

ORDINANCE NO. 0-09-32

An ordinance of the City of Gainesville, Florida, relating to heritage overlay districts; amending the City Land Development Code by establishing the heritage overlay district designation; by setting forth the purpose, objectives and effect of such designation; by creating heritage overlay district procedures, regulations, and exemptions; by creating a heritage overlay district board; amending Appendix A, Schedule of Fees, Rates and Charges of the Code of Ordinances by creating fees for petitions related to heritage overlay districts; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, certain neighborhoods do not qualify for designation as a historic district, but do display unique and desirable visual characteristics that unify the neighborhood; and

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

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

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

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

WHEREAS, publication of notice was given of a public hearing that the text of the Land 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

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

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

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

8  
9 (5) Protecting neighborhoods’ distinct identities.

10  
11 (c) Effect of Classification/Administration.

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15 district categories are neither abandoned nor repealed.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

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

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

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

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

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

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

4  
5 (2) Residences within the area shall consist only of one- and two-family dwellings;

6  
7 (3) All land within the area must be zoned RSF-1, RSF-2, RSF-3, RSF-4, or RC;

8  
9 (4) Each boundary of the area shall be one of the following identifiable landmarks: a  
10 street, alley, publicly owned right-of-way, platted subdivision boundary, or a creek; and

11  
12 (5) No area boundaries shall overlap the boundary of an existing heritage overlay  
13 district or Historic District.

14  
15 (e) Additional Criteria. In addition, an area must meet one of the following criteria to be  
16 eligible for designation as a heritage overlay district:

17  
18 (1) Its visual characteristics give it a distinct identity;

19  
20 (2) It has distinguishing characteristics of an architectural style valuable for the  
21 study of a period, method of construction, or use of indigenous materials; or

22  
23 (3) It has character as a geographically definable area possessing a significant  
24 concentration of buildings or structures united by its plan or physical development.

25  
26 (f) Procedures. The procedures for application and designation are as follows:

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

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

1 a. The petitioner shall be an owner of legal title of property located within  
2 the proposed overlay district area and shall be the designated contact person  
3 responsible for processing the petition with the City;  
4

5 b. The petition shall clearly and accurately describe the proposed boundaries  
6 of the area and shall include an accurate, reproducible map of the proposed  
7 overlay district area depicting all lot divisions, block divisions, roads and the  
8 boundaries of the area;  
9

10 c. The petition shall include a design standards report, as described in (4)  
11 below;  
12

13 d. At a minimum, the petition shall contain authentic signatures of a majority  
14 of the homestead property owners (as further described in (3) below) within the  
15 proposed overlay district area. To be verified by the City, signatures shall be  
16 accompanied by the legibly printed name of the signer, the address of the parcel  
17 owned by the signer, the parcel number of the parcel owned by the signer, and the  
18 date the petition was signed. Signatures dated more than six months prior to the  
19 date the petition is filed with the City are not acceptable. For the purpose of the  
20 petition, jointly owned parcels are considered owned by a single person, and any  
21 co-owner may sign a petition for the parcel. Only one owner of each parcel shall  
22 be included in the majority requirement stated above. If a person owns more than  
23 one parcel of property within the proposed district area, that person may sign the  
24 petition one time for each parcel owned; and  
25

26 e. The petition shall advise each signer of the general type of restrictions that  
27 may be imposed on the property if the overlay district is imposed upon the area.  
28

29 (3) *Petition verification.* When the petition is submitted to the planning and  
30 development services department, the department shall verify the names, signatures, and  
31 homestead status of the property, and shall determine whether the petition meets the  
32 criteria of this section. For a signature and homestead status to be verified, the homestead  
33 status of the property and the printed name of the petition signer must be consistent with  
34 the current records of the Alachua County Property Appraiser. If an insufficient number  
35 of acceptable homestead property owner signatures are submitted, the City shall return the  
36 petition and petition fee to the petitioner. However, the City shall retain the verification  
37 fee.  
38

39 (4) *Design Standards Report.* The petitioner shall submit a proposed design  
40 standards report for the proposed heritage overlay district area. If the heritage overlay  
41 designation is approved, the design standards report shall be included in the ordinance  
42 that imposes the overlay. The report shall include the following:  
43

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

3  
4 b. Architectural surveys that define the prior, current and likely future  
5 character of the area. This shall include a field survey containing written and  
6 visual information that documents items such as, but not limited to, distinctive  
7 building features, represented building style, typical building components,  
8 finishing materials, siting of buildings, degree of visual continuity, and degree of  
9 compatibility of new structures with architectural context;

10  
11 c. A clear, decipherable data set of area features that describe the character of  
12 individual building types. This set shall define the relationships among features  
13 and shall serve as a tool to identify common elements in the area; and

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

- 28
- 29 Accessory structures,
- 30 Building heights,
- 31 Building height-to-width ratio,
- 32 Building orientation,
- 33 Building setback and build-to lines,
- 34 Bulk plane restrictions,
- 35 Exterior building materials,
- 36 Fences,
- 37 Front porches and balconies,
- 38 Garage doors,
- 39 Lot widths,
- 40 Off-street parking design,
- 41 Percent of the lot covered by buildings,
- 42 Roof lines, shapes and materials,
- 43 Screening of mechanical equipment, or
- 44 Windows and doors.

