



## CITY OF DUNNELLO STAFF REPORT

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**Date:** July 6, 2022

**To:** Dunnellon Planning Commission

**Request:** Approval of Proposed Ordinance #ORD2022-10 providing for an amendment to the City's Comprehensive Plan and Code of Ordinances, by adding Non-Conforming Sign Regulations.

**Ordinance No.** ORD2022-10  
**Owner:** City of Dunnellon, FL  
**Owner Address:** 20750 River Drive, Dunnellon, FL.

**Applicable Statute:** Non-Conforming Regulation Requirements, Comprehensive Plan Amendment to Objective 4, Policy 4.1 A, B & C.

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### BACKGROUND

City of Dunnellon's Comprehensive Plan was adopted on October 14, 1991 and meets the requirement of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985, with authority to amend its Comprehensive Plan pursuant to Chapter 163 of the Florida Statutes.

### STAFF EVALUATION AND FINDINGS

Since 1954, United States Supreme Court recognized that "the concept of the public welfare is broad and inclusive," that the values it represents are "spiritual as well as physical, aesthetic as well as monetary," and that it is within the power of the legislature "to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled." Justice Douglas in *Berman v. Parker*, 348 U.S. 26, 33 (1954). The Florida Constitution wants to conserve and protect Florida's scenic beauty and the City of Dunnellon, finds and determines that aesthetics is a valid basis for zoning, the regulation of the size of signs and the prohibition of certain types of signs can be based upon aesthetic grounds alone as promoting the general welfare. City Council is to determine that public policy and the public interest favor the eventual elimination of nonconforming signs. Size, height, and other characteristics of signs can magnify their adverse impacts on both traffic safety and aesthetics and for these reasons, it is imperative that an update and revision of the City's Comprehensive Plan be executed to keep it consistent with other controlling law to include, but not limited to Chapter 163, of the Florida Statutes. This revision will continue to prohibit these types of signs and regulate the ones still in existence. The Planning and Zoning Commission, acting as the local Planning agency, is to find a determination that this Ordinance is consistent with the City's Comprehensive Plan. City Council will further determine that an amendment to the Comprehensive Plan of the Future Land Use Element within Objective 4, Policy 4.1 is necessary.

These specific sections currently read as follows:

#### Objective 4:

The City shall continue to enforce regulations regarding nonconformities as one means of eliminating both uses which are nonconforming with the Future Land Use Map or zoning map and structures which are

nonconforming with this Comprehensive Plan or land development regulations. The City shall revise its land development regulations, to make provisions for development on existing substandard sized platted lots in older subdivisions.

**Policy 4.1:**

The City shall revise its land development regulations to provide specific provisions necessary to implement the following policies regarding nonconformities.

A. Lawfully existing nonconforming structures and structures devoted to nonconforming uses shall not be expanded.

B. If the cost to reconstruct or repair a lawfully existing nonconforming structure, or a structure devoted to a nonconforming use, will exceed 50 percent of the property appraiser's assessed value prior to reconstruction or repair, the structure must be built or repaired in compliance with current codes, and the structure loses its nonconforming status.

1. Structures within the riverfront corridor protection area, on lots of record recorded on or before October 27, 2008 that are less than 150 feet from the ordinary high water line of rivers, navigable coves, and abutting wetlands, as established by this Comprehensive Plan, are exempt from this Policy 4.1.B.

C. Lawfully existing nonconforming structures, and structures devoted to nonconforming uses, which are involuntarily damaged by terrorist acts, accidental fires, or natural disasters may be rebuilt to their original nonconforming condition, even if damages exceed 50 percent of the property appraiser's assessed value prior to reconstruction or repair.

D. Properties subject to the floodplain regulations shall adhere to those regulations.

They will be amended as follows:

**Objective 4:**

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are exempt from this Policy 4.1.B.

