**ORDINANCE NO. 2025-13**

**AN ORDINANCE OF THE CITY OF NEWBERRY, FLORIDA, AMENDING THE TEXT OF THE CITY OF NEWBERRY LAND DEVELOPMENT REGULATIONS, AS AMENDED; TO AMEND APPENDIX B, ARTICLE 12, APPEALS, SPECIAL EXCEPTIONS, VARIANCES AND INTERPRETATIONS, SECTION 12.1 – APPEALS, RELATING TO CLEARER LANGUAGE RELATED TO THE APPEALS PROCESS; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, Section 166.021, Florida Statutes, as amended, empowers the City Commission of the City of Newberry, Florida, hereinafter referred to as the City Commission, to prepare, adopt and enforce land development regulations;

**WHEREAS,** Sections 163.3161 through 163.3215, Florida Statutes, as amended, the Local Government Comprehensive Planning and Land Development Regulation Act, requires the City Commission to prepare and adopt regulations concerning the use of land and water to implement the Comprehensive Plan;

**WHEREAS,** In recent weeks it was made apparent that language in the current ordinance did not favor the City when stop work orders were issued;

**WHEREAS,** At the Board of Adjustment Hearing on May 13th the Commission asked staff to take immediate action to change the language;

**NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF NEWBERRY, FLORIDA, AS FOLLOWS:**

**Section 1. Amend Appendix B, Article 12, Appeals, special exceptions, variances and interpretations, Section 12.1 – Appeals with the following** strikethrough & underline:

**Section 12.1. Appeals.**

An appeal may be taken as follows:

12.1.1. *Zoning regulation appeals provisions.*

1. *Board of adjustment: appeals: how taken.*

a. *Appeals; hearings; notice.* Appeals to the board of adjustment concerning any order, requirement, decision, or determination made by the City Manager, or their designee may be filed by any aggrieved person, or by any officer, agency, or bureau of the city affected by such action. Appeals must be submitted in writing to the City Manager, or their designee within 30 days of the issuance of the decision, and must specify the grounds for the appeal.

Additionally, appeals to the Board of Adjustment for a special exception or variance under these Land Development Regulations may be initiated by the property owner of the affected parcel, their authorized agent, or any officer, agency, or bureau of the city, by filing a written notice of appeal with the City Manager, or their designee.

Before rendering a decision on any appeal, , including special exceptions and variances, the board of adjustment shall hold a public hearing. The board shall set a reasonable time, within 30 days for the hearing and provide public notice two weeks prior to the hearing, notice letters to surrounding parcel owners within 1,000 feet, signs posted on the subject property in a prominent, publicly visible location to inform the public of the appeal along with direct notice to the parties involved.

At the public hearing, any interested party may appear in person, through an agent, or by attorney. Appellants may be required to cover reasonable costs associated with the appeal, as determined by the City Commission through the establishment of applicable fees. All persons are advised that if they decide to appeal any decision made at the above referenced public hearing, they will need a record of the proceedings, and that, for such purpose, they may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

b. *Stay of proceedings.* Proceedings shall not be stayed other than by a restraining order which may be granted by the board of adjustment or by a court of record on application, on notice to the City Manager, or their designee from whom the appeal is taken and on due cause shown.

c. *Decisions.* The concurring vote of a majority of the members of the board of adjustment who are present and voting shall be necessary to reverse any order, requirement, decision, or determination of the City Manager, or their designee or to decide in favor of the appellant in respect to any matter upon which it is required to pass under the terms of article 4 of these Land Development Regulations or to effect any variance of article 4 of these Land Development Regulations.

12.1.2. *Flood damage prevention regulation appeals provisions.*

1. *Appeals procedure.* The board of adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Manager, or their designee in the enforcement or administration of article 8 of these Land Development Regulations.

Any such appeal shall be in written form and filed within 30 days of the decision of the City Manager, or their designee, and filed with the City Manager, or their designee. Such appeal shall state the location of the property, the date of the notice of violations, and the number of such notice. The appellant must state the modification requested, the reasons therefor, and the hardship or conditions upon which the appeal is made.

Standing to appeal shall be limited to those property owners affected by the decision of the City Manager, or their designee.

2. *Decision.* In passing upon such appeal, the board of adjustment shall consider all technical evaluations, all relevant factors, and standards specified in article 8 of these Land Development Regulations.

Upon consideration of the factors of article 8 herein the board of adjustment may attach such conditions to the granting of modifications to the land development regulation administrator's determination as it deems necessary to further the purposes of article 8 of these Land Development Regulations.

12.1.3. *Minimum housing regulation appeals provisions.*

1. *Appeals procedure.* Any person receiving written notice from the City Manager, or their designee of deficiencies in his or her property under article 9 of these Land Development Regulations may within 30 days following the date of such notice enter an appeal to the board of adjustment, and file the same in writing with the secretary to the special magistrate.

Such appeal shall state the location of the property, the date of the notice of violations, and the number of such notice. The appellant must state the modification requested, the reasons for the modifications, and the hardship or conditions upon which the appeal is made.