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

- Colors of structures,
- Demolitions, in whole or in part,
- Interior layout or interior construction,
- Power generating solar panels,
- Television satellite dishes or antennae, and
- Vegetation

(g) Amendments to district. Any property owner within a heritage overlay district may apply for an amendment to the district’s design standards report. Any property owner whose land is contiguous to a heritage overlay district may apply for inclusion in the district through extension of the district’s boundaries. Any land added to an existing heritage overlay district shall be subject to the adopted ordinance for that heritage overlay district and shall not be required to submit a new or revised design standards report with the petition for extension of the boundaries. All amendments shall be subject to review and consideration according to the applicable terms of this section and shall be processed as a zoning change (if amending the district boundaries) or as a text change (if amending the design standards report) in accordance with Article X of this Chapter. The City Commission may amend or repeal any heritage overlay district from time to time in accordance with the same standards and procedures.

**Section 2.** Section 30-80.2, Land Development Code of the City of Gainesville, is hereby

created and added to read as follows:

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

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

(b) The board shall consist of five (5) members appointed by the City Commission. All members shall reside in a heritage overlay district. If more than one heritage overlay district exists, the City Commission shall, to the extent possible, appoint at least one heritage overlay district board member from each district.

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

1  
2 (d) The board shall adopt rules of procedure for the conduct of its meetings, which shall be  
3 effective upon review and approval by the City Commission.

4  
5 (e) The members of the board shall annually elect a chair and vice-chair from among its  
6 members. Three members must be present to establish a quorum. A majority of the quorum is  
7 required for approval. Petitions on the agenda, but not heard due to a lack of quorum, are  
8 continued to the next meeting one time. If the board fails to reach a quorum a second  
9 consecutive time, the petition is deemed approved. The board shall meet once each calendar  
10 month, as necessary to consider any petitions timely filed for that meeting. A meeting may be  
11 cancelled by the board or its chair as specified in the board rules of procedure.

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

20  
21 (g) The board can approve, approve with conditions, deny or continue to a date certain a  
22 petition for a regulated work item. The board may continue a petition only once. At the second  
23 hearing on a continued petition, the board shall render a decision or the petition shall be deemed  
24 approved.

25  
26 (h) At board meetings, the board deliberation and public comment shall be limited to whether  
27 or not the regulated work item is consistent with the district’s regulations, as set forth in the  
28 ordinance for that district, including the design standards report.

29  
30 (i) The board and each board meeting shall be staffed by City staff.

31  
32 (j) The decision of the board on a petition shall be the final decision of the City.

33  
34 **Section 3.** The portion of Appendix A of the Code of Ordinances relating to fees, rates  
35 and charges for the Land Development Code is amended to establish fees related to Heritage  
36 Overlay Districts as follows:

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

- 38
- 39 a. Petition for rezoning.....\$2,929.50
- 40 b. Petition for text change .....\$607.75
- 41 c. Petition for review of regulated work items.....\$105.00



|   |  |                 |
|---|--|-----------------|
| 1 | <u>d. Penalty if regulated work begun prior to approval</u>          |                 |
| 2 | <u>in addition to fee in c. above .....</u>                          | <u>\$389.25</u> |
| 3 | <u>e. Verification of signatures on petition per signature .....</u> | <u>\$1.00</u>   |

4

5 **Section 4.** It is the intention of the City Commission that the provisions of Sections 1, 2

6 and 3 of this ordinance shall become and be made a part of the Code of Ordinances of the City of

7 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered

8 or relettered in order to accomplish such intentions.

9 **Section 5** If any word, phrase, clause, paragraph, section or provision of this ordinance or

10 the application hereof to any person or circumstance is held invalid or unconstitutional, such

11 finding shall not affect the other provisions or applications of the ordinance which can be given

12 effect without the invalid or unconstitutional provisions or application, and to this end the

13 provisions of this ordinance are declared severable.

14 **Section 6.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of

15 such conflict hereby repealed.

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

17

18 **PASSED AND ADOPTED** this \_\_\_\_ of \_\_\_\_\_, 2010.

19

20 \_\_\_\_\_

21

22 PEGEEN HANRAHAN, MAYOR

23

24 ATTEST: Approved as to form and legality

25

26

27 \_\_\_\_\_

28 KURT M. LANNON MARION J. RADSON  
CLERK OF THE COMMISSION CITY ATTORNEY

29 This Ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2010.

30 This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2010.