



# MEMORANDUM

Office of the City Attorney

Legistar No. 002562

Phone: 334-5011/Fax 334-2229  
Box 46

**TO:** Mayor and City Commission

**DATE:** April 14, 2003  
SECOND READING

**FROM:** City Attorney

**SUBJECT:** Ordinance No. 0-03-25; Petition No. 31TCH-02 PB  
An ordinance of the City of Gainesville, Florida, reformatting and amending subsection 30-70(c)(2) of the Land Development Code related to uses by special use permit in the general industrial district (I-2); to provide for special reporting requirements and exemptions for certain industrial uses to be allowed by special use permit; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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Recommendation: The City Commission (1) hear a presentation from staff and (2) adopt the proposed ordinance with recommended amendments.

## COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

Certain industrial uses can be considered "high-impact" because they have the potential to produce substantial levels of air, water, soil, truck, and noise pollution. The presence of such industries near residential, office, or retail uses, if not properly controlled, can diminish the quality of life for such nearby uses, create significantly objectionable nuisances, or otherwise endanger humans, activities, or natural resources. This can be particularly true when certain industries are concentrated in an area.

The list of high-impact industries identified as being especially prone to creating these sorts of community harm were identified by Water & Air Research during their review of the City's allowed industrial uses. The Land Development Code was amended to allow these uses by Special Use Permit.

During the industrial moratorium, the City Commission asked staff to develop additional regulations to better protect non-industrial land uses from such industrial uses. Staff was asked to develop additional protective measures to supplement the substantial set of existing regulations that pertain to such industries. During the review, staff determined that developing performance standards to address truck traffic, air and odor would require a substantial amount of time to prepare, and would probably require the City to hire a consultant to create. In addition, in some

cases, the City would be pre-empted by the State or Federal government from establishing local standards, as was recently the case with efforts by Alachua County to adopt "Clean Air" air pollution standards.

It was determined that within each of the high impact industries identified, there may be industries that can demonstrate that they are relatively clean. The consultant for the industrial study helped to identify standards where some of the industries could be allowed by right if they met a certain standard. It was determined that, if the use or development will result in release of pollutants to air or water, in an amount no more than 1% of the average release of those pollutants reported for that industry, those uses could be allowed by right.

The Plan Board recommended to the City Commission that they adopt an exemption for those industries with no more than 1% of the average release of those pollutants reported for that industry, and to require all new industries to comply with the ISO 14001 environmental management system standards. After hearing from staff on December 9, 2002, and Dr. William T. Engel with the TREEO Center on January 13, 2003, on the expense involved with implementing the ISO standards, the City Commission voted to approve staff's recommendation without the ISO standards.

See attached memorandum from Tom Saunders, recommending amendments to the ordinance on second reading.

**CITY ATTORNEY MEMORANDUM**

This ordinance requires two public hearings. If the Commission adopts the ordinance on first reading, the second and final reading will be held on Monday, March 17, 2003. The City Commission continued the second reading of this ordinance until April 14, 2003, to allow the Department of Community Development additional time to respond to citizens' concerns.

Approved and  
Submitted by:



Marion J. Radson,  
City Attorney

MJR:sw

**CITY OF  
GAINESVILLE**

**INTER-OFFICE  
COMMUNICATION**

**DATE:** April 8, 2003  
**TO:** Wayne Bowers, City Manager  
**FROM:** Tom Saunders, Community Development Director  
**SUBJECT:** Response to Comments Regarding Required Report for Specially Regulated Industrial Uses

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At the March 24, 2003 City Commission meeting, an attorney representing an industrial property owner objected that the proposed report requirements for specially regulated uses were too onerous and vague. Staff has consulted informally with the environmental consultant who helped prepare the review and modifications of the City's allowed industrial uses. After such consultation, staff offers the following proposed amendment to the language:

1. Reports. The applicant for a special use permit shall submit information certified by (a) professional engineer(s) specifying expected air emissions, surface and groundwater emissions, noise levels, truck traffic volumes (including time-of-day level(s), odor levels, and glare impacts, and the compatibility of these emissions and impact levels with other properties, uses and neighborhoods within 2,000 feet. to nearby properties. This report shall be submitted to the city manager or designee and the Alachua County Department of Environmental Protection. The engineer(s) shall certify report shall indicate that these impacts will not violate local, regional, state, or federal limits. nor cause a noticeable degradation to nearby properties or neighborhoods, including incremental degradation when the impacts from the proposed use are added to impacts generated by uses in the area. The engineer(s) report shall also certify indicate that "Best Available Technology" is being used to control impacts from the "specially regulated industry."

