

ORDINANCE 25-03

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, RELATING TO THE AMENDMENT OF THE CITY'S LAND DEVELOPMENT REGULATIONS ("LDRS"); AMENDING SUBPART B OF THE CITY OF ALACHUA CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS; AMENDING SECTION 2.2.17 RELATING TO THE SIMULTANEOUS PROCESSING OF APPLICATIONS; AMENDING SECTION 2.4.3(D)(1)(A) AND SECTION 2.4.3(D)(6) RELATING TO FINAL PD PLANS IN PD-R AND PD-TND DEVELOPMENTS; AMENDING SECTION 2.4.10(G)(6)(E) RELATING TO THE RECORDING OF A FINAL PLAT IN THE PUBLIC RECORDS OF ALACHUA COUNTY; AMENDING SECTION 2.4.10(G)(8) RELATING TO THE WARRANTY PERIOD FOLLOWING INSPECTION OF PUBLIC AND PRIVATE IMPROVEMENTS CONSTRUCTED BY A SUBDIVIDER; AMENDING TABLE 4.1-1 TO ADD THE FOLLOWING NEW USE TYPES: "CIGAR/HOOKAH BAR", "MOBILE FOOD DISPENSING VEHICLE", AND "SMOKE SHOP"; CREATING SECTION 4.3.4(A)(3) TO ESTABLISH USE-SPECIFIC STANDARDS FOR MOBILE FOOD DISPENSING VEHICLES; CREATING SECTION 4.3.4(G)(12) TO ESTABLISH USE-SPECIFIC STANDARDS FOR CIGAR/HOOKAH BARS AND SMOKE SHOPS; AMENDING SECTION 4.5.3(A) AND (B) RELATED TO PROHIBITED TEMPORARY USES; AMENDING SECTION 6.5.4(C)(3)(B) RELATING TO WALL SIGNS IN BUSINESS DISTRICTS; AND AMENDING SECTION 10.2 TO CREATE DEFINITIONS FOR "CIGAR/HOOKAH BAR", "MOBILE FOOD DISPENSING VEHICLE", "RETAIL NICOTINE PRODUCTS DEALER", "RETAIL TOBACCO PRODUCTS DEALER", "RETAIL VAPE PRODUCTS DEALER", "SMOKE SHOP", AND "SMOKING DEVICES"; PROVIDING A REPEALING CLAUSE; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, a Text Amendment ("Amendment") to the City's Land Development Regulations ("LDRs"), as described below, has been proposed; and

WHEREAS, the City advertised a public hearing to be held before the Planning and Zoning Board, sitting as the Local Planning Agency ("LPA"), on October 31, 2024; and

WHEREAS, the LPA conducted a public hearing on the proposed Amendment on November 9, 2024 and the LPA reviewed and considered all comments received during the public hearing concerning the proposed Amendment and made its recommendation to the City Commission; and

WHEREAS, on November 28, 2024 and on December 26, 2024 the City advertised public hearings to be held before the City Commission; and

WHEREAS, the City Commission conducted public hearings on the proposed Amendment on December 9, 2024 and on January 13, 2025 and provided for public participation at both public hearings; and

WHEREAS, the City Commission has determined and found the Amendment to be consistent with the City's Comprehensive Plan and City's LDRs; and

WHEREAS, for reasons set forth in this ordinance that is hereby adopted and incorporated as findings of fact, that the Alachua City Commission finds and declares that the enactment of this Amendment is in the furtherance of the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare.

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

Section 1. Interpretation of Recitals

The above recitals are true and correct and incorporated in this ordinance.

Section 2. Findings of Fact and Conclusions of Law

The authority for the enactment of this ordinance is Chapter 163, Part I, Florida Statutes; Sections 166.021 and 166.041; and the City's Comprehensive Plan.

Section 3. Amendment to the Land Development Regulations

The proposed Amendment to the City Land Development Regulations are attached as Exhibit "A" and are hereby incorporated herein by reference and upon passage, shall be incorporated into the City's LDRs which are codified as Subpart B to the Code of Ordinances of the City of Alachua.

Section 4. Codification of and Correction of Scrivener's Errors

The City Manager or designee, without public hearing, is authorized to correct any typographical errors which do not affect the intent of this ordinance. A corrected copy shall be posted in the public record.

Section 5. Ordinance to be Construed Liberally

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of the City of Alachua, Florida.

