

Ordinance No. 0-06-53

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

An ordinance of the City of Gainesville, Florida, relating to the establishment and jurisdiction of the Board of Adjustment; amending section 30-354; establishing term limits for members, establishing minimum preferred requirements for members, amending the appeals process; amending subsection 30-346(d), removing the allowance that the board of adjustment may permit the reestablishment of a nonconforming use after the use has been discontinued or abandoned for nine consecutive months; deleting and repealing in its entirety obsolete board of adjustment appeals processes stated at sections 6-242 and 13-211, relating to the commercial building code; repealing obsolete board of adjustment appeals processes and criminal ordinance violations processes stated at section 30-327, relating to the sign regulations as stated in the Land Development Code; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the Land Development Code of the City of Gainesville, Florida, be amended; and

WHEREAS, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on July 20, 2006; and

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the Auditorium of City Hall in the City of Gainesville; and

WHEREAS, a Public Hearing was held pursuant to the published notice described at which hearing the parties in interest and all others had an opportunity to be and were, in fact, heard;

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

CODE: Text ~~stricken~~ is deleted; text underlined is added.

1 Section 1. Section 30-354, City of Gainesville Code of Ordinances, is hereby
2 amended to read as follows:

3 (a) *Created.* The board of adjustment is hereby created and shall consist of five
4 members appointed by the city commission. After the initial appointments, each member
5 shall be appointed for a up to two consecutive terms of three years each, and shall hold
6 office until a his/her successor has been appointed and qualified. Service on the board
7 may not exceed six (6) consecutive years; however, reappointment may occur after one
8 (1) year of absence from the board. Vacancies shall be filled for the unexpired term of
9 any member whose office becomes vacant. Terms shall expire November 1 of the year
10 the term expires.

11 (b) *Residency Requirements for members:*

12 (1) Experience. It is preferred, but not required, that the membership of the
13 Board of Adjustment include at least 3 members with experience in the following areas:

14 a. Urban Planning;

15 b. Architecture;

16 c. Landscape architecture;

17 d. Law;

18 e. Development; or

19 f. Construction.

20 (2) ~~Residency requirements for members.~~ Members of the board of adjustment
21 shall be and remain bona fide residents of the city. If at any time any members- of the
22 board of adjustment fails to be and remain a resident of the city, the person shall be
23 automatically disqualified and removed from the board.

1 (c) *Officers and rules.* The board of adjustment shall elect a chairperson from its
2 membership, and adopt rules for the conduct of its affairs which shall be in full force and
3 effect when approved by the city commission.

4 (d) *Powers and duties.* The board of adjustment shall have the following powers and
5 duties under this chapter and building chapter provisions of the city:

6 (1) *Administrative review.* Unless otherwise specified in the Code of
7 Ordinances, the board of adjustment shall have the power and duty to hear and decide
8 appeals where it is alleged there is error in any order, requirement, decision or
9 determination made by an administrative official of the city in the enforcement of the
10 land development code or building chapters. The board shall not have the power or duty
11 to hear and decide appeals from any order, requirement, decision, or determination when
12 such are made as part of, or are inherent in, a Chapter 2, Article V, Division 8, notice of
13 violation, or Division 6, civil citation, issued by a code enforcement officer or sworn law
14 enforcement officer, unless otherwise provided in this Code of Ordinances. This shall not
15 preclude hearing and deciding requests for special exceptions or variances, which may
16 include matters also at issue in a notice of violation or civil citation. Public notice shall be
17 given in the manner specified in subsections 30-354(j) and (l).

18 (2) *Special exceptions.*

19 a. The board of adjustment shall have the power and duty to hear and
20 decide only such special exceptions as are specifically authorized by the terms of the
21 Code of Ordinances; to decide such questions as are involved in determining whether
22 special exceptions should be granted; and to grant special exceptions with such
23 conditions and safeguards as are appropriate under the Code of Ordinances; or to deny

1 special exceptions when not in harmony with the purpose, intent and requirements of the
2 Code of Ordinances.

