

ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE 2022-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, REPEALING ORDINANCE 16-06 OF THE BOARD OF COUNTY COMMISSIONER OF ALACHUA COUNTY, FLORIDA (“THE CURRENT 0.50 PERCENT LOCAL GOVERNMENT INFRASTRUCTURE SALES SURTAX”) EFFECTIVE DECEMBER 31, 2022, AND LEVYING A NEW 1.0 PERCENT LOCAL GOVERNMENT INFRASTRUCTURE SALES SURTAX ON CERTAIN TRANSACTIONS OCCURRING WITHIN ALACHUA COUNTY FROM WHICH TAXES ARE PAYABLE TO THE STATE OF FLORIDA UNDER THE PROVISIONS OF CHAPTER 212, FLORIDA STATUTES, FOR A PERIOD OF TEN YEARS, BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2032 (“NEW SURTAX”); PROVIDING THAT THE LEVY OF THE NEW SURTAX, AND THE REPEAL OF THE CURRENT 0.50 PERCENT LOCAL GOVERNMENT INFRASTRUCTURE SALES SURTAX, SHALL NOT BE EFFECTIVE UNLESS APPROVED AT A REFERENDUM ELECTION; PROVIDING FOR USE OF THE PROCEEDS OF THE NEW SURTAX; PROVIDING THAT 50.0 PERCENT OF THE PROCEEDS OF THE NEW SURTAX SHALL BE USED TO ACQUIRE AND IMPROVE LANDS FOR CONSERVATION, PROTECTION OF NATURAL RESOURCES, OR PUBLIC RECREATION, AND TO OPERATE AND MAINTAIN PARKS, RECREATIONAL PROGRAMS AND RECREATIONAL FACILITIES THROUGHOUT THE COUNTY (“WILD SPACES PUBLIC PLACES USES” OR “WSPP USES”); PROVIDING THAT 50.0 PERCENT OF THE PROCEEDS OF THE NEW SURTAX SHALL BE USED TO REPAIR ROADS AND IMPROVE ROAD SAFETY, CONSTRUCT OR RENOVATE FIRE STATIONS AND OTHER PUBLIC FACILITIES, ACQUIRE LANDS FOR AFFORDABLE HOUSING, AND FUND ECONOMIC DEVELOPMENT PROJECTS PURSUANT TO FLORIDA STATUTE 212.055(2)(d)(3), FLORIDA STATUTES (“NON-WSPP USES”); PROVIDING THAT NOT MORE THAN 15.0 PERCENT OF THE PROCEEDS OF THE NEW SURTAX MAY BE USED TO FUND ECONOMIC DEVELOPMENT PROJECTS PURSUANT TO FLORIDA STATUTE 212.055(2)(d)(3), FLORIDA STATUTES; PROVIDING FOR AUTHORIZATION AND LEGISLATIVE FINDINGS; PROVIDING FOR A REFERENDUM ELECTION ON NOVEMBER 8, 2022; PROVIDING BALLOT LANGUAGE; PROVIDING FOR DISTRIBUTION AMONG THE GOVERNMENTS OF ALACHUA COUNTY AND ELIGIBLE MUNICIPALITIES PURSUANT TO THE FORMULA PROVIDED IN SECTION 218.62, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, subsection 212.055(2), Florida Statutes, authorizes Alachua County to levy by ordinance a local government infrastructure surtax of 0.5 percent or 1.0 percent upon most taxable transactions occurring within Alachua County that are taxable under Chapter 212, Florida Statutes, subject to referendum approval; and

WHEREAS, the local government infrastructure surtax may be used to fund the various types of programs that are enumerated in subsection 212.055(2), Florida Statutes; and

WHEREAS, among other allowable uses, subsection 212.055(2), Florida Statutes, provides that surtax proceeds may be used 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 Uses**” or “**WSPP Uses**”); and

