## LEGISLATIVE # 211052A

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An ordinance of the City of Gainesville, Florida, amending Sections 30-3.3, 30-3.4, 30-3.37, 30-3.39, and 30-10.8 of the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) to change any references of "clerk of the commission" to "city clerk"; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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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, by adoption of Ordinance No. 191051, the City Commission directed that a proposed charter amendment to change the name of the charter officer "clerk of the commission" to "city clerk" be submitted to the electors for approval or disapproval at the November 2020 election; and WHEREAS, the City Commission then adopted Resolution No. 200500 which adopted the report of the Alachua County Board of Canvassers for the City of Gainesville election held on November 3, 2020, which report shows that the City Charter Amendment to change the name of the charter officer "clerk of the

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commission" to "city clerk" passed; and

27	WHEREAS, in	order to con	form the Lar	nd Developmer	it Code to the	Charter,	certain sections	referencing
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- 28 "clerk of the commission" must be changed to "city clerk"; and
- 29 WHEREAS, this ordinance, which was noticed as required by law, will amend the text of the Land
- 30 Development Code as described herein; and
- 31 WHEREAS, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of the Charter
- 32 Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant to Section 163.3174,
- 33 Florida Statutes, held a public hearing on March 31, 2022, and voted to recommend the City Commission
- 34 approve this text change to the Land Development Code; and
- 35 WHEREAS, at least ten days' notice has been given once by publication in a newspaper of general
- 36 circulation notifying the public of this proposed ordinance and of public hearings in the City Hall
- 37 Auditorium located on the first floor of City Hall in the City of Gainesville; and
- 38 WHEREAS, public hearings were held pursuant to the notice described above at which hearings the parties
- 39 in interest and all others had an opportunity to be and were, in fact, heard; and
- 40 WHEREAS, the City Commission finds that the Land Development Code text amendment described herein
- 41 is consistent with the City of Gainesville Comprehensive Plan.
- 42 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:
- 43 **SECTION 1.** Subsection (B)(5)(b) of Section 30-3.3 of the Land Development Code is amended as follows.
- 44 Except as amended herein, the remainder of Section 30-3.3 remains in full force and effect.

## 45 Sec. 30-3.3. City Plan Board.

46 B. *Membership*.

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- 5. Probationary period for regular members.
  - Any appointee who fails to successfully complete the probationary period, except as provided below, shall be automatically disqualified for membership on the city plan board,

50 51	upon the filing with the <u>city</u> clerk <del>of the commission</del> <del>of</del> appropriate proof that the appointee has failed to successfully complete the probationary period.					
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53	<b>SECTION 2.</b> Subsection (B)(4)(b) of Section 30-3.4 of the Land Development Code is amended as follows.					
54	Except as amended herein, the remainder of Section 30-3.4 remains in full force and effect.					
55	Sec. 30-3.4. Development Review Board.					
56	B. Membership.					
57	4. Probationary period.					
58 59 60 61	b. Any appointee who fails to successfully complete the probationary period, except as provided below, shall be automatically disqualified for membership on the development review board, upon the filing with the <u>city</u> clerk of the commission of appropriate proof that the appointee has failed to successfully complete the probationary period.					
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63	<b>SECTION 3.</b> Subsection (E)(4)(b) of Section 30-3.37 of the Land Development Code is amended as follows.					
64	Except as amended herein, the remainder of Section 30-3.37 remains in full force and effect.					
65	Sec. 30-3.37. Subdivisions.					
66	E. Final plat.					
66 67	E. Final plat. 4. Review.					
67 68 69 70 71 72	<ul> <li>4. Review.</li> <li>b. City commission review. If the final plat is consistent with the design plat as approved by the city commission, meets all requirements of this chapter, and otherwise complies with all applicable laws and ordinances, it shall be forwarded to the city commission for final consideration. Upon approval, the final plat shall bear certification of the approval by the</li> </ul>					
67 68 69 70 71 72	<ul> <li>4. Review.</li> <li>b. City commission review. If the final plat is consistent with the design plat as approved by the city commission, meets all requirements of this chapter, and otherwise complies with all applicable laws and ordinances, it shall be forwarded to the city commission for final consideration. Upon approval, the final plat shall bear certification of the approval by the city clerk of the city commission.</li> </ul>					
67 68 69 70 71 72 73	<ul> <li>4. Review.</li> <li>b. City commission review. If the final plat is consistent with the design plat as approved by the city commission, meets all requirements of this chapter, and otherwise complies with all applicable laws and ordinances, it shall be forwarded to the city commission for final consideration. Upon approval, the final plat shall bear certification of the approval by the city clerk of the city commission.</li> <li>SECTION 4. Subsection (B)(1) of Section 30-3.39 of the Land Development Code is amended as follows.</li> </ul>					

