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ORDINANCE NO. 170971

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An ordinance of the City of Gainesville, Florida, amending the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) relating to tree regulations; by amending Section 30-4.9 and Section 30-4.13 to incentivize the preservation of trees with bonus residential density; by amending Section 30-8.7 relating to tree mitigation; by amending Section 30-8.9 to clarify tree size required with development; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, secures for municipalities the broad exercise of home rule powers granted by Article VIII, Section 2 of the Florida Constitution, including the exercise of any power for municipal purposes not expressly prohibited by law; and

WHEREAS, Sections 163.3167 and 163.3177(1), Florida Statutes, requires the City of Gainesville to maintain a Comprehensive Plan to guide the future development and growth of the city by providing the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental and fiscal development of the city; and

WHEREAS, the City of Gainesville is required by Section 163.3202, Florida Statutes, to adopt or amend and enforce land development regulations that are consistent with and implement the Comprehensive Plan, and that are combined and compiled into a single land development code for the city (the City of Gainesville’s Land Development Code is Chapter 30 of the Code of Ordinances); and

WHEREAS, this ordinance, which was noticed as required by law, will amend the text of the Land Development Code as described herein; and

26 **WHEREAS**, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of
27 the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant
28 to Section 163.3174, Florida Statutes, held a public hearing on July 26, 2018, and voted to
29 recommend the City Commission approve this text change to the Land Development Code; and

30 **WHEREAS**, at least ten days' notice has been given once by publication in a newspaper of
31 general circulation notifying the public of this proposed ordinance and of public hearings in the
32 City Hall Auditorium located on the first floor of City Hall in the City of Gainesville; and

33 **WHEREAS**, public hearings were held pursuant to the notice described above at which hearings
34 the parties in interest and all others had an opportunity to be and were, in fact, heard; and

35 **WHEREAS**, the City Commission finds that the Land Development Code text amendment
36 described herein is consistent with the City of Gainesville Comprehensive Plan.

37 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**

38 **FLORIDA:**

39 **SECTION 1.** Section 30-4.9 of the Land Development Code is amended as follows.

40 **Section 30-4.9. ~~Building Height~~ Development Bonus System.**

41 A. Available bonuses ~~Eligible improvements~~. In accordance with this section and up to the limit allowed
42 with bonuses as specified for the applicable zoning district, ~~d~~Development projects may be eligible
43 for: 1) to construct additional building stories and allow for the corresponding increase in overall
44 building height; and 2) increased residential density up to the limit allowed with bonuses as
45 specified for the applicable zoning district. The bonus may be approved based on the provision of
46 certain development improvements that exceed the minimum standards of this article, as follows:

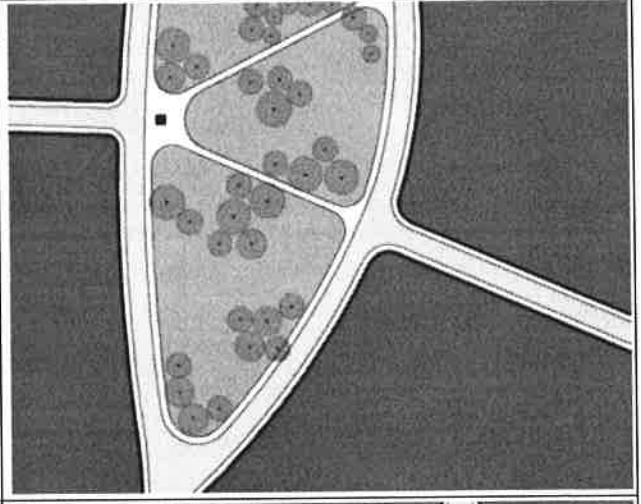
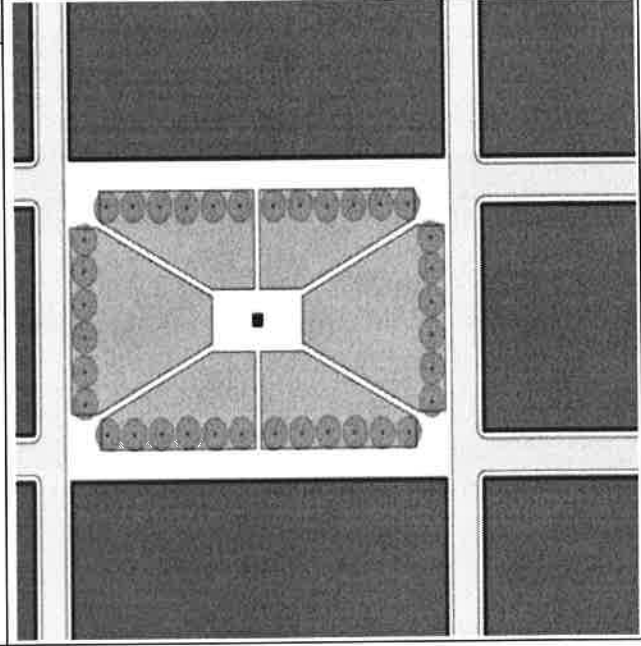
47 B. Additional building stories/height.

