002562

City of Gainesville

Inter-Office Communication

Department of Community Development
Phone 334-5022, FAX 334-2282, Station 11

Item No. 1

To: **City Plan Board** **Date:** August 15, 2002

From: Planning Division Staff

Subject: **Petition 31TCH-02 PB**. City Plan Board. Amend the Land Development code to add special review criteria for certain industrial uses to be allowed by Special Use Permit.

Recommendation

1. Adopt performance standards for low emission facilities.
2. Establish a special use permit requirement for such industries.
3. Establish large setbacks between high-impact industries and residential areas.

Explanation

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 is attached. These industries were identified by Water & Air Research during their review of the City's allowed industrial uses.

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. (A checklist of some of the regulations with which high-impact industries must comply is attached.)

Additional measures and regulations could include:

1. **Identification of "High-Impact" Industries**. Refine the list of industries that have the potential to be especially hazardous or create unusually large and negative impacts to nearby land uses;
2. **Aggregation Standard.** Within such a list, require spacing between similar industries;
3. **Setbacks.** Require a **substantial** setback between such industries and residential areas;
4. **Performance Standards.** Require industries to comply with locally-adopted, numerical performance standards for noise or air emissions, and "Low Emission Facilities." Establish a performance standard that would allow Low Emission Facilities to be allowed as a use by right instead of by Special Use Permit.
5. **Checklist.** Create a checklist of existing regulations that high-impact industries must comply with.

Identification of "High-Impact" Industries

The City recently funded a study by Water & Air Research, a local consulting firm, to prepare a list of industries that tend to be relatively high-impact in terms of noise, pollution, truck traffic, and similar external impacts. The Land Development Code was amended to move all "high impact" industries into the I-2 (General Industrial) District as a use by special use permit. The I-2 district is the City's highest impact industrial district.

Aggregation Standard

In principle, the assumption that minimizing the aggregation of similar, high-impact industries can sufficiently reduce the additive, cumulative impacts of the concentration of such industries is plausibly effective. However, staff is not aware of any research that has established "aggregation standards" (required separation distance between similar industries). An exhaustive, national search of such a standard failed to turn up any local government that uses such a standard—perhaps because there has been no research conducted to determine appropriate spacing to avoid cumulative impacts by similar and proximate industries. The difficulty in establishing such standards could also be that such a standard would become obsolete due to the rapid pace at which processing technology changes.

An important problem with this approach, in addition to the lack of research, is that to succeed, this approach must assume that all industries have the same impact when clustered with like industries, that environmental factors such as air, soil, water, wind, road, topographic, vegetative conditions are always the same, and that no companies engage in practices which reduce (or increase) their level of impact below (or above) what is normal for the industry.

Clearly, these conditions cannot feasibly be met, meaning that a separation distance must be selected for all types of industries (or an enormous number of differing distances established for the many different industries). After all, industries have different impacts, the environmental conditions in which they are placed will differ, and different companies within the industry will practice different methods to control their external impacts.

An additional problem with an aggregation standard is that it promotes the dispersal of high-impact industries, instead of the common and reasonably effective practice of concentrating such industries in an area that is, among other things, remote from sensitive land uses such as residences or schools. Such dispersal can quite easily conflict with the objective of reducing the negative effects of high-impact industries on sensitive land uses.

Since there are no established "aggregation standard" thresholds for the City to use, staff recommends that the City not establish arbitrary thresholds that may not be defensible.

Setbacks

Establishing setback standards between high-impact industries and sensitive land uses is an easy-to-implement standard. It would allow **all** industrial uses to theoretically locate within the I-2 zoning district. Setback standards would allow the City to avoid the need for costly staff or costly monitoring equipment, and would be easy to enforce through site plan review. In addition, depending on the size of the setback, such a standard can create defacto prohibitions of high-impact industries within city limits.

However, like the aggregation standard, large setbacks applied to all industries and companies can be unfair to those industries or companies that do not create relatively large and negative impacts, where the type of impact is not reduced due to a setback, or where environmental conditions may reduce the need for such setbacks.

Should the City opt for a "large setback from residential" rule, staff recommends a setback wherein no "high-impact" industry shall locate within 2,000 feet of a property zoned for residential use.

The following shows the impact to I-2 zoned properties within the City for a range of different setbacks:

Total number of I-2 parcels within city limits = 336

I-2 parcels **greater than 1,000 feet** from residentially zoned land:

119 parcels (36% of total)

I-2 parcels **greater than 2,000 feet** from residentially zoned land:

46 parcels (14% of total)

I-2 parcels **greater than 5,000 feet** from residentially zoned land:

29 parcels (9% of total)

Performance Standards

"Performance-based" regulations tend to be the most fair and effective way to regulate potentially "high-impact" industries. Such regulations would, for example, state that the industry is allowed as long as it does not emit more than, for instance, 20 pounds of sulfur dioxide annually, or create more than 50 decibels of sound during operation, or create more than 10 vehicle trips per day, or discharge more than 30 gallons of wastewater per day.

This "performance-based" approach is fair because it allows even potentially noxious industry to be established if it agrees to control its impacts to no greater than the performance standards specified by the community as necessary to be a benign land use. If such performance were theoretically possible—even if it were costly to achieve—it would be unfair to prohibit such a use if it were willing to do what was necessary to achieve such standards. In other words, with performance standards, only the irresponsible polluters of an industry are prohibited. Without performance standards, **all** companies within an industry group are prohibited, even if some companies are willing to be responsible, clean, and generally benign. Such a blanket prohibition is not only unfair, but can be harmful to the local economy.

In addition, a performance-based approach to regulating industries allows the City to be able to avoid the impossible, "crystal ball" task of needing to identify all categories of future industries that have not yet been created—many of which will be new, unforeseeable, high-impact industries. With performance-based standards, unforeseen, high-impact future industries do not need to be anticipated. They simply need to abide by the adopted performance standards. By contrast, the conventional approach must be reactive: It must await the creation of new, unforeseen industries, and if such industries are deemed to be high-impact, those industries must quickly be added to the list of specially-regulated industries—usually after the industry has already been granted permission to build within the city, and can, therefore, be "grandfathered" even if new regulations are created to address such a new industry.

While performance standards are extremely beneficial in theory, in practice, they tend to be very costly to implement. Performance standards require more staff training and monitoring equipment than the City has allocated in the past, and probably would require hiring additional staff to monitor or enforce standards. In fact, comments on this petition from the Alachua County Environmental Protection

Department were that, if the performance standards outlined in this petition were adopted, enforcement of such standards would require a substantial amount of staff time.

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.

Low Emission Facilities—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, no more than 1% of the average release of those pollutants reported for that industry, those uses could be allowed by right.

Checklist

The City could establish a checklist enumerating regulations with which high-impact industry must comply. Although high-impact industry must already comply with these regulations to receive approval, a compact checklist would clarify to the City and its citizens, that the regulations have been met. An important limitation to establishing a checklist is that it is very difficult to prepare a comprehensive listing of such regulations, since high-impact industries must comply with a very large and complex set of regulations at the state and federal level—not to mention any regional or local regulations. In addition, such a checklist would quickly become outdated as regulations are amended, added, or deleted.

Summary

1. A **list of high-impact industries** has been established in the Gainesville Land Development Code, although this list will need to be amended over time as new, unforeseen industries emerge, or as existing high-impact industries become more benign.
2. An **aggregation standard** of at least 1,000 feet between high-impact industries within the same industrial category could be established. Such a distance is moderate enough to avoid dispersal problems.
3. A **setback** of at least 2,000 feet could be established between high-impact industries and residential zoning within the City.
4. Additional **performance standards** could be established, although the City would need to work toward incremental establishment of such standards, as funding and time permit. Attached are the existing performance standards, the noise ordinance, the industrial zoning districts, the general special use permit section, and the wellfield special use permit section.
5. An exemption for low emission facilities that release no more than 1% of the average release of pollutants reported for that industry could be established.

Respectfully submitted,

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RH:DN

Recommended Text Changes

Article VI. Specially Regulated Uses

Sec. 30-XXX. Specially Regulated Industries

(a) **Intent.** Certain industrial uses can be considered "high-impact" because they have the potential to produce levels of air, water, soil, truck, and noise pollution that are substantial, and their presence near residential, office, or retail uses has the potential to seriously diminish the quality of life for such nearby uses, create significantly objectionable nuisances, or otherwise endangers humans, activities, or natural resources. This is particularly true when certain industries are concentrated in an area. Concentration of like industries can deliver impacts that become a serious problem when they become cumulative. Special regulation, including the authority to deny a permit for such industrial uses, shall be vested in the City when such industrial uses seek to operate within city limits.

Special regulation and additional review of these industrial uses is necessary to prevent substantial financial or environmental harm to neighborhoods. Special care is necessary to control the approval, location, design, and methods of operation.

(b) Exemptions: Uses or developments that will result in releases of pollutants to the air or water no more than 1% of the average release of those pollutants reported for that industry shall be exempt from the SUP process and the provisions of this section.

(c) **Definitions.**

Specially Regulated Industry. Any industry identified by the 2001 study conducted for the City by Water and Air Research as justifying a "special use permit" classification by the City, as well as any additional industries subsequently identified by the City and listed as a "Specially Regulated Industry" in the Gainesville Land Development Code.

List of Specially Regulated Industries

Mining and quarrying of nonmetallic minerals, except fuels (MG-14)
Cigarettes (IN-2111)
Cotton finishing plants (IN-2261)
Packaging—coated and laminated paper (IN-2671)
Gravure commercial printing (IN-2754)
Synthetic rubber (IN-2822)
Medicinals and botanicals (IN-2833)
Cyclic crudes and intermediates (IN-2865)
Explosives (IN-2892)
Carbon black (IN-2895)
Asphalt paving mixtures and blocks (IN-2951)
Flat glass (IN-3211)
Glass containers (IN-3221)
Pressed and blown glass (not elsewhere classified) (IN-3229)
Brick and structural clay tile (IN-3251)
Ceramic wall and floor tile (IN-3253)
Clay refractories (IN-3255)

Structural clay products (not elsewhere classified) (IN-3259)
Virteous plumbing fixtures (IN-3261)
Virteous china food utensils (IN-3262)
Gypsum products (IN-3275)
Ground or treated minerals (IN-3295)
Gray iron foundries (IN-3321)
Copper rolling and drawing (IN-3351)
Aluminum extruded products (IN-3354)
Aluminum rolling and drawing (IN-3355)
Aluminum die-casting (IN-3363)
Copper foundries (IN-3366)
Nonferrous forgings (IN-3463)
Metal coatings and allied services (IN-3479)
Industrial inorganic chemicals (not elsewhere classified) (IN-2819)
Industrial organic chemicals (not elsewhere classified) (IN-2869)
Plastics materials and resins (IN-2821)

(d) **Spacing**. "Specially regulated industries" shall not be located closer than 2,000 feet from residentially-zoned or designated property.

