

Alachua County
Board of County Commissioners

ORDINANCE 20 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AMENDING ORDINANCE 16-06 OF THE BOARD OF COUNTY COMMISSIONER OF ALACHUA COUNTY, FLORIDA, TO TEMPORARILY INCREASE THE IMPOSITION OF THE EXISTING LOCAL GOVERNMENT INFRASTRUCTURE SURTAX FROM 0.5 PERCENT TO 1.0 PERCENT ON CERTAIN TRANSACTIONS OCCURRING WITHIN ALACHUA COUNTY FROM WHICH TAXES PAYABLE TO THE STATE OF FLORIDA UNDER THE PROVISIONS OF CHAPTER 212, FLORIDA STATUTES, FOR A ONE YEAR PERIOD BEGINNING JANUARY 1, 2021 AND ENDING DECEMBER 31, 2021; PROVIDING THAT 50.0 PERCENT OF THE PROCEEDS OF THE SURTAX LEVIED DURING THE PERIOD OF JANUARY 1, 2021 THROUGH DECEMBER 31, 2021 SHALL BE USED TO DESIGN, CONSTRUCT AND IMPROVE THE PUBLIC SAFETY TRUNKING RADIO SYSTEM AND TO ACQUIRE PROPERTY INTERESTS RELATED THERETO; PROVIDING THAT THE OTHER 50.0 PERCENT OF THE PROCEEDS OF THE SURTAX LEVIED DURING THE PERIOD OF JANUARY 1, 2021 THROUGH DECEMBER 31, 2021 SHALL BE USED TO ACQUIRE, IMPROVE AND MAINTAIN CONSERVATION LANDS AND TO ACQUIRE, CREATE, IMPROVE, MAINTAIN, AND OPERATE PARKS AND RECREATIONAL FACILITIES THROUGHOUT THE COUNTY; PROVIDING THAT THE IMPOSITION OF SURTAX SHALL DECREASE FROM 1.0 PERCENT TO 0.5 PERCENT ON JANUARY 1, 2022; PROVIDING THAT 100.0% OF THE PROCEEDS OF THE SURTAX LEVIED DURING THE PERIOD OF JANUARY 1, 2022 THROUGH DECEMBER 31, 2024 SHALL BE USED TO ACQUIRE, IMPROVE AND MAINTAIN CONSERVATION LANDS AND TO ACQUIRE, CREATE, IMPROVE, MAINTAIN, AND OPERATE PARKS AND RECREATIONAL FACILITIES THROUGHOUT THE COUNTY; PROVIDING THAT THIS AMENDMENT TO ORDINANCE 16-06, INCLUDING THE TEMPORARY INCREASE IN THE IMPOSITION OF THE SURTAX, SHALL NOT BE EFFECTIVE UNLESS APPROVED AT A REFERENDUM ELECTION; PROVIDING FOR DISTRIBUTION AMONG THE GOVERNMENTS OF ALACHUA COUNTY AND ELIGIBLE MUNICIPALITIES PURSUANT TO INTERLOCAL AGREEMENT; PROVIDING FOR A REFERENDUM ELECTION ON NOVEMBER 3, 2020, PROVIDING BALLOT LANGUAGE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Subsection 212.055(2), Florida Statutes, the Local Government Infrastructure Surtax Act, authorizes Alachua County to impose a local government infrastructure surtax of 0.5 percent or 1.0 percent upon most taxable transaction occurring within Alachua County that are taxable under Chapter 212, Florida Statutes; and

WHEREAS, the proceeds received from the local government infrastructure surtax authorized by Subsection 212.055(2), Florida Statutes, may be utilized by Alachua County and the municipalities within Alachua County to acquire any interest in land for public recreation, conservation, or protection of natural resources, to improve conservation lands, or to create, improve, maintain and operate the parks and recreational programs and facilities established with the proceeds of the surtax within Alachua County (hereinafter, “Wild Spaces Public Places Purposes” or “WSPP Purposes”); and

