duties, and responsibilities designated by the Land  
66 Development Code or otherwise assigned by the city commission.

67 B. *Membership.*

- 68 1. The city plan board shall have seven regular members, representing a cross section of  
69 the city, appointed by the city commission. Regular members of the city plan board  
70 shall be and remain bona fide residents of the city. If at any time a member of the city  
71 plan board fails to remain a resident of the city, such person shall no longer serve on  
72 the board.
- 73 2. The city plan board shall have an additional member (hereinafter, the "school board  
74 representative") that represents and is appointed by the School Board of Alachua  
75 County. The duties of the school board representative are limited to attending city  
76 plan board meetings at which the city plan board considers Comprehensive Plan  
77 amendments and rezonings that would, if approved, increase residential density on  
78 the property that is the subject of the proposed amendment or rezoning. The school  
79 board representative shall be a non-voting member.
- 80 3. Each member shall be appointed to a three-year term commencing on November 1 of  
81 the year appointed. Members may be reappointed for consecutive terms and may

82 hold office after expiration of their term until a successor has been appointed and  
83 qualified.

84 4. When a regular member position becomes vacant before the end of the term, the city  
85 commission shall appoint a substitute member to fill the vacancy for the duration of  
86 the vacated term. When the school board representative position becomes vacant  
87 before the end of the term, the School Board of Alachua County shall appoint a  
88 substitute member to fill the vacancy for the duration of the vacated term.

89 ~~5. Probationary period for regular members.~~

90 ~~a. New appointees to the city plan board shall complete a 60-day probationary~~  
91 ~~period prior to commencement of the term of office. During this period appointees~~  
92 ~~shall meet the same attendance requirements as other board members, but shall~~  
93 ~~not have the power to vote or be counted for the purpose of constituting a~~  
94 ~~quorum.~~

95 ~~b. Any appointee who fails to successfully complete the probationary period, except~~  
96 ~~as provided below, shall be automatically disqualified for membership on the city~~  
97 ~~plan board, upon the filing with the city clerk appropriate proof that the appointee~~  
98 ~~has failed to successfully complete the probationary period.~~

99 ~~c. Exception. The city commission may waive the required probationary period for~~  
100 ~~any appointee to the city plan board upon good cause shown and entered in the~~  
101 ~~record of the minutes of the city commission.~~

102 C. *Officers.*

103 1. The members of the city plan board shall annually elect a chair and vice-chair from  
104 among the regular members and may create and fill other offices as the board deems  
105 necessary. The chair shall preside over the board and shall have the right to vote. In  
106 the absence of the chair, the vice-chair shall perform the duties of the chair.

107 2. The city plan board may create whatever subcommittees it deems necessary to carry  
108 out the purposes of the board. The chair of the board shall annually appoint the  
109 membership of each subcommittee from the regular members of the board. The  
110 school board representative is eligible for subcommittee membership, and the chair of  
111 the board may appoint the school board representative to any given subcommittee.

112 3. The city manager shall appoint a city employee to serve as secretary to the board,  
113 recorder and custodian of all board records.

114 D. *Compensation of members; funding; absenteeism; legal counsel.*

115 1. Neither regular members nor the school board representative shall be compensated,  
116 but may be paid for travel and other expenses incurred on board business under  
117 procedures prescribed in advance by the city commission.

- 118 2. The city commission shall appropriate funds to permit the city plan board to perform  
119 its prescribed functions.
- 120 3. Absenteeism by regular board members shall be governed by board rules.
- 121 4. The city attorney shall provide legal counsel to advise and represent the board as  
122 necessary.
- 123 E. *Rules of procedure.* The city plan board shall adopt rules of procedure to carry out its  
124 purposes. All rules shall conform to this article, the Code of Ordinances and state law, and  
125 shall be reviewed and approved by the city commission.
- 126 1. The board shall meet at least once each calendar month, unless cancelled by the  
127 board or its chair, and more often at the call of the chair or the city commission.
- 128 2. The board shall adopt rules setting the number of members needed to establish a  
129 quorum.
- 130 3. Each decision of the board shall be approved by a majority vote of the regular  
131 members present at a meeting in which a quorum is in attendance and voting.
- 132 4. The board shall conduct hearings in accordance with this article and state law.
- 133 5. The board shall keep minutes of its proceedings, indicating the attendance of each  
134 member, and the decision on every question.
- 135 F. *Final and non-final decisions.* The city plan board has final decision authority for special  
136 use permits (other than wellfield special use permits), development plans, determinations  
137 for nonpresumptive vested rights and concurrency, and decisions on binding resource  
138 determinations. All other actions of the board are non-final and advisory to the city  
139 commission. Advisory actions of the board shall not obligate the city.
- 140 G. *Implementation of board's decision.* Any permit, authorization, or other development  
141 order issued, based on the board's decision, prior to the end of the period for filing an  
142 appeal for any available administrative or judicial remedies is considered conditional. Any  
143 action taken during the appeal period is taken at the sole risk of the property owner or  
144 representative, who may be required to undo any work done if the decision of the board  
145 is overturned either by a rehearing of the board, an appeal for an administrative remedy,  
146 or an appeal to a court of competent jurisdiction.

147  
148  
149 **SECTION 2.** Section 30-3.4 of the Land Development Code is amended as follows. Except as  
150 amended herein, the remainder of Section 30-3.4 remains in full force and effect.