2. *Grounds for appeal.* Where the literal application of the requirements of article 9 of these Land Development Regulations would appear to cause undue hardship on an owner or tenant, or when it is claimed that the true intent and meaning of article 9 of these Land Development Regulations have been misconstrued or wrongly interpreted, the owner of such building or structure, or their authorized agent, may appeal the decision of the code enforcement officer to the special magistrate.

3. *Hearing; notice.* Upon the filing of an appeal, the special magistrate shall as soon as practicable fix a date, time and location for the hearing of the appeal in accordance with article 13 of these Land Development Regulations. Written notice of the time and location of the hearing shall be mailed to each appellant at the address on the appeal by certified mail, return receipt requested.

12.1.4. *Hazardous building and lands regulations appeal provisions.*

1. *Form of appeal.* Any person served notice in accordance with the provisions of article 10 may appeal such action of the code enforcement officer under this article to the special magistrate. Such appeal must be filed in writing with the secretary to the special magistrate within 30 days from the date of service and must contain at least the following information:

(a) Identification of the building or structure, and/or lands concerned by street address or legal description.

(b) A statement identifying the legal interest of each appellant.

(c) A statement identifying the specific order or section being appealed.

(d) A statement detailing the issues on which the appellant desires to be heard.

(e) The legal signatures of all appellants and their official mailing addresses.

2. *Hearing; notice.* Upon the filing of an appeal, the special magistrate shall as soon as practicable fix a date, time and location for the hearing of the appeal in accordance with article 13 of these Land Development Regulations. Written notice of the time and location of the hearing shall be mailed to each appellant at the address on the appeal by certified mail, return receipt requested.

3. *Failure to appear.* Failure of any person to appear at the hearing set forth in accordance with the provisions of this article shall constitute a waiver of his or her right to an appeal on the notice.

4. *Scope of appeal.* The hearing shall offer the appellant reasonable opportunity to be heard on only those specific matters or issues raised by the appellant in his or her appeal.

The appellant may appear at the hearing in person or through his or her attorney or other designated representative.

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12.1.5. *Historic preservation regulation appeals provisions.* Within 15 days of the agency decision any person may appeal to the board of adjustment , in writing and with justification, any decision of the agency on an application for a certificate of appropriateness.. The board of adjustment at their next, feasibly noticed meeting (as per 12.1.1 above) shall approve, approve with modifications or disapprove the application.

12.1.6. *Appeals general.* For appeal procedures for all articles of these Land Development Regulations not specifically described above, the following shall apply:

1. *Appeals procedure.* An appeal from any final order or decision of the City Manager, or their designee may be taken to the board of adjustment by any person aggrieved. An appeal is taken by filing with the City Manager, or their designee a written notice of appeal specifying the reason for the appeal. A notice of appeal shall be considered filed with the City Manager, or their designee when delivered to the office of the City Manager, or their designee. The date and time of filing shall be entered on the notice by city staff.

2. *Time and process of appeal.* An appeal must be taken within 30 days after the date of the decision or order appealed from. Before rendering a decision on any appeal, the board of adjustment shall hold a public hearing. The Board shall set a reasonable time, within 30 days for the hearing and provide public notice two weeks prior to the hearing, notice letters to surrounding parcel owners within 1,000 feet, signs posted on the subject property in a prominent, publicly visible location to inform the public of the appeal along with direct notice to the parties involved.

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5. *Authority of board.* The board of adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board of adjustment shall have all the powers of the officer from whom the appeal is taken.

(Ord. No. 9-04, § 6, 7-12-2004; Ord. No. 2017-03, § 2, 1-23-2017)

**Section 2. Severability.** If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

**Section 3. Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4. Effective Date.** This ordinance shall be adopted upon second and final reading 06/09/2025.

**Section 5. Authority.** This Ordinance is adopted pursuant to the authority granted by Section 166.021, Florida Statutes, as amended, and Sections 163.3161 through 163.3215, Florida Statutes, as amended.

DONE THE FIRST READING, by the City Commission of the City of Newberry, Florida, at a regular meeting, this 9th day of June, 2025.

DONE, THE PUBLIC NOTICE, on the website of Alachua County at alachuacounty.us pursuant to Florida Statute 50.0311(3), by the City Clerk of the City of Newberry, Florida on the 19th day of May, 2025 and FOR CITY COMMISSION

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DONE THE SECOND READING, AND ADOPTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Commission of the City of Newberry, Florida, at a regular meeting, this 23rd day of June, 2025.

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BY THE MAYOR OF THE CITY OF NEWBERRY, FLORIDA

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Honorable Timothy R. Marden, Mayor

ATTEST, BY THE CLERK OF THE

CITY COMMISSION OF THE CITY OF

NEWBERRY, FLORIDA:

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Judy S. Rice, City Clerk

APPROVED AS TO FORM AND

LEGALITY:

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City Attorney’s Office

Attachments (#): Exhibit A – TITLE

Exhibit B – TITLE

**EXHIBIT A**

**TITLE**

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**EXHIBIT B**

**TITLE**

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