(e) **Existing establishments**. Any "specially regulated industry" which, on the date of this section is in operation and which in all other respects is in full compliance with applicable laws and ordinances of the city, but which would otherwise not be permitted under the terms of this section, shall then become a permitted nonconforming use. Such uses may continue as nonconforming uses when in conformance with Sec. 30-346, Nonconforming lots, uses or structures.

(f) **Exception to spacing requirement**. Any use defined as a "specially regulated industry" which is established in conformity with this section and other applicable laws and ordinances shall not be made unlawful if, subsequent to the establishment of such a use, a residence, office, or retail use is established within the distance limitations for the "specially regulated industry."

(g) **Compliance with other federal, state, regional, and local regulations**. The use shall abide by all Federal, State, Regional, and Local Regulations.

(h) **Submittal requirements**. The applicant for a "specially regulated industry" 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 levels), odor levels, and glare impacts to nearby properties. This report shall be submitted to the City and the Alachua County Department of Environmental Protection. The engineer(s) shall certify 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) shall also certify that "Best Available Technology" is being used to control impacts from the "specially regulated industry."

**Options include having the City farm out the environmental certification to another agency, or requiring the applicant to hire their own consultant.

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Example of some of the regulations that would be included in a Regulatory Checklist that High-Impact Industries Must Already Abide By

Checklist* for Several High-Impact Industries

	Yes	No	N.A.
Water			
1.1 If the facility needs process water, will the facility use municipal groundwater (from off-site, public wells) instead of on-site groundwater (from a private well) for a source of process water?			
1.2 Does the facility comply with all requirements of the Alachua County Murphree Well Field Protection Code?			
1.3 If the facility uses on-site groundwater from a private well, has the facility obtained a Consumptive Use Permit from the appropriate Regional Water Management District?			
1.4 Unless the facility meets the criteria in Sec. 30-202, has facility obtained a City of Gainesville Wellfield Special Use Permit?			
Wastewater			
2.1 Will the facility discharge industrial wastewater on-site?			
2.2 Classification of Industrial User: Categorical Industrial User, Significant Industrial User, Minor Industrial User			
2.3 If necessary, has the facility obtained an Industrial Waste Water Discharge Permit from the Gainesville Regional Utilities?			
Stormwater			
3.1 If necessary, has the facility obtained an NPDES Stormwater Discharge Permit from the FDEP?			
3.2 Will the facility's activities require a National Pollution Discharge Elimination System (NPDES) Stormwater Discharge Permit?			
Operations/Risk Management			
4.1 If necessary, have the hazards for chemicals at the facility have been identified?			
4.2 If necessary, has the facility developed Maintenance and Inspection Procedures for equipment, instrumentation, and storage systems?			
4.3 If necessary, has the facility developed Line Break and Hot Work Permit procedures?			
4.4 If necessary, does the facility periodically audit management and compliance systems?			
4.5 If necessary, does the facility maintains written Standard Operating Procedures for manufacturing operations?			
4.6 If necessary, has the facility developed an Employee Training system for the safe operation of processes?			
4.7 If necessary, has the facility developed an Accident Investigation system?			
4.8 If necessary, has the facility developed an Emergency Response Plan?			
4.9 If necessary, does the facility maintain a list of process related equipment?			

4.10 If necessary, has the facility developed a system to manage change to manufacturing processes?			
4.11 If necessary, has the facility developed an Emergency Alert system for the surrounding community?			
4.12 If necessary, has the facility developed a Community Information Exchange program?			

*From Clariant, 2/14/02.

district or which is shown for residential use on the future land use map of the comprehensive plan: 50 feet.

c. Side, street: 25 feet.

d. Rear: Ten feet, except:

1. Where the rear yard abuts and is used for access to a railroad siding: Zero feet.

2. Where the rear yard abuts property which is in a residential district or which is shown for residential use on the future land use map of the comprehensive plan: 50 feet.

(2) Within 100 feet of any property which is in a residential district or which is shown for residential use on the future land use map of the comprehensive plan, all activity and uses except storage of equipment and parking shall be conducted within completely enclosed structures.

(3) Residential development must conform to the requirements of the RMF-6, RMF-7 or RMF-8 zoning districts. If W zoning abuts a single-family residential zoning district, the residential development must be limited to RMF-6 within 100 feet of the boundary line between the two districts. The multifamily development must provide bufferyards meeting the requirements for single-family adjacency and must provide parking in accordance with multifamily development.

(4) Compound uses shall require a minimum lot of 4,300 square feet and a minimum lot width of 50 feet. Compound uses shall meet the nonresidential parking requirements for the use anticipated, plus a driveway for a single dwelling, or one space for each bedroom of multifamily dwellings.

(e) *General requirements.* All structures and uses within this district shall also comply with the applicable requirements and conditions of section 30-71 and article IX.

(Ord. No. 3777, § 1, 6-10-92; Ord. No. 3963, § 9, 3-14-94; Ord. No. 960431, § 1, 12-9-96; Ord. No. 960694, § 1, 2-24-97; Ord. No. 980105, §§ 1—3, 8-24-98)

Sec. 30-69. Limited industrial district (I-1).

(a) *Purpose.* The I-1 district is established for the purpose of providing sufficient space in appropriate locations physically suitable for the development of certain types of retail-commercial sales and services, as well as research operations, wholesale or storage distribution concerns, and enterprises engaged in light manufacturing, processing or fabrication of products and machinery. This district contains those industries which generally are not objectionable because of noise, heavy truck traffic or fumes, or which generate nuisances which may be mitigated adequately by performance standards. In many instances, this district serves as a transition zone between intensive industrial activities and uses that are relatively sensitive to nuisance, such as residential and commercial areas and arterial streets.

(b) *Objectives.* The provisions of this district are intended to:

(1) Accommodate enterprises with functions requiring access to transportation services by providing them with locations that are in close proximity to necessary transportation facilities such as major thoroughfares, railroads or air terminals for the reception and eventual distribution of their goods or services;

(2) Promote, through development plan approval, the most efficient use of the land used for such development, as well as a harmonious relationship between such development and the land;

(3) Require appropriate buffering or screening around such development, to maintain its compatibility with surrounding land uses;

(4) Encourage such future development to occur on vacant land where the natural characteristics of such land are suitable for this type of development; and

(5) Require such development to occur where public facilities and services are existing or are within plans for improvement.

(c) *Permitted uses.*

(1) *Uses by right.*

a. Wholesale trade (Div. F), excluding the following: scrap and waste materials (IN-5093); construction and mining machinery and equipment (IN-5082); transportation equipment and supplies, except motor vehicles (IN-5088); and petroleum and petroleum products (GN-517).

b. Lumber and other building material dealers (GN-521).

c. Construction (Div. C), excluding heavy construction other than building construction contractors (MG-16).

d. Printing, publishing and allied industries (MG-27), excluding gravure commercial printing (IN-2754).

e. Railroad transportation (MG-40).

f. Local and suburban transit and interurban highway passenger transportation (MG-41).

g. Motor freight transportation and warehousing (MG-42).

h. U.S. Postal Service (MG-43).

i. Transportation services (MG-47).

j. Business services (MG-73).

k. Miscellaneous manufacturing industries (MG-39).

l. Measuring, analyzing and controlling instruments; photographic, medical and optical goods; watches and clocks (MG-38).

m. Communications (MG-48).

n. Food and kindred products (MG-20), excluding the following: wet corn milling (IN-2046), raw cane sugar (IN-2061), and beet sugar (IN-2063).

o. Textile mill products (MG-22), excluding cotton finishing plants (IN-2261).

p. Wood containers (GN-244).

q. Apparel and other finished products made from fabrics and similar materials (MG-23).

r. Eating places.

s. Personal services (MG-72).

t. Automotive repair, services and parking (MG-75).

u. Miscellaneous repair services (MG-76).

v. Outdoor storage in accordance with Article VI.

w. Nonstore retailers (GN-596).

x. Public service vehicles, in accordance with the conditions and requirements of Article VI.

y. Gasoline service stations (GN-554), in accordance with the conditions and requirements of Article VI.

z. Landscape and horticultural services (GN-078).

aa. Veterinary services (GN-074), in accordance with the conditions and requirements of Article VI.

bb. Animal specialty services (IN-0752).

cc. Farm labor and management services (GN-076).

dd. Building materials, hardware, garden and mobile home dealers (MG-52).

ee. Reserved.

ff. Reserved.

gg. Auto and home supply stores (GN-553).

hh. Boat dealers (GN-555).

ii. Motorcycle dealers (GN-557).

jj. Automotive dealers, not elsewhere classified (e.g., aircraft, go-carts) (GN-559).

kk. Fuel dealers (GN-598).

ll. Carwashes (IN-7542), in accordance with Article VI.

mm. Membership sports and recreation clubs (IN-7997).

nn. Amusement and recreation services, not elsewhere classified (IN-7999), excluding go-cart raceway operations and go-cart rental (see special use permit).

oo. Engineering, architectural and surveying services (GN-871).

pp. Noncommercial research organizations (IN-8733).

qq. Home furniture, furnishings and equipment stores (MG-57).

rr. Any accessory use incidental to any permitted principal use.

ss. Miscellaneous wood products (GN-249).

tt. Accounting, auditing and bookkeeping services (GN-872).

uu. Bowling centers (GN-793).

vv. Furniture and fixtures (MG-25).

ww. Converted paper and paperboard products, except containers and boxes (GN-267), excluding coated and laminated paper packaging (IN-2671).

xx. Paperboard containers and boxes (GN-265).

yy. Drugs (GN-283), excluding medicinals and botanicals (IN-2833).

zz. Soap, detergents and cleaning preparations, perfumes, cosmetics and other toilet preparations (GN-284).

aaa. Leather and leather products (MG-31).

bbb. Glass products, made of purchased glass (GN-323).

ccc. Cut stone and stone products (GN-328).

ddd. Sheetmetal work (IN-3444).

eee. Farm and garden machinery and equipment (MG-352).

fff. Electronic and other electrical equipment and components, except computer equipment (MG-36).

ggg. Meat and fish (seafood) markets, including freezer provisioners (GN-542).

hhh. Fruit and vegetable markets (GN-543).

iii. Job training and vocational rehabilitation services (GN-833).

jjj. Millwork, veneer, plywood and structural wood members (GN-243).

kkk. Used merchandise stores (GN-593), only within enclosed buildings.

lll. Ice dealers.

mmm. Facilities on premises for security personnel.

nnn. Motor vehicle dealers (new and used) (IN-5511).

ooo. Research, development and testing services (GN-873).

ppp. Air courier services (IN-4513).

qqq. Corporate offices.

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

a. Transmitter towers.

b. Sale of used rental vehicles as an accessory use to automotive rental and leasing, without drivers (GN-751), with the following conditions and limitations:

1. *Permits.* It shall be unlawful to conduct such sale without first obtaining a permit from the

building official indicating compliance with the provisions of this section.

2. *Sales.* Only two sales are permitted in any 365-day period, and each such sale may not extend beyond seven consecutive days.