48 1. Usable Open Space. If a development provides onsite usable open space that is accessible to the
49 public (minimum size of 20'x 20'), additional building square footage above the number of
50 stories allowed by right (and up to the maximum allowed by bonus) may be provided according
51 to the following formula:

52 Square feet of public open space X number of stories allowed by right = additional square feet.
53 If the total additional square footage meets or exceeds 20% of the total development site, one

54 additional story is available. If the total additional square footage meets or exceeds 30% of the
55 total development site, two stories are available.

56 Developments receiving a height bonus ~~shall~~ must provide at least one form of open space from
57 the figures and associated standards below:

<p>Green</p> <p>A green is an open space for unstructured recreation. Greens consist of lawns, trees, paths, benches, and open shelters, all informally arranged.</p> <ol style="list-style-type: none">1. Greens may be spatially defined by landscaping rather than building frontages.2. Greens must front on at least two streets.	
<p>Square</p> <p>A square is an open space for recreation and civic purposes consisting of paths, lawns, and trees, all formally arranged. A square is spatially defined by abutting streets and building frontages.</p> <ol style="list-style-type: none">1. Squares shall be located at the intersections of important thoroughfares.2. Squares must front on at least 3 streets.3. Façades facing the square should have at least 40% of their first floor's primary façade in transparent windows.	

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<p>Plaza</p> <p>An open space for commercial and civic purposes consisting primarily of paved surfaces. A plaza is spatially defined by building frontages.</p> <ol style="list-style-type: none"> 1. Plazas should be located at the intersection of important streets. 2. Plazas must front on at least one street. 3. Façades facing the plaza should have at least 40% of their first floor's primary façade in transparent windows. 	
<p>Playground</p> <p>A fenced open space designed and equipped for the recreation of children.</p> <ol style="list-style-type: none"> 1. Playgrounds shall be located within ¼ mil surrounding neighborhoods. 2. Playgrounds may be freestanding or located within parks and greens. 	
<p>Pocket Plaza</p>	

A formal open space available for civic purposes and commercial activities. Pocket Plazas are typically hardscaped and include landscaping in lawns or permanent planters.

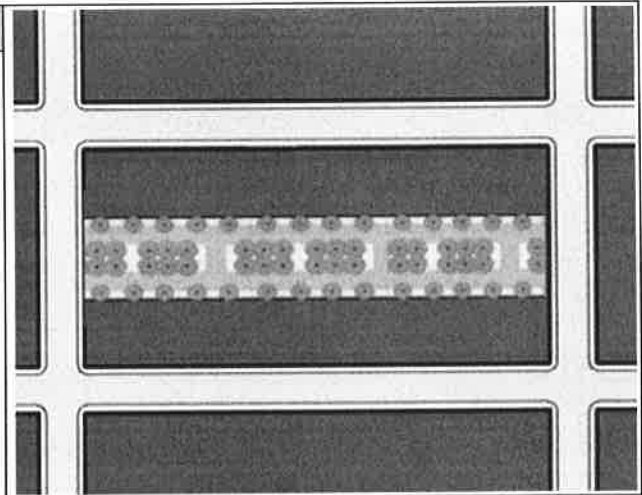
1. Pocket plazas should be located on side streets.
2. Pocket Plazas must front on at least one street.
3. Pocket Plazas may be used to provide seating for outdoor cafes or similar publicly accessible gathering space.

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Promenade

A linear pedestrian open space between streets that extends through successive blocks. The space largely hardscaped and lined with trees at the edges.

- A. Promenades must be a minimum of 16' wide.
- B. Promenades may include outdoor seating or other similar public amenities.



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2. Tree preservation~~Preservation of heritage trees~~. If a development dedicates an area onsite to preserve one or more heritage trees, the additional building square footage above the number of stories allowed by right (and up to the maximum allowed by bonus) may be provided according to the following formula:

Square feet of tree preservation area X number of stories allowed by right = additional square feet. If the total additional square feet meets or exceeds 20% of the total development site, one additional story is available. If the total additional square footage meets or exceeds 30% of the total development site, two stories are available.