Section 6. Repealing Clause

All ordinances or parts of ordinances in conflict herewith are, to the extent of the conflict, hereby repealed.

Section 7. Severability

It is the declared intent of the City Commission of the City of Alachua that, if any section, sentence, clause, phrase, or provision of this ordinance is for any reason held or declared to be unconstitutional, void, or inoperative by any court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this ordinance, and the remainder of the ordinance after the exclusions of such part or parts shall be deemed to be valid.

Section 8. Effective Date

This ordinance shall take effect immediately upon its adoption by the City Commission and the signature of the Mayor.

Passed on First Reading the 9th day of December, 2024.

PASSED and ADOPTED, in regular session, with a quorum present and voting, by the City Commission, upon second and final reading this 13th day of January 2025.

**CITY COMMISSION OF THE
CITY OF ALACHUA, FLORIDA**

Gib Coerper, Mayor
SEAL

ATTEST:

APPROVED AS TO FORM

Mike DaRoza, City Manager/Clerk

Marian B. Rush, City Attorney

EXHIBIT “A”

Section 2.2.17 of the City’s LDRs is amended as follows. The remainder of Section 2.2.17 remains in full force and effect:

2.2.17 *Simultaneous processing of applications.* Whenever two or more forms of review and **appeal approval** are required under these LDRs, the applications for those permits or approvals may, at the option of the LDR Administrator, be processed simultaneously, so long as all applicable State and local requirements are satisfied. Site plans, infrastructure plans, and major or minor subdivision plats shall not be processed concurrently with applications for text amendments (Section 2.4.1) or site-specific amendments to the Official Zoning Atlas (Section 2.4.2) except for residential and traditional neighborhood or planned developments (Section 2.4.3) (PD-R and PD-TND zoning districts).

Section 2.4.3(D) of the City’s LDRs is amended as follows. The remainder of Section 2.4.3(D) remains in full force and effect:

2.4.3(D) *PD zone district classification and PD Master Plan.*

(1) *Procedure.*

(a) *Generally.* A PD zone district classification shall constitute a site-specific amendment to the Official Zoning Atlas (rezone) (Subsection 2.4.2 of this section). It shall be controlled by a PD Master Plan and PD agreement. The procedure requires approval of a PD zone district classification, PD Master Plan, and PD agreement (Subsection 2.4.3(D)(3) of this section), and then a final PD plan (Subsection 2.4.3(E) of this section). Subsequent to approval of a PD zone district classification, PD Master Plan and PD agreement, an approved site plan shall be considered as the final PD plan for the portion of the planned development subject to the site plan (Subsection 2.4.9 of this section). A final PD plan within PD-R and PD-TND for residential development may be processed concurrently with the application for the PD Zoning designation.

(6) *Recordation.* The applicant shall record the adopting ordinance, the PD Master Plan and the PD agreement with the Alachua County Clerk of Court. They shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, and all other elements and conditions set forth on the PD Master Plan and in the PD agreement. The applicant shall submit proof to the LDR Administrator that the adopting ordinance, PD Master Plan, and PD agreement have been recorded with the Alachua County Clerk of Court within six months of its approval or the adopting ordinance, PD Master Plan, and PD agreement shall automatically and immediately be rendered invalid and the land shall return to its prior zone district classification. No further applications for development permit shall be review for the planned development until the adopting ordinance, PD Master Plan, and PD agreement have been recorded in accordance with this subsection except as provided for in Section 2.2.17 of these LDRs.

Section 2.4.10(G)(6) of the City's LDRs is amended as follows. The remainder of Section 2.4.10(G)(6) remains in full force and effect:

2.4.10(G)(6) *Final plat.*

- (a) *Generally.* Concurrent with the preparation of a subdivider agreement and the posting of a surety device for the private improvements in accordance with Section 6.10, Improvement guarantees for private improvements if improvements are proposed to be completed after final plat recordation and the posting of a surety device for the public improvements in accordance with Section 7.4, Improvement guarantees for public improvements, if improvements are proposed to be completed after final plat recordation, the subdivider shall submit a final plat for review in accordance with this section.
- (b) *Initial submission of application and staff review.* The procedures and requirements for submission and review of an application for final plat for subdivision are established in Sections 2.2, Common development review procedures.
- (c) *Action by City Commission.* After public notification and the scheduling of the public hearing, the City Commission shall consider the application and approve or disapprove the application based on the standards of Section 2.4.10(G)(6)(d), Final plat standards.
- (d) *Final plat standards.* The final plat for subdivision shall:
 - (i) Comply with the standards contained in Article 7, Subdivision Standards;
 - (ii) Be in substantial conformance with the valid preliminary plat, and the construction plans;
 - (iii) Be consistent with all other relevant provisions of these LDRs;
 - (iv) Be consistent with all other relevant City ordinances, regulations, and requirements;
 - (v) Address the provision of required public and private improvements in the following ways:
 - a. Preparation of a subdivider agreement in accordance with Section 2.4.10(G)(5), Subdivider agreement;
 - b. Provided to the City a surety device in accordance with Section 6.10, Improvement guarantees for private improvements, if improvements are proposed to be completed after final plat recordation, and provided to the City a surety device in accordance with Section 7.4, Improvement guarantees for public improvements; if improvements are proposed to be completed after final plat recordation.
 - (vi) Include the following certificates, which shall be signed by the subdivider and the LDR Administrator:
 - a. Certificate of subdivider's surveyor;
 - b. Certificate of City's review surveyor;
 - c. Certificate of approval by County Health Department, if applicable;
 - d. Certificate of approval by the Attorney for the City;
 - e. Certificate of approval by the City Commission; and
 - f. Certificate of filing with the Alachua County Clerk of Court.
- (e) *Recordation.* The subdivider shall file the approved final plat for subdivision with the Alachua County Clerk of Courts in accordance with the following requirements:

- (i) If the subdivider proposes to complete the improvements after final plat recordation, the subdivider shall file the plat in the Public Record within five days of approval of the final plat or the final plat shall be null and void;
- (ii) If the subdivider proposes to complete the improvements prior to final plat recordation, the City shall release the signed plat for recording to the subdivider following the issuance of a Certificate of Completion as set forth in Section 2.4.10(G)(8)(a). ~~‡~~The subdivider shall file the plat in the Public Records of Alachua County within 545 days after the date of approval of the final plat or the final plat shall be null and void. Upon showing of good cause by the subdivider, the City Commission may provide extensions. In no cases shall the extensions total more than 365 days.
- (iii) No transfer of title or sale of any lots for the land subject to the subdivision shall occur until the final plat has been filed.
- (f) *Completion of required public and private improvements prior to issuance of certificate of occupancy.* Public and private improvements shall be completed in accordance with the terms and conditions of the subdivider agreement, inspected, and approved in accordance with Section 2.4.10(G)(7), Inspection of public and private improvements, prior to the issuance of the first certificate of occupancy for development within the subdivision.
- (g) *Effect of final plat.* The approval of a final plat shall not be deemed to constitute or affect the acceptance by the City of the dedication of any street, public utility line, or other public facility within or serving the subdivision. Upon satisfactory completion of the one-year warranty period (Section 2.4.10(G)(8)), streets, utility lines, and other public improvements shall be accepted by the City. However, the City may by resolution accept any dedication of lands or facilities for streets, parks, or public utility lines. The City has no obligation to improve any street even after acceptance of dedication.

Section 2.4.10(G)(8) of the City's LDRs is amended as follows. The remainder of Section 2.4.10(G)(8) remains in full force and effect:

2.4.10(G)(8) *Warranty period following passing inspection.*

- (a) Following approval of required public and private improvements in accordance with this section, a one-year warranty period begins. The subdivider shall be responsible for making all repairs so long as notice is sent or delivered to the subdivider within the one year warranty period. Following the warranty period, the subdivider shall request a final inspection of the improvements by the Public Services Director, who shall have 60 days to complete the final inspection. Upon completion of the final inspection. The Public Services Director shall provide the subdivider with a final inspection report which identifies any needed repairs. The warranty period shall be extended until the Public Services Director has determined no further repairs are needed. Upon completion of all needed repairs and the correction of any deficiencies, the subdivider shall request an inspection of the repairs by the Public Services Director, who shall have 30 days to complete the inspection of the repairs. Upon the determination of the Public Services Director that the improvements have been constructed in accordance with the construction plans and no further repairs are needed to the improvements, the Public Services Director shall issue a Certificate of Completion affirming the improvements have been

constructed in accordance with the construction plans. aAs-built drawings of all infrastructure shall be submitted prior to acceptance of full maintenance responsibility.

