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ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2022-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY FLORIDA, ADOPTING FINDINGS; ADOPTING AN ORDINANCE ESTABLISHING A MORATORIUM FOR 180 CALENDAR DAYS ON THE ACCEPTANCE OF PRELIMINARY DEVELOPMENT PLAN APPLICATIONS FOR COTTAGE NEIGHBORHOODS AND ISSUANCE OF PRELIMINARY DEVELOPMENT PLAN APPROVALS IN ALACHUA COUNTY PERMITTING OR HAVING THE EFFECT OF PERMITTING DEVELOPMENT OF COTTAGE NEIGHBORHOODS IN ALL URBAN RESIDENTIAL LAND USES OF ALACHUA COUNTY; EXCEPT FOR APPLICATIONS FOR PRELIMINARY DEVELOPMENT PLANS SUBMITTED AND ACCEPTED AS COMPLETE PRIOR TO ALACHUA COUNTY'S SEPTEMBER 6, 2022 ZONING IN PROGRESS ON COTTAGE NEIGHBORHOODS; PROVIDING FOR REPEALING CLAUSE; PROVIDING FOR MODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section l(g), Florida Constitution; Section 125.01,

Florida Statutes; and the Alachua County Charter, the Alachua County Board of County

Commissioners is authorized to enact ordinances not inconsistent with general law and to

establish development and zoning regulations as are necessary for the protection of the public;

and

WHEREAS, the Board of County Commissioners determines that it is in the best

interest of its residents, businesses and visitors to enact sufficient development and zoning

regulations to ensure their health, safety and welfare; and

WHEREAS, in recognition of pending changes to the uses and standards allowed in

Cottage Neighborhood developments in urban residential land uses throughout Alachua County,

a thorough study and review of the Alachua County Comprehensive Plan and/or Code of

Ordinances is required, and changes may be recommended; and

WHEREAS, a temporary moratorium on the acceptance of applications for, the

1 processing of, and the issuance of preliminary development plan approvals permitting or having
2 the effect of permitting development of Cottage Neighborhoods will allow time to review,
3 study, hold public hearings, and prepare and adopt an amendment or amendments to the
4 Alachua County Comprehensive Plan and/or Code of Ordinances to address the impacts of
5 these developments; and

6 **WHEREAS**, County staff has requested a temporary moratorium of up to six months in
7 order to analyze the impacts of permitting new Cottage Neighborhood developments on
8 properties with an urban residential land use designation in the unincorporated areas of Alachua
9 County, to evaluate potential Comprehensive Plan and/or Code of Ordinances amendments
10 which may include, but are not limited to including, identification of appropriate locations and
11 standards for such developments, if any, and determination of applicable land use standards and
12 development and zoning regulations; and

13 **WHEREAS**, on September 6, 2022, the Board of County Commissioners invoked
14 zoning-in-progress for the purpose of determining appropriate permitting of new Cottage
15 Neighborhood developments in urban residential land use designations, if any, thereafter
16 putting the public on notice that the County has implemented a course of action which may
17 result in additional regulation for permitting new Cottage Neighborhoods in Alachua County;
18 and

19 **WHEREAS**, a legal advertisement was placed in a newspaper of general circulation
20 notifying the public of this proposed Ordinance and of the public hearing to be held on
21 September 27, 2022 in Room 209, Alachua County Administration Building, which was at least
22 ten calendar days after the day the first legal advertisement was published; and

23 **WHEREAS**, a second legal advertisement was placed in the aforesaid newspaper

1 notifying the public of this proposed Ordinance and of the second public hearing to be held on
2 October 25, 2022 in Room 209, Alachua County Administration Building, which was at least
3 five calendar days after the day the second legal advertisement was published; and

4 **WHEREAS**, the two public hearings were held on September 27, 2022 and October 25,
5 2022 pursuant to the published notices described above at which hearings the parties in interest
6 and all others had an opportunity to be and were, in fact, heard; and

7 **WHEREAS**, the Board of County Commissioners finds that it is essential to protect and
8 preserve the public health, safety and welfare of the County and its citizenry, that it is in the
9 County's best interest, and that it is consistent with the Comprehensive Plan for the County to
10 study and evaluate the potential impacts of Cottage Neighborhoods and to place a temporary
11 moratorium on the acceptance of applications for, the processing of, and issuance of
12 preliminary development plan approvals permitting or having the effect of permitting
13 development of parcels as Cottage Neighborhoods a period of up to six months.

14 **NOW, THEREFORE, BE IT DULY ORDAINED BY THE BOARD OF COUNTY**
15 **COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:**

16 SECTION 1. The Board of County Commissioners adopts the foregoing findings.

17 SECTION 2. Purpose. The purpose of this Ordinance is to enable Alachua County
18 sufficient time to review, study, hold public hearings, and prepare and adopt an amendment or
19 amendments to the Alachua County Comprehensive Plan and/or Code of Ordinances, relating to
20 permitting new Cottage Neighborhood developments in urban residential land use designations,
21 if any, and any related land use standards. During this up to six month time period, the County
22 will not accept or process applications for preliminary development plans of Cottage
23 Neighborhoods, or issue preliminary development plan approvals for Cottage Neighborhoods,

1 having the effect of permitting development of parcels as Cottage Neighborhoods, except as
2 provided in this ordinance. This temporary moratorium does not have the effect of prohibiting
3 the issuance of building or construction permits for any developments that received final
4 development plan approval for a Cottage Neighborhood before or during the duration of this
5 temporary moratorium.