151 **Section 30-3.4. Development review board.**

- 152 A. *Establishment and purpose.* The development review board (DRB) is hereby created and  
153 shall have the following duties:
- 154 1. Review and act upon applications for development plan approval pursuant to the Land  
155 Development Code. The airport authority shall act in the capacity of the development  
156 review board for development plans for the Gainesville Regional Airport in accordance  
157 with an approved airport layout plan.
  - 158 2. Review and approve, approve with conditions or deny modifications and variances  
159 from the requirements of this Land Development Code, as specifically provided in this  
160 Land Development Code.
  - 161 3. Make recommendations to the city plan board on land development regulations either  
162 upon referral by the city plan board or upon its own initiation.
  - 163 4. Perform all other functions, duties, and responsibilities designated by the Land  
164 Development Code or otherwise assigned by the city commission.
- 165 B. *Membership.*
- 166 1. The development review board shall have seven regular members appointed by the  
167 city commission. Members of the development review board shall be and remain bona  
168 fide residents of the city. If at any time a member of the development review board  
169 fails to remain a resident of the city, such person shall no longer serve on the board.  
170 When appointing residents to the development review board, the city commission  
171 shall give special consideration to those with the following experience:
    - 172 a. An architect or landscape architect.
    - 173 b. A civil engineer.
    - 174 c. A person engaged in real estate sales or development.
    - 175 d. A professional with experience in natural or environmental sciences.
    - 176 e. An urban planner; and
    - 177 f. A citizen at large.
  - 178 2. Each member shall be appointed to a three-year term commencing on November 1 of  
179 the year appointed. Members may be reappointed for consecutive terms and may  
180 hold office after expiration of their term until a successor has been appointed and  
181 qualified.
  - 182 3. When a member position becomes vacant before the end of the term, the city  
183 commission shall appoint a substitute member to fill the vacancy for the duration of  
184 the vacated term.
  - 185 ~~4. Probationary period.~~

186 ~~a. New appointees to the development review board shall complete a 60-day~~  
187 ~~probationary period prior to commencement of the term of office. During this~~  
188 ~~period appointees shall meet the same attendance requirements as other board~~  
189 ~~members, but shall not have the power to vote or be counted for the purpose of~~  
190 ~~constituting a quorum.~~

191 ~~b. Any appointee who fails to successfully complete the probationary period, except~~  
192 ~~as provided below, shall be automatically disqualified for membership on the~~  
193 ~~development review board, upon the filing with the city clerk appropriate proof~~  
194 ~~that the appointee has failed to successfully complete the probationary period.~~

195 ~~c. Exception. The city commission may waive the required probationary period for~~  
196 ~~any appointee to the development review board upon good cause shown and~~  
197 ~~entered in the record of the minutes of the city commission.~~

198 C. *Officers.*

199 1. The members of the development review board shall annually elect a chair and vice-  
200 chair from among the members and may create and fill other offices as the board  
201 deems necessary. The chair shall preside over the board and shall have the right to  
202 vote. In the absence of the chair, the vice-chair shall perform the duties of the chair.

203 2. The development review board may create whatever subcommittees it deems  
204 necessary to carry out the purposes of the board. The chair of the board shall annually  
205 appoint the membership of each subcommittee.

206 3. The city manager shall appoint a city employee to serve as secretary to the board,  
207 recorder and custodian of all board records.

208 D. *Compensation of members; funding; absenteeism; legal counsel.*

209 1. Board members shall not be compensated, but may be paid for travel and other  
210 expenses incurred on board business under procedures prescribed in advance by the  
211 city commission.

212 2. The city commission may appropriate funds to permit the development review board  
213 to perform its prescribed functions.

214 3. Absenteeism by board members shall be governed by board rules.

215 4. The city attorney shall provide legal counsel to advise and represent the board as  
216 necessary.

217 E. *Rules of procedure.* The development review board shall adopt rules of procedure to carry  
218 out its purposes. All rules shall conform to this article, the Code of Ordinances and state  
219 law, and shall be reviewed and approved by the city commission.

220 1. The board shall meet at least once each calendar month, unless cancelled by the  
221 board or its chair, and more often at the call of the chair or the city commission.

- 222 2. The board shall adopt rules setting the number of members needed to establish a  
223 quorum.
- 224 3. Each decision of the board shall be approved by a majority vote of the members  
225 present at a meeting in which a quorum is in attendance and voting.
- 226 4. The board shall conduct hearings in accordance with this article and state law.
- 227 5. The board shall keep minutes of its proceedings, indicating the attendance of each  
228 member, and the decision on every question.

229 F. *Implementation of board's decision.* Any permit, authorization, or other development  
230 order issued, based on the board's decision, prior to the end of the period for filing an  
231 appeal for any available administrative or judicial remedies is considered conditional. Any  
232 action taken during the appeal period is taken at the sole risk of the property owner or  
233 representative, who may be required to undo any work done if the decision of the board  
234 is overturned either by a rehearing of the board, an appeal for an administrative remedy,  
235 or an appeal to a court of competent jurisdiction.  
236

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

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

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

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



249 **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2023.

250

251

252

253

254

255

256

257

258

259

260

261

\_\_\_\_\_  
HARVEY L. WARD, JR.  
MAYOR

Attest:

Approved as to form and legality:

\_\_\_\_\_  
KRISTEN J. BRYANT  
INTERIM CITY CLERK

\_\_\_\_\_  
DANIEL M. NEE  
CITY ATTORNEY

262 This ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2023.

263

264 This ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2023.