3 b. A special exception is hereby defined as a granting of permission
4 for a use or action where specific provisions for such special exceptions are made in the
5 Code of Ordinances. Such exceptions would not be appropriate generally or without
6 restriction throughout the zoning district or other section of the Code of Ordinances but,
7 if controlled as to number, area, location or relation to the neighborhood, would promote
8 the public health, safety, welfare, morals, order, comfort, convenience, prosperity or
9 general welfare.

10 c. A special exception shall not be granted by the board of adjustment
11 unless and until:

12 1. A written application for a special exception is submitted
13 indicating the section of the zoning ordinance under which the special exception is sought
14 and stating the grounds on which it is requested.

15 2. Notice of public hearing on the special exception shall be
16 given in the manner prescribed in subsections 30-354(k) and (l).

17 3. The public hearing shall be held whereat any party may
18 appear in person, or by agent or attorney.

19 4. The board of adjustment shall make findings that it is
20 empowered under the section of the Code of Ordinances described in the application to
21 grant the special exception, and that the granting of the special exception, with any
22 appropriate conditions and safeguards that the board may deem necessary, will not
23 adversely affect the public interest.

1 d. In reaching its conclusion and in making the findings required in
2 ~~subsection (d)(2)e.4.~~ of this section, the board of adjustment shall consider and weigh the
3 intent, factors and standards delineated in the applicable portion of the Code of
4 Ordinances, and shall show in its record such factors as were considered and the
5 disposition made thereof. Further, the board shall find in the case of any of these factors
6 and standards, where they may be relevant and applicable, and in the case of other factors
7 which the board may find relevant and applicable, that the purposes and requirements for
8 granting the special exception have been met by the applicant.

9 e. In granting any special exception, the board of adjustment may
10 prescribe appropriate conditions and safeguards in conformity with the standards herein
11 set out and in conformity with the Code of Ordinances. Violation of such conditions and
12 safeguards, when made a part of the terms under which the special exception is granted,
13 shall be deemed a violation of the Code of Ordinances punishable under applicable
14 sections of the Code of Ordinances. In the granting of a special exception, the board of
15 adjustment may prescribe a time limit within which the action for which the special
16 exception is granted shall begin or be completed, or both. Failure to begin or complete, or
17 both, such action within the time limit shall void the special exception.

18 f. The board of adjustment shall not entertain any petition for a
19 special exception within two years after the denial of a request for the same special
20 exception for the same property.

21 (3) *Variances generally.*

22 a. The board of adjustment shall have the power and duty to
23 authorize upon appeal from the decision of the administrative official in specific cases

1 such variance from the terms of the land development code and building chapters, except
2 as otherwise provided for therein, as will not be contrary to the public interest where,
3 owing to special conditions, a literal enforcement of the provisions of the land
4 development code or building chapters would result in unnecessary hardship.

5 b. Authorization.

6 1. *Defined.* A variance is hereby defined as a relaxation of
7 certain terms of the land development code or building chapters where such variance will
8 not be contrary to the public interest and where, owing to conditions peculiar to the
9 property and not the result of the actions of the applicant or any predecessor-in-interest of
10 the property, a literal enforcement of those terms of the land development code or
11 building chapters would result in unnecessary and undue hardship.

12 2. *Authorized variances.* For the purpose of this chapter, a
13 variance is authorized only for height of structures; size of yard setbacks; driveway
14 widths, street line corner clearances, and property line edge clearances, as provided in
15 section 30-336(15); and landscape and tree management and flood control provisions as
16 provided in section 30-310.

17 3. *Restrictions on granting of variances.* A variance shall not
18 be granted:

19 i. for establishment or expansion of a use otherwise
20 prohibited; or

21 ii. because of the presence of nonconformities in the
22 zoning district or adjoining districts; or

23 iii. because of financial loss or business competition; or

1 iv. because the property was purchased with the intent
2 to develop or improve the property, and the intended development or improvement would
3 violate the restrictions of the land development code or building chapter, whether or not it
4 was known at the time of purchase that such development would be a violation.

