

Ordinance No. 060109
0-06-53

1
2
3
4 **An ordinance of the City of Gainesville, Florida, relating to the**
5 **establishment and jurisdiction of the Board of Adjustment;**
6 **amending section 30-354; establishing term limits for**
7 **members, establishing minimal preferred requirements for**
8 **members, amending the appeals process; amending subsection**
9 **30-346(d), removing the allowance that the board of**
10 **adjustment may permit the reestablishment of a**
11 **nonconforming use after the use has been discontinued or**
12 **abandoned for nine consecutive months; deleting and repealing**
13 **in its entirety obsolete board of adjustment appeals processes**
14 **stated at sections 6-242 and 13-211, relating to the commercial**
15 **building code; repealing obsolete board of adjustment appeals**
16 **processes and criminal ordinance violations processes stated at**
17 **section 30-327, relating to the sign regulations as stated in the**
18 **Land Development Code; providing directions to the codifier;**
19 **providing a severability clause; providing a repealing clause;**
20 **and providing an immediate effective date.**
21
22

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

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

28 **WHEREAS**, the City Commission heard and approved this petition on August
29 14, 2006; and

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

1 **WHEREAS**, the Public Hearings were held pursuant to the published notice
2 described at which hearings the parties in interest and all others had an opportunity to be
3 and were, in fact, heard.

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

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

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

16 (b) *Residency Requirements for members:*

17 (1) Experience. The membership of the Board of Adjustment shall, whenever possible,
18 include at least three members with experience in the following areas:

19 a. Urban Planning;

20 b. Architecture;

21 c. Landscape architecture;

22 d. Law;

23 e. Development; or

1 f. Construction.

2 (2) Residency requirements for members. Members of the board of adjustment shall be
3 and remain bona fide residents of the city. If at any time any members of the board of
4 adjustment fail to be and remain a resident of the city, the person shall be automatically
5 disqualified and removed from the board.

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

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

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

23 (2) *Special exceptions.*

- 1 a. The board of adjustment shall have the power and duty to hear and decide only such
2 special exceptions as are specifically authorized by the terms of the Code of Ordinances;
3 to decide such questions as are involved in determining whether special exceptions
4 should be granted; and to grant special exceptions with such conditions and safeguards as
5 are appropriate under the Code of Ordinances; or to deny special exceptions when not in
6 harmony with the purpose, intent and requirements of the Code of Ordinances.
- 7 b. A special exception is hereby defined as a granting of permission for a use or action
8 where specific provisions for such special exceptions are made in the Code of
9 Ordinances. Such exceptions would not be appropriate generally or without restriction
10 throughout the zoning district or other section of the Code of Ordinances but, if
11 controlled as to number, area, location or relation to the neighborhood, would promote
12 the public health, safety, welfare, morals, order, comfort, convenience, prosperity or
13 general welfare.
- 14 c. A special exception shall not be granted by the board of adjustment unless and until:
- 15 1. A written application for a special exception is submitted indicating the section of
16 the zoning ordinance under which the special exception is sought and stating the grounds
17 on which it is requested.
- 18 2. Notice of public hearing on the special exception shall be given in the manner
19 prescribed in subsections 30-354(k) and (l).
- 20 3. The public hearing shall be held whereat any party may appear in person, or by
21 agent or attorney.
- 22 4. The board of adjustment shall make findings that it is empowered under the section
23 of the Code of Ordinances described in the application to grant the special exception, and

1 that the granting of the special exception, with any appropriate conditions and safeguards
2 that the board may deem necessary, will not adversely affect the public interest.

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

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

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

23 (3) *Variances generally.*

1 a. The board of adjustment shall have the power and duty to authorize upon appeal
2 from the decision of the administrative official in specific cases such variance from the
3 terms of the land development code and building chapters, except as otherwise provided
4 for therein, as will not be contrary to the public interest where, owing to special
5 conditions, a literal enforcement of the provisions of the land development code or
6 building chapters would result in unnecessary hardship.

7 b. Authorization.

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

14 2. *Authorized variances.* For the purpose of this chapter, a variance is authorized only
15 for height of structures; size of yard setbacks; driveway widths, street line corner
16 clearances, and property line edge clearances, as provided in section 30-336(15); and
17 landscape and tree management and flood control provisions as provided in section 30-
18 310.

