

LEGISLATIVE #
200731A

ORDINANCE NO. 200731

An ordinance of the City of Gainesville, Florida, amending the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) relating to vacating City Rights-of-Way; by amending Section 30-3.41. *Right-of-way-vacations*; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, secures for municipalities the broad exercise of home rule powers granted by Article VIII, Section 2 of the Florida Constitution, including the exercise of any power for municipal purposes not expressly prohibited by law; and

WHEREAS, Sections 163.3167 and 163.3177(1), Florida Statutes, requires the City of Gainesville to maintain a Comprehensive Plan to guide the future development and growth of the city by providing the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the city; and

WHEREAS, the City of Gainesville is required by Section 163.3202, Florida Statutes, to adopt or amend and enforce land development regulations that are consistent with and implement the Comprehensive Plan, and that are combined and compiled into a single land development code for the city (the City of Gainesville's Land Development Code is Chapter 30 of the Code of Ordinances); and

WHEREAS, this ordinance, which was noticed as required by law, will amend the text of the Land Development Code as described herein; and

WHEREAS, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant

to Section 163.3174, Florida Statutes, held a public hearing on January 28, 2021, and voted to recommend the City Commission approve this text change to the Land Development Code; and

WHEREAS, at least ten days' notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings before the City Commission of the City of Gainesville; and

WHEREAS, public hearings were held pursuant to the notice described above at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

WHEREAS, the City Commission finds that the Land Development Code text amendment described herein is consistent with the City of Gainesville Comprehensive Plan.

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

SECTION 1. Section 30-3.41 of the Land Development Code is amended as follows. Except as amended herein, the remainder of Section 30-3.41 remains in full force and effect.

Section 30-3.41. Right-of-Way Vacations.

A. Review procedures.

1. *Application.* An application to vacate a public right-of-way may be submitted by either the city commission or by all the owners of land abutting the subject right-of-way.
2. *Board review.* Applications to vacate a public right-of-way shall be reviewed by the city plan board and the city commission according to the criteria provided in this section, with notice of the board hearings provided in accordance with law and this article. The city plan board's review shall be a recommendation to the city commission. Prior to the public hearing before the city plan board, the application shall be reviewed by city staff in accordance with the development plan review process as stated in this article.

B. Review criteria. Rights-of-way may only be vacated by the city commission upon its finding that the criteria in both 1. and 2. as provided below have been met:

1. The public right-of-way no longer serves a public purpose and the vacation of the public right-of-way is in the public interest, which shall be based on a consideration of the following:
 - a. Whether the public benefits from the use of the subject right-of-way as part of the city street system;
 - b. Whether the proposed action is consistent with the Comprehensive Plan;
 - c. Whether the proposed vacation is consistent with the minimum block size requirements and other applicable street connectivity standards;
 - d. Whether the proposed action would deny access to private property;
 - e. The effect of the proposed action upon public safety;
 - f. The effect of the proposed action upon the safety of pedestrians and vehicular traffic;
 - g. The effect of the proposed action upon the provision of municipal services including, but not limited to, emergency service and waste removal;
 - h. The necessity to relocate utilities both public and private; and
 - i. The effect of the proposed action on the design and character of the area.
 2. If the public right-of-way is ~~a~~ an improved street, the city shall not vacate the right-of-way except if the following additional criteria are met:
 - a. The loss of the street will not foreclose reasonably foreseeable future bicycle/pedestrian use;
 - b. The loss of the street will not foreclose non-motorized access to adjacent land uses or transit stops;
 - c. For public right-of-way abutting any property located within the U4 through U9 transect zones or any property within a mixed-use zoning district, t~~The~~ loss of the street is necessary for development that includes the construction of a high density, mixed-use project containing both residential and non-residential uses or creating close proximity of residential and non-residential uses; and
 - d. There is no reasonably foreseeable need for any type of transportation corridor for the area.
- C. Vacation conditions. The applicant shall pay all costs associated with relocating all public facilities, infrastructure, and utilities located within the vacated public right-of-way or as otherwise required by the vacation, and shall also compensate the City with fair market value for the property as may be applicable in accordance with the City's adopted policy for the disposition of real property.

SECTION 2. It is the intent of the City Commission that the provisions of Section 1 of this ordinance become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the sections and paragraphs of the Code of Ordinances may be renumbered or relettered in order to accomplish such intent.

SECTION 3. 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 will not affect the other provisions or applications of this ordinance that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. This ordinance will become effective immediately upon adoption when the amendment to the City of Gainesville Comprehensive Plan adopted by Ordinance No. 200732 becomes effective.

PASSED AND ADOPTED this ____ day of _____, 2022.

LAUREN POE
MAYOR

Attest:

Approved as to form and legality:

OMICHELE D. GAINEY
CITY CLERK

DANIEL M. NEE
INTERIM CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2022.

This ordinance passed on second reading this ____ day of _____, 2022.