

**ORDINANCE NO. 031205**  
**0-04-57**

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4  
5 AN ORDINANCE OF THE CITY OF GAINESVILLE, FLORIDA,  
6 AMENDING SECTIONS OF CHAPTER 2, 16 AND 27 OF THE CITY OF  
7 GAINESVILLE CODE OF ORDINANCES, REGARDING  
8 ENFORCEABILITY OF THE CITY'S GREASE CONTROL  
9 REQUIREMENTS THROUGH THE CITY'S CODE ENFORCEMENT  
10 BOARD; AMENDING SECTION 2-377, CITY OF GAINESVILLE CODE  
11 OF ORDINANCES GIVING THE GAINESVILLE CODE ENFORCEMENT  
12 BOARD JURISDICTION TO HEAR CASES IN WHICH VIOLATIONS  
13 ARE ALLEGED OF ENUMERATED SECTIONS OF CHAPTER 27,  
14 ARTICLE IV, DIVISION 3, CODE OF ORDINANCES, RELEVANT TO  
15 SEWERAGE; AMENDING SECTION 2-378, CITY OF GAINESVILLE  
16 CODE OF ORDINANCES CLARIFYING THAT THE CODE INSPECTOR  
17 OR CODE OFFICER MAY BE DESIGNATED BY THE CITY'S GENERAL  
18 MANAGER FOR UTILITIES FOR PURPOSES OF CODE  
19 ENFORCEMENT; AMENDING SECTION 16-17, CITY OF GAINESVILLE  
20 CODE OF ORDINANCES DEFINING "ENFORCING OFFICIAL" TO  
21 INCLUDE THE CITY MANAGER, THE GENERAL MANAGER FOR  
22 UTILITIES OR THEIR RESPECTIVE DESIGNEES AND DEFINING  
23 "UNSAFE EQUIPMENT" TO INCLUDE AN ABSENT OR  
24 MALFUNCTIONING GREASE TRAP OR GREASE INTERCEPTOR;  
25 AMENDING SECTION 16-23, CITY OF GAINESVILLE CODE OF  
26 ORDINANCES CLARIFYING THAT THE CITY'S GENERAL MANAGER  
27 FOR UTILITIES MAY DESIGNATE ENFORCING OFFICIALS FOR  
28 PURPOSES OF THIS CODE; AMENDING SUBSECTION (f) OF  
29 SECTION 16-26, CITY OF GAINESVILLE CODE OF ORDINANCES  
30 CLARIFYING THAT THE ENFORCING OFFICIAL MAY EXTEND TIME  
31 UNDER CERTAIN CIRCUMSTANCES FOR CORRECTION OF A CODE  
32 VIOLATION; AMENDING SECTION 16-27, CITY OF GAINESVILLE  
33 CODE OF ORDINANCES PROVIDING THAT APPEALS RELEVANT TO  
34 UNSAFE EQUIPMENT OR AN ABSENT OR MALFUNCTIONING  
35 GREASE TRAP OR GREASE INTERCEPTOR MAY BE TAKEN TO THE  
36 CITY'S BOARD OF ADJUSTMENT; AMENDING SECTION 16-29, CITY  
37 OF GAINESVILLE CODE OF ORDINANCES BY ADDING A NEW  
38 SUBSECTION (c) CLARIFYING THAT NOTHING IN THIS SECTION  
39 REGARDING LIENS SHALL PRECLUDE THE CITY FROM  
40 EXERCISING OTHER ENFORCEMENT ACTIVITY PROVIDED IN THIS  
41 CODE; AMENDING SECTION 27-180.7(d) CITY OF GAINESVILLE  
42 CODE OF ORDINANCES TO SPECIFY ADDITIONAL ENFORCEMENT  
43 REMEDIES; PROVIDING DIRECTIONS TO THE CODIFIER;  
44 PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING  
45 CLAUSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.  
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1           **WHEREAS**, at least ten (10) days notice has been given of the public hearings  
2 once by publication in a newspaper of general circulation notifying the public of this  
3 proposed ordinance and of the public hearings in the City Commission meeting room,  
4 first floor, City Hall, City of Gainesville; and

5  
6           **WHEREAS**, the public hearings were held pursuant to the published notices  
7 described above at which hearings the parties with interest and all others had an  
8 opportunity to be and were, in fact, heard.

