

ORDINANCE NO. 090007
0-09-32

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4 **An ordinance of the City of Gainesville, Florida, relating to**
5 **heritage overlay districts; amending the City Land**
6 **Development Code by establishing the heritage overlay district**
7 **designation; by setting forth the purpose, objectives and effect**
8 **of such designation; by creating heritage overlay district**
9 **procedures, regulations, and exemptions; by creating a**
10 **heritage overlay district board; amending Appendix A,**
11 **Schedule of Fees, Rates and Charges of the Code of**
12 **Ordinances by creating fees for petitions related to heritage**
13 **overlay districts; providing directions to the codifier;**
14 **providing a severability clause; providing a repealing clause;**
15 **and providing an immediate effective date.**
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18 **WHEREAS,** certain neighborhoods do not qualify for designation as a historic district,
19 but do display unique and desirable visual characteristics that unify the neighborhood; and

20 **WHEREAS,** the City Commission finds that certain unifying visual characteristics can
21 give residential areas a distinct and aesthetically appealing identity; and

22 **WHEREAS,** retaining a distinct and aesthetically appealing identity stabilizes
23 neighborhoods, maintains their character and adds value to the City; and

24 **WHEREAS,** the unique character of the City cannot be properly ~~maintained~~ or enhanced
25 unless its distinctive neighborhoods are protected, conserved and preserved; and

26 **WHEREAS,** these regulations are intended to provide a process by which the property
27 owners within a neighborhood can seek to further protect, conserve and preserve the unique
28 visual characteristics and charm of their neighborhood;

29 **WHEREAS,** publication of notice was given of a public hearing that the text of the Land
30 Development Code of the City of Gainesville, Florida, be amended; and

1 **WHEREAS**, notice was given and publication made as required by law and a public
2 hearing was then held by the City Plan Board on April 23, 2009; and

3 **WHEREAS**, notice was given and publication made as required by law and a public
4 hearing on the petition was held by the City Commission on June 4, 2009; and

5 **WHEREAS**, at least 10 days notice has been given once by publication in a newspaper of
6 general circulation notifying the public of this proposed ordinance and of a public hearing to be
7 held in the City Commission Auditorium, City Hall, City of Gainesville; and

8 **WHEREAS**, the public hearings were held pursuant to the published notice described
9 above, at which hearings the parties in interest and all others had an opportunity to be and were,
10 in fact, heard.

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

13 **Section 1.** Section 30-80.1, Land Development Code of the City of Gainesville, is hereby
14 created and added to read as follows:

15 **30-80.1 Heritage overlay district.**

16
17 (a) Purpose. The heritage overlay district is established as an overlay zoning district
18 designation to maintain, protect, conserve and preserve residential areas with a distinct visual
19 identity by regulating development to ensure compatibility with the existing style, character or
20 identity of the district area. The purpose of this section is to create the process by which
21 property owners can request that the City impose additional regulatory requirements upon their
22 residential area in order to help conserve the design and visual characteristics that give the area
23 a distinct identity and a harmonious appearance.

24
25 (b) Objectives. The objectives of the heritage overlay district are to promote the economic,
26 educational, aesthetic, cultural and general welfare of the City's residential neighborhoods by:

27
28 (1) Encouraging property owners to participate in the development process within
29 their general geographic areas;

30
31 (2) Encouraging the use of existing buildings through adaptive rehabilitation;

1
2 (3) Enhancing the diversity of the City's housing stock;

3
4 (4) Encouraging construction that will lead to continuation, conservation and
5 improvement that complements the scale and physical character of the original buildings;
6 and

7
8 (5) Protecting neighborhoods' distinct identities.

9
10 (c) Effect of Classification/Administration.

11
12 (1) The heritage overlay district classification is an overlay district classification.
13 When the heritage overlay district is applied to any property, the underlying zoning
14 district categories are neither abandoned nor repealed. The existing regulations remain in
15 effect, with further restrictions on regulated work items as specified in the design
16 standards report, in particular no building permit shall be issued for regulated work items
17 without the approval of the heritage overlay district board. If there is a conflict between
18 the provisions of the heritage overlay district and the underlying zoning district, the
19 heritage overlay district prevails.