6 SECTION 3. Imposition of Temporary Moratorium. Alachua County hereby imposes a
7 temporary moratorium of up to six months in which the County will not accept or process
8 applications for preliminary development plans of Cottage Neighborhoods under Chapter 407,
9 Article XVI of the Alachua County Unified Land Development Code, or issue preliminary
10 development plan approvals for Cottage Neighborhoods, having the effect of permitting
11 development of parcels as Cottage Neighborhoods, except as provided in this ordinance. This
12 temporary moratorium does not have the effect of prohibiting the issuance of building or
13 construction permits for any developments that received final development plan approval before
14 or during the duration of this temporary moratorium.

15 SECTION 4. Existing Businesses. This temporary moratorium shall not affect any
16 development lawfully constructed within the unincorporated area of the County, as of the
17 effective date of this Ordinance, pursuant to valid permits and approvals if the existing
18 development is in compliance with all applicable County, State and Federal laws, codes,
19 ordinances, rules, regulations and policies.

20 SECTION 5. Alleviation of Hardship

21 a) The Board of County Commissioners may authorize exceptions to the temporary
22 moratorium imposed by this Ordinance when it finds, based upon substantial competent
23 evidence presented to it, that deferral of action on an application for any of the covered

1 development permits and the deferral of the issuance of a development order for the
2 duration of the moratorium would impose an extraordinary hardship on a landowner or
3 developer.

4 b) A landowner or a developer, with the consent of the landowner, shall file a request for an
5 exception based upon extraordinary hardship with the County Manager or designee,
6 along with a fee of \$500.00 to cover processing and advertising costs. The request shall
7 include a recitation of the specific facts that are alleged to support the claim of
8 extraordinary hardship and shall contain such other information as the County Manager
9 shall prescribe as necessary for the Board of County Commissioners to be fully informed
10 with respect to the application.

11 c) Notice of the filing of a request for an exception, and the date, time and place of the
12 hearing thereon shall be published once at least 10 days prior to the hearing in a
13 newspaper of general circulation within limits of Alachua County, Florida.

14 d) A public hearing on any request for an exception for extraordinary hardship shall be held
15 by the Board of County Commissioners at the first regular meeting of the County
16 Commission that occurs after the expiration of the period for publication of notice of the
17 request for an exception.

18 e) In reviewing an application for an exception based upon a claim of extraordinary
19 hardship, the Board of County Commissioners shall consider the following criteria:

20 1) The extent to which the party applying for the exception has, prior to September
21 6, 2022 (the date of zoning-in-progress), received Alachua County permits or
22 approvals for the proposed development.

23 2) The extent to which the party applying for the exception has, prior to September

1 6, 2022 (the date of zoning-in-progress), made a substantial expenditure of money
2 or resources in reliance upon permits or other approvals of Alachua County
3 directly associated with physical improvements on the land, such as grading,
4 installation of utility infrastructure or any other public improvements.

5 3) Whether the party applying for the exception has, prior to September 6, 2022 (the
6 date of zoning in progress), contractual commitments in reliance upon permits or
7 other approvals of Alachua County to complete a structure(s).

8 4) Whether the party applying for the exception has, prior to September 6, 2022 (the
9 date of zoning in progress), in reliance upon permits or other approvals of
10 Alachua County, incurred financial obligations to a lending institution which,
11 despite a thorough review of alternative solutions, the applicant cannot meet
12 unless development proceeds.

13 5) Whether the moratorium will expose the party applying for the exception to
14 substantial monetary liability to third persons, or would leave the applicant
15 completely unable, after a thorough review of alternative solutions, to earn a
16 reasonable investment-backed expectation on the property.

17 SECTION 6. Repealing Clause. All ordinances or portions thereof in conflict herewith
18 are, to the extent of such conflict, hereby repealed.

19 SECTION 7. Modification. It is the intent of the Board of County Commissioners that
20 the provisions of this ordinance may be modified as a result of considerations that may arise
21 during public hearings. Such modifications shall be incorporated into the final version of the
22 ordinance adopted by the Board and filed by the Clerk to the Board.

23 SECTION 8. Severability. If any word, phrase, clause, paragraph, section or provision of

1 this ordinance or the application hereof to any person or circumstance is held invalid or
2 unconstitutional, such finding shall not affect the other provisions or applications of the
3 ordinance which can be given effect without the invalid or unconstitutional provisions or
4 application, and to this end the provisions of this ordinance are declared severable.

5 SECTION 9. Inclusion in the Code. It is the intent of the Board of County
6 Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this
7 ordinance shall not become and be made a part of the Code of Ordinances of Alachua County,
8 Florida; that the section of this ordinance may be renumbered or re-lettered to accomplish such
9 intent and that the word “ordinance” may be changed to “section”, “article”, or other appropriate
10 designation.

11 SECTION 10. Effective Date. A certified copy of this ordinance shall be filed with the
12 Department of State by the Clerk of the Board within ten (10) days after enactment by the
13 Board and shall take effect upon filing with the Department of State. This temporary
14 moratorium shall remain in effect for a period of 180 calendar days from and including the
15 effective date of this Ordinance or until the effective date of an ordinance amending the
16 standards for the development of Cottage Neighborhoods, whichever first occurs.

17 SECTION 11. Ordinance to be Liberally Construed. This Ordinance shall be liberally
18 construed in order to effectively carry out the purposes of this Ordinance.

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1 **DULY ADOPTED** in regular session, this ____ day of _____, 2022.

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3 **BOARD OF COUNTY COMMISSIONERS OF**
4 **ALACHUA COUNTY, FLORIDA**

5
6 ATTEST:

7 BY: _____
8 Marihelen Wheeler, Chair
9 Board of County Commissioners

10 _____
11 J.K. "Jess" Irby, Esq.
12 Clerk

APPROVED AS TO FORM

13 _____
14 County Attorney

15 (SEAL)

16
17 DEPARTMENT APPROVAL
18 AS TO CORRECTNESS

19 _____
20 Director of Growth Management
21 Or designee