3. Structured parking. If a development provides structured parking, the maximum number of bonus stories is available. Additionally, within U9 and DT, up to two levels of parking that are constructed within a habitable building are not counted as stories for the purposes of calculating the total number of stories, provided the footprint of the parking structure falls within 75% to 100% of the footprint of the habitable floors directly above the parking levels.

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89 4. *Transit support facilities.* If a development provides onsite facilities, beyond what otherwise is
 90 required, to serve existing or planned public transit, including but not limited to bus bays, super
 91 bus stops, bus stations, bus lanes, and park and ride lots, one bonus story is available.

92 5. *Undergrounding/relocating utility lines.* If a development undergrounds overhead utility lines
 93 beyond what otherwise is required, or relocates existing underground lines in order to facilitate
 94 the appropriate placement of street trees or buildings along streets, up to two stories are
 95 available for every street segment completed (from intersection to intersection); one story is
 96 available for the undergrounding/relocation of utilities along the street frontage of the
 97 development.

98 6. *Provision of affordable housing.* One story is available for providing at least 5% of the total
 99 development units (total calculated including the additional units achieved with height bonus)
 100 as affordable housing units reserved for occupancy by eligible households and affordable to
 101 households whose household annual income does not exceed 80% of the Alachua County
 102 median household income, adjusted for household size, as determined by the United States
 103 Department of Housing and Urban Development (HUD), and no more than 30% of the monthly
 104 household income is paid for monthly housing expenses (mortgage and mortgage insurance,
 105 property taxes, property insurance and homeowners dues).

106 Two stories are available for either providing: 1) 10% of the total development units as
 107 affordable housing units reserved for occupancy by eligible households and affordable to
 108 households whose household annual income does not exceed 80% of the Alachua County
 109 median household income, adjusted for household size, as determined by HUD, and no more
 110 than 30% of the monthly household income is paid for monthly housing expenses (mortgage
 111 and mortgage insurance, property taxes, property insurance and homeowners dues); or 2) 5% of
 112 the total development units as affordable housing units reserved for occupancy by eligible
 113 households and affordable to households whose household annual income does not exceed
 114 50% of the Alachua County median household income, adjusted for household size, as
 115 determined by HUD, and no more than 30% of the monthly household income is paid for
 116 monthly housing expenses (mortgage and mortgage insurance, property taxes, property
 117 insurance and homeowners dues).

118 C. Increased residential density.

119 1. Tree preservation.

RESIDENTIAL DENSITY BONUS				
<u>High Quality Heritage Tree Preservation (fair or better condition):</u>				
<u>Tree DBH</u>	<u>20"-30"</u>	<u>31"-50"</u>	<u>51"-70"</u>	<u>71"+</u>
<u>Bonus DU/Acre</u>	<u>0.5</u>	<u>1</u>	<u>5</u>	<u>10</u>
<u>Regulated Tree Cluster Preservation (fair or better condition):</u>				
<u>Number of trees in cluster</u>	<u>3-5</u>	<u>6-8</u>	<u>9-11</u>	<u>12+</u>
<u>Bonus DU/Acre</u>	<u>0.5</u>	<u>1</u>	<u>5</u>	<u>10</u>

120 The City Manager or designee may grant a density bonus for preserving tree clusters that, in his
 121 or her discretion, reasonably meet the following standards:

- 122 a. Species within the cluster must be on the Gainesville Tree List.
- 123 b. Trees within a cluster must have a minimum average DBH of 8 inches.
- 124 c. Trees within a cluster must be sufficiently spaced as to not have overlapping root plates.
- 125 d. Laurel oaks, water oaks, slash pines, and loblolly pines may not be included as part of a
- 126 cluster.

128 ~~B.D.~~ Review and approval. Each request for a height bonus ~~shall be~~ is subject to the approval of the City
 129 Manager or designee. ~~Approval of the request shall be~~ based on the criteria outlined above in this
 130 section, the criteria used to review special use permits, and the following criteria:

- 131 1. The improvement proposed by the applicant provides a significant public benefit in light of the
- 132 bonus requested; and
- 133 2. The proposed design, intensity, and any mix of uses relating to the requested bonus will meet
- 134 the intent of the transect and will be compatible with the surrounding neighborhood.

136 **SECTION 2.** Section 30-4.13 of the Land Development Code is amended as follows. Except as
 137 amended herein, the remainder of Section 30-4.13 remains in full force and effect.

Section 30-4.13. Building Form Standards.

139 This section contains the building form standards that determine the location, scale and massing of all
 140 buildings within the transects.