20
21 (2) Design standards for regulated work items shall be specified in each ordinance
22 that places the heritage overlay district on an area.

23
24 (3) Whether or not the regulated work item is consistent with standards of the
25 applicable heritage overlay district shall be determined by the heritage overlay district
26 board, based on the adopted ordinance for that particular district.

27
28 (4) The heritage overlay district shall be applied only to residential uses zoned RSF-1,
29 RSF-2, RSF-3, RSF-4, and RC. Changing the zoning of a parcel to a zoning district other
30 than RSF-1, RSF-2, RSF-3, RSF-4, or RC shall also require a simultaneous rezoning to
31 remove the heritage overlay district.

32
33 (5) Fees for petitions to designate an area as a heritage overlay district or to amend an
34 existing district, for verification of petition signatures and for petitions for review of
35 regulated work items shall be paid to the City in accordance with the schedule set out in
36 Appendix A and such payment shall be made at the time of submitting a petition to the
37 planning and development services department.

38
39 (d) Criteria. An area must meet all of the following criteria to be eligible for designation as a
40 heritage overlay district:

41
42 (1) It shall consist of at least 25 compact and contiguous parcels and shall not cause
43 the creation of an enclave or pocket within the area, as those terms have been defined by
44 Florida Statutes and case law relating to annexations;

1 (2) Residences within the area shall consist only of one- and two-family dwellings;

2
3 (3) All land within the area must be zoned RSF-1, RSF-2, RSF-3, RSF-4, or RC;

4
5 (4) Each boundary of the area shall be one of the following identifiable landmarks: a
6 street, alley, publicly owned right-of-way, platted subdivision boundary, or a creek; and

7
8 (5) No area boundaries shall overlap the boundary of an existing heritage overlay
9 district or Historic District.

10
11 (e) *Additional Criteria.* In addition, an area must meet one of the following criteria to be
12 eligible for designation as a heritage overlay district:

13
14 (1) Its visual characteristics give it a distinct identity;

15
16 (2) It has distinguishing characteristics of an architectural style valuable for the
17 study of a period, method of construction, or use of indigenous materials; or

18
19 (3) It has character as a geographically definable area possessing a significant
20 concentration of buildings or structures united by its plan or physical development.

21
22 (f) *Procedures.* The procedures for application and designation are as follows:

23
24 (1) *Application and process.* Any owner of property within a proposed heritage
25 overlay district may apply by petition to have that area designated a heritage overlay
26 district and impose special regulations on that area. The process for the imposition of the
27 overlay district shall be as provided in Article X of this chapter for zoning changes. The
28 Plan Board and the City Commission may approve the overlay district boundaries and
29 regulations only with a finding, supported by data and analysis, that the area has unique
30 and identifiable features and characteristics, that those characteristics are or may be
31 threatened by incompatible or inconsistent development, and that the proposed
32 regulations are reasonably related to protecting those identified features and
33 characteristics.

34
35 (2) *Petition requirements.* In order to impose the heritage overlay district on an area,
36 a petition requesting imposition of the overlay district on that area shall be submitted to
37 the planning and development services department on forms provided by the department.
38 Each petition shall meet the following requirements:

39
40 a. The petitioner shall be an owner of legal title of property located within
41 the proposed overlay district area and shall be the designated contact person
42 responsible for processing the petition with the City;

43
44 b. The petition shall clearly and accurately describe the proposed boundaries
45 of the area and shall include an accurate, reproducible map of the proposed

1 overlay district area depicting all lot divisions, block divisions, roads and the
2 boundaries of the area;

3
4 c. The petition shall include a design standards report, as described in (4)
5 below;

6
7 d. At a minimum, the petition shall contain authentic signatures of a majority
8 of the homestead property owners (as further described in (3) below) within the
9 proposed overlay district area. To be verified by the City, signatures shall be
10 accompanied by the legibly printed name of the signer, the address of the parcel
11 owned by the signer, the parcel number of the parcel owned by the signer, and the
12 date the petition was signed. Signatures dated more than six months prior to the
13 date the petition is filed with the City are not acceptable. For the purpose of the
14 petition, jointly owned parcels are considered owned by a single person, and any
15 co-owner may sign a petition for the parcel. Only one owner of each parcel shall
16 be included in the majority requirement stated above. If a person owns more than
17 one parcel of property within the proposed district area, that person may sign the
18 petition one time for each parcel owned; and

19
20 e. The petition shall advise each signer of the general type of restrictions that
21 may be imposed on the property if the overlay district is imposed upon the area.