cc: Ralph Hilliard, Planning Manager

ORDINANCE NO. \_\_\_\_\_  
0-03-25

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An ordinance of the City of Gainesville, Florida, reformatting and amending subsection 30-70(c)(2) of the Land Development Code related to uses by special use permit in the general industrial district (I-2); to provide for special reporting requirements and exemptions for certain industrial uses to be allowed by special use permit; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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**WHEREAS**, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the Land Development Code of the City of Gainesville, Florida, be amended; and

**WHEREAS**, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on August 15, 2002; and

**WHEREAS**, notice was given and publication made of a Public Hearing which was then held by the City Commission on January 13, 2003; and

**WHEREAS**, pursuant to law, an advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the City Commission meeting room, City Hall, City of Gainesville to be held at least 7 days after the day this first advertisement was published; and

**WHEREAS**, a second advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of the second Public

1 Hearing to be held at the adoption stage at least 5 days after the day this second advertisement  
2 was published; and

3 WHEREAS, the Public Hearings were held pursuant to the published notice described at  
4 which hearings the parties in interest and all others had an opportunity to be and were, in fact,  
5 heard;

6 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE  
7 CITY OF GAINESVILLE, FLORIDA:

8 Section 1. Subsection 30-70(c)(2) of the Land Development Code of the City of  
9 Gainesville is reformatted and amended to read as follows:

10 Sec. 30-70. General industrial district (I-2).

11 (c) Permitted uses.

12 (2) Uses by special use permit. Uses by special use permit, provided the requirements  
13 and conditions of Article VI are met, if applicable, and that the findings in section 30-233  
14 are made, in accordance with the procedures provided in section 30-204 of this chapter  
15 with the findings of section 30-233:

SIC	Uses	Conditions
	Transmitter towers	
	Junkyard and salvage yards	
	Go-cart raceway operations and go-cart rentals	
	Alcoholic beverage establishments	
	Individual and family social services	In accordance with subsection a. below
MG-14	Mining and quarrying of nonmetallic minerals, except fuels	<u>Subject to specially regulated industry provisions below</u>
IN-2111	Cigarettes	<u>Subject to specially regulated industry provisions below</u>

# D R A F T

4-8-03

<i>SIC</i>	<i>Uses</i>	<i>Conditions</i>
IN-2261	Cotton finishing plants	<u>Subject to specially regulated industry provisions below</u>
IN-2671	Packaging - coated and laminated paper	<u>Subject to specially regulated industry provisions below</u>
IN-2754	Gravure commercial printing	<u>Subject to specially regulated industry provisions below</u>
IN-2822	Synthetic rubber	<u>Subject to specially regulated industry provisions below</u>
IN-2833	Medicinals and botanicals	<u>Subject to specially regulated industry provisions below</u>
IN-2865	Cyclic crudes and intermediates	<u>Subject to specially regulated industry provisions below</u>
IN-2892	Explosives	<u>Subject to specially regulated industry provisions below</u>
IN-2895	Carbon black	<u>Subject to specially regulated industry provisions below</u>
IN-2951	Asphalt paving mixtures and blocks	<u>Subject to specially regulated industry provisions below</u>
IN-3211	Flat glass	<u>Subject to specially regulated industry provisions below</u>
IN-3221	Glass containers	<u>Subject to specially regulated industry provisions below</u>
IN-3229	Pressed and blown glass (not elsewhere classified)	<u>Subject to specially regulated industry provisions below</u>
IN-3251	Brick and structural clay tile	<u>Subject to specially regulated industry provisions below</u>
IN-3253	Ceramic wall and floor tile	<u>Subject to specially regulated industry provisions below</u>
IN-3255	Clay refractories	<u>Subject to specially regulated industry provisions below</u>
IN-3259	Structural clay products (not elsewhere classified)	<u>Subject to specially regulated industry provisions below</u>
IN-3261	Vitreous plumbing fixtures	<u>Subject to specially regulated industry provisions below</u>
IN-3262	Vitreous china food utensils	<u>Subject to specially regulated industry provisions below</u>
IN-3275	Gypsum products	<u>Subject to specially regulated industry provisions below</u>
IN-3295	Ground or treated minerals	<u>Subject to specially regulated industry provisions below</u>