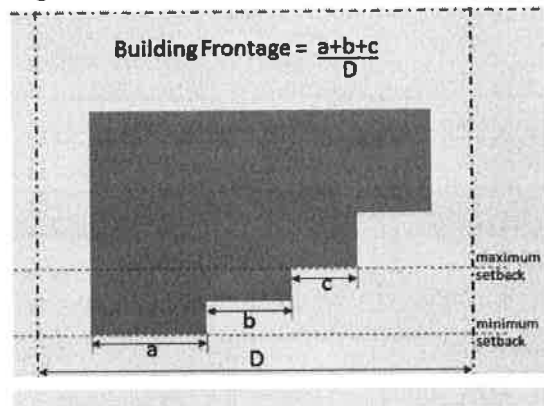
Table V - 1: Building Form Standards within Transects.

TRANSECT	U1	U2	U3	U4	U5	U6	U7	U8	U9	DT	
C. DEVELOPMENT INTENSITY											
Nonresidential building coverage (max)	60%	80%						90%	100%		
Residential density by right/ with SUP¹ <u>bonus²</u> (max units per acre)	8	15	20	20	75	50/60	50/60	60/80	100/125	150/175	

145 B. *Building frontage.* Building frontage requirements shall create a continuous building presence along
 146 streets.

147 1. The building frontage standards are a proportion
148 of the building length relative to the width of
149 the development site measured at the site
150 frontage line, (see Figure V - 3).

Figure V - 3: Building Frontage



151 2. *Frontage hierarchy.*

152 a. Where a development has frontage along
153 multiple street types that do not include a
154 thoroughfare, the urban street (Storefront
155 or Principal, in that order of hierarchy) shall
156 be considered the primary street for the
157 front face of the building.

158 b. Where a development has frontage on a
159 thoroughfare and any other street type, the thoroughfare shall be considered the primary
160 street.

161 c. Where a development has frontage on two streets of equal type, then the City Manager or
162 designee shall make a determination as to which street frontage shall be considered
163 primary.

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165 3. In the case where the required building frontage cannot be met
166 due to the need to provide vehicular access from the primary
167 frontage, a gateway, arch or similar feature may be provided to
168 preserve the block continuity and may be counted toward
169 meeting the building frontage requirement, (see Figure V - 4).

Figure V - 4: Example of Gateway

170 4. A preserved high quality heritage tree canopy within the street
171 setback range may count towards meeting the building frontage
172 requirement.



Floor above gateway not required

173 4.5. The ground floor along the street frontages shall contain active
174 uses oriented to the street. Active uses may include, but are not
175 limited to, display or floor areas for retail uses, waiting and
176 seating areas for restaurants, atriums or lobbies for offices, lobbies or dining areas for hotels or
177 multi-family residential buildings, and hotel rooms or multi-family residential units with street
178 facing entrances.

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180 **SECTION 3.** Section 30-8.7 of the Land Development Code is amended as follows.

181 **Section 30-8.7. Permits for Tree Removal; Mitigation.**

182 A. *Removal or relocation permits.* Except as provided below, no living regulated tree may be removed
183 or relocated without a removal permit and mitigation as provided for in this section. Only the tree
184 advisory board may approve or deny the removal, relocation or replacement of champion trees.