5 c. A variance from the terms of this chapter or building chapters shall
6 not be granted unless and until:

7 1. A written application for a variance is submitted
8 demonstrating:

9 i. That special conditions and circumstances exist
10 which are peculiar to the land, structure or building involved and which are not
11 applicable to other lands, structures or buildings in the same district.

12 ii. That literal enforcement of the provisions of the
13 land development code or building chapters would deprive the applicant of rights
14 commonly enjoyed by other properties in the same district under the terms of the land
15 development code or building chapters.

16 iii. That the special conditions and circumstances do
17 not result from the action of the applicant.

18 iv. That granting the variance requested will not confer
19 on the applicant any special privilege that is denied by this section to other lands,
20 structures or buildings in the same district.

21 2. Notice of public hearing shall be given as required by
22 subsections 30-354(j-i) and (l) and as may be required by this chapter or building
23 chapters.

1 3. The public hearing shall be held whereat any party may
2 appear in person or by agent or attorney.

3 4. The board of adjustment shall make findings that the
4 requirements of ~~subsection (d)(3)e.~~ of this section have been met by the applicant.

5 5. The board of adjustment shall further make a finding that the reasons set forth in the
6 application justify the granting of the variance, and that the variance is the minimum
7 variance that will make possible the reasonable use of the land, building or structure.

8 6. The board of adjustment shall further make a finding that the grant of the variance
9 will be in harmony with the general intent and purpose of the land development code or
10 building chapters, and will not be injurious to the neighborhood or otherwise detrimental
11 to the public welfare.

12 d. In granting any variance, the board of adjustment may prescribe
13 appropriate conditions and safeguards in conformity with the land development code or
14 building chapters. Violation of such conditions and safeguards, when made a part of the
15 terms under which the variance is granted, shall be deemed a violation of this chapter and
16 punishable according to applicable law.

17 e. Under no circumstances shall the board of adjustment grant a
18 variance under this chapter to permit a use not permitted generally or by special
19 exception in the district involved, or any use expressly or by necessary implication
20 prohibited by the terms of this chapter in the district.

21 f. No nonconforming use of neighboring lands, structures or
22 buildings in the same district, and no permitted use of lands, structures or buildings in
23 other districts, shall be considered grounds for the issuance of a variance.

1 g. Any variance granted shall expire within six months after the date
2 of grant, unless a building permit based upon and incorporating the variance is issued
3 within the aforesaid six-month period and construction has begun thereunder.

4 h. The board of adjustment shall not entertain any petition for a
5 variance within two years after the denial of a request for the same variance for the same
6 property.

7 (4) *Decisions.* In exercising any of the powers now or otherwise given to the
8 board of adjustment, the board of adjustment may, so long as such action is in conformity
9 with this section and the requirements of the land development code and building
10 chapters, reverse or affirm, wholly or partly, or may modify the order, requirement,
11 decision or determination appealed from and may make such order, requirement, decision
12 or determination as ought to be made, and to that end shall have the powers of the
13 administrative official from whom the appeal is taken.

14 (5) *Additional duties.* The board of adjustment shall perform such additional
15 duties as may, by ordinance, be delegated to it and which shall pertain to the above
16 assigned powers.

17 (6) *Special exceptions and variances deemed appeals.* It is hereby declared
18 for the purpose of the procedures outlined in subsection 30-354(h) that the term "appeals"
19 as used in subsection 30-354(h) shall be deemed to include special exceptions and
20 variances.

21 (e) *Meetings.* The board of adjustment shall hold regular meetings at least once in
22 each calendar month. Special meetings may be held upon the call of the chairman or upon
23 the written request of any two members of the board. All meetings of the board shall be

1 open to the public. The board shall keep minutes of its proceedings showing the vote of
2 each member upon each question, or, if absent or failing to vote, indicating such fact, and
3 shall keep records of its examinations and all other official actions, which shall be filed
4 immediately in the office of the board and which shall become public records.

5 (f) *Publication of agenda of hearings.* A list of the hearings to be held at meetings of
6 the board of adjustment shall be published in a newspaper of general circulation in the
7 city at least ten days prior to each meeting.