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Petition No. LD-22-13

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Words stricken are deletions; words underlined are additions.

- 1. In lieu of the security requirements of this section, the city commission may approve a conditional final plat, where approval of the plat is conditioned on the subdivider proceeding with installation of the required subdivision improvements and fully completing the improvements, in full accordance with approved plans and specifications and the ordinances of the city, within two years of the date of conditional final plat approval. The plat shall not be recorded, but shall be retained by the city clerk of the commission until the city manager shall have certified that all required subdivision improvements have been completed in accordance with approved plans and specifications and ordinances of the city and the same has been approved by the city commission. Upon certification by the city manager and upon proof by title insurance or other similar assurance to the satisfaction of the city that there are no liens or possibilities of liens on the subdivision improvements or on the property to be dedicated to the public, and that the dedicator has clear fee title thereto, the city shall approve the final plat and accept the dedication of the public right-of-way easements, and other dedicated portions as previously shown on the prior approved plat as set out in this chapter, and the subdivider shall record the plat and provide copies as specified in section 30-3.37.
- **SECTION 5.** Subsection (C)(5) of Section 30-10.8 of the Land Development Code is amended as follows.
- 95 Except as amended herein, the remainder of Section 30-10.8 remains in full force and effect.

## Sec. 30-10.8. Vested Rights Determination Process.

C. Appeals.

5. Hearing officer decision. No later than 30 calendar days following the date of the appeal hearing, the hearing officer shall file with the city manager or designee, with a copy to the applicant and the city clerk of the commission, a written determination that includes appropriate findings of fact, conclusions of law, and decisions in the matter of the appeal. The decision of the hearing officer, which may affirm, affirm with conditions, or reverse the decision of the city manager or designee, shall be based upon the criteria for presumptive or nonpresumptive vesting as established in this division, and shall be guided by the Comprehensive Plan, this chapter, and established case law. The decision of the hearing officer shall be final, subject to judicial review.

**SECTION 6**. It is the intention of the City Commission that the provisions of Sections 1 through 5 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.

112	SECTION 7. If any word, phrase, clause, pa	ragraph, section, or provisior	n of this ordinance or the						
113	application hereof to any person or circumstance is held invalid or unconstitutional, such finding will no								
114	affect the other provisions or applications of this ordinance that can be given effect without the invalid or								
115	unconstitutional provision or application, and to this end the provisions of this ordinance are declared								
116	severable.								
117	SECTION 8. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict								
118	hereby repealed.								
119	SECTION 9. This ordinance will become effective immediately upon adoption.								
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121	PASSED AND ADOPTED THIS DAY OF	, 2022.							
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124		LAUREN POE							
125 126		MAYOR							
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128	ATTEST:	Approved as to form and lega	ality						
129 130									
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132	OMICHELE D. GAINEY	DANIEL M. NEE							
133 134	CITY CLERK	INTERIM CITY ATTORNEY							
135	This and in a second on first we dive this	dan af	2022						
136 137	This ordinance passed on first reading this	_ uay or	_, 2022.						
138	This ordinance passed on second reading this _	day of	, 2022.						