3. *Motor vehicles.* Only motor vehicles owned by the person or entity actually operating the principal use, and leased from the subject location, may be offered for sale.

4. *Signs.* No signs or street graphics are permitted which indicate that motor vehicles are offered for sale with the exception of signs affixed to the motor vehicles which shall not exceed one sign per vehicle and one square foot in area.

c. Alcoholic beverage establishments.

d. Wholesale trade: petroleum and petroleum products (GN-517).

e. Recycling centers.

f. Hazardous materials recycling.

g. Go-cart raceway operations and go-cart rentals.

h. Rehabilitation centers.

(d) *Dimensional requirements.* All principal and accessory structures shall be located and constructed in accordance with the following requirements:

(1) Minimum yard setbacks:

a. Front: 25 feet.

b. Side, interior: Ten feet.

1. Except where the side yard abuts and is used for access to a railroad siding: Zero feet.

2. Except where the side yard abuts property which is in a residential district or which is shown for residential use on the future land use map of the comprehensive plan: 50 feet.

c. Side, street: 25 feet.

d. Rear: Ten feet.

1. Except where the rear yard abuts and is used for access to a railroad siding: Zero feet.

2. Except where the rear yard abuts property which is in a residential district or which is shown for residential use on the future land use map of the comprehensive plan: 50 feet.

(2) Within 100 feet of any property which is in a residential district or which is shown for residential use on the future land use map of the comprehensive plan, all activity and uses except storage of equipment and parking shall be conducted within completely enclosed structures.

(e) *Additional requirements.*

(1) *General conditions.* All structures and uses within this district shall also comply with the applicable requirements and conditions of section 30-71 and Article IX.

(2) *Standards for manufacturing uses.* All permitted manufacturing uses (classified as MG-20 through MG-39 of the Standard Industrial Classification Manual) shall conform to the following additional standards:

a. The manufacturing use shall be limited to the fabrication, manufacture, assembly or processing of materials which are, for the most part, already in processed form.

b. All activity and uses except storage, loading and unloading operations, and parking shall be conducted within completely enclosed structures.

c. Night operations, including loading and unloading, are prohibited within 100 feet of the property line of any residential zoning district or area which is shown for residential use on

the future land use map of the comprehensive plan, unless conducted within a completely enclosed building which has no openings other than stationary windows or required fire exits within the 100-foot area. Night operations are those conducted between the hours of 9:00 p.m. and 6:00 a.m. This prohibition shall not apply to night watchmen or other security operations.

(Ord. No. 3777, § 1, 6-10-92; Ord. No. 3835, § 1, 2-15-93; Ord. No. 3847, § 1, 3-15-93; Ord. No. 3950, § 1, 1-24-94; Ord. No. 3963, § 10, 3-14-94; Ord. No. 001917, § 1, 12-13-01)

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

(a) *Purpose.* The I-2 district is established for the purpose of providing areas in appropriate locations where various heavy and extensive industrial operations can be conducted without creating hazards or property devaluation to surrounding land uses. It is generally inappropriate to locate this district adjacent to residential zoning districts or most arterial streets.

(b) *Objectives.* The provisions of this district are intended to:

(1) Accommodate enterprises with functions requiring access to transportation services by providing them with locations that are in close proximity to necessary transportation facilities such as major thoroughfares, railroads or air terminals for the reception and eventual distribution of their goods or services;

(2) Promote, through development plan approval, the most efficient use of the land used for such development, as well as a harmonious relationship between such development and the land;

(3) Require appropriate buffering or screening around such development, to maintain its compatibility with surrounding land uses;

(4) Encourage such future development to occur on vacant land where the natural characteristics of such land are suitable for this type of development; and

(5) Provide policies which will require such development to occur where public facilities and services are existing or are within plans for improvement.

(c) *Permitted uses.*

(1) *Uses by right.*

a. Food and kindred products (MG-20), excluding the following: wet corn milling (IN-2046); raw cane sugar (IN-2061); beet sugar (IN-2063); soybean oil mills (IN-2075); and distilled liquor (IN-2085).

b. Tobacco products (MG-21), excluding cigarettes (IN-2111).

c. Textile mill products (MG-22), excluding cotton finishing plants (IN-2261).

d. Apparel and other finished products made from fabrics and similar materials (MG-23).

e. Lumber and wood products, except furniture (MG-24).

f. Furniture and fixtures (MG-25).

g. Paper and allied products (MG-26), excluding the following: pulp mills (IN-2611); paper mills (IN-2621); paperboard mills (IN-2631); and packaging—coated and laminated paper (IN-2671).

h. Printing, publishing, and allied industries (MG-27), excluding gravure commercial printing (IN-2754).

i. Chemicals and allied products (MG-28), excluding the following: alkalis and chlorine (IN-2812); inorganic pigments (IN-2816); cellulosic manmade fibers (IN-2823); noncellulosic organic fibers (IN-2824); gum and wood chemicals (IN-2861); nitrogenous fertilizers (IN-2873); phosphatic fertilizers (IN-2874); synthetic rubber (IN-2822); medicinals and botanicals (IN-

2833); cyclic crudes and intermediates (IN-2865); explosives (IN-2892); and carbon black (IN-2895).

j. Petroleum refining and related industries (MG-29), excluding the following: petroleum refining (IN-2911); petroleum and coal products (not elsewhere classified) (IN-2999); and asphalt paving mixtures and blocks (IN-2951).

k. Rubber and miscellaneous plastics products (MG-30).

l. Leather and leather products (MG-31).

m. Stone, clay, glass, and concrete products (MG-32), excluding the following: hydraulic cement (IN-3241); lime (IN-3274); flat glass (IN-3211); glass containers (IN-3221); pressed and blown glass (not elsewhere classified) (IN-3229); brick and structural clay tile (IN-3251); ceramic wall and floor tile (IN-3253); clay refractories (IN-3255); structural clay products (not elsewhere classified) (IN-3259); vitreous plumbing fixtures (IN-3261); vitreous china food utensils (IN-3262); gypsum products (IN-3275); and ground or treated minerals (IN-3295).

n. Primary metal industries (MG-33), excluding the following: steel works, blast furnaces, and rolling mills (IN-3312); electrometallurgical products (IN-3313); primary copper (IN-3331); primary aluminum (IN-3334); primary nonferrous metals (not elsewhere classified) (IN-3339); secondary smelting and refining of nonferrous metals (IN-3341); gray iron foundries (IN-3321); copper rolling and drawing (IN-3351); aluminum extruded products (IN-3354); aluminum rolling and drawing (IN-3355); aluminum die-castings (IN-3363); and copper foundries (IN-3366).

o. Fabricated metal products, except machinery and transportation equipment (MG-34), excluding the following: nonferrous forgings (IN-3463); and metal coatings and allied services (IN-3479).

p. Industrial and commercial machinery and computer equipment (MG-35).

q. Electronic and other electrical equipment and components, except computer equipment (MG-36).

r. Transportation equipment (MG-37).

s. Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks (MG-38).

t. Miscellaneous manufacturing industries (MG-39).

u. Construction (Div. C).

v. Transportation, communications, electric, gas and sanitary services (Div. E).

w. Wholesale trade (Div. F), excluding junkyards and salvage yards.

x. Building materials, hardware, garden supply and mobile home dealers (MG-52).

y. Fuel dealers (GN-598).

z. Business services (MG-73).

aa. Automotive repair, services and parking (MG-75).

bb. Miscellaneous repair services (MG-76).

cc. Reserved.

dd. Landscape and horticultural services (GN-078).

ee. Eating places.

ff. Personal services (MG-72).

gg. Outdoor storage.

hh. Veterinary services (GN-074), in accordance with the conditions and requirements of Article VI.

ii. Animal services, except veterinary (GN-075).

jj. Nonstore retailers (GN-596).

kk. Public service vehicles in accordance with the conditions and requirements of Article VI.

ll. Farm labor and management services (GN-076).

mm. Car washes (IN-7542).

nn. Membership sports and recreation clubs (IN-7997).

oo. Amusement and recreation services, not elsewhere classified (IN-7999), excluding go-cart raceway operations and go-cart rentals.

pp. Noncommercial research organizations (IN-8733).

qq. Engineering, architectural and surveying services (IN-871).

rr. Any accessory use incidental to a permitted principal use.

ss. Legal services (MG-81).

tt. Motion picture production and allied services (GN-781); motion picture distribution and allied services (GN-782).

uu. Bowling centers and billiard and pool establishments (GN-793).

vv. Recycling centers, in accordance with Article VI.

ww. Research, development and testing service (GN-873).

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

a. Transmitter towers.

b. Junkyards and salvage yards.

c. Gasoline service stations (GN-554).

d. Go-cart raceway operations and go-cart rentals.

e. Alcoholic beverage establishments.

f. Mining and quarrying of nonmetallic minerals, except fuels (MG-14).

g. Cigarettes (IN-2111).

h. Cotton finishing plants (IN-2261).

i. Packaging—coated and laminated paper (IN-2671).

j. Gravure commercial printing (IN-2754).

k. Synthetic rubber (IN-2822).

l. Medicinals and botanicals (IN-2833).

m. Cyclic crudes and intermediates (IN-2865).

n. Explosives (IN-2892).

o. Carbon black (IN-2895).

p. Asphalt paving mixtures and blocks (IN-2951).

q. Flat glass (IN-3211).

r. Glass containers (IN-3221).

s. Pressed and blown glass (not elsewhere classified) (IN-3229).

t. Brick and structural clay tile (IN-3251).

u. Ceramic wall and floor tile (IN-3253).

v. Clay refractories (IN-3255).

w. Structural clay products (not elsewhere classified) (IN-3259).

x. Vitreous plumbing fixtures (IN-3261).

y. Vitreous china food utensils (IN-3262).

z. Gypsum products (IN-3275).

aa. Ground or treated minerals (IN-3295).

bb. Gray iron foundries (IN-3321).

cc. Copper rolling and drawing (IN-3351).

dd. Aluminum extruded products (IN-3354).

ee. Aluminum rolling and drawing (IN-3355).

ff. Aluminum die-castings (IN-3363).

gg. Copper foundries (IN-3366).

hh. Nonferrous forgings (IN-3463).

ii. Metal coatings and allied services (IN-3479).

jj. Industrial inorganic chemicals (not elsewhere classified) (IN-2819)

kk. Industrial organic chemicals (not elsewhere classified) (IN-2869)

ll. Plastics materials and resins (IN-2821).

(d) *Dimensional requirements.* All principal and accessory structures shall be located and constructed in accordance with the following requirements:

(1) Minimum yard setbacks:

a. Front: 25 feet.

b. Side, interior: 20 feet.

1. Except where the side yard abuts and is used for access to a railroad siding: Zero feet.

2. Except where the side yard abuts property which is in a residential district or which is shown for residential use on the future land use map of the comprehensive plan: 50 feet.

c. Side, street: 25 feet.

d. Rear: Ten feet.