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

- 20 i. for establishment or expansion of a use otherwise prohibited; or
21 ii. because of the presence of nonconformities in the zoning district or adjoining
22 districts; or
23 iii. because of financial loss or business competition; or

- 1 iv. because the property was purchased with the intent to develop or improve the
2 property, and the intended development or improvement would violate the restrictions of
3 the land development code or building chapter, whether or not it was known at the time
4 of purchase that such development would be a violation.
- 5 c. A variance from the terms of this chapter or building chapters shall not be granted
6 unless and until:
- 7 1. A written application for a variance is submitted demonstrating:
- 8 i. That special conditions and circumstances exist which are peculiar to the land,
9 structure or building involved and which are not applicable to other lands, structures or
10 buildings in the same district.
- 11 ii. That literal enforcement of the provisions of the land development code or building
12 chapters would deprive the applicant of rights commonly enjoyed by other properties in
13 the same district under the terms of the land development code or building chapters.
- 14 iii. That the special conditions and circumstances do not result from the action of the
15 applicant.
- 16 iv. That granting the variance requested will not confer on the applicant any special
17 privilege that is denied by this section to other lands, structures or buildings in the same
18 district.
- 19 2. Notice of public hearing shall be given as required by subsections 30-354(j) and (l)
20 and as may be required by this chapter or building chapters.
- 21 3. The public hearing shall be held whereat any party may appear in person or by agent
22 or attorney.

- 1 4. The board of adjustment shall make findings that the requirements of ~~subsection~~
2 ~~(d)(3)e.~~ of this section have been met by the applicant.
- 3 5. The board of adjustment shall further make a finding that the reasons set forth in the
4 application justify the granting of the variance, and that the variance is the minimum
5 variance that will make possible the reasonable use of the land, building or structure.
- 6 6. The board of adjustment shall further make a finding that the grant of the variance
7 will be in harmony with the general intent and purpose of the land development code or
8 building chapters, and will not be injurious to the neighborhood or otherwise detrimental
9 to the public welfare.
- 10 d. In granting any variance, the board of adjustment may prescribe appropriate
11 conditions and safeguards in conformity with the land development code or building
12 chapters. Violation of such conditions and safeguards, when made a part of the terms
13 under which the variance is granted, shall be deemed a violation of this chapter and
14 punishable according to applicable law.
- 15 e. Under no circumstances shall the board of adjustment grant a variance under this
16 chapter to permit a use not permitted generally or by special exception in the district
17 involved, or any use expressly or by necessary implication prohibited by the terms of this
18 chapter in the district.
- 19 f. No nonconforming use of neighboring lands, structures or buildings in the same
20 district, and no permitted use of lands, structures or buildings in other districts, shall be
21 considered grounds for the issuance of a variance.

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

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

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

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

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

20 (e) *Meetings.* The board of adjustment shall hold regular meetings at least once in each
21 calendar month. Special meetings may be held upon the call of the chairman or upon the
22 written request of any two members of the board. All meetings of the board shall be open
23 to the public. The board shall keep minutes of its proceedings showing the vote of each

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

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

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

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

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

21 (2) All ~~appeals~~ petitions for appeal containing or attaching the requisite information
22 described in this paragraph shall be filed with the secretary of the board on forms

1 prescribed by the board and shall be accompanied by all of the papers constituting the
2 record upon which the action was taken. In addition, all petitions for appeal must include:

3 A. An explanation of how the petitioner's substantial interest is affected by
4 the administrator's decision;

5 B. A statement of how and when the petitioner received notice of the
6 administrator's decision;

7 C. A statement of all disputed issues of material fact or a statement that there
8 are no disputed issues of material fact;

9 D. A concise statement of the ultimate facts alleged, including specific facts
10 that the petitioner contends would warrant reversal by the board or would warrant
11 modification of the administrator's decision; and

12 E. A statement of relief sought by the petitioner, stating precisely the remedy
13 the petitioner seeks from the board.

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

22 (4) The board shall hear and determine all appeals promptly after giving to all parties
23 at least ten days' written notice of the time and place of the hearing, as is stated in this

1 section. Any party in interest at a hearing may appear in person or be represented by an
2 agent or attorney.

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

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

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

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

14 iv. If during the course of the proceeding a disputed issue of material fact
15 arises then, unless waived by all parties, the proceeding under this part 5A shall be
16 terminated and a proceeding under part 5B, below, shall be conducted.

17 B. Timely filed petitions stating there are disputed issues of material fact
18 shall be processed and heard as follows:

19 i. The city, through the city attorney's office, shall arrange for the services of
20 a hearing officer to conduct the formal quasi-judicial hearing.

21 ii. In conducting the hearing to resolve disputed issues of material fact, the
22 hearing officer shall have the power to administer oaths, issue subpoenas, compel the
23 production of books, paper, and other documents, and receive evidence. All parties shall

1 have an opportunity to respond, to present evidence and argument on all issues involved,
2 to conduct cross-examination and submit rebuttal evidence, to submit proposed findings
3 of facts and orders, to file exceptions to the hearing officer's recommended order, and to
4 be represented by counsel or other qualified representative. Hearsay evidence may be
5 used for the purpose of supplementing or explaining other evidence, but it shall not be
6 sufficient in itself to support a finding unless it would be admissible over objection in
7 civil actions.

