

ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2020-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY FLORIDA, ADOPTING FINDINGS; IMPOSING A TEMPORARY MORATORIUM ON THE ISSUANCE OF BUILDING AND CONSTRUCTION PERMITS, PRELIMINARY DEVELOPMENT PLAN APPROVALS, AND REZONING ACTIONS OF ALACHUA COUNTY PERMITTING OR HAVING THE EFFECT OF PERMITTING DEVELOPMENT ON PARCELS WITH A RURAL COMMERCIAL-AGRICULTURE FUTURE LAND USE DESIGNATION; EXCEPT FOR PRELIMINARY DEVELOPMENT PLANS SUBMITTED AND FOUND COMPLETE FOR REVIEW BY OCTOBER 13, 2020; PROVIDING FOR REPEALING CLAUSE; PROVIDING FOR MODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; 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 the Rural Commercial Agriculture land use designation, some proposed land uses are not currently addressed by the Alachua County development and zoning regulations; and

WHEREAS, in recognition of pending changes to the uses and standards allowed in the rural and commercial land use designations, a thorough study and review of the Alachua

1 County Comprehensive Plan and/or Code of Ordinances is required, and changes may be
2 recommended; and

3 **WHEREAS**, a temporary moratorium on the acceptance of applications for, the
4 processing of, and the issuance of building and construction permits, preliminary development
5 plan approvals, and rezoning actions of Alachua County permitting or having the effect of
6 permitting development on parcels with a Rural Commercial Agriculture future land use
7 designation will allow time to review, study, hold public hearings, and prepare and adopt an
8 amendment or amendments to the Alachua County Comprehensive Plan and/or Code of
9 Ordinances to address development on these properties; and

10 **WHEREAS**, County staff has requested a temporary moratorium of up to six months in
11 order to analyze the impacts of permitting new development or structures on properties with a
12 rural commercial agriculture land use designation in the unincorporated areas of Alachua
13 County, to evaluate potential Comprehensive Plan and/or Code of Ordinances amendments
14 which may include, but are not limited to including, identification of appropriate locations for
15 such land uses, if any, and determination of land use standards and development and zoning
16 regulations; and

17 **WHEREAS**, on October 13, 2020, the Board of County Commissioners invoked
18 zoning-in-progress for the purpose of determining appropriate permitting of new development
19 or structures on properties with a Rural Commercial Agriculture land use designation, if any,
20 thereafter putting the public on notice that the County has implemented a course of action
21 which may result in the regulation of permitting new land use and zoning changes or structures
22 on properties with a rural commercial agriculture land use designation; and

23 **WHEREAS**, a legal advertisement was placed in a newspaper of general circulation

1 notifying the public of this proposed Ordinance and of the public hearing to be held on
2 November 10, 2020 in Room 209, Alachua County Administration Building, which was at least
3 ten calendar days after the day the first legal advertisement was published; and

4 **WHEREAS**, a second legal advertisement was placed in the aforesaid newspaper
5 notifying the public of this proposed Ordinance and of the second public hearing to be held on
6 December 8, 2020 in Room 209, Alachua County Administration Building, which was at least
7 five calendar days after the day the second legal advertisement was published; and

8 **WHEREAS**, the two public hearings were held on November 10, 2020 and December 8,
9 2020 pursuant to the published notices described above at which hearings the parties in interest
10 and all others had an opportunity to be and were, in fact, heard; and

11 **WHEREAS**, the Board of County Commissioners finds that it is essential to protect and
12 preserve the public health, safety and welfare of the County and its citizenry, that it is in the
13 County's best interest, and that it is consistent with the Comprehensive Plan for the County to
14 study and evaluate the development potential of these areas and to place a temporary
15 moratorium on the acceptance of applications for, the processing of, and the issuance of
16 building and construction permits, preliminary development plan approvals, and rezoning
17 actions of Alachua County permitting or having the effect of permitting development on parcels
18 with a Rural Commercial Agriculture future land use designation or any other official action of
19 Alachua County permitting or having the effect of permitting new development or structures in
20 areas with the Rural Commercial Agriculture land use designation in the unincorporated areas
21 of Alachua County for a period of up to six months.

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

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

2 SECTION 2. Purpose. The purpose of this Ordinance is to enable Alachua County
3 sufficient time to review, study, hold public hearings, and prepare and adopt an amendment or
4 amendments to the Alachua County Comprehensive Plan and/or Code of Ordinances, relating to
5 permitting new development or structures in rural commercial agriculture land use and
6 commercial zoning areas, if any, and land use standards. During this up to six month time period,
7 the County will not issue building and construction permits, preliminary development plan
8 approvals, and rezoning actions of Alachua County permitting or having the effect of permitting
9 development on parcels with a Rural Commercial Agriculture future land use designation, except
10 as provided in this ordinance. This temporary moratorium does not have the effect of prohibiting
11 the issuance of building or construction permits for any developments that received final
12 development plan approval on parcels with a Rural Commercial Agriculture future land use
13 designation during the duration of this temporary moratorium.