185 B. *Exemptions.*

- 186 1. On property with single-family dwellings, permits shall be required only for the removal of
187 champion or heritage trees.
- 188 2. Removal of loblolly or slash pines less than 20 inches in diameter from a natural or naturalized
189 landscape shall not require mitigation planting, unless the removals result in a uniform tree
190 density on the site of less than one tree per 900 square feet of unpaved area. Where resulting
191 tree density would be less, sufficient mitigation trees meeting the standard of Section 30-8.10
192 shall be established to achieve the specified minimum density.
- 193 3. Removal of regulated trees in connection with ecosystem management or restoration on parcels
194 with conservation easements, in conservation management areas or on parcels managed as
195 nature parks or preserves, provided the following criteria are met:
- 196 a. A plan for the removal and revegetation of the area has been approved by the City Manager
197 or designee;
- 198 b. The only trees that may be removed are of the following species: Loblolly Pine, Slash Pine,
199 Water Oak, Laurel Oak, Sweetgum, Sugarberry, and any species not native to Alachua
200 County;
- 201 c. The tree removal is being done in furtherance of restoration of a natural community or
202 communities appropriate to the site as indicated by soils, remnant vegetation, and
203 hydrological and geological conditions;
- 204 d. The applicant has demonstrated that after the removals, the land will be maintained in a
205 manner that promotes the continuation of the restored natural community; and
- 206 e. The plan has been approved by the nature centers commission.
- 207 4. For the immediate protection of the health, safety, or welfare of the public, trees may be
208 removed without obtaining a permit in advance. However, the property owner or its authorized
209 agent shall file a permit application during the next city work day. Permit approval shall be
210 granted, provided the trees removed are mitigated in accordance with this code.
- 211 C. *Methods of mitigation.* Mitigation ~~is shall be~~ allowed by two methods: 1) mitigation trees (on an
212 inch-for-inch basis or as otherwise specified); and 2) mitigation payment. The amount of mitigation
213 is as specified in Subsections D. and E. below.
- 214 1. Mitigation trees. Mitigation trees shall be of high quality shade species as identified on the
215 Gainesville tree list and sited in accordance with the requirements of Section 30-8.3.A. The
216 installation of new trees for a development as required by this chapter may count as mitigation
217 for trees removed from the site, except where those removed trees are of a high-quality
218 species. Increasing the diameter of trees required to be planted with a development shall not
219 be used to meet mitigation requirements. The preference is for mitigation trees to be planted
220 on the site, but where it is demonstrated that no space is available, mitigation trees may be
221 planted offsite within City limits as approved by the City Manager or designee. ~~In these~~
222 ~~instances, the required mitigation trees may be established on a different site within the city~~
223 ~~limits approved by the City Manager or designee, or the City Manager or designee may allow a~~
224 ~~payment in an amount to be made to the city tree mitigation fund equivalent to the cost of the~~
225 ~~trees that would have been purchased.~~
- 226 2. Mitigation payment. Mitigation payment shall be based on tree appraised value, or as
227 otherwise specified in this code. Payment shall be made prior to the approval of a final

228 development order, or prior to issuance of a certificate of occupancy for any development
229 requiring only building permits. Mitigation payments received by the City shall be deposited in
230 the City tree mitigation fund, which must be used in accordance with this subsection. This fund
231 may be used for new tree plantings associated with public improvement projects or for the
232 preservation of trees through the purchase of conservation lands, but shall not be used for tree
233 maintenance or toward the installation of new trees that would already be required for a
234 development. In addition, this fund may be used for an ecological assessment of the urban
235 forest every five years, and for an update of the urban forest management plan every ten years.

236 a. Offsets for tree mitigation payment. A tree mitigation payment may be offset by installing
237 improvements that create an improved growing environment for existing or proposed trees
238 located within the project's street tree landscape zone within the public right-of-way,
239 including:

- 240 i. Use of a pre-manufactured, modular structural product to suspend and support paving
241 over the root zone volume area of the tree in order to prevent soil compaction.
- 242 ii. Provision of root zone volume greater than the required minimum as specified in
243 Section 30-8.3.A, provided that the root zone volume does not exceed six feet in depth.
244 Credit will be granted per cubic foot over the required minimum up to 2,000 cubic feet
245 total root zone volume. Trees must be provided with a minimum of 1,000 cubic feet of
246 root zone volume to be eligible.

247 Proposed improvements and installation methods must be consistent with industry
248 standards, and must be approved by the City Arborist or Urban Forestry Inspector prior to
249 installation and inspected and approved prior to any credit towards the project's tree
250 mitigation payment. The requested offset may not exceed the project's total tree mitigation
251 payment, and proposed improvements must be used on the project requiring tree
252 mitigation. Improvements must be installed by a qualified installer of the product as
253 identified by the manufacturer's specifications.

254 D. *Removal and mitigation of regulated trees subject to subdivision or development plan approval.*
255 When tree removal or relocation is contemplated in conjunction with any development requiring
256 approval of a development plan or subdivision plat, such removal or relocation shall be considered
257 and either approved or denied at the same time a development plan or plat is approved or denied,
258 based upon the criteria specified in Subsection F of this section. No separate tree removal permit is
259 required. All of the required plans, data or other information required with the application shall be
260 included on the proposed development plan or on the supporting documents submitted with the
261 plan or the plat. The following requirements apply:

- 262 1. Decisions on tree removal shall be based on a tree survey or a qualitative tree survey. The
263 landscaping plan shall show all trees to be preserved, provide for protective tree barriers that
264 meet the requirements of Section 30-8.8, and specify the details of the mitigation required in
265 this section.
- 266 2. Construction drawings shall be submitted to the building department and application for
267 building permits made before any trees are removed.
- 268 3. After a certificate of occupancy has been issued for a development, any additional tree removal
269 shall require either a tree removal permit or a development plan amendment. Failure to obtain
270 a tree removal permit before removing or relocating any existing regulated tree or any tree that

271 was planted to comply with the approved development plan shall be subject to the measures for
 272 enforcement specified in Section 30-8.43.