WHEREAS, subsection 212.055(2), Florida Statutes, provides that a county may levy a local government infrastructure surtax by ordinances, subject to referendum approval, that would authorize the use of the surtax proceeds for uses beyond just WSPP Uses, including but not limited to the following: land acquisition, land improvement, design, engineering costs, and all other processional and related cost to finance, plan, construct, reconstruct or improve public facilities that have a life expectancy of 5 years or more; land acquisition expenditures for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing; and up to 15 percent of the surtax may be allocated for funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and incentives related to economic development (collectively, “**Other Infrastructure Uses**”); and

WHEREAS, on May 10, 2016, the Board of County Commissioners of Alachua County, Florida, (“**Board**”) adopted Ordinance 16-06 to levy a 0.5 percent surtax that may be used only for WSPP Uses (the “**WSPP Surtax**” or 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, became effective on January 1, 2017, and is scheduled to expire on December 31, 2024; and

WHEREAS, the Board now finds that there is a great need on the part of Alachua County and the municipalities within Alachua County to fund Other Infrastructure Use projects, including economic development projects that have a general public purpose of improving the local economy; and

WHEREAS, in 2016, the Florida Policy Institute released a report finding that insufficient affordable housing limits Florida’s economic potential; and

WHEREAS, home prices rose 18.8% in 2021, according to the S&P CoreLogic Case-Shiller US National Home Price Index. All regions saw price gains last year, but increases were strongest in the South and the Southeast, each of which was up over 25%.; and

WHEREAS, while the lack of affordable housing is a national problem, Alachua County is particularly impacted due to its status as a college town. There is a large student housing market (approximately 12% of the renter pool in the City of Gainesville). Some students need affordable rental units, causing competition between local residents and incoming students. This competition contributes to increased rental rates in Alachua County; and

WHEREAS, HUD defines rent cost-burdened families as those who pay more than 30% of their income for housing and may have difficulty affording necessities such as food, clothing,

transportation, and medical care. According to Harvard University's Joint Center for Housing Studies, in 2017, Gainesville had the highest rent-cost burden rates of any metro area in the state of Florida. In Gainesville, 65 percent of the population are rent-cost burdened, and 42 percent have a severe rent-cost burden; and

WHEREAS, the National Income Housing Coalition has calculated that the "housing wage" for Alachua County (the amount required to afford a two-bedroom apartment comfortably) is \$20.83 per hour. Additionally, the cost of utilities in Alachua County exceeds that of the state and nation, further burdening low-income tenants; and

WHEREAS, the Center for Economic Forecasting and Analysis at Florida State University annually reviews the statewide economic impact of affordable housing programs administered by the Florida Housing Finance Corporation and, in 2020, estimated that it leveraged \$1.9 billion in affordable housing resources to create \$7.71 billion in economic activity and 55,719 full and part-time jobs; and

WHEREAS, in addition to the stimulative effect of its construction or rehabilitation, workforce housing can benefit a local economy by reducing housing costs to affordable levels, thus creating more room in the family budget for local purchases; and

WHEREAS, the Board finds that the use of the proceeds from the New Surtax to facilitate the creation of workforce housing will have a general public purpose of improving the local economy; and

WHEREAS, Florida law authorizes the Board to levy and have in effect only one local government infrastructure surtax at a time; and

WHEREAS, in order to comply with the legal prohibition against having two local government infrastructure surtaxes in effect at the same time, the Board desires to repeal the 0.5 percent WSPP Surtax Ordinance and replace it with a new 1.0 percent local government infrastructure surtax that would continue to authorize WSPP Uses, and also authorize Other Infrastructure Uses; and

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

WHEREAS, subsection 212.054(5), Florida Statutes, provides that no surtax shall terminate on any day other than December 31st; and

WHEREAS, subsection 212.054(5), Florida Statutes, provides that all new surtaxes must commence on January 1; and

WHEREAS, the Board of County Commissioners of Alachua County finds that it serves a public purpose and that it is in the public interest to repeal Ordinance 16-06 and to adopt this Ordinance to fund the types of projects described herein.