9  
10           **Section 1.** Section 2-377, City of Gainesville Code of Ordinances, is hereby  
11 amended to read as follows:

12 **Sec. 2-377. Applicability; jurisdiction.**

13  
14 (a) The Gainesville Code Enforcement Board shall have jurisdiction to hear and  
15 decide cases in which violations are alleged of any provisions of the following provisions  
16 of this Code of Ordinances as they may exist or may hereafter be amended by  
17 ordinance:

- 18  
19           (1) Chapter 6, Article II, "Building Code";  
20           (2) Chapter 6, Article III, "Electrical Code";  
21           (3) Chapter 6, Article IV, "Plumbing Code";(4) Chapter 6, Article V, "Gas  
22 Code";  
23           (5) Chapter 6, Article VI, "Mechanical Code";  
24           (6) Chapter 6, Article VII, "Swimming Pools";  
25           (7) Chapter 6, Article IX, "Downtown Minimum Property Standards";(8)  
26 Chapter 10, "Fire Prevention and Protection";  
27           (9) Chapter 13, "Housing and Commercial Building Codes";  
28           (10) Chapter 16, Article II, "Dangerous Building and Hazardous Land  
29 Code";  
30           (11) Chapter 16, Article III, "Perilous Land Code";  
31           (12) Chapter 16, Article IV, "Mosquito Breeding Grounds";  
32           (13) Chapter 23, "Streets, Sidewalks and Other Public Places";  
33           (14) Chapter 25, Article III, "Occupational License Tax";  
34           (15) Chapter 26, Article III, Division 5, "Abandoned, Wrecked, Nonoperating  
35 Vehicles";  
36           (16) Chapter 27, Article III, "Garbage and Refuse Disposal";  
37           (17) Chapter 27, Article IV, Sections 27-180 through 27-182.2, "Sewerage";  
38 ~~(17)~~(18) Chapter 30, "Land Development Code";  
39 ~~(18)~~(19) Chapter 14.5, Article II, "Merchandising of Tobacco Products".

40  
41 (b) Any alleged violation of the aforesaid provisions may also be enforced in any  
42 court of competent jurisdiction.

1           **Section 2.** Section 2-378, City of Gainesville Code of Ordinances, is hereby  
2 amended to read as follows:

3  
4           **Sec. 2-378. Definitions**

5  
6 As used in this chapter:

7  
8 *Board* shall mean the Gainesville Code Enforcement Board.

9  
10 *City* shall mean the City of Gainesville, Florida.

11  
12 *Clerk or clerk of the board* shall mean the administrative staff person in the city  
13 responsible for the preparation, development and coordination of all administrative and  
14 case management services necessary for the proper functioning of the board.

15  
16 *Code* shall mean any of the Code of Ordinances of the City of Gainesville, Florida, as  
17 described in section 2-377 above.

18  
19 *Code inspector or code officer* shall mean any employee or other agent of the city  
20 designated by law, ordinance, or the city manager, or the general manager for utilities,  
21 whose duties are to ensure compliance and enforce city codes or ordinances.

22  
23 *Commission* shall mean the city commission which is the legislative body of the City of  
24 Gainesville, Florida.

25  
26           **Section 3.** Section 16-17, City of Gainesville Code of Ordinances, is hereby  
27 amended to read as follows:

28  
29           **Sec. 16-17. Definitions.**

30  
31 For the purposes of this article, the following words, terms and phrases shall have the  
32 meanings ascribed to them in this section, unless the context clearly indicates  
33 otherwise:

34  
35 (a) *Dangerous buildings* shall mean all buildings or structures which have any or all  
36 of the following defects:

37  
38           (1) Those whose interior walls or other structural members list, lean, or buckle,  
39           or the support for which has become damaged or deteriorated, to such an  
40           extent that there is a reasonable likelihood that such walls or other  
41           structural members may fall or give way;