1. Except where the rear yard abuts and is used for access to a railroad siding: Zero feet.

2. Except where the rear yard abuts property which is in a residential district or which is shown for residential use on the future land use map of the comprehensive plan: 50 feet.

(2) Within 100 feet of any property which is in a residential district or which is shown for residential use on the future land use map of the comprehensive plan, all activity and uses except storage of equipment and parking shall be conducted within completely enclosed structures.

(e) *General requirements.* All structures and uses within this district shall also comply with the applicable requirements and conditions of section 30-71 and Article IX.

(Ord. No. 3777, § 1, 6-10-92; Ord. No. 3963, § 11, 3-14-94; Ord. No. 001917, § 2, 12-13-01)

Sec. 30-71. General provisions for industrial districts.

(a) *Development plan approval.* Prior to the issuance of a building permit for development in any industrial district, development plan approval, in accordance with the provisions of Article VII, is required.

(b) *Access to industrial uses.* Where a parcel of property used for nonresidential use in any industrial district abuts more than one street, access from either street to such property will be permitted only if no property in any RSF-1, RSF-2, RSF-3, RSF-4 or RC district or shown for single-family residential use on the future land use map of the comprehensive plan lies immediately across such street from such industrial-zoned property; provided, however, access may be permitted from any collector or arterial as shown in the comprehensive plan; and provided, further, that one point of access shall be permitted in any case, notwithstanding other provisions of this subsection.

(c) *Parking.* In order to receive and maintain a valid certificate of occupancy within all industrial districts, the parking requirements shall be complied with as set forth in Article IX.

(d) *Landscaping.* In order to receive and maintain a valid certificate of occupancy within all industrial districts, the landscaping requirements shall be complied with as set forth in Article VIII.

(e) *Signs.* In order to receive and maintain a valid certificate of occupancy within all industrial districts, the sign requirements shall be complied with as set forth in Article IX.

(f) *Flood control.* Prior to the issuance of a building permit in any industrial district, the provisions of the flood control district, Article VIII, shall be complied with where applicable. (Ord. No. 3777, § 1, 6-10-92; Ord. No. 3963, § 12, 3-14-94)

DIVISION 6. SPECIAL USE DISTRICTS

Sec. 30-72. Agriculture district (AGR).

(a) *Purpose.* The AGR district is established for the purpose of providing for a diversity of agricultural activities, including limited processing and sale of agricultural products raised on the premises and including some agricultural activities which may be objectionable if conducted in close proximity to residential developments.

(b) *Objectives.* The provisions of this district are intended to:

(1) Protect watersheds, wilderness and scenic areas and conserve wildlife, as well as preserve open space;

(2) Promote forestry, the growing of crops and grazing;

(3) Provide for spacious developments; and

(4) Encourage the orderly expansion of urban development.

(c) *Permitted uses.*

SIC	*Uses*	*Conditions*
	USES BY RIGHT	
	Any accessory use customarily incidental to any permitted principal use	
	Community residential homes	In accordance with article VI
	Golf driving ranges	Without night lighting
	Public parks, playgrounds and recreation facilities	
	Sale of agricultural products and commodities which are raised exclusively on the premises, including retail roadside sales of such products and commodities	Temporary structures, defined as those structures in place for no more than two months within any six-month period, are permitted within the required front yard setback when used in conjunction with such retail roadside sales.
	Single-family dwellings, one unit per five acres	
Div. A	Agricultural, forestry and fishing uses	
GN-214	Tobacco stemming and redrying	
IN-7992	Public golf courses	Without night lighting
IN-7997	Membership sports and recreation clubs	Except shooting and gun clubs
	USES BY SPECIAL USE PERMIT	
	Places of religious assembly	
	Transmitter towers	
GN-726	Funeral service and crematories	
IN-7997	Outdoor gun club	In accordance with conditions below

(d) *Dimensional requirements.* All principal and accessory structures shall be located and constructed in accordance with the following requirements:

(1) Minimum lot area: Five acres.

(2) Minimum lot width at minimum front yard setback: 300 feet.

(3) Minimum lot depth: 300 feet.

(4) Minimum yard setbacks:

a. Front: 50 feet.

subdivision meets all the requirements of this chapter and has been approved in accordance with the requirements provided in this chapter. The city or any aggrieved person may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this chapter, including injunctive relief to enjoin and restrain any person from violating the provisions of this chapter, and any rules and regulations adopted under this chapter.

(b) *Building permits and certificates of occupancy.* No building permit or certificate of occupancy shall be issued for any lot or parcel of land subject to the provisions of this chapter, except as follows:

(1) If the lot or parcel is within a subdivision for which a final plat has been approved by the city commission and recorded and the required improvements have been installed and accepted for maintenance by the city, both a building permit and a certificate of occupancy may be issued.

(2) If the lot or parcel is within a subdivision for which a final plat has been approved by the city commission and recorded and security for the required improvements has been provided by the developer in accordance with section 30-186 of this article, a building permit may be issued, but no certificate of occupancy may be issued unless the city manager determines that all required subdivision improvements serving such lot or parcel have been satisfactorily completed and that reasonable ingress and egress can be provided to the lot or parcel and the remaining portions of the subdivision until all improvements are complete and the required maintenance bond is received and approved.

(3) If the lot or parcel is within a minor subdivision which has been approved by the director of community development, city engineer, city traffic engineer and deputy manager for utilities (or their designees) in accordance with the provisions of this chapter.

(4) If the lot or parcel is part of a legal lot split which has been approved by the city manager or designee in accordance with the provisions of this chapter.

(5) If the lot or parcel is a nonconforming lot as provided in article IX.

(c) *Violations.* Any person who, in connection with a subdivision of lands, shall do or authorize any clearing and grubbing, or shall lay out, construct, open or dedicate any street, sanitary sewer, storm sewer, water main or drainage structure, or shall erect any building or transfer title to any land or building, without having first complied with the provisions of this chapter, or who performs any of such actions contrary to the terms of an approved subdivision plat, or who otherwise violates this chapter, shall be guilty of an offense. Each day that the violation continues shall constitute a separate violation.
(Ord. No. 3777, § 1, 6-10-92; Ord. No. 4012, § 2 8-22-94)

Secs. 30-194—30-199. Reserved.

DIVISION 3. WELLFIELD PROTECTION SPECIAL USE PERMIT

Sec. 30-200. Purpose.

(a) Purpose. This division is established for the purpose of protecting the immediate and long-term supply of potable water in the community by creating a permit procedure for uses and developments within the Murphree Wellfield Protection Zones (a/k/a/ Murphree Wellfield Management Zones) as delineated in the Alachua County Code of Ordinances, as may be amended from time to time, and to provide the standards by which the applications for permits for uses and development shall be evaluated.

(b) It is further intended that wellfield protection special use permits be required for developments which require special care in the control their location, design and methods of operation in order to ensure conformance with the city's comprehensive plan and Alachua County Murphr

Wellfield Management Code (a/k/a Murphree Wellfield Protection Code), as may be amended from time to time.
(Ord. No. 990193, § 1, 11-8-99)

Sec. 30-201. Permit required.

Within the primary, secondary and tertiary wellfield protection (management) zones of Alachua County, all new development, except for uses which are allowed within the residential zoning districts as provided in section 30-41(a)(1) and uses exempted under section 30-202 (hereinafter "exempt use"), shall be required to obtain a wellfield protection special use permit from the city commission. In addition, all existing development which requires any level of development plan review for expansion or changes at a site shall be required to obtain a wellfield protection special use permit unless the development is an exempt use.
(Ord. No. 990193, § 1, 11-8-99)

Sec. 30-202. Exemptions.

(a) Any proposed uses or development associated with the Murphree Water Treatment Plant, or electric transmission and distribution systems or generally the provision of utility service by a government-owned utility shall be exempt from the wellfield protection special use permit requirements.

(b) Exemptions from the permit requirements in section 30-201 shall be allowed for uses and developments that meet all of the following criteria:

(1) The use or development is connected to the Gainesville Regional Utilities centralized potable water and wastewater systems; or, if connected to a septic tank, all of the waste produced by the development is domestic and the septic tank meets all applicable state and local regulations.

(2) There is no manufacture, storage, use, or sale of hazardous materials at the site or development as defined and regulated in the Alachua County Hazardous Materials Code, other than hazardous materials excluded from the provisions of the hazardous materials code, as may be amended from time to time.

(3) There has been proper abandonment, as regulated by the relevant water management district or state agency, of any unused wells or existing septic tanks at the site. An existing septic tank may remain if it is used for domestic waste only and if it meets all applicable state and local regulations.

(4) There is no current or proposed underground storage of petroleum products at the development site.

(5) The use is consistent with the city's comprehensive plan and land development code and meets all other applicable federal, state and county regulations.
(Ord. No. 990193, § 1, 11-8-99)

Sec. 30-203. Criteria for issuance.

No wellfield protection special use permit shall be approved by the city commission unless the following findings are made concerning the proposed special use:

(1) That the proposed use or development will not endanger the city's potable water supply.

(2) That necessary public utilities are available to the proposed site and have adequate capacity to service the proposed use and development.

(3) That the use or development conforms to the city's comprehensive plan.

(4) That the proposed use complies with all federal, state and local laws, rules, regulations, and ordinances now and hereafter in force which may be applicable to the use of the site.

(5) That the proposed use is not exempt under section 30-202 of this Code.
(Ord. No. 990193, § 1, 11-8-99)

Sec. 30-204. Procedures for approval.

(a) *Application submittal requirements.* Applications will be filed with the city manager or designee on the form prescribed. Applications must include a preliminary development plan, unless it is determined that such plan is not necessary in accordance with subsection (d) below. Any incomplete applications will be returned to the applicant.

(b) *Preliminary conference with applicant.* The applicant for a wellfield protection special use permit shall meet with staff to discuss the procedures and requirements and to consider the elements of the proposed use and site, and the proposed site plan. The applicant shall indicate whether any of the items required for a preliminary development plan are inapplicable or irrelevant to the proposed special use permit.

(c) *Report to city plan board.* The staff shall submit to the city plan board a written analysis of the application and a recommendation based on the findings required in sections 30-202 and 30-203 and development plan review process in Article VII. The city plan board shall forward a recommendation on the special use permit to the city commission.

(d) *Exception to preliminary development plan.* If any of the items required for the preliminary development plan are inapplicable or irrelevant to a proposed development, such item may be omitted upon approval of the appropriate staff, provided the applicant identifies in writing any missing item and includes a brief explanation of why it is inapplicable or irrelevant. The city commission may, at the public hearing, approve the omission of items from the preliminary development plan if the city commission finds they are not relevant to a determination that the proposed use or development meets the requirements of section 30-203.

(e) *Public hearing.* Public hearings before the city plan board and city commission are required.

(f) *Notice.* Notice shall be mailed at least ten days before the date of the hearings to all property owners within 400 feet of the property for which a wellfield protection special use permit has been requested. For this purpose, the owner of property shall be deemed to be the person so shown on the latest ad valorem tax records provided by the Alachua County Property Appraiser.