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

SECTION 1. Authorization and Legislative Findings. This Ordinance is authorized by Chapters 125 and 212, Florida Statutes, and other applicable laws. The Board of County Commissioners of Alachua County (“**Board**”) finds and declares that all statements set forth in the preamble of this Ordinance are true and correct and are hereby incorporated by reference as legislative findings.

SECTION 2. Levy of Local Government Infrastructure Sales Surtax. Subject to approval by a majority of the electors of Alachua County voting in the referendum to be held for this purpose on November 8, 2022, there is hereby a levy of a local government infrastructure sales surtax throughout the incorporated and unincorporated areas of Alachua County on all transactions subject to the state sales tax imposed on transactions by Part I of Chapter 212, Florida Statutes (“Surtax”). The Surtax shall be at the rate of one percent (1%) of the sales price or actual value received and for each fractional part of \$1.00 of the sales price or actual value received. The Surtax shall be levied and imposed pursuant to sections 212.054 and 212.055(2), Florida Statutes, and the rules promulgated by the Florida Department of Revenue.

SECTION 3. Distribution of Surtax Proceeds. The proceeds of the Surtax levied pursuant to this Ordinance shall be distributed to Alachua County and the municipalities within Alachua County in accordance with subsection 212.055(2)(c)2., Florida Statutes, which provides for distribution according to the formula provided in section 218.62, Florida Statutes.

SECTION 4. Use of Surtax Proceeds. The proceeds of the Surtax levied by this Ordinance shall be used by Alachua County and the municipalities located within Alachua County only as follows:

- a. **WSPP Uses.** Fifty Percent (50%) of the Surtax proceeds shall be used for the following:
 - i. To acquire any interest in land for conservation, public recreation, and protection of natural resources, including but not limited to the protection of drinking water sources, water quality, and wildlife habitat; and

- ii. To create, improve, operate and maintain parks and recreational facilities; and

- iii. To finance, plan, construct and purchase infrastructure for conservation lands, parks, and recreational facilities.

b. **Other Infrastructure Uses.** Fifty Percent (50%) of the Surtax proceeds shall be used for the following:

- i. To repair roads and improve road safety;

- ii. To construct and renovate fire stations and other Public Facilities;

- iii. For any land acquisition expenditures for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into a ground lease with a public or private person or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this subsection 4.b.iii; and

- iv. To deposit into a trust fund within the county's accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies within Alachua County, including the funding of operational costs and incentives related

to economic development. In accordance with section 212.055(2)(d)3., Florida Statutes, not more than 15 percent of the Surtax proceeds may be allocated to funding economic development projects.

SECTION 5. Alachua County's Non-Recurring Municipal Partnership Program. Alachua County shall allocate and award \$12,000,000.00 of its statutory formula share of the Surtax proceeds for municipal projects, as set forth in subsections 5.a. and 5.b., below. This is not an annual allocation but shall be a one-time allocation of \$12,000,000.00 by Alachua County.

a. **Partnership Program for WSPP Uses:**

i. The City of Gainesville. Alachua County shall allocate \$3,000,000.00 to the City of Gainesville ("Gainesville") for uses authorized by Section 4.a. of this Ordinance, that Alachua County finds, in its sole discretion, have countywide significance. Gainesville shall submit a detailed request to Alachua County for each project for which it is requesting grant funding. If approved, Alachua County and Gainesville shall enter into and execute a grant agreement. Gainesville shall be solely responsible for completion of the project, including all planning, design, procurement, construction, operation, maintenance and repairs needed during the life-cycle of the project. Gainesville shall acknowledge Alachua County's contribution by erecting a sign at the project site that

includes the following statement: “Jointly funded by Alachua County and the City of Gainesville.” Upon achieving final completion of the project, Gainesville shall submit a written invoice to Alachua County in an amount that shall not exceed 50% of the allowable project costs actually incurred and paid by Gainesville for the project, up to an aggregate total of \$3,000,000.00 for all approved projects. Alachua County shall remit reimbursement to Gainesville within 60 days of Alachua County’s receipt of an invoice that includes all receipts, statements or other records as Alachua County or the Clerk of Court may reasonably require to substantiate the cost of the project and the amount requested by Gainesville.