8 (g) *Testimony before board.* The chairperson of the board or, in his/her absence, the
9 vice-chairperson, may administer oaths.

10 (h) *Process for Appeals from administrative decisions.*

11 (1) Unless otherwise provided for in this Code of Ordinances, appeals
12 regarding a specific property where a person has a legal interest (an "affected person")
13 must be taken to the board of adjustment by an- the affected person within 20 days from
14 the date of the entry of a decision-notice of the final administrative action by an
15 administrative officer regarding any land development code or building chapter provision
16 (Chapters 6 and 30), which affects a specific property where the affected person has a
17 legal interest, when that decision the final administrative action is adverse to his/her the
18 interest of the affected person or by the applicant within 20 days from the time the
19 building inspector refuses to issue any permit after application therefore has been duly
20 made. Each notice of final administrative action shall include an explanation of the
21 affected person's right to appeal and shall specify the time period (20 days) for filing a
22 petition for appeal to the board.

1 (2) All ~~appeals~~ petitions for appeal containing or attaching the requisite
2 information described in this paragraph shall be filed with the secretary of the board on
3 forms prescribed by the board and shall be accompanied by all of the papers constituting
4 the record upon which the action was taken. In addition, all petitions for appeal must
5 include:

6 a. _____ explanation of how the petitioner's legal interest is affected by the
7 administrator's decision;

8 b. _____ A statement of how and when the petitioner received notice of the
9 administrator's decision;

10 c. _____ A statement of all disputed issues of material fact or a statement
11 that there are no disputed issues of material fact;

12 e. _____ A concise statement of the ultimate facts alleged, including
13 specific facts that the petitioner contends would warrant reversal by the board or would
14 warrant modification of the administrator's decision; and

15 e. _____ A statement of relief sought by the petitioner, stating precisely the
16 remedy the petitioner seeks from the board.

17 (3) An appeal to the board of adjustment shall stay all collateral proceedings
18 related to the action appealed from, including but not limited to collateral proceedings
19 pending pursuant to Chapter 2, Article V, Division 8, notice of violation, or Division 6,
20 civil citations, unless the officer from whom the appeal is taken shall certify to the board
21 after the appeal has been filed that, by reason of facts stated in the certificate, a stay, in
22 his/her opinion, would cause imminent peril to life or property, in which case
23 proceedings on the collateral action shall not be stayed other than by order of the board or

1 by a court of equity after notice to the officer from whom the appeal is taken and on due
2 cause shown.

3 (4) The board shall hear and determine all appeals promptly after giving to all
4 parties at least ten days' written notice of the time and place of the hearing, as is stated in
5 this section. Any party in interest at a hearing may appear in person or be represented by
6 an agent or attorney.

7 (5) a. Timely filed petitions stating there are no disputed issues of
8 material fact shall be processed and heard as follows:

9 i. The board secretary shall schedule a quasi-judicial hearing
10 of the matter before the board after giving all parties at least ten days written notice of the
11 time and place of the hearing.

12 ii. All parties shall submit to the secretary of the board any
13 documentary evidence intended to be introduced at the hearing on their behalf at least
14 five business days prior to the hearing.

15 iii. At the hearing, the board shall provide all parties the
16 opportunity to present written or oral evidence in support of the documentary evidence
17 submitted on their behalf including the petition.

18 iv. If during the course of the proceeding a disputed issue of
19 material fact arises then, unless all parties stipulate as to that disputed fact, the proceeding
20 under this part 5A shall be terminated and a proceeding under part 5B, below, shall be
21 conducted.

