

# **City of Gainesville**

*City Hall  
200 East University Avenue  
Gainesville, Florida 32601*



## **Meeting Agenda**

**February 04, 2008**

**6:00 PM**

**City Commission Special Meeting**

**City Hall Auditorium**

## **City Commission**

***Mayor Pegeen Hanrahan (At Large)  
Mayor-Commissioner Pro Tem Rick Bryant (At Large)  
Commissioner Jeanna Mastrodicasa (At Large)  
Commissioner Scherwin Henry (District 1)  
Commissioner Ed Braddy (District 2)  
Commissioner Jack Donovan (District 3)  
Commissioner Craig Lowe (District 4)***

***Persons with disabilities who require assistance to participate in this meeting are requested to notify the Office of Equal Opportunity at 334-5051 or call the TDD phone line at 334-2069 at least two business days in advance.***

## ADOPTION OF THE AGENDA

## ROLL CALL

## AGENDA STATEMENT

*"Citizens are encouraged to participate in City of Gainesville meetings. In general, speakers will be limited to 3 (three) minutes per agenda item. Additional time may be granted by the Mayor or by the City Commission as directed. The City of Gainesville encourages civility in public discourse and requests that speakers limit their comments to specific motions and direct their comments to the Chair. Signs or Props are not permitted in the meeting room. Citizens are encouraged to provide comments in writing to the Clerk of the Commission before meetings and/or during meetings for inclusion into the public record. Citizens may also provide input to individual commissioners via office visits, phone calls, letters and e-Mail, that will become public record. In some instances, i.e., Quasi-Judicial Hearings, these particular contacts may be prohibited.*

## CITY MANAGER

### 070890.

#### **Electronic Signs (B)**

#### **City Commission workshop on whether to allow or prohibit electronic signs, related to Petition 139TCH-06PB.**

*Explanation: On September 24, 2007, the City Commission held a public hearing on the electronic signs petition and voted to extend the moratorium on electronic signs for an additional six months. The City Commission referred the matter to the City Plan Board with a recommendation that if electronic signs are allowed that the electronic sign portion be limited to 20 square feet, and directed staff to coordinate electronic signs with other parts of the sign ordinance to incentivize bringing into compliance legal non-conforming signs and other aesthetic benefits.*

*Staff held a public workshop with stakeholders on November 16, 2007. Discussion included previously presented criteria for electronic signs, limitation of electronic signs to one bulb color, whether LED signs violate city code provisions regarding light trespass, non-conforming signs, amortization of non-conforming signs, and possible reduction of maximum height and area of ground-mounted signs.*

*The City Plan Board held a public workshop on November 29, 2007 and voiced its support for: a 5-year prohibition on electronic signs; an amortization process in which iconic, historical signs could be designated and preserved with some type of criteria; and a variance procedure that could allow for a longer amortization period for a non-conforming sign.*

*On January 24, 2008, the City Plan Board at its workshop on signs concluded that: electronic signs should be prohibited; it does not support changing the sign code to require amortization of non-conforming signs; it does not support lowering the maximum allowable 10-foot height of ground-mounted signs; and*

that it is not in favor of prohibiting pole signs. The Plan Board also advised staff to separate electronic signs from other sign issues addressed in this petition.

Staff recently met with the City Attorney who also advised staff to separate the subject of electronic signs from other sign code issues/subjects, due to the time constraints of the moratorium ordinance. Staff will continue to work on the general sign code topic and bring back revisions under a separate petition. Staff concurs with the advice of both the Plan Board and City Attorney on the issue of separating the electronic sign issues from other sign code subjects.

*Fiscal Note: None*

**RECOMMENDATION**

1. The City Commission hear a presentation from staff and provide direction as to whether or not to prohibit electronic signs.
2. The City Commission separate the subject of electronic signs from other sign code topics (e.g., sign aesthetics; limitations on non-conforming signs) which will be considered under a separate petition in the future.
3. Staff to the City Commission: prohibit electronic signs subject to a mandatory review of this prohibition within five years.
4. Alternative recommendation: Staff to the City Commission: approve electronic signs with criteria as suggested by staff in the staff report.