- (b) Within 60 days of the Public Services Director's determination that the improvements have been constructed in accordance with the infrastructure plan and no repairs are needed to the improvements, the City Commission shall formally accept the public infrastructure. Following the acceptance of the public infrastructure, the City shall return any the balance of the surety instrument provided for the warranty period.
- (c) Nothing in these LDRs shall be construed as meaning that the City Commission shall take over for maintenance any road, street, utility, public parking or other public area, or stormwater management facilities related thereto, except those designed and built in accordance with the requirements of this section, other City laws, ordinances, and design standards, that are expressly accepted for maintenance by specific action of the City Commission.

Table 4.1-1 of the City's LDRs is amended as follows. The remainder of Table 4.1-1 remains in full force and effect:

Table 4.1-1. Table of Allowed Uses																				
P = Permitted use S = Special exception permit A = Allowed in the PD districts Blank cell = Prohibited																				
Use Category /Use Type	CS	V	Residential						Business								Planned Development			
			A	Single - Famil y (RSF)	Mobi le Hom e (RMH)	Multi ple Famil y (RMF)	O R	C N	C C	CB D	C I	C P	IL W	I G	GF	COMM	R	TN D	E C	Use Specific Standa rds (Sec. 4.3)
			1	3	4	6	5	P	8	15										
BUSINESS																				
Eating establishments																				
Ice cream shop									S	S	S	P	P	P	P	P		A		
<u>Mobile food</u>												<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>A</u>	<u>A</u>	<u>A</u>
																				<u>4.3.4(A)(3)</u>

- c. Location of all support equipment including but not limited to any structures, trash collection containers, and mechanical equipment;
 - d. Location of all off-street parking areas for use by the mobile food dispensing vehicle; and,
 - e. Location of surrounding site improvements, including but not limited to buildings, on-site parking and vehicular driveways, and sidewalks.
- (b) Permitting. The operator of a mobile food dispensing vehicle must obtain all applicable State licenses and permits.
- (c) Exemptions. Mobile food dispensing vehicles that are transient in nature and do not stop at any given location for more than 30 minutes are allowed in the Agricultural (A) zoning district and in business and residential zoning districts, provided all other applicable provisions of these LDRs are met.
- (d) Alcoholic beverage sales prohibited. The sale of alcoholic beverages shall be prohibited except when permitted as part of an event which has obtained a Special Event Permit from the City.
- (e) Property owner authorization. The operator of a mobile food dispensing vehicle must furnish proof of authorization from property owner granting use of the property for mobile food dispensing by the operator.
- (f) Hours of operation. Hours of operation shall only occur between the hours of 7 AM and 10 PM, except when permitted as part of an event which has obtained a Special Event Permit from the City.
- (g) Limitation on number of mobile food dispensing vehicles. No more than 2 mobile food dispensing vehicles shall be located on any property at the same time except when permitted as part of an event which has obtained a Special Event Permit from the City or as otherwise provided in these LDRs.
- (h) Location and site requirements.
 - i. A mobile food dispensing vehicle must be located on the premises of an active business or institutional use. Operation from a vacant or unoccupied property is not permitted.
 - ii. A mobile food dispensing vehicle may not be located in stationary manner on the premises for more than 12 hours in a 24 hour period.
 - iii. A mobile food dispensing vehicle shall not operate in a public right-of-way, driveways or driveway aisles actively used for vehicular circulation, designated loading zones or fire lanes, or otherwise impede on-site vehicular circulation patterns.
 - iv. A mobile food dispensing vehicle shall not conduct business in any way that restricts or interferes with the ability to enter or exit a business, access to emergency exits, obstructs pedestrian circulation, or creates a hazard to pedestrians.
 - v. A mobile food dispensing vehicle shall not block fire protection equipment or ADA parking spaces or ramps.
 - vi. A mobile food dispensing vehicle must provide containers for trash collection. All sidewalks, pedestrian areas, and parking areas must be kept clean and free of any trash at all times during and after operation.
 - vii. Except for one (1) 10 foot by 10 foot tent, a mobile food dispensing vehicle must be completely self-contained.
 - viii. The use of amplified sound is prohibited.
 - ix. A mobile food dispensing vehicle shall not be located within 500 feet of the primary entrance to a restaurant except when permitted as part of an event which has obtained a Special Event Permit from the City. For purposes of this section, the measurement shall follow the most direct pedestrian route from the primary entrance of the restaurant to the ordering station of the mobile food dispensing vehicle.