ii. All Nine Municipalities. Alachua County shall allocate \$3,000,000.00 to fund a grant program for Alachua County’s nine municipalities (hereinafter collectively referred to as the “Municipalities”, and individually as a “Municipality”) for uses authorized by Section 4.a. of this Ordinance, that Alachua County finds, in its sole discretion, have countywide significance. Each Municipality shall submit a detailed request to Alachua County for each project for which it is requesting grant

funding. If approved, Alachua County and the Municipality shall enter into and execute a grant agreement. The Municipality shall be solely responsible for completing the project, including all planning, design, procurement, construction, operation, maintenance, and repairs needed during the project's life-cycle. The Municipality shall acknowledge Alachua County's contribution by erecting a sign at the project site that includes the following statement: "Jointly funded by Alachua County and [insert name of the Municipality]." Upon achieving final completion of the project, the Municipality shall submit a written invoice to Alachua County in an amount that shall not exceed 50% of the allowable project costs incurred and paid by the Municipality for the project. Alachua County shall remit reimbursement to the Municipality within 60 days of Alachua County's receipt of an invoice that includes all receipts, statements, or other records as Alachua County or the Clerk of Court may reasonably require to substantiate the cost of the project and the amount requested by the Municipality.

b. **Partnership Program for Other Infrastructure Uses:**

i. The City of Gainesville. Alachua County shall allocate \$3,000,000.00 to the City of Gainesville ("Gainesville") for uses authorized by Section 4.b. of this Ordinance, that Alachua County finds, in its sole discretion, have countywide significance. Gainesville shall submit a detailed request to Alachua County for each project for which it is requesting grant funding. If approved, Alachua County and Gainesville shall enter into and execute a grant agreement. Gainesville shall be solely responsible for completing the project, including all planning, design, procurement, construction, operation, maintenance, and repairs needed during the project's life-cycle. Gainesville shall acknowledge Alachua County's contribution by erecting a sign at the project site that includes the following statement: "Jointly funded by Alachua County and the City of Gainesville." Upon achieving final completion of the project, Gainesville shall submit a written invoice to Alachua County in an amount that shall not exceed 50% of the allowable project costs actually incurred and paid by Gainesville for the project, up to an aggregate total of \$3,000,000.00 for all approved projects.

Alachua County shall remit reimbursement to Gainesville within 60 days of Alachua County's receipt of an invoice that includes all receipts, statements, or other records as Alachua County or the Clerk of Court may reasonably require to substantiate the cost of the project and the amount requested by Gainesville.

ii. All Nine Municipalities. Alachua County shall allocate \$3,000,000.00 to fund a grant program for Alachua County's nine municipalities (hereinafter collectively referred to as the "Municipalities," and individually as a "Municipality") for uses authorized by Section 4.b. of this Ordinance, that Alachua County finds, in its sole discretion, have countywide significance. Each Municipality shall submit a detailed request to Alachua County for each project for which it is requesting grant funding. If approved, Alachua County and the Municipality enter into and execute a grant agreement. The Municipality shall be solely responsible for completing the project, including all planning, design, procurement, construction, operation, maintenance, and repairs needed during the project's life-cycle. The Municipality shall acknowledge Alachua County's contribution by erecting a

sign at the project site that includes the following statement: "Jointly funded by Alachua County and [insert name of the Municipality]." Upon achieving final completion of the project, the Municipality shall submit a written invoice to Alachua County in an amount that shall not exceed 50% of the allowable project costs actually incurred and paid by the Municipality for the project. Alachua County shall remit reimbursement to the Municipality within 60 days of Alachua County's receipt of an invoice that includes all receipts, statements, or other records as Alachua County or the Clerk of Court may reasonably require to substantiate the cost of the project and the amount requested by the Municipality.