(g) *Burden of presenting evidence.* The burden of presenting a complete application and evidence to support the findings necessary to obtain a wellfield protection special use permit shall be upon the applicant.

(h) *City plan board action.*

(1) In considering whether to recommend approval of an application for a wellfield protection special use permit, the city plan board will consider the evidence presented in the public hearing and the city staff report and shall make a recommendation to the city commission on the application based on the findings required in sections 30-202 and 30-203 and the development plan review process found in Article VII. The recommendation of the plan board is advisory only; however, the decision should be based on evidence presented at the hearing or otherwise in the record.

(2) Recommendation to the city commission on the application shall be one of the following:

a. Approval;

b. Approval subject to conditions; or

c. Denial, with a statement of the reasons for denial.

(i) *City commission action.*

(1) In considering whether to approve of a application for a wellfield protection special use permit, the city commission will consider the city plan board recommendation, evidence presented in the public hearing and the city staff report and shall act on the application based on the findings required in sections 30-202 and 30-203 and the development plan review process found in Article VII. The hearing shall be held and the order granting or denying the permit shall be issued pursuant

city commission rules for a quasi-judicial hearing. All findings shall be based on competent, substantial evidence.

(2) Action on the application shall be one of the following:

a. Approval;

b. Approval subject to conditions; or

c. Denial, with a statement of the reasons for denial.

(j) *Effect of denial or withdrawal on subsequent application.* No application for a wellfield protection special use permit shall be entertained within two years after the denial or withdrawal of a request for the same use for the same property. The city commission may waive this time limitation by the affirmative vote of a super-majority of the members provided 30 days have elapsed since the action of the city commission to deny the original request, and the city commission deems such action necessary to prevent an injustice.

(k) *Amended application.* Amendment of a petition by the applicant may be permitted at any time prior to or during the public hearings, provided that no such amendment shall be such as to make the development different from its description in the notice of public hearings. If the amendment is requested by the petitioner after public notice of the hearings has been given, and such amendment is at variance with the information set forth in the public notice, the petitioner shall pay an additional fee, in the same amount as the original fee provided for in this article, to cover amended public notice. If the amended notice can be mailed and published ten days prior to the hearing originally scheduled, the hearings on the amended petition may be held on that date, otherwise the chairperson shall announce that the hearing originally scheduled on the petition will be continued to a future meeting, before which appropriate public notice will be given, and will state the reasons for the continuance.

(l) *Notice of decision.* The decision of the city commission shall be sent to the applicant by certified mail. If a wellfield protection special use permit is approved or approved with conditions, the permit will be filed in the department of community development.

(m) *Appeal of decision.* Any affected person aggrieved by any decision of the city commission may appeal the decision to a court of competent jurisdiction within 30 days of the issuance of the order by the city commission.

(n) *Final development plan approval.* Prior to the issuance of any development order or building permit, final development plan approval will be required in accordance with applicable provisions of Article VII.

(Ord. No. 990193, § 1, 11-8-99)

Sec. 30-205. Amendments to and modification of permits.

(a) Minor changes in the development plans associated with wellfield protection special use permits may be permitted in accordance with the rapid review process as provided in section 30-159.

(b) Regardless of the above, any change or amendment which modifies one of the following criteria shall constitute a modification of the wellfield protection special use permit and will be processed as a new application:

(1) A change in the boundaries of the approved site, except for minor boundary adjustments;

(2) A change from the approved use to a new use regulated under this section;

(3) An increase in the storage capacity or type of any hazardous materials used, manufactured, sold or stored at the site, including new hazardous materials not previously listed in the original wellfield protection special use permit. This criterion shall not apply to hazardous materials excluded from the provisions of the Alachua County Hazardous Materials Code, as may be amended from time to time.

(Ord. No. 990193, § 1, 11-8-99)

Sec. 30-206. Expiration, abandonment, revocation/suspension, transfer and extension of permits.

(a) *Expiration.* Permits issued under this article will expire within 12 months, or an additional time period should the city commission deem

necessary, unless the petitioner has been issued a building permit. After the petitioner receives a building permit, if the building permit expires, the wellfield protection special use permit shall also automatically expire.

(b) *Abandonment of permits.* On request of the permit holder, the city manager or designee may approve the abandonment of a special use permit provided no construction has begun.

(c) *Cessation of use.* If a use granted by a wellfield protection special use permit pursuant to this article ceases for a continuous period of 12 months, the permit becomes void and of no further force and effect.

(d) *Revocation or suspension of permit.* If any conditions of the wellfield protection special use permit are violated, the city commission may issue an order to show cause why the permit should not be suspended or revoked. If the permit holder does not request a hearing on the suspension or revocation, or does not produce evidence that the conditions of the permit are not being violated, the city commission may revoke or suspend the permit. The city commission may reinstate the permit if the circumstances leading to the revocation or suspension are corrected and the permit holder provides evidence of the correction at a hearing before the city commission.

(e) *Transfer of permit.* If there is a change of ownership or operator at the development site, the new owner or operator must inform the city of its identity and registered agent for service of notice within 30 days. Failure to do so shall be considered a violation of a condition of the permit.

(f) *Extension of permit.* At the request of the applicant and for good cause shown, the city commission may, at a public hearing, extend the time of the permit's expiration, if unforeseen delays have occurred that are not attributable to the action or inaction of the applicant. The extension may only be granted if all the concurrency management requirements of this chapter can be met and if the extension would not be in conflict with any other ordinance of the city.
(Ord. No. 990193, § 1, 11-8-99)

Secs. 30-207—30-210. Reserved.

DIVISION 4. PLANNED DEVELOPMENT DISTRICT*

Sec. 30-211. Purpose and intent.

(a) *Purpose.* It is the purpose of this district to provide a method for landowners or developers to submit unique proposals which are not provided for or allowed in the zoning districts otherwise established by this chapter. In particular, these provisions allow a mix of residential and nonresidential uses and/or unique design features which might otherwise not be allowed in the district, but they must conform to all aspects of the comprehensive plan. Rezoning for planned developments (PDs) will be an entirely voluntary procedure.

(b) *Objectives.* The PD provisions are intended to promote flexibility of design and integration o uses and structures, while at the same tim retaining in the city commission the absolut authority to establish limitations and regulation thereon for the benefit of the public health, wel fare and safety. By encouraging flexibility in th proposals which may be considered, while at th same time retaining control in the city commis sion over the approval or disapproval of suc proposals, the PD provisions are designed to:

(1) Permit outstanding and innovative res dential and nonresidential development with a building orientation generally t ward streets and sidewalks; provide f an integration of housing types and a commodation of changing lifestyles withi neighborhoods; and provide for desig which encourages internal and extern convenient and comfortable travel by foo bicycle, and transit through such strat gies as narrow streets, modest setback front porches, connected streets, multip connections to nearby land uses, and mix uses.

*Editor's note—Section 1 of Ord. No. 970834, adopt June 22, 1998, repealed §§ 30-211, 30-213—30-221, wh contained similar provisions and derived from Ord. No. 37 § 1, adopted June 10, 1992. Section 1 also added §§ 30-2 30-213—30-225 to read as set forth herein.

Section 1 of Ord. No. 990193, adopted Nov. 8, 19 renumbered Ch. 30, Art. VII, Div. 3, "Planned Developm District" as Div. 4 as set forth herein. See the editor's note Divs. 5 and 6 of this article.

areas, not including garages, of 500 square feet or less, which are accessory and incidental to a use permitted within the PD;

(6) Any expansion of gross floor area or enlargement of building envelope which does not exceed 500 square feet, does not add an additional room or rooms, and which does not require the addition of required parking spaces; and

(7) Reductions in the intensity of structural ground coverage of the development which does not exceed ten percent of the total ground coverage.

(Ord. No. 970834, § 1, 6-22-98)

Sec. 30-225. Time limits for rezoning to planned development.

The rezoning of property, by amendatory ordinance, to a PD district based on a particular PD layout plan, shall operate the same as any other rezoning to prohibit the consideration by the city plan board of any new petition for rezoning for any part of such property, excluding an application to amend the approved PD layout plan, development plan, or both, for a period of 12 months from the date of the amendatory action. Neither the denial of a petition to rezone to PD, nor the withdrawal of a petition to rezone to PD, shall operate to deny the applicant consideration of a new rezoning petition at any time, except that no new petition to rezone to PD may be considered by the city plan board within a period of 12 months from the date of such denial or withdrawal. The denial of a petition to rezone to a category other than PD shall not act to prohibit the filing of a petition for PD zoning at any time.
(Ord. No. 970834, § 1, 6-22-98)

Secs. 30-226—30-230. Reserved.

DIVISION 5. SPECIAL USE PERMIT*

Sec. 30-231. Intent.

(a) It is the intent of this article to recognize and permit certain uses and developments which require special review, and to provide the standards by which the applications for permits for uses and development shall be evaluated.

(b) It is further intended that special use permits be required for developments which, because of their inherent nature, extent and external effects, require special care in the control of their location, design and methods of operation in order to ensure conformance with the comprehensive plan.
(Ord. No. 3777, § 1, 6-10-92)

Sec. 30-232. Permit required.

Those uses listed in article IV as permitted special uses in a zoning district may be established in that district only after issuance and recordation of a special use permit by the city plan board.
(Ord. No. 3777, § 1, 6-10-92)

Sec. 30-233. Criteria for issuance.

No special use permit shall be approved by the city plan board unless the following findings are made concerning the proposed special use:

(1) That the use or development complies with all required regulations and standards of this chapter and all other applicable regulations.

(2) That the proposed use or development will have general compatibility and harmony with the uses and structures on adjacent and nearby properties.

(3) That necessary public utilities are available to the proposed site and have adequate capacity to service the proposed use and development.

(4) That the use or development is serviced by streets of adequate capacity to accommodate the traffic impacts of the proposed use.

(5) That screening and buffers are proposed of such type, dimension and character to improve compatibility and harmony of the proposed use and structure with the uses and structures of adjacent and nearby properties.

(6) That the use or development conforms with the general plans of the city as embodied in the city comprehensive plan.

*Editor's note—Section 1 of Ord. No. 990193, adopted Nov. 8, 1999, renumbered Ch. 30, Art. VII, Div. 4, "Special Use Permit" as Div. 5 as set forth herein. See the editor's notes to Divs. 4 and 6 of this article.

(7) That the proposed use or development meets the level of service standards adopted in the comprehensive plan and conforms with the concurrency management requirements of this chapter as specified in article III, division 2.

(Ord. No. 3777, § 1, 6-10-92)

Sec. 30-234. Procedures for approval.

(a) *Applications submittal requirements.* Application will be filed with the city's department of community development on the form prescribed. Applications must include a preliminary site plan. Any incomplete applications will be returned to the applicant. The applicant must meet the requirements of section 30-350(b), citizen participation, in order for the application to be deemed complete.