22 b. Timely filed petitions stating there are disputed issues of material
23 fact shall be processed and heard as follows:

- 1 i. The city, through the city attorney's office, shall arrange for
2 the services of a hearing officer to conduct the formal quasi-judicial hearing.
- 3 ii. In conducting the hearing to resolve disputed issues of
4 material fact, the hearing officer shall have the power to administer oaths, issue
5 subpoenas, compel the production of books, paper, and other documents, and receive
6 evidence. All parties shall have an opportunity to respond, to present evidence and
7 argument on all issues involved, to conduct cross-examination and submit rebuttal
8 evidence, to submit proposed findings of facts and orders, to file exceptions to the
9 hearing officer's recommended order, and to be represented by counsel or other qualified
10 representative. Hearsay evidence may be used for the purpose of supplementing or
11 explaining other evidence, but it shall not be sufficient in itself to support a finding unless
12 it would be admissible over objection in civil actions.
- 13 iii. The hearing officer shall prepare a recommended order
14 consisting of findings of fact, conclusions of law and affirmative relief, if applicable. The
15 hearing officer shall transmit the recommended order to the board and all parties. Each
16 party shall have 15 days from the date of the hearing officer's order to submit written
17 exceptions to the hearing officer's recommended order. The order will be set on the next
18 available board of adjustment agenda following the expiration of time to submit written
19 exceptions and shall only be removed from the agenda for good cause shown. The board
20 shall review such order and any written exceptions and may set forth any deficiencies it
21 finds with respect to the order. Said deficiencies shall be limited to determinations that
22 the findings were not based upon competent, substantial evidence, or that the proceedings
23 on which the findings were based did not comply with the essential requirements of law.

1 In reviewing such recommended order, the board shall not have the power to receive or
2 consider additional evidence. The board shall have no power to reject or modify the
3 findings of fact contained in the recommended order unless the Board first determines
4 from a review of the entire record and states with particularity in the Order that the
5 findings of fact were not based upon competent, substantial evidence or upon a showing
6 that the proceedings on which the findings were based did not comply with the essential
7 requirements of law. The board may either adopt the recommended order as the final
8 order, or by a three-fourths majority vote of those present reject the hearing officer's
9 recommendation.

10 (6) Upon reaching its decision, the board shall make such order as it shall
11 deem to be proper to each case and to that end shall have all of the powers of the officer
12 from whom the appeal was taken. Each order shall thereafter be reduced to writing and
13 shall contain a full recital of the board in each case, ~~and a~~ A copy thereof shall be filed in
14 the records of the board by its secretary.

15 (i) *Notification of hearing on variance.* No variance shall be authorized by the board
16 of adjustment upon appeal from the terms of this chapter unless a public hearing on the
17 appeal has been held by the board after notice of the hearing has been given as follows:

18 Where the variance is for some deviation from the zoning district regulations, all owners
19 of property within 300 feet of the premises for which the variance is requested shall be
20 notified of the hearing.

21 (j) *Notification of appeal alleging error by administrative official.* In connection with
22 appeals where it is alleged there is error in any order, requirement, decision or
23 determination made by any administrative official in the enforcement of this chapter,

1 notification shall be given to all owners of property within 300 feet of the premises which
2 are involved in the appeal.

3 (k) *Notification of request for special zoning exception.* In all cases of requests for
4 special exceptions to the terms of this chapter which the board of adjustment is required
5 to hear and decide, all owners of property within 300 feet of the premises for which the
6 special exception is requested shall be notified of the hearing.

7 (l) *Notification time for mailing.* Where notice to nearby property owners is required
8 in connection with hearings, the notice shall be mailed to the property owner at least ten
9 days before the date of the hearing. For this purpose the owner of property shall be
10 deemed to be the person who, with his/her address, is so shown on the tax rolls of the
11 city.

12 (m) *Rehearings.*

13 (1) *Request for rehearing.* A request for rehearing of any matter decided by
14 the board of adjustment may only be submitted by the original petitioner or agent, the city
15 manager or designee, the city commission, or an affected person, who presented oral or
16 written testimony or evidence at the initial hearing. The request must be filed with the
17 secretary of the board on a form provided by the secretary within ten days of the date the
18 decision is made by the board. The request will be considered at the next scheduled
19 meeting of the board at least 15 days after the request is filed.