- C. Lawfully existing nonconforming structures, and structures devoted to nonconforming uses, excluding nonconforming signs (per 4.1(E) below), which are involuntarily damaged by terrorist acts, accidental fires, or natural disasters may be rebuilt to their original nonconforming condition, even if damages exceed 50 percent of the property appraiser's assessed value prior to reconstruction or repair.
- D. Properties subject to the floodplain regulations shall adhere to those regulations.
- E. A lawfully existing nonconforming sign that is damaged by any means shall lose its legal status and not be reconstructed or repaired if the estimated cost to reconstruct or repair the sign exceeds 50 percent of its replacement value immediately prior to the date of damage; replacement value shall mean the assessed value as determined by the property appraiser prior to the date of damage, or if the property appraiser has not assessed the value of the sign structure, the valuation prior to the date of damage as determined by a professionally recognized appraiser.
- F. Notwithstanding 4.1(E) above, the City may enter into an amortization agreement with the owner of a lawfully existing nonconforming sign guaranteeing that such sign will be treated as an authorized structure and thereby allowing temporary repair or reconstruction of the sign in the event of future damage beyond the 50 percent threshold if such agreement sets forth a specific deadline for the sign's demolition, removal, or requirement to come into conformity with the City's rules and regulations.

This amendment will create consistency both in our Code of Ordinance and our Comprehensive Plan within the Future Land Use Element.

**Staff Recommendation:**

Staff has reviewed the proposed amendment to the Comprehensive Plan (see Ordinance and Exhibit "A") and finds it to be consistent with Florida Law and requests that the Planning Commission recommend approval as presented to the City Council. The proposed amendment simply tracks the language included in the statute.

## **ORDINANCE #ORD2022-10**

**AN ORDINANCE OF THE CITY OF DUNNELLON, FLORIDA, AMENDING THE TEXT OF POLICY 4.1 OF THE FUTURE LAND USE ELEMENT OF THE CITY'S COMPREHENSIVE PLAN REGARDING RECONSTRUCTION AND REPAIR OF NONCONFORMING SIGNAGE; PROVIDING FOR TRANSMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Dunnellon adopted a Comprehensive Plan on October 14, 1991, which meets the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985; and

**WHEREAS**, the City of Dunnellon is committed to planning and managing the future growth and development of the City; and

**WHEREAS**, the City Council of the City of Dunnellon has the authority to amend its Comprehensive Plan pursuant to Chapter 163, Florida Statutes; and

**WHEREAS**, the City Council finds and determines that public policy and the public interest favor the eventual elimination of nonconforming signs; and

**WHEREAS**, the City Council finds and determines that the size, height, and other characteristics of nonconforming signs can magnify their adverse impacts on both traffic safety and aesthetics; and

**WHEREAS**, the City Council finds and determines that this Comprehensive Plan amendment will lessen hazardous situations, as well as confusion and visual clutter otherwise caused by nonconforming signs which compete for the attention of pedestrian and vehicular traffic due to improper placement, excessive height, excessive size, and other distracting characteristics that may exist due to nonconformities with up-to-date City regulations and requirements; and

**WHEREAS**, the City Council finds and determines that nonconforming signs detract from the natural and manmade beauty of the City and can impact the safety of the public; and

**WHEREAS**, the City Council finds and determines that this ordinance will enhance the attractiveness and economic well-being of the City as a place to live, visit, and conduct business in a safe manner; and

**WHEREAS**, the Local Planning Agency held a public hearing on \_\_\_\_\_, 2022, has reviewed and recommended by resolution the adoption of the proposed Comprehensive Plan amendment; and

**WHEREAS**, the City Council of the City of Dunnellon held public hearings to consider this amendment, with due public notice having been provided, to obtain public comment, and considered all written and oral comments received during public hearings, including supporting documents; and

**WHEREAS**, the City of Dunnellon has complied with all other requirements and procedures of Florida law in processing this amendment to the City's Comprehensive Plan; and

**WHEREAS**, the City Council of the City of Dunnellon hereby finds and determines that this amendment is internally consistent with the City's Comprehensive Plan and is consistent with other controlling law to include, but not limited to Chapter 163, Florida Statutes; and

**WHEREAS**, the City Council of the City of Dunnellon hereby finds that this Ordinance serves a legitimate governmental purpose and is in the best interests of the public health, safety, and welfare of the citizens of Dunnellon, Florida.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNNELLON, FLORIDA, AS FOLLOWS:**

**Section 1. LEGISLATIVE FINDINGS.** The recitals set forth above are hereby adopted as the legislative findings of the City Council of the City of Dunnellon, Florida.