WHEREAS, the Board of County Commissioners of Alachua County, Florida, adopted Ordinance 16-06 on May 10, 2016, to impose a 0.5 percent surtax for WSPP Purposes (the “WSPP Surtax Ordinance”); and

WHEREAS, the WSPP Surtax Ordinance was approved by a majority of the electors voting in the referendum election held on November 8, 2016 and became effective on January 1, 2017; and

WHEREAS, pursuant to Section 212.005(2)(c)1., Florida Statutes, Alachua County and the City of Gainesville entered into that certain Interlocal Agreement dated April 20, 2017, to establish how the proceeds from the WSPP Surtax Ordinance would be distributed to Alachua County and all of the municipalities within Alachua County (the “WSPP Distribution Interlocal Agreement”); and

WHEREAS, Subsections 212.054(5) and 212.055(2)(a)1., Florida Statutes, authorize Alachua County to increase the surtax by an additional 0.5 percent; and

WHEREAS, the Board of County Commissioners of Alachua County has determined that it server a public purpose, and is in the public interest, to temporarily impose and use the

additional 0.5 percent surtax to fund improvements to the Public Safety Trunking Radio System (“TRS System”); and

WHEREAS, on November 9, 1999, Alachua County and the City of Gainesville, doing business as Gainesville Regional Utilities (“GRU”), entered into an Interlocal Agreement for Public Safety Trunking Radio Services (the “GRU Interlocal Agreement”); and

WHEREAS, pursuant to the GRU Interlocal Agreement, the parties and numerous other governmental entities use the Public TRS System for county-wide public safety communications; and

WHEREAS, the TRS System is used throughout the County by numerous governmental law enforcement agencies, fire departments, and other first responders, including but not limited to: City of Gainesville Fire Rescue, City of Gainesville Police Department, Santa Fe College Police Department, City of High Springs Police Department, City of High Springs Fire Department, City of Alachua Police Department, University of Florida Police Department, Gainesville Airport, US Marshall Service, State Attorney, Alachua County Fire Rescue, Alachua County Sheriff’s Office, City of Newberry Fire Department, and others (Collectively, the “TRS System Users”); and

WHEREAS, TRS System Users rely on the TRS System as their primary means of communicating both internally and with each other during both normal operations and during public emergencies; and

WHEREAS, GRU recently spent approximately \$5,000,000 to upgrade the TRS System within the geographic boundary of the City of Gainesville, but there are still significant geographic areas of Alachua County that lack TRS System coverage due to an insufficient

number of radio communication towers and deficiencies with the existing radio communication system infrastructure; and

WHEREAS, the Board of County Commissioners of Alachua County commissioned an engineering study to evaluate the TRS System for the purpose of, among other things, identify needed improvements to the TRS System; and

WHEREAS, the engineering study recommended constructing or otherwise adding new radio communication towers as well as capital improvements to existing towers located outside of the geographic boundary of the City of Gainesville; and

WHEREAS, the Board of County Commissioners of Alachua County has determined that many elements of the TRS System are at or near the end of their design life, and that implementation of the recommendations set forth in the engineering study would resolve the deficiencies in the current TRS System, would serve a public purpose and are in the public interest; and

WHEREAS, Subsection 212.055(2), Florida Statutes, authorizes Alachua County to impose and use the local government infrastructure surtax to finance, plan and construct “infrastructure,” as that term is defined in Section 212.005(2)(d)1., Florida Statutes, for purposes such as the improvement of the TRS System; and

WHEREAS, Subsection 212.054(5), Florida Statutes, requires that any increase or decrease in the rate of any discretionary sales surtax must take effect on January 1; and

WHEREAS, the Board of County Commissioners of Alachua County has determined that the additional proceeds created by temporarily increasing the surtax for a period of one year will be sufficient to fund the needed TRS System improvements; and