(b) *Preliminary conference with applicant.* The applicant for a special use permit shall meet with the technical review committee to discuss the procedures and requirements and to consider the elements of the proposed use and site and the proposed site plan. The applicant shall indicate whether any of the items required for a preliminary development plan are inapplicable or irrelevant to the proposed special use permit.

(c) *Report to city plan board.* The department of community development shall submit to the city plan board a written analysis of the application and a recommendation based on the findings required in section 30-233 and development plan review process in article VII.

(d) *Exception to preliminary development plan.* If any of the items required for the preliminary development plan is inapplicable or irrelevant to a proposed development, such item may be omitted upon approval of the department of community development, provided the applicant identifies in writing any missing item and includes a brief explanation of why it is inapplicable or irrelevant. The city plan board may, at the public hearing, approve the omission of items from the preliminary development plan if the board finds they are not relevant to a determination that the proposed use or development meets the requirements of section 30-233.

(e) *Public hearing.* A public hearing before the city plan board is required in accordance with the policies of the city.

(f) *Notice.* Notice shall be mailed at least ten days before the date of the hearing to all property owners within 400 feet of the property for which a special use permit has been requested. For this purpose, the owner of property shall be deemed to be the person so shown on the city's tax rolls.

(g) *Burden of presenting evidence; burden of persuasion.*

(1) The burden of presenting a complete application to the board shall be upon the applicant.

(2) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant.

(h) *City plan board action.*

(1) In considering whether to approve an application for special use permit, the city plan board will consider the evidence presented in the public hearing and the department of community development's report and shall act on the application based on the findings required in section 30-233 and the development plan review process found in article VII. Such findings shall be based on competent material and evidence.

(2) Action on the application shall be one of the following:

a. Approval;

b. Approval subject to conditions; or

c. Denial, with a statement of the reasons for denial.

(i) *Effect of denial or withdrawal on subsequent application.* No application for a special use permit shall be entertained within two years after the denial or withdrawal of a request for the same use for the same property. The city plan board may waive this time limitation by the affirmative vote of a super [sic] majority of the members provided 30 days have elapsed since the action of

the city plan board to deny the original request, and the city plan board deems such action necessary to prevent an injustice.

(j) *Amended application.* Amendment of a petition by the applicant may be permitted at any time prior to or during the public hearing, provided that no such amendment shall be such as to make the case different from its description in the notice of public hearing. If the amendment is requested by the petitioner after public notice of the hearing has been given, and such amendment is at variance with the information set forth in the public notice, the petitioner shall pay an additional fee, in the same amount as the original fee provided for in this article, to cover amended public notice. If the amended notice can be mailed and published ten days prior to the hearing originally scheduled, the hearing on the amended petition may be held on that date, otherwise the chairperson shall announce that the hearing originally scheduled on the case will be deferred to a future meeting, before which appropriate public notice will be given, and will state the reasons for the deferral.

(k) *Notice of decision and issuance of permits.* The applicant will be notified by certified mail of final action and the special use permit will be filed with the department of community development.

(l) *Appeal of decision.* Any affected person may appeal the city plan board's decision on an application for a special use permit to a hearing officer. The appeal must be filed within 15 days of the date notification of the decision is sent by certified mail to the applicant. The procedure for the appeal shall be the same as is provided in subsection 30-352.1(a) for appeals from decisions of the development review board. Judicial review shall be available as provided in section 30-352.1.

(m) *Final development plan approval.* Prior to the issuance of any development order or building permit, final development plan approval will be required in accordance with applicable provisions of Article VII.

(Ord. No. 3777, § 1, 6-10-92; Ord. No. 3960, §§ 1, 2, 2-28-94; Ord. No. 3995, § 1, 7-25-94; Ord. No. 000902, § 2, 5-29-01)

Sec. 30-235. Amendments to and modifica tion of permits.

(a) Minor changes in the development plan associated with special use permits may be permitted in accordance with sections 30-157 an 30-158.

(b) Regardless of the above, any change amendment which modifies one of the followi criteria shall constitute a modification of t special use permit and will be processed as a ne application:

(1) A change in the boundaries of the a proved site, except for minor bounda adjustments;

(2) A change from the approved use;

(3) Either an increase of ten percent or mo or incremental increases that total t percent or more in the floor area or nu ber of parking spaces as approved;

(4) Substantial changes in the approved lo tion of principal and/or accessory str tures;

(5) Structural alterations significantly affe ing the basic size, form, style, ornamen tion and appearance of principal and accessory structures as shown on the proved plans;

(6) Substantial changes in approved pe trian or vehicular access or circulat and

(7) Substantial change in the approved amo or location of landscape screens or b ers.

(Ord. No. 3777, § 1, 6-10-92)

Sec. 30-236. Expiration, abandonment, r cation and extension of mits.

(a) *Expiration.* Permits issued under this cle will expire within 12 months, or an additi time period should the city plan board d necessary, if the petitioner has taken no a reliance on the issued permit.

(b) *Abandonment of permits.* On request of the permit holder, the department of community development may approve the abandonment of a special use permit provided no construction has begun.

(c) *Cessation of use.* If use granted by a special use permit pursuant to this article ceases for a continuous period of 12 months, the permit becomes void.

(d) *Revocation of permit.* If any conditions of the special use permit are violated, the permit issuing authority may revoke the permit after giving proper notice to the grantee. The permit may be reinstated by the department of community development if the circumstances leading to the revocation are corrected.

(e) *Extension of permit.* At the request of the applicant and for good cause shown, the board may, at a public hearing, extend the time of the permit's expiration, if no acts of reliance have occurred. The extension may only be granted if all the concurrency management requirements of this chapter can be met and if the extension would not be in conflict with any other ordinance of the city.
(Ord. No. 3777, § 1, 6-10-92)

DIVISION 6. TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) DISTRICT*

Sec. 30-237. Purpose.

The purpose of this district is to allow the optional development of land consistent with the design principles of "traditional" neighborhoods. These principles provide an opportunity for diversification and integration of land uses including residential, retail, office, recreation, etc., within close proximity to one another, thereby providing for many of the daily needs of the inhabitants of the neighborhood. The district is designed to be self-contained, tightly gridded, and pedestrian-oriented to encourage socializing, walking, and other aspects of a vibrant outdoor urban experience. The traditional neighborhood district (TND) is an optional zoning district/category.
(Ord. No. 970964, § 1, 5-10-99)

Sec. 30-238. Design objectives.

The provisions of this district are intended to establish a neighborhood which:

(1) Is physically recognizable and limited in size.

(2) Places residences, shops, workplaces, and civic buildings (see Figure 1) in close proximity to one another within the neighborhood, thereby maximizing transportation choice and reducing the number and length of motor vehicle trips, traffic congestion, and need for road widening. Compatibility of buildings, uses, and other improvements is determined by their arrangement, scale, character, and landscaping to establish a livable, harmonious, and diverse environment.

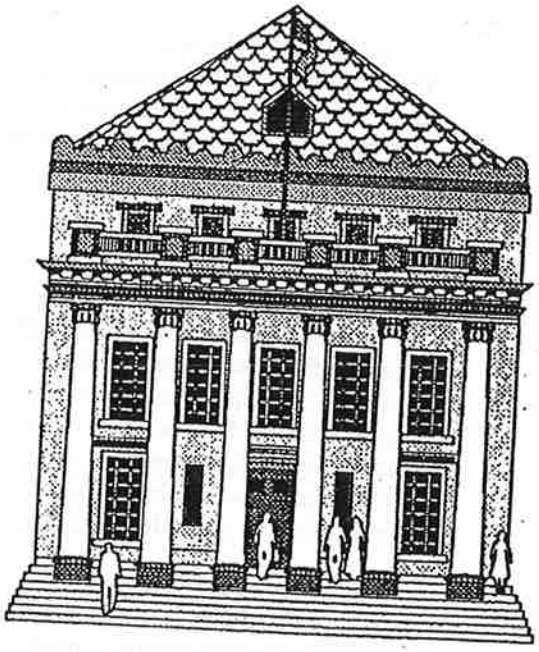

Figure 1. Civic Building

*Editor's note—Section 1 of Ord. No. 990193, adopted Nov. 8, 1999, renumbered Ch. 30, Art. VII, Div. 5, "Traditional Neighborhood Development (TND) District" as Div. 6 as set forth herein. See the editor's notes to Divs. 4 and 5 of this article.

Sec. 30-344. Storage of flammable liquids.

(a) No building, structure or land shall be used for storage, sale or use of gasoline, or any other liquids with a flash point of 60 degrees Fahrenheit or less, at a place closer than 250 feet, measured in a straight line, to any building or structure regularly used as a place of religious assembly, school, college, university, hospital, housing for the elderly, nursing or personal care facility, residential child caring facility, auditorium or theater, except open air theaters.

(b) No building or structure shall be used as a place of religious assembly, school, college, university, hospital, housing for the elderly, nursing or personal care facility, residential child caring facility, auditorium, or theater, except as an open air theater, within 250 feet, measured in a straight line, from any place which is used for the storage, sale or use of gasoline, or any other liquid with a flash point of 60 degrees Fahrenheit or less, or which has been used for such storage, sale or use within the preceding nine months.

(c) When the use of any premises for the storage, sale or use of gasoline, or any other liquid with a flash point of 60 degrees Fahrenheit or less, is discontinued for a period of nine consecutive months, such use shall not thereafter be reestablished or continued unless the distance requirement of this section is still met. Following the discontinuance of such a use for nine consecutive months, other properties within 250 feet of the premises may be used for any purpose permitted in the particular zoning district, including those purposes specified in subsection (b), provided the discontinued use has not yet been lawfully reestablished or continued.

(Ord. No. 3777, § 1, 6-10-92)

Cross reference—Fire prevention and protection, Ch. 10.

Sec. 30-345. General performance standards.

(a) All uses and activities permitted in any zoning district shall conform to the standards of performance described in this section.

(b) Showing of probable compliance. Uses and activites required to comply with this section shall make a showing of probable compliance with the performance standards described in this section. This showing shall be in the form of a letter submitted with a zoning compliance permit or development plan, as applicable, prepared by a professional engineer licensed by the State of Florida, certifying that the use or activity [complies] with all performance standards described in this section.

(1) *Fire and explosion hazards.* All activities and all storage of flammable and explosive materials or products at any place shall be provided with adequate safety devices against the hazards of fire and explosion, including adequate firefighting and fire suppression equipment, as prescribed by the fire prevention code adopted in section 10-30.

(2) *Radiation.* All sources of ionizing radiation shall be registered or licensed by the Florida Department of Health. The handling of radioactive materials, the discharge of such materials into air or water, and the disposal of radioactive wastes shall be in conformance with applicable state and federal regulations.

(3) *Electromagnetic radiation.* Electromagnetic radiation generated by activities shall not adversely affect any operation or equipment other than those of the creation of the radiation. Interference with radio and television reception is prohibited. Equipment or activities generating electromagnetic radiation shall conform to the regulations of and, where appropriate, be licensed by the Federal Communications Commission.