273 4. The requirements for mitigation of regulated trees approved for removal as part of
 274 development plan or subdivision plat review are as follows:
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CATEGORY	MITIGATION
High quality heritage trees, in fair or better condition.	Mitigation payment based on tree appraised value, limited to three trees per acre averaged over the entire site. If more than three trees per acre in this category are located on the site then the trees with the highest tree appraised value throughout the site shall be used to calculate the payment. High quality heritage trees proposed for removal in excess of the overall average of three per acre shall require mitigation trees on an inch-for-inch on a diameter basis.
Heritage trees of other than high quality species, in fair or better condition, <u>excluding laurel oaks and water oaks.</u>	Mitigation trees on an inch-for-inch diameter basis.
Any heritage trees in less than fair or better condition; <u>any heritage laurel oak or water oak;</u> and any other regulated tree	Mitigation trees consisting of two trees of high quality shade species established for each tree removed.

276 E. *Removal and mitigation of regulated trees not part of subdivision or development plan approval.* Any
 277 person desiring to remove or relocate a regulated tree, except tree removal approved as part of
 278 subdivision or development plan approval, shall file a tree removal permit with the City Manager or
 279 designee. As a condition to granting a permit, the applicant shall mitigate each tree being removed.
 280 The following requirements apply:

- 281 1. Permit applications shall include the name of the property owner, address from which tree will
 282 be removed, tree species and diameter, and reason for removal of the tree. The permit
 283 application shall be signed by the property owner and, if applicable, its authorized agent.
 284 Applications for tree removal shall also include a scaled drawing of the site showing tree size
 285 and location, and a statement of how any other regulated trees are to be protected during any
 286 approved tree removal and any associated construction or clearing, or grade changes. The City
 287 Manager or designee shall attempt to verify the information contained in the application and
 288 shall either approve or deny the application as to each regulated tree proposed to be removed.
- 289 2. Where construction is associated with the tree removal, construction drawings shall be
 290 submitted to the building department and application for building permits made before any
 291 trees are removed.
- 292 3. The requirements for mitigation of regulated trees not associated with development plan or
 293 subdivision plat review are as follows:

CATEGORY	MITIGATION
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Single-Family Dwellings	
High quality heritage trees, in fair or better condition, wherever they are located on the property.	Mitigation trees on an inch-for-inch diameter basis, with a minimum of two shade trees of high quality species planted on site for each tree removed.
Heritage trees of other than high quality species and high quality heritage trees in less than fair or better condition, wherever they are located between the property lines and legal setbacks.	Mitigation trees consisting of two shade trees of high quality species planted on the site for each tree removed.
All Other Uses	
High quality heritage trees, in fair or better condition.	Mitigation payment based on tree appraised value, and mitigation trees consisting of a minimum of two shade trees of high quality species planted on site for each tree removed.
Heritage trees of other than high quality species, in fair or better condition; and high quality heritage trees, in fair or better condition, which are causing structural problems to buildings or underground utilities.	Mitigation trees on an inch-for-inch diameter basis, with a minimum of two shade trees of high quality species planted on site for each tree removed.
Any heritage trees in less than fair or better condition; and any other regulated tree.	Mitigation trees consisting of two shade trees of high quality species planted on the site for each tree removed.

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295 F. *Permit approval criteria.* Removal or relocation of a regulated tree may be approved by the
 296 reviewing board, City Manager or designee based upon one of the following findings, which shall be
 297 supported by competent substantial evidence provided by the applicant:

- 298 1. The tree poses a safety hazard or has been weakened by disease, age, storm, fire or other injury;
- 299 2. The tree contains a disease or infestation that could spread to other trees;
- 300 3. The tree prevents the reasonable development of the site, including the installation of solar
 301 energy equipment or the installation or replacement of utility lines;
- 302 4. The tree is causing or is likely to cause structural damage or problems to buildings or
 303 underground facilities due to excessive root or trunk growth, or soil expansion and contraction
 304 caused by uneven water uptake; or
- 305 5. The tree should be removed for some other reason related to the public health, safety or
 306 welfare. This finding cannot serve as the sole basis for removal of high quality trees.

307 The City Manager or designee may require the applicant to provide verification of the findings in the
 308 form of a written report signed and sealed by an appropriate licensed professional within the State
 309 of Florida. Regulated trees shall not be removed, damaged or relocated for the purpose of
 310 installing, replacing or maintaining utility lines and connections unless no reasonably practical

311 alternative is available, as determined by the City Manager or designee. Where a tree may be
312 preserved by cutting the tree roots instead of removing a tree, that strategy shall be preferred.