SECTION 6. Effective Date and Duration of the Surtax. Subject to approval by a majority of the electors of Alachua County voting in the referendum to be held for this purpose on November 8, 2022, the Surtax levied pursuant to this Ordinance shall be levied and imposed for the period commencing January 1, 2023, and ending at midnight on December 31, 2032.

SECTION 7. Repeal of Ordinance 16-06. Ordinance 16-06 shall be repealed effective midnight December 31, 2022, if, and only if, the Surtax levied in Section 2 of this Ordinance is approved by a majority of the electors of Alachua County voting in the referendum to be held for that purpose on November 8, 2022. If the Surtax levied in Section 2 of this Ordinance is not approved by a majority of the electors voting in the referendum election to be held on

November 8, 2022, then Ordinance 16-06 shall remain in full force and effect until its expiration at midnight December 31, 2024.

SECTION 8. Referendum.

a. The Board hereby calls for a referendum election and directs the County Manager to request the Alachua County Supervisor of Elections to conduct such election on November 8, 2022, for the submission of a referendum question of the Surtax to the electors of Alachua County.

b. In accordance with sections 101.161 and 212.055(2), Florida Statutes, the following ballot title and ballot summary are approved for submission to the electors of Alachua County, Florida, at the election called in subsection 8.a. of this Ordinance:

Ballot Title: WILD SPACES PUBLIC PLACES, ROAD REPAIR, FIRE STATIONS,
AND AFFORDABLE HOUSING ONE PERCENT SALES TAX

Ballot Question: SHALL ALACHUA COUNTY: ACQUIRE AND IMPROVE LANDS FOR CONSERVATION, WILDLIFE HABITAT, WATER QUALITY, AND RECREATION; OPERATE AND MAINTAIN PARKS AND RECREATION FACILITIES; REPAIR ROADS AND IMPROVE ROAD SAFETY; CONSTRUCT AND RENOVATE FIRE STATIONS AND OTHER PUBLIC FACILITIES; ACQUIRE LANDS FOR AFFORDABLE HOUSING; FUND ECONOMIC DEVELOPMENT PROJECTS PURSUANT TO FLORIDA STATUTE 212.055(2)(D)(3); PROVIDE CITIZEN OVERSIGHT AND INDEPENDENT AUDIT; BY LEVYING A ONE PERCENT SALES SURTAX FOR TEN YEARS STARTING JANUARY 1, 2023?

[] FOR the one-cent sales tax.

[] AGAINST the one-cent sales tax.

- c. The Board directs the County Manager to publish notices of the referendum in accordance with section 100.342, Florida Statutes, in the Gainesville Sun or by other means authorized by section 100.342, Florida Statutes.

SECTION 9. Effective Date of Ordinance.

- a. The Clerk of the Board is directed to file a certified copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners within 10 days after enactment by the Board of County Commissioners. This Ordinance shall take effect upon filing with the Department of State, but the levy of the Surtax set forth in Section 2 of this Ordinance shall not take effect unless it is approved by a majority of the electors of Alachua County voting in the referendum to be held for that purpose on November 8, 2022.
- b. The County Manager is directed to provide a copy of this Ordinance to the Office of Program Policy Analysis and Government Accountability at least 180 days before the November 8, 2022 referendum election and to comply with all other requirements of section 212.055(11), Florida Statutes.
- c. The Clerk of the Board is directed to provide the notice required by section 212.054(7)(b), Florida Statutes, to the Florida Department of Revenue by no later than October 1, 2022.

- d. If the referendum is approved at the November 8, 2022 election, then the Clerk of the Board is directed to notify the Florida Department of Revenue within 10 days of the referendum date as provided in section 212.054(7)(a), Florida Statutes, but no later than November 16, 2022.
- e. If the referendum is not approved at the November 8, 2022 election, this Ordinance shall automatically expire, and Ordinance 16-06 shall remain in full force and effect until its expiration at midnight December 31, 2024.

SECTION 10. Severability. It is the declared intent of the Board 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 _____, 2022.

ATTEST:

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

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

By: _____
Marihelen Wheeler, Chair

APPROVED AS TO FORM

County Attorney's Office