(4) *Waste disposal.* All waste disposal including discharge of any liquid or solid waste into any public or private sewage system, the ground, or any lake, creek, or wetland shall be in accordance with state, federal, and local law and applicable regulations of state, federal and local agencies.

(5) *Vibration.* No use shall at any time create earth-born vibration which when measured at the boundary property line of the source operation exceeds the maximum allowable peak particle velocity set forth below. Ground vibration shall be measured as particle velocity using accelerom

eters. Particle velocity shall be recorded in three mutually perpendicular directions. The maximum allowable peak particle velocity shall apply to each of the three measurements.

Frequency (Cycles per Second)	*Maximum Peak Particle Velocity (Inches per Second)*
0 to 10	0.05
10 to 19	0.50
20 to 29	1.00
30 to 39	1.50
40 and over	2.00

(6) *Sound.* All uses and activities shall not exceed the sound pressure levels set forth in Chapter 15 (Noise) of this Code of Ordinances.

(7) *Heat, cold, dampness or movement of air.* Activities on any property which produce any adverse effect on the temperature, motion or humidity of the atmosphere beyond the lot lines are not permitted.

(8) *Lighting.* Any light installation which provides for re-aiming of the fixture shall be aimed in compliance with this section.

a. *Light trespass and glare.* Any development adjacent to a residential use shall not create light trespass of more than 0.5 footcandles measured perpendicularly from the light source at a distance of 25 feet from the property line. Any light trespass onto adjacent non-residential properties shall not exceed 1.0 footcandle measured perpendicularly from the light source at a distance of 25 feet from the property line. Roadway lighting is exempt from light trespass requirements. Directional luminaries such as floodlights, spotlights, sign lights and area lights shall be so installed and aimed that they illuminate only the task intended and that the light they produce does not shine directly onto neighboring properties or roadways. Building facade lighting, sports lighting and other applications using floodlights shall have glare shielding (external or internal shields) to prevent light trespass and light pollution. All lighting shall be designed, hooded or shielded to direct light so that no illumination source or glare creates a nuisance to any adjoining property or unreasonably interferes with the lawful use and enjoyment of any adjoining property.

b. *Exterior lighting.* Lighting which is provided for the security of areas such as, but not limited to, building entrances, stairways, ramps and main walkways or for a permitted outdoor use of land (such as ball parks) shall not under any circumstances exceed a maximum average maintained illumination of 25 footcandles at ground level, and uniformity ratio of 6:1. Exterior wall-mounted lighting shall be full cut-off fixtures (as defined by IESNA). The maximum lighting intensity permitted for the security of the areas described above, for permitted outdoor land uses, or pole heights, other than those located in off-street parking facilities, may be increased by the appropriate reviewing board through site plan review, or the board of adjustment by obtaining a special exception if site plan review is not required, provided that the applicant establishes that such an increase meets the following standards: a. the increase in intensity is reasonably required for security purposes for the use or for conducting the permitted outdoor use; b. the increase in intensity will not result in a nuisance to adjoining properties and does not interfere with the lawful use and enjoyment of adjoining properties; and c. necessary screening will be erected or exists and maintained to reduce the impact of the increase in intensity on adjoining properties.

c. *Outdoor recreational lighting.* Lighting installations for outdoor recreational uses (including pole heights) shall be designed in accordance with IESNA standards, as outlined in report number RP-6-88, or any update thereto.

d. *Height.* The maximum height of light fixtures, except as otherwise regulated by this section, shall not exceed 30 feet.

(9) *Light pollution.* All building lighting for security or aesthetics will be fully cut-off type, not allowing any upward distribution of light.

(10) *Odor.* No use shall be operated in any zoning district in such a manner that the emission of odorous matter occurs in such quantity or volume as to produce a nuisance, source of discomfort, or hazard beyond the bounding property lines of such a use. For the purpose of this performance standard, the presence of such a described odor shall be determined by observation by a person or persons designated by the city manager or designee. In any case, where the operator of an odor-emitting use may disagree with the enforcing officer where specific measurement of odor concentration is required, the method and procedures specified by the American Society for Testing and Materials (ASTM) E679 and E1432, entitled "Standard Practice for Determination of Odor and Taste Thresholds By a Forced-Choice Ascending Concentration Series Method of Limits" and "Standard Practice for Defining and Calculating Individual and Group Sensory Thresholds for Forced-Choice Data Sets of Intermediate Size," respectively. The operator and the city shall equally share the cost of conducting the more elaborate ASTM E679 Procedure.

(11) *Air pollution emissions.* No industrial operation or use shall cause, create, or allow the emission of air contaminants which at the emission point or within the bounds of the property are in violation of the standards specified by the Florida Department of Environmental Protection, or successor agency, or any governmental entity with regulatory jurisdiction, whichever standards are more stringent.

(12) *Other air pollution.* Open storage and open processing operations, including on-site transportation movements, which are the source of windblown or airborne dust or other particulate matter; or which involve dust or other particulate air contaminant generating equipment including but not limited to paint spraying, grain or seed handling, sand or gravel processing or storage or sand blasting shall be conducted such that dust and other particulate matter so generated are not transported across the boundary property line or the tract on which the use is located in concentrations exceeding standards set by the Florida Department of Environmental Protection, or successor agency, or any governmental entity with regulatory jurisdiction, whichever standards are more stringent.

(13) *Toxics.* No industrial operation or use shall emit toxic or noxious matter at a concentration exceeding ambient air quality standards for the State of Florida across the property line of the parcel on which the operation or use is located. Where toxic materials are not listed in the ambient air quality standards of the state, concentrations shall not exceed one percent of the threshold limit values (TLVs) adopted by the American Conference of Governmental Industrial Hygienists (ACGIH). If a toxic substance is not listed by the ACGIH, verification of safe levels of the proposed toxic material for public health, plant and animal life will be required.

(c) *Utility service.* All utility services, including but not limited to those of franchised utilities, electric power and light, telephone, cable services, water, sewer and gas, shall be installed beneath the surface of the ground, unless the city manager or designee determines that the soil, topography

and other compelling condition makes it unreasonable or impractical. The subsurface mounting of incidental appurtenances, including but not limited to transformer boxes or pedestal-mounted boxes for the provision of utilities, electric meters, back flow preventers and fire hydrants, is not required.
(Ord. No. 3777, § 1, 6-10-92; Ord. No. 991381, §§ 1, 2, 9-25-00; Ord. No. 001917, § 3, 12-13-01; Ord. No. 000516, § 5, 2-11-02)

Editor's note—Ord. No. 000516, adopted Feb. 11, 2002, erroneously amended subsection (a) of this section 30-345. As it was not the intent of the city for Ord. No. 000516 to amend subsection (a), said subsection reads herein as is set out in Ord. No. 001917, adopted Dec. 13, 2001. The city will adopt an ordinance correcting the language of subsection (a) to read as it appears herein.

Sec. 30-345.1. Nonconforming luminaries.

All lamps, light fixtures and lighting systems (hereinafter "luminaries") lawfully in place prior to February 11, 2002, shall be deemed legally nonconforming. However, if cumulatively at any time, 50 percent or more of the existing outdoor light fixtures are replaced, or number of outdoor light fixtures is increased by 50 percent or more, then all outdoor light fixtures shall conform to the provisions section 30-160, section 30-330, and section 30-345. A development plan amendment shall be certified by a registered engineer or architect, or lighting professional holding a current L.C. (lighting certificate) from the National Council on Qualifications for the Lighting Profession (NCQLP). Additionally, nonconforming luminaries that direct light toward streets or parking areas that cause glare so as to cause a public nuisance should be either shielded or re-directed within 30 days of notification.
(Ord. No. 000516, § 7, 2-11-02)

Sec. 30-346. Nonconforming lots, uses or structures.

(a) *Intent.* Within the districts established by this chapter there exist lots, structures and uses of land or land and structures which were lawful before this chapter was adopted or amended but which will be prohibited, regulated or restricted under the terms of this chapter. It is the intent of this chapter to permit these nonconformities to continue until they are removed but not to encourage their continuation. Except as otherwise provided, it is the further intent of this chapter that nonconformities shall not be enlarged upon, expanded, intensified or extended nor be used as a basis for adding other structures or uses prohibited within the district. Certain improvements to nonconforming uses which:

(1) Do not involve increases in the size of structures or changes in the character of existing uses;

(2) Are reasonably related to the continuation of those uses; and

(3) Will not have an adverse impact on the surrounding neighborhood and general public;

may be permitted subject to the requirements of this chapter. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which a building permit has been issued prior to the effective date of adoption or amendment of this chapter. If actual substantial construction has not begun, under a permit issued prior to the adoption or amendment of this chapter, within six months of the date of issuance of the permit, such permit shall become invalid and shall not be renewed except in conformity with this chapter.

(b) *Nonconforming buildings or structures.* Nonconforming principal buildings and structures shall be made to comply with these regulations only after destruction which exceeds 80 percent of its then physical value immediately prior to the time of destruction as determined by the building official with substantial competent evidence. An existing nonconforming principal building or structure may be maintained and repaired or may be added onto, remodeled or altered provided that such addition, remodeling or alteration is in compliance with this chapter. Provided, however, that, in the case of a single-family structure where the nonconformity is created by an encroachment into a required yard setback, such nonconforming single-family structure may be added onto or altered in such a way so as not to extend such addition further into such required setback.

Chapter 15

NOISE*

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*Editor's note—Section 2 of Ord. No. 3868, adopted June 22, 1993, repealed former Ch. 15, §§ 15-1—15-9, which pertained to similar subject matter. Section 1 of the ordinance enacted a new Ch. 15, §§ 15-1—15-6, as herein set out. Former Ch. 15 was derived from §§ 17A-1—17A-9 of the 1960 Code and Ord. No. 3803, §§ 1, 2, adopted Dec. 21, 1992.

Cross references—Health and sanitation, Ch. 11.5; nuisances, Ch. 16; offenses, Ch. 17.

State law reference—Environmental control, F.S. Ch. 403.

Sec. 15-1. Legislative findings; declaration of necessity.

It is found and declared that:

(1) Excessive sound within the limits of the city is a condition which has existed for some time and the amount and intensity of such sound is increasing.

(2) Such excessive sound is a detriment to the public health, safety, welfare and quality of life of the residents of the city.

(3) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life of the city and its inhabitants.

(Ord. No. 3868, § 1, 6-22-93)

Sec. 15-2. Definitions.

For the purpose of this chapter, certain words and phrases used herein are defined as follows:

A-weighted sound level means the sound pressure level in decibels as measured with a sound level meter using the A-weighting network. The unit of measurement is the dB(A).

Commercial (land use) means all areas not otherwise classified as residential, as defined in this section.

Construction means any site preparation, any assembly, erection, substantial repair, alteration or similar action, excluding demolition, for or on public or private rights-of-way, structures, utilities or similar property.

Continuous airborne sound means sound that is measured by the slow-response setting of a meter manufactured to the specifications of ANSI § 1.4-1971 "Specification for Sound Level Meters," or its successor.