313 G. *Natural emergencies or disasters.* In the case of natural emergencies or disasters such as hurricanes,
314 windstorms, floods or other disasters, issuances of permits for the removal of damaged trees may
315 be waived by the City Manager or designee. Such waiver may not be for an indefinite period and
316 shall expire when the City Manager or designee determines that emergency conditions have ended.

317 H. *Commercial tree removal permits.* Commercial tree removal permits may be granted for the removal
318 of trees associated with forestry management, tree harvest and other similar commercial purposes
319 in accordance with the requirements of this subsection.

320 1. *Applicability.* Commercial tree removal permits may be requested in lieu of other tree removal
321 permits required by this section where no development of the property is intended. Where
322 development of the property is planned, the petitioner shall address tree removal within the
323 development plan review or normal tree removal processes.

324 2. *Permit granting authority.* The City Manager or designee or the Development Review Board
325 have authority to grant commercial tree removal permits as described below.

326 3. *Receipt of request.* Owners of property may request the appropriate authority to grant a permit
327 for the commercial removal of trees by filing such an application with the city, on forms supplied
328 by the city, together with the appropriate fee. The request shall be accompanied with the
329 following information supplied by the applicant:

- 330 a. Suitability of the trees for harvest.
- 331 b. Harvesting methods to be used.
- 332 c. Sedimentation and erosion control measures to be used.
- 333 d. Plan of property showing location of required buffers next to water bodies and property
334 lines and tree canopy to remain as applicable.
- 335 e. Tree protection measures for trees to remain.
- 336 f. Species of trees to be used for replacement.

337 4. *Notice.* Whenever a property is under consideration for a permit, except any property
338 designated agriculture on the future land use map, all owners of property adjacent to the
339 property shall be given notice by mail. Such notice shall be mailed at least 15 calendar days prior
340 to the granting of the permit. For the purpose of this notification, an owner of property shall be
341 deemed to be the person who, by his/her address, is so shown on the tax rolls of the city. If any
342 such property is part of the common area of a condominium, notice shall be sent to all of the
343 condominium unit owners as shown on the latest tax rolls. Additionally, the property under
344 consideration shall also have a sign posted at least five calendar days prior to the date the
345 permit is to be granted. The sign shall specify that the property is under consideration for a
346 permit allowing tree removal for commercial purposes and specify the date the permit is to be
347 granted.

348 5. *Procedure for review.* If less than 20% of the noticed property owners file a written objection to
349 the proposed tree removal within 15 calendar days of the mailing of the notice, the commercial
350 tree removal permit may be issued provided all other provisions of this section and this chapter
351 have been met.

- 352 a. If 20% or more of such noticed property owners file a written objection within 15 calendar
353 days of the date of mailing of the notice, the Development Review Board shall hold a public
354 hearing in accordance with its rules. The Development Review Board, in deciding whether to
355 approve or disapprove the application, shall consider the factors delineated in Subsections
356 H.7. and 8. of this section.
- 357 b. Parcels designated agriculture on the future land use map. All applications for tree removal
358 on such parcels shall be reviewed by the City Manager or designee, who, in deciding
359 whether to approve or deny the application, shall consider the factors delineated in
360 Subsections H.7. and 8. of this section. Appeals of the decision of the City Manager or
361 designee shall be made in accordance with provisions for appeal as provided in this chapter.
- 362 6. *Action on application.* Upon receipt of a completed application and following the notice period
363 specified above, or after the permit has been granted after a hearing under Subsection H.5., the
364 City Manager or designee will issue the commercial tree removal permit, except as may be
365 modified below, with the following conditions:
- 366 a. Unless otherwise specified herein, trees will be removed according to best management
367 practices, as specified in "A Landowner's Handbook for Controlling Erosion from Forestry
368 Operations," published by the state department of agriculture and consumer services,
369 division of forestry, or subsequent manuals on file with the public works department.
- 370 b. No regulated tree shall be removed and no logging road shall be constructed:
- 371 i. Within 35 feet of the break in slope at the top of the bank of any creek;
- 372 ii. Within 35 feet of the landward extent of a lake or wetland; or
- 373 iii. Within a designated conservation management area.
- 374 This requirement may be waived where crossing of the creek by a bridge is necessary to
375 access the property where trees are to be removed. Such waiver shall be limited to the area
376 necessary to construct the bridge. For the purposes of this subsection, creeks shall be those
377 identified by the surface water district provisions of Article VIII.
- 378 c. Following removal of the trees granted by the permit, the petitioner shall within 18 months
379 provide for reforestation of the site by one of the following means:
- 380 i. Where forestry or other agricultural use of the property is to continue in the
381 conservation or agriculture districts, pine seedlings or other forestry or agricultural
382 crops, including pasture, may be planted.
- 383 ii. Where forestry use is to be abandoned or in districts where it is not a permitted use,
384 replacement of trees shall be required as per this Article. This requirement may be
385 waived when an adequate number of trees of appropriate size and species remain on-
386 site to meet this requirement and are certified by the City Manager or designee to be in
387 good health and free from damage caused by harvest operation which may result in the
388 death of the tree.
- 389 d. All invasive nonnative tree species listed in Section 30-8.3 may be required to be removed
390 from the property.
- 391 7. *Imposition of additional conditions.* The City Manager or designee or Development Review
392 Board, as appropriate, may impose other reasonable conditions where need is demonstrated.