22
23 (3) Petition verification. When the petition is submitted to the planning and
24 development services department, the department shall verify the names, signatures, and
25 homestead status of the property, and shall determine whether the petition meets the
26 criteria of this section. For a signature and homestead status to be verified, the homestead
27 status of the property and the printed name of the petition signer must be consistent with
28 the current records of the Alachua County Property Appraiser. If an insufficient number
29 of acceptable homestead property owner signatures are submitted, the City shall return the
30 petition and petition fee to the petitioner. However, the City shall retain the verification
31 fee.

32
33 (4) Design Standards Report. The petitioner shall submit a proposed design
34 standards report for the proposed heritage overlay district area. If the heritage overlay
35 designation is approved, the design standards report shall be included in the ordinance
36 that imposes the overlay. The report shall include the following:

37
38 a. A map that clearly depicts the boundaries of the proposed area and
39 identifies all lot divisions, block divisions and roads;

40
41 b. Architectural surveys that define the prior, current and likely future
42 character of the area. This shall include a field survey containing written and
43 visual information that documents items such as, but not limited to, distinctive
44 building features, represented building style, typical building components,

1 finishing materials, siting of buildings, degree of visual continuity, and degree of
2 compatibility of new structures with architectural context;

3
4 c. A clear, decipherable data set of area features that describe the character of
5 individual building types. This set shall define the relationships among features
6 and shall serve as a tool to identify common elements in the area; and

7
8 d. Based on the data, identify important characteristics and features and
9 specify the standards by which those characteristics will be preserved and
10 continued, and specify the regulated work items that will require review by the
11 heritage overlay district board. All design standards regulating a particular work
12 item should be specific and measurable, such as by height, width, amount, spacing
13 or location. Construction, installation, addition, enlargement, relocation or
14 removal, of a regulated work item will be subject to review and approval by the
15 heritage overlay district board as specified in the design standards report. This
16 section does not require that each of the regulated work items listed below be
17 addressed in a design standards report, only those items that are applicable or
18 desirable to preserve the character of the area as determined in the design
19 standards report. Regulated work items are limited to any one or more of the
20 following:

21 Accessory structures,
22 Building heights,
23 Building height-to-width ratio,
24 Building orientation,
25 Building setback and build-to lines,
26 Bulk plane restrictions,
27 Exterior building materials,
28 Fences,
29 Front porches and balconies,
30 Garage doors,
31 Lot widths,
32 Off-street parking design,
33 Percent of the lot covered by buildings,
34 Roof lines, shapes and materials,
35 Screening of mechanical equipment, or
36 Windows and doors.

37
38
39 e. A heritage overlay district may not modify the list of permitted uses for its
40 underlying zoning district(s). In addition, the following shall not be regulated in
41 any manner by a heritage overlay district classification:

42
43 Colors of structures,
44 Demolitions, in whole or in part,
45 Interior layout or interior construction,

1 Power generating solar panels,
2 Television satellite dishes or antennae, and
3 Vegetation
4

5 (g) Amendments to district. Any property owner within a heritage overlay district may apply
6 for an amendment to the district's design standards report. Any property owner whose land is
7 contiguous to a heritage overlay district may apply for inclusion in the district through extension
8 of the district's boundaries. Any land added to an existing heritage overlay district shall be
9 subject to the adopted ordinance for that heritage overlay district and shall not be required to
10 submit a new or revised design standards report with the petition for extension of the boundaries.
11 All amendments shall be subject to review and consideration according to the applicable terms of
12 this section and shall be processed as a zoning change (if amending the district boundaries) or as
13 a text change (if amending the design standards report) in accordance with Article X of this
14 Chapter. The City Commission may amend or repeal any heritage overlay district from time to
15 time in accordance with the same standards and procedures.
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18 **Section 2.** Section 30-80.2, Land Development Code of the City of Gainesville, is hereby
19 created and added to read as follows:

20 **Section 30-80.2 Heritage overlay district board.**
21

22 (a) There is hereby created the City of Gainesville heritage overlay district board to review
23 regulated work items submitted for its review pursuant to the provisions of section 30.80.1. The
24 board has no authority or duty other than that which is specifically described in this section and
25 section 30.80.1.
26

27 (b) The board shall consist of five (5) members appointed by the City Commission. At least
28 three (3) members shall reside in a heritage overlay district and, if more than one heritage overlay
29 district exists, at least one member shall reside in each existing district; however, if it is not
30 possible to meet the foregoing requirements in making appointments, the City Commission may
31 appoint any resident of the City to the board. If a member of the board ceases to be a resident of
32 the City, that member shall be automatically disqualified, removed from the board and the City
33 Commission shall appoint a new member to fill the remainder of the unexpired term.
34

35 (c) Initially, three members will be appointed to two 2-year terms, and two members will be
36 appointed to one 1-year term; thereafter, all terms shall be two years. The board shall be subject
37 to the requirements of Article V, Section I of the City Code of Ordinances
38

39 (d) The board shall adopt rules of procedure for the conduct of its meetings, which shall be
40 effective upon review and approval by the City Commission.
41

42 (e) The members of the board shall annually elect a chair and vice-chair from among its
43 members. Three members must be present to establish a quorum. A majority of the quorum is

1 required for approval. Petitions on the agenda, but not heard due to a lack of quorum, are
2 continued to the next meeting one time. If the board fails to reach a quorum a second
3 consecutive time, the petition is deemed approved. The board shall meet once each calendar
4 month, as necessary to consider any petitions timely filed for that meeting. A meeting may be
5 cancelled by the board or its chair as specified in the board rules of procedure.

6
7 (f) Subsequent to receiving a complete petition (on the form provided by the City) for a
8 regulated work item requiring board review and payment of the petition fee, City staff shall
9 provide a notice sign to the applicant at least 13 days prior to the meeting. The applicant shall
10 post the sign on the subject property in a location visible from the public road right-of-way, at
11 least 10 days prior to the meeting. Additionally, written notice of the time and place of the
12 meeting, and the location of the subject property, shall be sent by regular mail to the applicant
13 and all property owners within the district at least 10 days prior to the meeting.

14
15 (g) The board can approve, approve with conditions, deny or continue to a date certain a
16 petition for a regulated work item. The board may continue a petition only once. At the second
17 hearing on a continued petition, the board shall render a decision or the petition shall be deemed
18 approved.

19
20 (h) At board meetings, the board deliberation and public comment shall be limited to whether
21 or not the regulated work item is consistent with the district's regulations, as set forth in the
22 ordinance for that district, including the design standards report.

23
24 (i) The board and each board meeting shall be staffed by City staff.

25
26 (j) The decision of the board on a petition shall be the final decision of the City.

27
28 **Section 3.** The portion of Appendix A of the Code of Ordinances relating to fees, rates
29 and charges for the Land Development Code is amended to establish fees related to Heritage

30 Overlay Districts as follows:

31 (7) Heritage Overlay Districts (§30-80.1 and §30-80.2):

32
33 a. Petition for rezoning.....\$2,929.50
34 b. Petition for text change.....\$607.75
35 c. Petition for review of regulated work items.....\$105.00
36 d. Penalty if regulated work begun prior to approval
37 in addition to fee in c. above.....\$389.25
38 e. Verification of signatures on petition per signature.....\$1.00
39

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

Section 5 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 shall not affect the other provisions or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

Section 6. All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Section 7. This ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED this 1st of April, 2010.



PEGEEEN HANRAHAN, MAYOR

ATTEST:

Approved as to form and legality



KURT M. LANNON
CLERK OF THE COMMISSION



MARION J. RADSON
CITY ATTORNEY APR - 1 2010

This Ordinance passed on first reading this 18th day of March, 2010.

This Ordinance passed on second reading this 1st day of April, 2010.