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**2ND READING, ROLL CALL REQUIRED**

**070619.**

**LAND DEVELOPMENT CODE AMENDMENT - RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT (B)**

**Ordinance No. 0-07-118, Petition No. 103TCH-07PB**

**An ordinance of the City of Gainesville, Florida, amending Chapter 30, the Land Development Code, in accordance with the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc, and making other revisions for clarity and consistency; amending Section 30-51 to allow public schools as a use by special use permit in single-family residential districts rather than a use by right and removing public libraries as a use by special use permit in single-family residential districts; amending Section 30-52 to remove conditions on places of religious assembly and allow private schools as a use by right in RMF-5 and RC districts, and allow places of religious assembly and private schools as use by right in MH districts; amending Section 30-53 to remove conditions on places of religious assembly and allow private schools as a use by right in multiple family medium residential districts; amending Sections 30-54, 30-62, 30-63,**

30-72, 30-75, 30-76, and 30-78 to allow places of religious assembly as a use by right in residential mixed use, automotive-oriented business, tourist-oriented business, agricultural, public services and operations, airport facility, and corporate park districts; amending Section 30-55 to remove conditions on places of religious assembly and allow private schools as a use by right in residential high density districts; amending Section 30-59 to allow public schools, other than institutions of higher learning, as use by special use permit in general office districts; amending Sections 30-61, 30-64, and 30-65 to remove references to places of religious assembly as a condition related to membership organizations; amending Section 30-68 to allow places of religious assembly as a use by right, and remove reference to places of religious assembly as a condition related to membership organizations in warehousing and wholesaling district; amending Sections 30-69 and 30-70 to remove membership sports and recreation clubs as a use by right in limited and general industrial districts; amending Section 30-77 to allow private schools and places of religious assembly as a use by right, and to modify the dimensional requirements in educational services district; amending Section 30-91 to modify dimensional requirements specific to places of religious assembly and requirements for places of religious assembly accessory uses, including day care centers, schools, food distribution centers for the needy, and residences for destitute people; amending Section 30-103 to modify dimensional requirements for private schools; inserting clarifying language in Section 30-110; amending Sections 30-251, 30-306, and 30-307 to remove references to places of religious assembly; amending Section 30-253 to remove landscape buffer requirements specific to places of religious assembly, and apply buffer requirements to all assembly uses; amending Section 30-332 to modify parking spaces required for places of religious assembly; providing directions to the codifier; providing a severability clause; providing a repealing clause; providing a retroactive schedule; and providing an immediate effective date.

*Explanation: STAFF REPORT*

*The proposed text changes to the Land Development Code are proposed to make sure that the City's Code is in accordance with the Religious Land Use and Institutionalized Persons Act (RLUIPA), as codified in 42 U.S.C.A. §2000cc. The Act specifies that "no government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a non-religious assembly or institution". The proposed changes amend the Code so that places of religious assembly are treated at least equal to non-religious assembly or institutional uses. Additional minor changes were made to ensure consistency throughout the Code. The significant changes include:*

*Allowing places of religious assembly as a use by right in most non-residential districts instead of by special use permit or not at all so that they are treated on equal terms as other similar assembly or institutional uses.*

*Allowing public schools as a use by special use permit instead of by right in single-family zoning districts so that all assembly or institutional uses are treated equally in that district.*

*Allowing public schools, private schools, and places of religious assembly as a use by right in all residential low, medium and high density residential districts so that they are all treated equally.*

*Deleting membership and assembly types use from the industrial districts, so that all such uses are equally prohibited.*

*Changing the requirements for landscaping, parking, gateway street district, and nature park district so that all membership and assembly uses are treated equally.*

*Changing the requirements for places of religious assembly, a "specially regulated use", so that they are at least equal to other assembly or institutional uses.*

*The Plan Board heard concerns expressed by Stuart Cullen and Andy Kaplan, regarding the new lot size requirements being placed on places of religious assembly in the RSF-1, RSF-2, RSF-3, and RSF-4 zoning districts. The new requirement would require places of religious assembly to meet the same lots size requirements as private and public schools. The Plan Board agreed with staff that given the built-out nature of single-family neighborhoods the requirement was appropriate to protect neighborhoods from the externalities of assembly type organizations. The Plan Board voted 6-0 to approve the petition.*

*Public notice was published in the Gainesville Sun on October 3, 2007. The Plan Board held a public hearing on October 18, 2007.*

#### *CITY ATTORNEY MEMORANDUM*

*The City Commission, at its meeting on November 26, 2007, approved the Petition No. 103TCH-07PB and authorized the City Attorney's Office to prepare the necessary ordinance amending the Land Development Code of the City of Gainesville.*