393 Such conditions may include restrictions on percentage of canopy removed or the prohibition of
394 tree removal from certain portions of the site under consideration. The City Manager or
395 designee, or Development Review Board, as appropriate, shall be guided by, but not restricted
396 to, the following criteria in imposing such additional conditions:

- 397 a. The need to provide buffers to adjacent developed property;
- 398 b. The need to protect soils highly susceptible to soil erosion as identified by the soil survey of
399 the county;
- 400 c. The need to protect slopes in excess of 10%, particularly near creeks and other bodies of
401 water;
- 402 d. The need to protect existing wetlands, floodplains and flood channels and other
403 environmentally sensitive areas as shown on existing maps, photographs and other reliable
404 and available sources; and
- 405 e. The need to preserve endangered, threatened or special concern animal and vegetative
406 species, habitats and communities, rare hardwood hammocks or champion trees as
407 identified from competent sources.
- 408 8. *Removal of trees specifically planted or managed for harvest.* Where environmental and other
409 factors limit the removal of trees on 75% or more of the site under consideration, the
410 commercial tree removal permit may be denied. However, factors identified above may not be
411 used to unduly prohibit the harvest of trees where it is demonstrated that the trees to be
412 harvested were specifically planted for that purpose.

413

414 **SECTION 4.** Section 30-8.9 of the Land Development Code is amended as follows. Except as
415 amended herein, the remainder of Section 30-8.9 remains in full force and effect.

416 **Section 30-8.9. Installation and Maintenance of Landscape Materials.**

417 **A. Installation.**

- 418 2. *Tree size.* Trees must ~~shall~~ have a minimum height of 7 feet and a minimum trunk caliper of 2
419 inches. Trees must ~~shall~~ be in minimum 30-gallon containers or field-grown material and must
420 ~~shall~~ have a ball diameter of at least 28 inches. Trees must ~~shall~~ have healthy root systems that
421 have been pruned according to the Florida Grades and Standards best practices. ~~Trees shall be~~
422 ~~at least 7 feet tall with a trunk caliper of 2 inches (+ or - 1/2 inch) and grown in a 15-gallon~~
423 ~~container.~~ Tree species must ~~shall~~ be selected from the Gainesville tree list with estimated size
424 at maturity at least as large as the tree being replaced.

425

426

427 **SECTION 5.** It is the intent of the City Commission that the provisions of Sections 1 through 4 of
428 this ordinance become and be made a part of the Code of Ordinances of the City of Gainesville,

429 Florida, and that the sections and paragraphs of the Code of Ordinances may be renumbered or
430 relettered in order to accomplish such intent.

431 **SECTION 6.** If any word, phrase, clause, paragraph, section, or provision of this ordinance or
432 the application hereof to any person or circumstance is held invalid or unconstitutional, such
433 finding will not affect the other provisions or applications of this ordinance that can be given
434 effect without the invalid or unconstitutional provision or application, and to this end the
435 provisions of this ordinance are declared severable.

436 **SECTION 7.** All ordinances or parts of ordinances in conflict herewith are to the extent of such
437 conflict hereby repealed.

438 **SECTION 8.** This ordinance will become effective immediately upon adoption.

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440 **PASSED AND ADOPTED** this 21st day of February, 2019.

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454 This ordinance passed on first reading this 7th day of February, 2019.

455

456 This ordinance passed on second reading this 21st day of February, 2019.



LAUREN POE
MAYOR

Attest:

Approved as to form and legality:



OMICHELE D. GAINNEY
CLERK OF THE COMMISSION



NICOLLE M. SHALLEY
CITY ATTORNEY