Section 4.3.4(G)(12) of the LDRs is hereby created as follows:

4.3.4(G)(12) Cigar/hookah bars and Smoke shops. Cigar/hookah bars and smoke shops shall comply with the following standards:
(a) Separation requirements. Lots shall be located at least:
i. 1,000 feet from schools or any other cigar/hookah bar or smoke shop; and
ii. 250 feet from day care centers, residential uses, or vacant land in residential zone districts.
The minimum separation shall be measured from property line to property line.

Section 4.3.5 of the City's LDRs is amended as follows. The remainder of Section 4.3.5 remains in full force and effect:

4.5.3 *Prohibited temporary uses.* Without limiting the standards of these LDRs, the following activities are prohibited in all districts:

- (A) *Retail or display of goods, products or services in public right-of-way.* Retail sales or display of goods, products, or services within the public right-of-way. The sale of prepackaged foods or non-potentially hazardous food items, including but not limited to ice confections, by a mobile food vendor properly licensed by the State is exempt from this requirement when such sale occurs on a local road. ~~except as part of an authorized not-for-profit, special or City-recognized event.~~
- (B) *Retail sales or display of nonagricultural goods from vehicles.* Retail sales or display of nonagricultural goods, products or services from a motor vehicle, trailer or shipping container. The sale and/or display of agricultural products and the sale of food from a mobile food dispensing vehicle or a mobile food vendor is are exempt from this requirement.

Section 6.5.4(C)(3) of the City's LDRs is amended as follows. The remainder of Section 6.5.4(C)(3) remains in full force and effect:

6.5.4 *Permanent signs allowed.* The following permanent signs are allowed:

(C) *In business districts.*

(3) *Wall signs.* Wall signs are permitted, subject to the following standards:

- (a) Each wall sign shall be attached to the building and supported throughout its entire length by the facade of the building.
- (b) The sign area of wall signs placed on the front elevation of the building shall not be greater than ten percent of the square footage of the front elevation upon which the sign is placed. The sign area of wall signs placed on the side or rear elevations of the building shall not be greater than five percent of the square footage of the elevation upon which the sign is placed. ~~of the building on which they are located, with a maximum of~~ The total sign area of all wall signage shall not exceed 350 square feet in sign area. ~~In the case of corner lots, wall signs shall be permitted along both road frontages. The sign area along each frontage shall not be greater than ten percent of the square footage of the front elevation upon which the signage is located, with a total maximum sign area on all building elevations of 350 square feet in sign area.~~

- (c) In the case of multi-tenant buildings, each occupant of the multi-tenant building shall be permitted wall signage for the portion of the building elevation which is included as part of the occupant's premises. Such signage shall be subject to the maximum sign area provisions established in Section 6.5.4(C)(3)(b).
- (d) Wall signs shall not be erected above the roofline of the building, except that, where there is a parapet, a wall sign may extend to the top of the parapet. Such sign shall not be considered a roof sign.

Section 10.2 of the City's LDRs is amended as follows. The remainder of Section 10.2 remains in full force and effect:

10.2 Definitions

Cigar/hookah bar means an establishment where a retail tobacco products dealer or a retail nicotine products dealer distributes or sells tobacco products or nicotine products for use on the premises.

Retail nicotine products dealer means the holder of a retail nicotine products dealer permit issued by the Florida Department of Business and Professional Regulation that is authorized to sell nicotine products.

Mobile food dispensing vehicle means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including but not limited to, gas, water, electricity, or liquid waste disposal.

Retail tobacco products dealer means the holder of a retail tobacco products dealer permit issued by the Florida Department of Business and Professional Regulation that is authorized to sell tobacco products.

Retail vape products dealer means any retail establishment that sells vapor-generating electronic devices, components, parts, and accessories for such products.

Smoke shop means a commercial establishment that is a retail nicotine products dealer, retail tobacco products dealer, retail vape products dealer, or retail smoking device dealer, or any combination of the aforementioned. This definition shall not include a cigar/hookah bar or any commercial establishment with 20% or less of its total floor space dedicated for the sale of nicotine products, tobacco products, vape products, or any combination of the aforementioned, provided no smoking devices are available for sale, at the same commercial establishment.

Smoking devices means any of the following devices: metal, wooden, acrylic, glass, stone, plastic, or ceramic smoking pipes with or without screens, permanent screens, or punctured metal bowls; water pipes; carburetion tubes and devices; chamber pipes; electronic pipes; air-driven pipes; chillums; bongs; ice pipes or chillers; or any other device that can be used to smoke tobacco, vape, or nicotine products.