*The City Commission, at its meeting on January 14, 2008, approved Ordinance No. 0-07-118 by a vote of 6-1 on first reading, except that pages 53 and 55 of the Ordinance were amended (Sections 30-91(c) and (d) of the Code) to allow places of religious assembly to continue to operate food distribution centers for the needy and residences for destitute people as accessory uses in single family districts upon the issuance of a permit by the city manager or designee rather than be required to obtain a special use permit for such accessory uses. The City Commission also directed the City Manager to clarify and publicize the criteria for such a permit. Lastly, the City Commission referred the Ordinance to the Community Development Committee to examine its particulars, including the lot size requirement for places of religious assembly in single family districts and the limit on the number of meals served by places of religious assembly operating food distribution centers as an accessory use, and requested the Community Development Committee to make recommendations as necessary at some future date. The referral of the Ordinance to the Community Development Committee was not intended to delay the adoption of the Ordinance.*

*In order to correct scrivener's errors in the directions to the codifier, this Office has also made several technical revisions to the introductory sections of Ordinance No. 0-07-118 adopted on first reading. These technical revisions, highlighted in yellow, do not substantively change the text of the Ordinance.*

*At a meeting on January 23, 2008, representatives of the Interfaith Hospitality Network and several places of religious assembly (hereinafter, "IHN") expressed their concerns to Commissioner Jack Donovan and City staff regarding Ordinance No. 0-07-118, as amended on January 14, 2008. In summary, IHN suggested the following additional revisions to the Ordinance:*

- 1. Pages 52-53 of the Ordinance (Sections 30-91(a)(1) and (2) of the Code): maintain the existing minimum lot area, maximum building height, side yard, and rear yard requirements for places of religious assembly in single family districts and do not impose the stricter dimensional requirements, which are the same dimensional requirements for schools, on places of religious assembly as proposed in the current Ordinance;*
- 2. Pages 54 and 55 of the Ordinance (Sections 30-91(c)(4)a. and (d)(4)a. of the Code): revise the hours of operation currently proposed for places of religious assembly who operate food distribution centers or residences for destitute persons as accessory uses to exclude weekends and holidays; and*
- 3. Pages 55 and 56 of the Ordinance (Sections 30-91(c)(5) and (d)(6) of the Code): revise the compatibility requirement currently proposed for places of religious assembly who operate food distribution centers or residences for destitute persons so that either additional standards are included to define what is meant by "compatible" or remove the compatibility requirement altogether.*

*This Office has prepared language containing IHN's proposed revisions as Exhibit A with one important exception. IHN has suggested that the City maintain the current Code dimensional requirements for places of religious assembly in single family districts, which essentially require a minimum lot area of 100 square feet times the legal capacity of the building and limit the building height generally applicable to single family districts (hereinafter, "100 square foot requirement"). See Ordinance No. 0-07-118, pgs. 52-53. Under the current Code, similar assembly uses in single family districts, like public and private schools, require either a one acre minimum lot area or the minimum lot area for the applicable zoning district plus one acre for every 100 students or fraction thereof. In addition, public and private schools must comply with certain setback requirements (hereinafter, "one acre requirement"). See Ordinance No. 0-07-118, pgs. 50, 57. By law, the City must treat similar uses equal unless there is some rational basis to distinguish between the two. Since no rational basis has been articulated for such a distinction, the City Commission may decide to use either the 100 square foot requirement or the one acre requirement, whichever the City Commission prefers, but the requirements should be equal for the places of religious assembly and private and public schools. Ordinance No. 0-07-118 adopted on first reading includes the one acre requirement for both places of religious assembly and private and public schools. See Ordinance No. 0-07-118, pg. 50, lines 17-34, pg. 53, lines 7-25, pg. 57, lines 23-39. For purposes of discussion, Exhibit A reflects the 100 square foot requirement for both places of religious assembly and private and public schools. See Exhibit A, pg. 52, lines 4-19, pg. 54, lines 12-14, pg. 55, lines 1-5, pg. 59, lines 5-16.*

**RECOMMENDATION**

*The City Commission adopt the proposed ordinance as amended by correcting the scrivener's errors.*

**Legislative History**

11/26/07	City Commission	Approved (Petition) (7 - 0)	
1/14/08	City Commission	Adopted on First Reading, as amended (Ordinance) and referred (6 - 1)	Community Development Committee
1/28/08	City Commission	Continued	

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