14 SECTION 3. Imposition of Temporary Moratorium. Alachua County hereby imposes a
15 temporary moratorium of up to six months in which the County will not issue building and
16 construction permits, preliminary development plan approvals, and rezoning actions of Alachua
17 County permitting or having the effect of permitting development on parcels with a Rural
18 Commercial Agriculture future land use designation, except as provided in this ordinance.
19 During this moratorium, the County will not accept any application for any of the approvals
20 listed above. This temporary moratorium does not have the effect of prohibiting the issuance of
21 building or construction permits for any developments that received final development plan
22 approval on parcels with a Rural Commercial Agriculture future land use designation during the
23 duration of this temporary moratorium.

1 SECTION 4. Existing Businesses. This temporary moratorium shall not affect any
2 business lawfully operating within the unincorporated area of the County, as of the effective date
3 of this Ordinance, pursuant to valid permits and approvals if the existing business is in
4 compliance with all applicable County, State and Federal laws, codes, ordinances, rules,
5 regulations and policies.

6 SECTION 5. Alleviation of Hardship

- 7 a) The Board of County Commissioners may authorize exceptions to the temporary
8 moratorium imposed by this Ordinance when it finds, based upon substantial competent
9 evidence presented to it, that deferral of action on an application for any of the covered
10 development permits and the deferral of the issuance of a development order for the
11 duration of the moratorium would impose an extraordinary hardship on a landowner or
12 developer.
- 13 b) A landowner or a developer, with the consent of the landowner, shall file a request for an
14 exception based upon extraordinary hardship with the County Manager or designee,
15 along with a fee of \$500.00 to cover processing and advertising costs. The request shall
16 include a recitation of the specific facts that are alleged to support the claim of
17 extraordinary hardship and shall contain such other information as the County Manager
18 shall prescribe as necessary for the Board of County Commissioners to be fully informed
19 with respect to the application.
- 20 c) Notice of the filing of a request for an exception, and the date, time and place of the
21 hearing thereon shall be published once at least 10 days prior to the hearing in a
22 newspaper of general circulation within limits of Alachua County, Florida.
- 23 d) A public hearing on any request for an exception for extraordinary hardship shall be held

1 by the Board of County Commissioners at the first regular meeting of the County
2 Commission that occurs after the expiration of the period for publication of notice of the
3 request for an exception.

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

- 6 1) The extent to which the party applying for the exception has, prior to October 13,
7 2020 (the date of zoning-in-progress), received Alachua County permits or
8 approvals for the proposed development.
- 9 2) The extent to which the party applying for the exception has, prior to October 13,
10 2020 (the date of zoning-in-progress), made a substantial expenditure of money or
11 resources in reliance upon permits or other approvals of Alachua County directly
12 associated with physical improvements on the land, such as grading, installation
13 of utility infrastructure or any other public improvements.
- 14 3) Whether the party applying for the exception has, prior to October 13, 2020 (the
15 date of zoning in progress), contractual commitments in reliance upon permits or
16 other approvals of Alachua County to complete a structure(s).
- 17 4) Whether the party applying for the exception has, prior to October 13, 2020 (the
18 date of zoning in progress), in reliance upon permits or other approvals of
19 Alachua County, incurred financial obligations to a lending institution which,
20 despite a thorough review of alternative solutions, the applicant cannot meet
21 unless development proceeds.
- 22 5) Whether the moratorium will expose the party applying for the exception to
23 substantial monetary liability to third persons, or would leave the applicant

1 completely unable, after a thorough review of alternative solutions, to earn a
2 reasonable investment-backed expectation on the property.

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

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

9 SECTION 8. Severability. If any word, phrase, clause, paragraph, section or provision of
10 this ordinance or the application hereof to any person or circumstance is held invalid or
11 unconstitutional, such finding shall not affect the other provisions or applications of the
12 ordinance which can be given effect without the invalid or unconstitutional provisions or
13 application, and to this end the provisions of this ordinance are declared severable.

14 SECTION 9. Inclusion in the Code. It is the intent of the Board of County
15 Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this
16 ordinance shall become and be made a part of the Code of Ordinances of Alachua County,
17 Florida; that the section of this ordinance may be renumbered or re-lettered to accomplish such
18 intent and that the word “ordinance” may be changed to “section”, “article”, or other appropriate
19 designation.

20 SECTION 10. Effective Date. A certified copy of this ordinance shall be filed with the
21 Department of State by the Clerk of the Board within ten (10) days after enactment by the
22 Board and shall take effect upon filing with the Department of State. This temporary
23 moratorium shall remain in effect for a period of 180 calendar days from and including the

1 effective date of this Ordinance or until the effective date of an ordinance amending the rural
2 commercial agriculture and commercial zoning regulations, whichever first occurs.

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

5
6 **DULY ADOPTED** in regular session, this ____ day of _____, 2020.

7
8 **BOARD OF COUNTY COMMISSIONERS OF**
9 **ALACHUA COUNTY, FLORIDA**

10
11 ATTEST:

12 BY: _____
13 , Chair
14 Board of County Commissioners

15 _____
16 J.K. "Jess" Irby, Esq.
17 Clerk

APPROVED AS TO FORM

18 _____
19 County Attorney

20 (SEAL)
21

22 DEPARTMENT APPROVAL
23 AS TO CORRECTNESS

24 _____
25 Director of Growth Management
26 Or designee