20 (2) *Basis of request for rehearing.* A request for rehearing shall only be
21 granted if at least three members of the board find that the requester has demonstrated by
22 competent, substantial evidence that the board overlooked or failed to correctly interpret
23 evidence presented at the initial hearing.

1 (3) *Procedure for scheduling rehearing.* If the request for rehearing is granted
2 by the board, the board shall hold the rehearing at its next regularly scheduled meeting, or
3 at a special meeting convened by the board for that purpose at least 15 days after the
4 request is granted. Notice of the rehearing shall be sent to all owners of property within
5 300 feet of the premises involved in the rehearing.

6 (n) ~~Appeal to a court.~~ Right to appeal Board's decision in an administrative review.

7 (1) Any person aggrieved by a decision rendered by the board under
8 administrative review may appeal the decision to the city commission by writ of
9 certiorari within 30 days from the date the decision of the board is reduced to writing and
10 sent by U.S. Mail to such person. The appeal shall be made by filing a written notice of
11 appeal within the above-prescribed time period with the clerk of the city commission.
12 The notice shall set forth concisely the decision appealed from and the reasons or grounds
13 for the appeal.

14 (2) The appeal shall be heard by the city commission at its next regular
15 meeting, provided at least 14 days have intervened between the time of the filing of the
16 notice of appeal and the date of such meeting. The city commission shall consider only
17 evidence and testimony placed in the record before the Board at its hearing and may hear
18 oral argument by each party in support of or in opposition to the Board's finding and
19 decision. The city commission shall consider only whether due process was afforded the
20 parties, whether the Board applied the correct law, and whether the Board's findings are
21 supported by competent, substantial evidence and shall then promptly make its decision
22 and issue a final order affirming, amending or reversing the board's decision. The
23 decision of the city commission shall be reduced to writing and shall constitute final

1 administrative action. Appeals from decisions of the city commission may be made to a
2 court of competent jurisdiction by writ of certiorari.

3 (3) Unless otherwise provided herein, any affected person aggrieved by any
4 final administrative decision of the board under this section may appeal the decision to a
5 court of competent jurisdiction within 30 days of the date of the decision.

6 (o) *Implementation of board's decision.* Any permit, authorization or other
7 development order issued based on the board's decision prior to the end of the period for
8 requesting a rehearing pursuant to subsection (m) or for filing an appeal pursuant to
9 subsections (h) and (n) is considered conditional. Any action taken during the rehearing
10 or appeal period is taken at the sole risk of the property owner, who may be required to
11 undo any work done if the decision of the board is overturned either by a rehearing of the
12 board, an appeal to the City Commission, or in an appeal to ~~or by~~ a court of competent
13 jurisdiction.

14 **Section 2.** Paragraph (5) of subsection (d) of section 30-346, City of Gainesville
15 Code of Ordinances, is amended to read as follows:

16 (5) ~~When a nonconforming use of a structure, or structure and premises in~~
17 ~~combination, is discontinued, vacant, abandoned or not used for nine consecutive months,~~
18 ~~the structure, or structure and premises in combination, shall not thereafter be used except~~
19 ~~in conformance with the regulations of the district in which it is located ; provided, the~~
20 ~~board of adjustment may permit the reestablishment of the nonconforming use where it is~~
21 ~~determined by the board of adjustment after public hearing that the design, construction~~
22 ~~and character of the building is not suitable for uses permitted in the district in which~~
23 ~~such nonconforming use is situated. The board of adjustment shall hold a public hearing~~

CODE: Text ~~stricken~~ is deleted; text underlined is added.

1 on each case in question after giving ten days' public notice of the time and place of such
2 hearing, in order to determine the question of suitability of uses permitted in the district
3 in which such building is located. In no event shall the board of adjustment permit a
4 change to another nonconforming use except those of the same major group, as identified
5 by the Standard Industrial Classification Manual; nor shall it permit any structure to be
6 enlarged, extended, constructed, reconstructed, remodeled, moved or structurally altered
7 for any purpose other than changing the use of the structure to a use permitted in the
8 district in which it is located.