42  
43           (2) Those which have improperly distributed loads upon the floors or roofs or in  
44           which the same are overloaded or which have insufficient strength to be  
45           reasonably safe for the purpose used;

- 1 (3) Those which have been damaged by fire, wind or other causes so as to  
2 have become dangerous to life, safety, or the general health and welfare  
3 of the occupants or the people of the city;
- 4 (4) Those which have become or are so dilapidated, decayed, unsafe,  
5 unsanitary, or which so utterly fail to provide the amenities essential to the  
6 decent living that they are unfit for human habitation, or are likely to cause  
7 sickness or disease, so as to work injury to the health, safety or general  
8 welfare of those living therein;
- 9
- 10 (5) Those having light, air and sanitation facilities which are inadequate to  
11 protect the health, safety, or general welfare of human beings who live or  
12 may work therein;
- 13
- 14 (6) Those having inadequate facilities for egress in case of fire or panic, or  
15 those having insufficient stairways, elevators, fire escapes or other means  
16 of egress, according to the standards in effect when the building was  
17 constructed;
- 18
- 19 (7) Those which have parts thereof which are so attached that there is a  
20 reasonable likelihood they may fall and injure members of the public or  
21 property in general;
- 22
- 23 (8) Those which, because of their condition, are unsafe and are unsanitary or  
24 dangerous to a degree that constitutes a hazard to the health, safety, or  
25 general welfare of the people of this city;
- 26
- 27 (9) Those which are vacant and not sufficiently secured to prevent easy  
28 access to trespassers, loiterers and vagrants;
- 29
- 30 (10) Those which are untended or unkempt to the extent that they pose a  
31 health or safety hazard.
- 32

33 (b) Enforcing official shall mean the city manager of the city, the general manager for  
34 utilities or their respective designees ~~his/her delegate, is the enforcing official.~~

35

36 (c) Excessive growth shall mean vegetation over 12 inches high that is or may  
37 reasonably become infested by pests or may create a fire or safety hazard. Excessive  
38 growth includes vegetation growing from private lands into or across public rights-of-  
39 way, utility easements, sidewalks, drainage ditches, swales or streets. It does not  
40 include the following unless the growth constitutes a fire or safety hazard:

- 41
- 42
- 43 (1) Shrubs, trees or bushes (natural or cultivated) used for landscape purposes;
- 44 (2) Vegetation located on a lot over five acres in area that is in a natural state,  
45 or vegetation that has not been mowed within the past five years; or

- 1 (3) Vegetation located more than 200 feet from the boundary line of an
- 2 improved property, street or public right-of-way; or
- 3 (4) Controlled, managed and maintained low-maintenance natural landscaping;
- 4 or
- 5 (5) The understory of hammocks that are protected through development
- 6 regulations, conditions or agreements, and vegetation within wetlands,
- 7 stormwater retention lake littoral zones, or within 150 feet of a regulated
- 8 creek.
- 9 (6) Land designated agriculture or conservation of the future land use map.

10  
 11 (d) *Hazardous lands* shall mean lands unoccupied as well as occupied upon which  
 12 there exists a condition or conditions dangerous to the health, welfare or safety of the  
 13 public generally, or of the occupants of surrounding properties, or of the occupants of  
 14 such lands, including, but limited to:

- 15 (1) Land upon which there exists an accumulation of material or items stored
- 16 outside of a structure, including, but not limited to, lumber, tires, automobile
- 17 parts, trash, hazardous waste, abandoned personal property, unusable or
- 18 discarded household items, inoperative or discarded machinery or
- 19 equipment, inoperative automobiles, appliances, solid waste, dangerous
- 20 chemicals, explosives or other hazardous substances without sufficient
- 21 protections for the control of same, junk, used scrap, construction or
- 22 demolition materials, tanks, drums, glass, iron or any other material or items
- 23 that may
- 24
- 25 a. Create noxious odors or harmful fumes or particulate.
- 26
- 27 b. Serve as a breeding or nesting place for mosquitoes, rats, mice,
- 28 poisonous snakes, dangerous wild animals, or insect vermin, in such
- 29 manner and to such extent as to pose an immediate danger to the
- 30 public health and safety.
- 31
- 32 c. Contribute to any other unsafe or unsanitary conditions or create a
- 33 dangerous nuisance attractive to children.
- 34
- 35 d. Create a fire, safety or health hazard.
- 36
- 37

38 (2) Land upon which there is excessive growth of vegetation as defined above.