**Section 2. COMPREHENSIVE PLAN AMENDMENT.** The proposed amendments to Policy 4.1 of the Future Land Use Element of the City's Comprehensive Plan are attached to this Ordinance as Exhibit "A," and are hereby adopted and incorporated into the text of this Ordinance as if fully set forth herein.

**Section 3. TRANSMISSION TO AGENCIES; DIRECTIONS TO THE CLERK.** Within ten (10) days after the first public hearing of this Ordinance and passage of same by the City Council of the City of Dunnellon, the City Clerk is hereby directed to transmit a copy of the adopted plan amendments, with any supporting data and analysis, to the Florida Department of Economic Opportunity (DEO), the East Central Florida Regional Planning Council, Florida Department of State (DOS), Florida Department of Environmental Protection (DEP), Florida Department of Transportation – District Office 5, Southwest Florida Water Management District, the Ocala/Marion Transportation Planning Organization (TPO), Marion County, and any other unit of local government or governmental agency in the State of Florida that has filed a written request with the Clerk of the City of Dunnellon.

**Section 5. CONFLICTS.** After the effective date of this Ordinance and Exhibit "A", in any case where all or any part of this Ordinance or Exhibit "A" is found to be in conflict with any provision of any other ordinance of the City of Dunnellon, to the extent of such conflict, all such ordinances are hereby repealed.

**Section 6. SEVERABILITY.** If any section, sentence, phrase, word or portion of this Ordinance or Exhibit "A" is determined to be invalid, unenforceable, unlawful or unconstitutional by a court of competent jurisdiction, said determination shall not be held to invalidate or impair

the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance or Exhibit "A".

**Section 7. EFFECTIVE DATE.** This Ordinance shall become effective thirty-one (31) days after the Department of Economic Opportunity notifies the City that the plan amendment package is complete. However, if timely challenged, this Ordinance shall not become effective until the Department of Economic Opportunity or the Administration Commission enters a final order determining the adopted amendment to be in compliance. See Fla. Stat. 163.3184(3)(c)4.

**Upon motion duly made and carried,** the foregoing Ordinance was approved and passed upon the first reading on the \_\_\_th day of \_\_\_\_\_, 2022.

**Upon motion duly made and carried,** the foregoing Ordinance was approved and passed upon the second reading on the \_\_\_th day of \_\_\_\_\_, 2022.

Advertised in the Riverland News on Thursday, \_\_\_\_\_, 2022.

Attest:

**CITY OF DUNNELLON**

\_\_\_\_\_

\_\_\_\_\_

Amanda L. Odom, CMC  
City Clerk

William P. White, Mayor

Approved as to Form:

\_\_\_\_\_  
Andrew J. Hand, City Attorney

**CERTIFICATE OF POSTING**

**I HEREBY CERTIFY** that copies of the foregoing Ordinance were posted at City Hall, the Chamber of Commerce, and Dunnellon Library, in the City of Dunnellon, Florida, and on the City's Official Website this \_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Amanda L. Odom, CMC  
City Clerk

## Exhibit “A”

The City of Dunnellon Comprehensive Plan is hereby amended as set forth below with underlined type indicating additions and strikethroughs indicating deletions, while \*\*\*\* indicates movement between sections of the text which shall remain unchanged.

### **CITY OF DUNNELON COMPREHENSIVE PLAN**

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### **FUTURE LAND USE ELEMENT – GOALS, OBJECTIVES, AND POLICIES**

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#### **Objective 4:**

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