9 Whenever a nonconforming use of land or of a building or other structure or any portion
10 thereof is abandoned or the use is discontinued for a continuous period of nine months or
11 more, such abandonment or discontinuance shall be presumed to constitute an intention
12 to abandon or discontinue such use, and such use shall no longer be permitted. Any
13 subsequent use of such building or structure or land shall be in conformity with the
14 provisions of this chapter.

15 **Section 3.** Section 6-242, City of Gainesville Code of Ordinances, section is deleted
16 in its entirety and is hereby repealed.

17 ~~Sec. 6-242. Appeals.~~

18 ~~Appeals of the code enforcement official's decision or order of noncompliance shall be~~
19 ~~taken to the board of adjustment in the manner prescribed by Chapter 2 of the Code of~~
20 ~~Ordinances of the City of Gainesville.~~

21 **Section 4.** Section 13-211, City of Gainesville Code of Ordinances, is deleted in its
22 entirety and is hereby repealed.

23 ~~Sec. 13-211. Appeals.~~

1 Appeals of the code enforcement officer's decision or order of noncompliance shall be
2 taken to the board of adjustment in the manner prescribed by division 3 of article II of
3 this chapter.

4 **Section 5.** Section 30-327, City of Gainesville Code of Ordinances, is deleted in its
5 entirety and is hereby repealed.

6 **~~Sec. 30-327. Appeals.~~**

7 ~~(a) There is hereby established an appeals board for violations of this article. The board~~
8 ~~of adjustment shall serve and perform the duties of such appeals board under the~~
9 ~~provisions set forth herein. Appeals may be heard and decided by the board of adjustment~~
10 ~~when it is alleged that there is an error in any notice, order, requirement, decision or~~
11 ~~determination made by the enforcing official or any other administrative official of the~~
12 ~~city in the enforcement of this article, except for notices of violations regarding unlawful~~
13 ~~and prohibited signs as specified in subsections 30-316(a) and (b). Such appeals must be~~
14 ~~filed with the board of adjustment within 20 days of the date of the notice, order,~~
15 ~~requirement, decision or determination sought to be reviewed. The authority of the board~~
16 ~~of adjustment shall be limited to:~~

17 ~~(1) Upholding or reversing the enforcing official or other administrative officer in such~~
18 ~~official's determination of facts and interpretation of the provisions of this article; or~~

19 ~~(2) In the case of a notice of violation, modifying such notice if the actions required by~~
20 ~~such notice to be done to correct the violation are not the minimum necessary to comply~~
21 ~~with the requirements of this article.~~

22 ~~(b) It shall be unlawful for any person to erect, cause to be erected, maintain or cause to~~
23 ~~be maintained any sign without full compliance with the restrictions, requirements and~~
24 ~~provisions of this article, or to otherwise violate any provisions of this article. Each day a~~

CODE: Text ~~stricken~~ is deleted; text underlined is added.

1 ~~violation occurs or continues, regardless of whether such violation is ultimately~~
2 ~~corrected, shall constitute a separate offense. Any person convicted of violating any~~
3 ~~provision of this article shall be punished as provided in section 1-9.~~

4 **Section 6.** It is the intention of the City Commission that the provisions of Sections 1,
5 2, 3, 4 and 5 of this ordinance shall become and be made a part of the Code of
6 Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of
7 this ordinance may be renumbered or relettered in order to accomplish such intentions.

8 **Section 7.** If any section, sentence, clause or phrase of this ordinance is held to be
9 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall
10 in no way affect the validity of the remaining portions of this ordinance.

11 **Section 8.** All ordinances, or parts of ordinances, in conflict herewith are to the
12 extent of such conflict hereby repealed.

13 **Section 9.** This ordinance shall become effective immediately upon final adoption.

14 **PASSED AND ADOPTED** this ____ day of _____, 2006.

15

16

17

18

PEGEEN HANRAHAN, MAYOR

19

ATTEST:

Approved as to form and legality

20

21

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

22

23

24

This Ordinance passed on first reading this ____ day of _____, 2006.

25

This Ordinance passed on second reading this ____ day of _____, 2006.