39 (e) *Owner* shall mean any person who, alone, jointly or severally with others, holds  
 40 legal or equitable title to any building or land within the scope of this article and shall  
 41 include the occupant, lessee, mortgagee, or agent and all other persons having an  
 42 interest in said building or land as shown by the records of the clerk of the circuit court  
 43 of Alachua County, Florida.

44  
 45 (f) *Unfit for human occupancy* shall mean in such disrepair as to be unsanitary,  
 46 vermin or rat infested, containing filth or contamination, or lacking ventilation,

1 illumination, sanitary or heating facilities or other essential equipment required by the  
2 housing code, or so located as to constitute a hazard to the occupant of the building or  
3 to the public.

4  
5 (g) *Unsafe building* shall mean a building that is dangerous to the life, health,  
6 property or safety of the public or the occupants by not providing minimum safeguards  
7 to protect or warn occupants in the event of fire, or because such building contains  
8 unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of  
9 such faulty construction or unstable foundation, that partial or complete collapse is  
10 possible.

11  
12 (h) *Unsafe equipment* shall include any absent or malfunctioning grease trap or  
13 grease interceptor, if required by the code, boiler, heating equipment, elevator, moving  
14 stairway, electrical wiring or device, flammable liquid containers or other equipment on  
15 the premises or within the building that is such disrepair or condition that such  
16 equipment is a hazard to life, health, property or safety of the public or occupants of the  
17 premises or building.

18  
19 **Section 4.** Section 16-23, City of Gainesville Code of Ordinances, is hereby  
20 amended to read:

21  
22 **Sec. 16-23. Enforcing official—~~Designation;~~ p Powers and duties.**

23  
24 ~~The city manager or an official designated by the city manager shall be the enforcing~~  
25 ~~official.~~ The enforcing official shall be charged with the duty of administering the  
26 applicable standards and securing compliance therewith. In furtherance of this  
27 responsibility, the enforcing official shall:

- 28  
29 (1) Make such inspections as may be necessary to effectuate the purposes and  
30 intent of this article and to initiate appropriate action to bring about  
31 compliance with this article, if such inspections disclose any instance of  
32 noncompliance.
- 33  
34 (2) Investigate thoroughly any complaints of alleged violations of this article, and  
35 indicate clearly in writing as a public record in this office the disposition made  
36 of such complaints. Only matters or conditions pertinent to this article shall  
37 be considered or reported by the enforcing official in his/her inspection  
38 recommendations.
- 39  
40 (3) Order in writing as set out below the remedy of all conditions or all violations  
41 of the article found to exist in or on any premises; state in the violation order a  
42 time limit for compliance with this article as set out in section 16-25(2)g.
- 43  
44 (4) Request the city attorney to take appropriate legal action upon the failure of  
45 the responsible party to comply with the violation order at the time specified  
46 therein.

1           **Section 5.** Subsection (f) of Section 16-26, City of Gainesville Code of  
2 Ordinances, is amended to read as follows:

3 **Sec. 16-26. Service of notice of violation.**

4  
5 (f) Authority to grant extension of time; procedure:

- 6  
7 (1) The ~~city manager or designee~~ enforcing official shall have the authority  
8 upon good cause shown therefore in writing to grant an extension of time  
9 within which an owner or occupant, may be required to comply with a notice  
10 of violation which has been issued by the enforcing official provided the  
11 written request for the extension of time is presented to the board prior to  
12 the expiration of time originally stated in the written notice of violation.  
13  
14 (2) The authority of the ~~city manager or designee~~ enforcing official in  
15 considering requests for extension of time shall be in each instance limited  
16 to either granting or denying the request for such extension, and shall not be  
17 considered as an appeal from the terms of the notice of violation, and the  
18 ~~city manger or designee~~ enforcing official shall not have authority to modify  
19 or vary the terms of the notice of violation except as to the time of  
20 performance.  
21  
22 (3) In granting or denying the request for extension of time, the ~~city manager or~~  
23 ~~designee~~ enforcing official shall consider such factors as are appropriate,  
24 including the good faith effort to comply, the availability of materials and  
25 workmen necessary, and such other factors as may be deemed appropriate  
26 and consistent with the intent of this article.  
27  
28 (4) All requests for extension of time shall be decided within ten working days  
29 after the filing of the request.  
30  
31 (5) In granting or denying the request, the ~~city manager or designee~~ enforcing  
32 official shall, in each instance, state the reasons therefore and state the  
33 length of time, if it is extended, during which the acts required to be done  
34 shall be completed, which time, in no instance, may be greater than 90 days  
35 after the time period stated in the original notice of violation in the case of  
36 dangerous buildings nor 30 days in case of hazardous land.

37  
38           **Section 6.** Section 16-27, City of Gainesville Code of Ordinances, is hereby  
39 amended to read as follows:

40  
41 **Sec. 16-27. Appeals board; appeals.**

42  
43 (a) *Appeals board.*

- 44  
45 (1) *Established.* There is hereby established an appeals board for dangerous  
46 building, and hazardous land, unsafe equipment, or absent or malfunctioning

1 grease trap or grease interceptor violations. The board of adjustment of the city  
2 shall serve and perform the duties of the appeals board for dangerous building,  
3 and hazardous land, unsafe equipment, or absent or malfunctioning grease trap  
4 or grease interceptor violations under the procedure set forth in this article.  
5

6 (2) *Meetings, minutes, records, voting.* Meetings shall be at the call of the  
7 chairperson and at such other times as the board may determine. The  
8 chairperson, or in his/her absence the vice-chairperson, may administer oaths  
9 and compel the attendance of witnesses. All meetings shall be open to the  
10 public. The appeals board shall keep minutes of its proceedings, including a  
11 summary of the testimony of each person appearing before it; it shall keep  
12 records of its findings and decisions. The vote of each member on each question  
13 shall be recorded, or if absence or failing to vote, the circumstance shall be  
14 noted. The concurrence of not less than three members of the appeals board  
15 shall be necessary to a decision of any question which the board has the power  
16 to determine. All such records shall be public records and the same shall be filed  
17 in the office of the appeals board, which shall, for the purpose of this article, be  
18 the office of the enforcing official.  
19

20 (b) *Appeals procedure.* Appeals to the appeals board for dangerous building, and  
21 hazardous land, unsafe equipment, or absent or malfunctioning grease trap or grease  
22 interceptor violations may be taken by any person aggrieved by any notice which has  
23 been issued in connection with the enforcement of this article or by any officer or bureau  
24 or the governing body of the city affected by any decision of the enforcing official. The  
25 appeals shall be taken within 14 days after the notice of violation was served or action  
26 taken, by filing in the office of the enforcing official a written petition to the board of  
27 appeals for dangerous building, and hazardous land, unsafe equipment, or absent or  
28 malfunctioning grease trap or grease interceptor violations setting forth the grounds  
29 therefor. Upon the receipt of the petition, the appeals board shall set a time and place  
30 for hearing the appeal, but in no case shall the hearing be less than ten days nor more  
31 than 40 days following the receipt of the petition. The enforcing official shall promptly  
32 transmit to the appeals board all papers constituting the record upon which the notice of  
33 violation was issued or action taken. Written notice of the time and place of the hearing  
34 shall be sent by certified mail, return receipt requested, to the person taking the appeal  
35 at least ten days prior to the date of the hearing and public notice of the hearing shall be  
36 published at least once ten days prior to the hearing in a newspaper of general  
37 circulation in the city. At the hearing, any party may appear in person or by agent or  
38 attorney.  
39