SIC	Uses	Conditions
IN-3321	Gray iron foundries	<u>Subject to specially regulated industry provisions below</u>
IN-3351	Copper rolling and drawing	<u>Subject to specially regulated industry provisions below</u>
IN-3354	Aluminum extruded products	<u>Subject to specially regulated industry provisions below</u>
IN-3355	Aluminum rolling and drawing	<u>Subject to specially regulated industry provisions below</u>
IN-3363	Aluminum die-castings	<u>Subject to specially regulated industry provisions below</u>
IN-3366	Copper foundries	<u>Subject to specially regulated industry provisions below</u>
IN-3463	Nonferrous forgings	<u>Subject to specially regulated industry provisions below</u>
IN-3479	Metal coatings and allied services	<u>Subject to specially regulated industry provisions below</u>
IN-2819	Industrial inorganic chemicals (not elsewhere classified)	<u>Subject to specially regulated industry provisions below</u>
IN-2869	Industrial organic chemicals (not elsewhere classified)	<u>Subject to specially regulated industry provisions below</u>
IN-2821	Plastics materials and resins	<u>Subject to specially regulated industry provisions below</u>

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a. *Individual and family social services.* Individual and family social services are subject to the following additional conditions and limitations:

1. The fee simple owner(s) of the property must sign the application and acknowledge that the use is in an industrial district that may be subject to noise, heavy truck traffic, fumes, odors and vibrations that is are customary in an industrial district.
2. The use shall not co-locate with another industrial use on the same parcel.

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 CODE: Words ~~stricken~~ are deletions; words underlined are additions; shaded language is staff's recommended changes at second reading.

1 3. The use must occupy a building that is currently located on the  
2 parcel.

3 4. Residential care is prohibited and no overnight stay or lodging is  
4 allowed.

5 5. The special use permit is limited to a maximum of 5 years, subject  
6 to automatic renewal for the same term as the original permit unless either  
7 i. the use is discontinued or abandoned for 90 consecutive days; or ii. the  
8 city or owner of the property seeks to terminate the use by providing  
9 written notice to the city manager or designee at least 90 days prior to the  
10 expiration of the special use permit. In the event such notice is given, the  
11 special use permit shall expire and terminate unless the owner files a new  
12 application within 20 days of receipt of said notice of termination. The  
13 application will then be processed and reviewed in the same manner as a  
14 new application.

15 b. Specially regulated industry. The following apply to uses designated as  
16 subject to specially regulated industry provisions:

17 1. Reports. The applicant for a special use permit shall submit  
18 information certified by (a) professional engineer(s) specifying expected  
19 air emissions, surface and groundwater emissions, noise levels, truck  
20 traffic volumes (including time-of-day level(s), odor levels, and glare  
21 impacts, and the compatibility of these emissions and impact levels with



1 other properties, uses and neighborhoods within 2,000 feet to nearby  
2 properties. This report shall be submitted to the city manager or designee  
3 and the Alachua County Department of Environmental Protection. The  
4 engineer(s) shall certify report shall indicate that these impacts will not  
5 violate local, regional, state, or federal limits, nor cause a noticeable  
6 degradation to nearby properties or neighborhoods, including incremental  
7 degradation when the impacts from the proposed use are added to impacts  
8 generated by uses in the area. The engineer(s) report shall also certify  
9 indicate that "Best Available Technology" is being used to control impacts  
10 from the "specially regulated industry."

11 2. Exemption. Uses or developments that will result in releases of  
12 pollutants to the air and to the water no more than one percent of the  
13 average release of those pollutants on a list maintained by the city for that  
14 industry shall be exempt from the special use permit process except for the  
15 report required in subsection 1. above. The owner requesting this  
16 exemption must provide evidence acceptable to the city manager or  
17 designee that the use qualifies. Any use that was permitted under this  
18 exemption and is found to be releasing more than one percent of the  
19 average release of air or water pollutants reported for that industry shall  
20 cease operation until a special use permit is applied for and obtained.

1           **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of  
 2 this ordinance shall become and be made a part of the Code of Ordinances of the City of  
 3 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered  
 4 or relettered in order to accomplish such intentions.

5           **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be invalid  
 6 or unconstitutional by any court of competent jurisdiction, then said holding shall in no way  
 7 affect the validity of the remaining portions of this ordinance.

8           **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of  
 9 such conflict hereby repealed.

10          **Section 5.** This ordinance shall become effective immediately upon final adoption.

11          **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2003.

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\_\_\_\_\_  
 THOMAS D. BUSSING  
 MAYOR

ATTEST: Approved as to form and legality

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\_\_\_\_\_  
 KURT M. LANNON  
 CLERK OF THE COMMISSION

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 MARION J. RADSON  
 CITY ATTORNEY

23 This Ordinance passed on first reading this 24<sup>th</sup> day of February, 2003.

24 This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2003.