8 iii. The hearing officer shall prepare a recommended order consisting of
9 findings of fact, conclusions of law and affirmative relief, if applicable. The hearing
10 officer shall transmit the recommended order to the board and all parties. Each party shall
11 have 15 days from the date of the hearing officer's order to submit written exceptions to
12 the hearing officer's recommended order. The order will be set on the next available
13 board of adjustment agenda following the expiration of time to submit written exceptions
14 and shall only be removed from the agenda for good cause shown. The board shall
15 review such order and any written exceptions and may set forth any deficiencies it finds
16 with respect to the order. Said deficiencies shall be limited to determinations that the
17 findings were not based upon competent, substantial evidence, or that the proceedings on
18 which the findings were based did not comply with the essential requirements of law. In
19 reviewing such recommended order, the board shall not have the power to receive or
20 consider additional evidence. The board shall have no power to reject or modify the
21 findings of fact contained in the recommended order unless the Board first determines
22 from a review of the entire record and states with particularity in the Order that the
23 findings of fact were not based upon competent, substantial evidence or upon a showing

1 that the proceedings on which the findings were based did not comply with the essential
2 requirements of law. The board may either adopt the recommended order as the final
3 order, or by a three-fourths majority vote of those present reject the hearing officer's
4 recommendation.

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

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

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

16 (j) *Notification of appeal alleging error by administrative official.* In connection with
17 appeals where it is alleged there is error in any order, requirement, decision or
18 determination made by any administrative official in the enforcement of this chapter,
19 notification shall be given to all owners of property within 300 feet of the premises which
20 are involved in the appeal.

21 (k) *Notification of request for special zoning exception.* In all cases of requests for
22 special exceptions to the terms of this chapter which the board of adjustment is required

1 to hear and decide, all owners of property within 300 feet of the premises for which the
2 special exception is requested shall be notified of the hearing.

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

8 (m) *Rehearings.*

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

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

20 (3) *Procedure for scheduling rehearing.* If the request for rehearing is granted by the
21 board, the board shall hold the rehearing at its next regularly scheduled meeting, or at a
22 special meeting convened by the board for that purpose at least 15 days after the request

1 is granted. Notice of the rehearing shall be sent to all owners of property within 300 feet
2 of the premises involved in the rehearing.

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

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

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

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

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

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

13 (5) ~~When a nonconforming use of a structure, or structure and premises in combination,~~
14 ~~is discontinued, vacant, abandoned or not used for nine consecutive months, the structure,~~
15 ~~or structure and premises in combination, shall not thereafter be used except in~~
16 ~~conformance with the regulations of the district in which it is located ; provided, the~~
17 ~~board of adjustment may permit the reestablishment of the nonconforming use where it is~~
18 ~~determined by the board of adjustment after public hearing that the design, construction~~
19 ~~and character of the building is not suitable for uses permitted in the district in which~~
20 ~~such nonconforming use is situated. The board of adjustment shall hold a public hearing~~
21 ~~on each case in question after giving ten days' public notice of the time and place of such~~
22 ~~hearing, in order to determine the question of suitability of uses permitted in the district~~
23 ~~in which such building is located. In no event shall the board of adjustment permit a~~

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

1 change to another nonconforming use except those of the same major group, as identified
2 by the Standard Industrial Classification Manual; nor shall it permit any structure to be
3 enlarged, extended, constructed, reconstructed, remodeled, moved or structurally altered
4 for any purpose other than changing the use of the structure to a use permitted in the
5 district in which it is located.

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

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

14 ~~Sec. 6-242. Appeals.~~

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

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

20 ~~**Sec. 13-211. Appeals.**~~

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

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

3 **Sec. 30-327. Appeals.**

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

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

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

19 ~~(b) It shall be unlawful for any person to erect, cause to be erected, maintain or cause to~~
20 ~~be maintained any sign without full compliance with the restrictions, requirements and~~
21 ~~provisions of this article, or to otherwise violate any provisions of this article. Each day a~~
22 ~~violation occurs or continues, regardless of whether such violation is ultimately~~

1 ~~corrected, shall constitute a separate offense. Any person convicted of violating any~~
2 ~~provision of this article shall be punished as provided in section 1-9.~~

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

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

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

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

13 **PASSED AND ADOPTED** this 13th day of November, 2006.


14
15
16
17
18
19


PEGEEEN HANRAHAN,
MAYOR

20 ATTEST:

Approved as to form and legality

21
22
23
24
25
26
27


KURT M. LANNON
CLERK OF THE COMMISSION


MARION J. RADSON
CITY ATTORNEY

NOV 14 2006

28 This Ordinance passed on first reading this 25th day of October, 2006.
29 This Ordinance passed on second reading this 13th day of November, 2006.