WHEREAS, a brief description of the projects to be funded by the temporary increase of the surtax is set forth in the ballot language contained in this ordinance; and

WHEREAS, Subsection 212.055(2), Florida Statutes, requires voter approval in a referendum election prior to imposition of the temporary increase of the surtax; and

WHEREAS, the Board of County Commissioners of Alachua County has determined it appropriate to place this temporary increase of the surtax on the ballot at the November 3, 2020, election; and

WHEREAS, the advertising required by Section 100.342, Florida Statutes, must be met, which require a period of approximately thirty (30) days advertisement prior to the election.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

SECTION 1. Authorization and Legislative Findings. This ordinance is authorized by Subsection 212.055(2), Florida Statutes, and other applicable laws. The Board of County Commissioners of Alachua County finds and declares that all statements set forth in the preamble of this ordinance are true and correct.

SECTION 2. Amendment of Ordinance 16-06. Ordinance 16-06 shall be amended as follows:

A. Section 2 of Ordinance 16-06 shall be amended and replaced with the following provision:

SECTION 2. Sales Surtax Levy. Commencing January 1, 2021 and continuing through December 31, 2021, there shall be levied and imposed throughout the incorporated and unincorporated areas of

the County an additional sales tax on all transaction occurring in the County which are subject to the state tax imposed on transactions by Part I of Chapter 212, Florida Statutes (the “Temporary Combined WSPP/TRS System Surtax”). The Temporary Combined WSPP/TRS System Surtax shall be at the rate of 1.0 percent for each \$1.00 of the sale price or actual value received and for each fractional part of \$1.00 of the sale price or actual value received. This Temporary Combined WSPP/TRS System Surtax shall be levied and imposed in accordance with Section 212.054 and Subsection 212.055(2), Florida Statutes, and the rules promulgated by the Florida Department of Revenue. Commencing January 1, 2022, the levy shall decrease to 0.5 percent for each \$1.00 of the sale price or actual value received and for each fractional part of \$1.00 of the sale price or actual value received (the “WSPP Surtax”). The WSPP Surtax shall be levied and imposed in accordance with Section 212.054 and Subsection 212.055(2), Florida Statutes, and the rules promulgated by the Florida Department of Revenue.

B. Section 3 of Ordinance 16-06 shall be amended and replaced with the following provision:

SECTION 3. Distribution of Surtax Proceeds. Fifty percent (50%) of the proceeds of the Temporary Combined WSPP/TRS System Surtax levied pursuant to this ordinance (the “TRS System

Improvement Surtax”) shall be distributed in accordance with Subsection 212.055(2)(c), Florida Statutes. The other fifty percent (50%) of the proceeds of the Temporary Combined WSPP/TRS System Surtax, and One Hundred percent (100%) of the WSPP Surtax, levied pursuant to this ordinance (collectively, the “WSPP Purpose Surtax”) shall be distributed in accordance with the WSPP Distribution Interlocal Agreement.

C. Section 5 of Ordinance 16-06 shall be amended and replaced with the following provision:

SECTION 5. Use of Surtax Proceeds.

- a. The proceeds of the TRS System Improvement Surtax shall be used only for:
 - i. Acquisition of any interests in land or property needed to place, construct, reconstruct or improve radio communication towers or other radio communication infrastructure that is or will become part of the TRS System;
 - ii. Design costs, engineering costs and all other professional services and related costs required to bring into service new radio communication infrastructure that is or will become part of the TRS System;

- iii. Design costs, engineering costs and all other professional services and related costs required to reconstruct or improve existing radio communication infrastructure that is or will become part of the TRS System; and
 - iv. Construction, reconstruction or improvement of radio communication infrastructure that is or will become part of the TRS System.
- b.** The proceeds of the WSPP Purpose Surtax shall be used only to:
- i. Acquire and improve environmentally sensitive lands to protect drinking water sources, water quality, and wildlife habitat, and
 - ii. To create, improve and maintain parks and recreational facilities as permitted by Florida Statutes, the November 8, 2016 referendum ballot language, and ordinances.
 - iii. Notwithstanding the above, Alachua County may utilize a portion of its proceeds to establish a fund for the purposes of providing matching grants to municipalities within the County for projects that meet the requirements of subsections (i) or (ii), and

which, in the sole discretion of Alachua County, have
countywide significance.