40 (c) *Power to sustain, modify or withdraw notice of violation.* After public notice and  
41 public hearing, the appeals board for dangerous building, and hazardous land, unsafe  
42 equipment, or absent or malfunctioning grease trap or grease interceptor violations shall  
43 have the power to sustain, modify or withdraw the notice of violation. The appeals board  
44 shall make findings in writing justifying the exercise of its authority and the same shall  
45 be a part of the permanent record of the case:  
46



1 (1) *Sustaining.* If the appeals board sustains the enforcing official, it shall find:

2  
3 a. That the facts as stated in the written notice of violation are correct  
4 and that the situation covered by the notice is in fact, a violation of the  
5 article; and

6  
7 b. That the remedy stated by the enforcing official in the written notice  
8 of violation is the minimum remedial action which will bring the building,  
9 premises, or the land cited into compliance with this article.

10  
11 (2) *Modification or withdrawal.* If the appeals board shall modify or withdraw  
12 the notice of violation, it shall find the following, as may be applicable to the  
13 specific case:

14  
15 a. That the facts as stated in the written notice of violation are not  
16 correct and that the situation as covered by the notice is not, in fact, a  
17 violation of the article, or that the procedures required of the enforcing  
18 official in this article have not been complied with; and

19  
20 b. That the remedial action required by the enforcing official is not the  
21 minimum remedial action necessary to bring the ~~structure or~~ building,  
22 structure premises or land into compliance with the article and that some  
23 other remedial action, to be stated by the appeals board as a part of the  
24 record of the case, is the minimum action necessary to secure compliance  
25 with this article.

26  
27 (d) *Failure of owner to comply with order.* If the owner fails to comply with the order  
28 entered by the appeals board within the time therein allowed, the enforcing official shall  
29 cause the building, structure or land to be repaired, vacated, demolished or cleaned up,  
30 as the facts may warrant, and shall, with the repairs, vacation, demolition or clean-up to  
31 be paid for by suit at law or charged against the property as otherwise herein provided.

32  
33  
34 **Section 7.** A new subsection (c) is added to Section 16-29, City of Gainesville  
35 Code of Ordinances, to read as follows:

36  
37 (c) The provisions of this chapter are supplemental to and in no way shall preclude  
38 the city from engaging in enforcement activity authorized under Chapter 27 of this Code.

39  
40 **Section 8.** Section 27-180.7(d), City of Gainesville Code of Ordinances, is  
41 hereby amended to read as follows:

42  
43 (d) Remedies Nonexclusive. The remedies provided for in this division are not  
44 exclusive. Generally, enforcement action procedures will be conducted in accordance  
45 with the City of Gainesville Industrial Pretreatment Program Enforcement Response  
46 Plan ("Enforcement Plan") on file in the office of the general manager for utilities or

1 his/her designee, incorporated by reference herein, copies of which are available upon  
2 request. However, the general manager for utilities or his/her designee may take other  
3 action against any user when circumstances warrant and may take more than one  
4 enforcement action against any user in non-compliance with this section including, but  
5 not limited to action under the provision of Chapter 2, Article III, Division 8.  
6

7 **Section 9.** It is the intention of the City Commission that the provisions of the  
8 foregoing sections of this Ordinance shall become and be made a part of the Code of  
9 Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of  
10 this Ordinance may be renumbered or relettered in order to accomplish such intentions.  
11

12 **Section 10.** All ordinances, or parts of ordinances, in conflict herewith are to the  
13 extent of such conflict hereby repealed.  
14

15 **Section 11.** If any portion of this ordinance is declared invalid by a court of  
16 competent jurisdiction, such invalidity shall not affect the remaining portions of this  
17 ordinance.  
18


19 **Section 12.** This ordinance shall take effect immediately upon its adoption.  
20

21 **PASSED and ADOPTED** this 28th day of June, 2004.  
22

23  
24   
25 Pegeen Hanrahan  
26 Mayor  
27

28 ATTEST:  
29   
30 \_\_\_\_\_  
31 Clerk of the Commission  
32

33 Approved as to form and legality.  
34

35   
36 Marion J. Radson  
37 City Attorney  
38

JUN 29 2004

39  
40 This ordinance passed on first reading this 14th day of June, 2004.  
41

42 This ordinance passed on second reading this 28th day of June, 2004.