SECTION 3. Referendum.

- A.** This ordinance amending Ordinance 16-06, which includes a temporary increase in the levy of the surtax from 0.5 percent to 1.0 percent for a one year period commencing January 1, 2021 as set forth in Section 2 of this ordinance, shall be presented to the County electorate by placing the question of approval of the temporary increase of levy of the surtax on the ballot at a referendum election to be held on November 3, 2020.
- B.** The Supervisor of Elections of Alachua County shall cause the following question to be placed on the ballot on November 3, 2020:

ONE YEAR PUBLIC SAFETY RADIO INFRASTRUCTURE IMPROVEMENT
ONE-HALF PERCENT SALE TAX

SHALL ALACHUA COUNTY BE AUTHORIZED TO IMPROVE THE PUBLIC SAFETY RADIO TRUNKING SYSTEM, WHICH IS THE PRIMARY MEANS BY WHICH FIRST RESPONDERS COMMUNICATE THROUGHTOUT ALACHUA COUNTY, BY ACQUIRING INTERESTS IN LAND, CONSTRUCTING NEW RADIO COMMUNICATION TOWERS AND MAKING CAPITAL IMPROVEMENTS TO EXISTING RADIO COMMUNICATIONS TOWERS, BY AMENDING ITS CURRENT ONE-HALF PERCENT (1/2%) SALES TAX TO TEMPORARILY INCREASE THE LEVY TO ONE PERCENT (1%) FOR A ONE YEAR PERIOD STARTING JANUARY 1, 2021?

[] FOR the one-year one-half percent sales tax.

[] AGAINST the one-year one-half percent sales tax.

SECTION 4. Effective Date and Duration of Surtax. The temporarily increase
of the surtax from 0.5 percent (1/2%) to 1.0 percent (1%) for a one year period,

shall take effect as of January 1, 2021 only if approved by a majority of the electors voting for the temporary surtax increase in the referendum election to be held on November 3, 2020; in which case it shall continue for a period of one (1) year commencing on January 1, 2021 and ending on January 1, 2022; on January 1, 2022 the surtax shall decrease to 0.5 percent (1/2%); and the 0.5 percent (1/2%) surtax shall terminate on December 31, 2024. In the event that this temporary increase of the surtax is not approved by a majority of the electors voting for the temporary surtax increase in the referendum election to be held on November 3, 2020, then the surtax rate set forth in Ordinance 16-06 shall remain unchanged at 0.5 percent (1/2%), Ordinance 16-06 shall remain in full force and effect, and shall not be deemed amended by this ordinance.

SECTION 5. Effective Date of Ordinance. A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This ordinance shall take effect as of January 1, 2021 only if approved by a majority of the electors voting for the temporary surtax increase in the referendum election to be held on November 3, 2020. In the event that this ordinance amending Ordinance 16-06 is not approved by a majority of the electors voting for the temporary surtax increase in the referendum election to be held on November 3, 2020, then this ordinance shall not take effect, and Ordinance 16-06 shall remain in full force and effect, unchanged, and shall not be deemed amended by this ordinance.

SECTION 6. Severability. It is the declared intent of the Board of County Commissioners of Alachua County that if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so constructed as to render invalid or unconstitutional the remaining provisions of this ordinance.

DULY ADOPTED in regular session this ____ day of _____, 2020.

ATTEST:

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

J.K. "Jess" Irby, Esq.
Clerk

By: _____
Robert Hutchinson, Chair

APPROVED AS TO FORM

County Attorney's Office