Daytime means 8:00 a.m. to 10:00 p.m. the same day.

Decibel (dB) means a unit for measuring the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

Demolition means any dismantling, intentional destruction or removal of structures from the utilities, public or private right-of-way surfaces, or similar property.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which necessitates immediate action. Economic loss shall not be the sole determining factor in the determination of an emergency. It shall be the burden of an alleged violator to prove an "emergency."

Emergency work means any work made necessary to restore property to a safe condition following an emergency, or to protect property threatened by an imminent emergency, to the extent such work is necessary to protect persons or property from exposure to imminent danger or damage.

Frequency means the number of complete oscillation cycles per unit of time.

Impulsive sound means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and discharge of firearms.

Nighttime means 10:00 p.m. to 8:00 a.m. the following day.

Noise means any sound which disturbs humans or other animals, or which causes or tends to cause an adverse psychological or physiological effect on humans or other animals.

Noise disturbance means any sound which:

(1) Disturbs a reasonable person of normal sensitivities;

(2) Exceeds the sound level limits set forth in this chapter; or

(3) Is plainly audible as defined in this section.

Person means any person, person's firm, association, copartnership, joint venture, corporation, or any entity public or private in nature.

Plainly audible means any sound or noise produced by any source, or reproduced by a radio, tape player, television, CD player, electronic audio equipment, musical instrument, sound amplifier or other mechanical or electronic soundmaking device, or nonamplified human voice that can be clearly heard by a person using his/her normal hearing faculties, at a distance of 200 feet or more from the real property line of the source of the sound or noise.

Public right-of-way means any street, avenue, boulevard, sidewalk, bike path or alley, or similar place normally accessible to the public which is owned or controlled by a governmental entity.

Public space means any lot, as that term is defined in section 30-23 of the land development code, which contains at least one building that is open to the general public during its hours of operation.

Reasonable time when the limits of Table I and Table I-A in section 15-3(b) are exceeded or for a radio, tape player or other mechanical soundmaking device or instrument within a motor vehicle is instantly. Otherwise, absent special circumstances, "reasonable time" is 15 minutes in the case of nonvehicular sound emitters and two calendar days for vehicular sound emitters.

Residential (land use) means all areas designated as "residential districts" in section 30-41(a)(1) of the land development code; as well as hospitals, as classified in the Standard Industrial Classification Manual, 1987, group number 806; public and private elementary schools, middle schools, high schools, vocational schools, colleges and universities; areas designated as "conservation districts" in section 30-41(a)(6) of the land development code; areas designated as planned development districts that contain dwelling units as defined in section 30-23 of the land development code; and places of religious assembly as defined in section 30-23 of the land development code.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound level means the weighted sound pressure level as measured in dB(A) by a sound level meter and as specified in American National Standards Institute (ANSI) specifications for sound-level meters (ANSI S1.4-1971 (R1976)). If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound level meter means an instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks, for the measurement of sound levels.

Weekday means any day Monday through Friday that is not a "paid holiday" as defined in F.S. § 110.117(1).

All technical definitions not defined above shall be in accordance with applicable publications and standards of the American National Standards Institute (ANSI).

(Ord. No. 3868, § 1, 6-22-93; Ord. No. 960008, § 1, 12-8-97; Ord. No. 981314, § 1, 4-10-00)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 15-3. Prohibited acts.

(a) *General prohibition.* It shall be unlawful and a violation of this chapter to make, cause or allow the making of any sound that causes a noise disturbance, as defined in section 15-2.

(b) *Sound causing permanent hearing loss.*

(1) *Sound level limits.* Table I and Table I-A specify sound level limits which, if exceeded, will have a high probability of producing permanent hearing loss in anyone in the area where the sound levels are being exceeded. No sound shall be permitted within the city which exceeds the parameters set forth in Table I and Table I-A.

TABLE I. MAXIMUM CONTINUOUS SOUND LEVELS*

Duration per Day, Continuous Hours	*Sound level (dB(A))*
8	90
6	92
4	95
3	97
2	100
1½	102
1	105
½	110
¼	115

*When the daily sound exposure is composed of two or more periods of sound exposure at different levels, the combined effect of all such periods shall constitute a violation of this section if the sum of the percent of allowed period of sound exposure at each level exceeds 100 percent.

TABLE I-A. MAXIMUM IMPULSIVE SOUND LEVELS

Number of Repetitions per 24-Hour Period	*Sound Level (dB(A))*
1	145
10	135
100	125

(2) *Exemptions.* No violation shall exist if the only persons exposed to sound levels in excess of those listed in Table I and Table I-A are exposed as a result of:

a. Trespass;

b. Invitation upon private property by the person causing or permitting the sound; or

c. Employment by the person or a contractor of the person causing or permitting the sound.

(c) *Continuous airborne sound decibel limits.* No person shall create, operate or cause to be operated on private property any source of sound in such a manner as to create a continuous airborne sound which exceeds the limits set forth for the source land use category as defined in section 15-2 in Table II when measured at a distance of 200 feet or more from the real property line of the source of the sound. Any source of sound in violation of this subsection shall be deemed prima facie to be a noise disturbance.

TABLE II. MAXIMUM SOUND LEVELS (IN dB(A)) FOR SOURCE LAND USES*

Residential		*Commercial*	
Daytime	Nighttime	Daytime	Nighttime
61	55	66	60

*See section 15-2, Definitions, for daytime and nighttime hours, and for land use definitions.

(d) *Specific prohibitions.* In addition to the general prohibitions set out in subsection (a), and unless otherwise exempted by this chapter, the following specific acts, or the causing or permitting thereof, are hereby regulated as follows:

(1) *Motor vehicles.* No person shall operate or cause to be operated a public or private motor vehicle, or combination of vehicles towed by a motor vehicle, that creates a sound exceeding the sound level limits in Table II when the vehicle(s) are not traveling on public streets, highways, driveways, parking lots and ways open to vehicle travel.

(2) *Radios, televisions, electronic audio equipment, musical instruments or similar devices.* No person shall operate, play or permit the operation or playing of any radio, tape player, television, electronic audio equipment, musical instrument, sound amplifier or other mechanical or electronic soundmaking device that produces, reproduces or amplifies sound in such a manner as to create a noise disturbance across a real property boundary. However, this subsection shall not apply to any use or activity exempted in subsection (e) below and any use or activity for which a special permit has been issued pursuant to section 15-4.

(3) *Loudspeakers and public address systems.*

a. No person shall operate, or permit the operation of, any loudspeaker, public address system or similar device, for any commercial purpose:

1. Which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance; or

2. During nighttime hours on a public right-of-way or public space.

b. No person shall operate, or permit the operation of, any loudspeaker, public address system or similar device, for any noncommercial purpose, during nighttime hours in such a manner as to create a noise disturbance.

(4) *Animals.* No person shall own, possess or harbor an animal or bird that howls, barks, meows, squawks or makes other sounds that:

a. Create a noise disturbance across a residential real property boundary;

b. Are of frequent or continued duration for ten or more consecutive minutes; or

c. Are intermittent for a period of 30 or more minutes.

(5) *Construction and demolition.* No person shall operate or cause the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work between the hours of 9:00 p.m. and 6:00 a.m. the following day such that the sound therefrom creates a noise disturbance across a real property boundary, except for emergency work by public service utilities or for other work approved by the city manager or designee. This section shall not apply to the use of domestic power tools as provided below.

(6) *Emergency signaling devices.*

a. No person shall intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm, siren or whistle, or similar stationary emergency signaling device, except for emergency purposes or for testing as follows:

1. Testing of a stationary emergency signaling device shall not occur between 7:00 p.m. and 7:00 a.m. the following day.

2. Testing of a stationary emergency signaling device shall use only the minimum cycle test time, in no case to exceed 60 seconds.

3. Testing of a complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall only occur on weekdays and not during nighttime hours, and shall be exempt from the time limit specified in paragraph 2. above.

b. No person shall permit the sounding of any exterior burglar or fire alarm unless such alarm is automatically terminated within 15 minutes of activation.

(7) *Domestic power tools.* No person shall operate or permit the operation of any mechanically, electrically or gasoline motor-driven tool during nighttime hours so as to cause a noise disturbance.

(8) *Pumps, air conditioners, air-handling equipment and other continuously operating equipment.* No person shall operate or permit the operation of any pump, air conditioning, air-handling or other continuously operating motorized equipment in such a manner so as to cause a noise disturbance.

(e) *Exemptions.* The following uses and activities shall be exempt from the sound level regulations except the levels provided in Table I and Table I-A:

(1) Nonamplified human voice, except yelling, shouting, whistling, hooting, or generally creating a racket such that it creates a noise disturbance during the nighttime hours in a residential area in other than time of emergency.

(2) Sounds resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

(3) Sounds resulting from emergency work as defined in section 15-2.

(4) Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations and air traffic control instruction used pursuant to and within the duly adopted federal air regulations; and any aircraft operating under technical difficulties in any kind of distress, under emergency orders of air traffic control, or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations.

(5) All sounds coming from the normal operations of interstate motor and rail carriers, to the extent that local regulation of sound levels of such vehicles has been preempted by the Noise Control Act of 1972 (42 U.S.C. § 4901 et seq.) or other applicable federal laws or regulations.

(6) Sounds from the operation of motor vehicles, to the extent they are regulated by F.S. § 316.293.

(7) Any nonamplified noise generated by noncommercial public speaking activities conducted on any public property or public right-of-way pursuant to legal authority.

(8) Sounds produced at organized sporting events, by fireworks and by permitted parades on public property or public right-of-way.

(Ord. No. 3868, § 1, 6-22-93; Ord. No. 960008, § 1, 12-8-97; Ord. No. 981314, § 1, 4-10-00)

Sec. 15-4. Special permits.

(a) *Permit process.*

(1) Applications for a special permit for relief from the maximum sound level limits designated in this chapter, except from Table I and Table I-A, for the events or activities described below, may be made in writing to the city manager or designee. Except as provided in Table I and Table I-A, a special permit is not required under this section if sound levels, including amplified sound, will not exceed the maximum sound level limits designated in this chapter.

(2) The permit application shall include the name, address and telephone number of the permit applicant; the date, hours and location for which the permit is requested; and the nature of the event or activity. The application must be submitted at least ten days in advance of the event, not including holidays and weekends.

(3) Upon receipt of the permit application, the city manager or designee will review the application and issue a decision promptly, but in no event less than three days prior to the date of the event. If no decision is issued by the time specified, the permit will be considered to be issued. The permit shall be issued provided the proposed activity meets the requirements of this section.

(4) Any permit granted must be in writing and shall contain all conditions upon which the permit shall be effective.

(5) The city manager or designee may prescribe any reasonable conditions or requirements he/she deems necessary to minimize noise disturbances upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound-attenuating devices.

(6) Any final decision of the city manager or designee pursuant to this section which denies the applicant the right to create sound levels, including amplified sound, which do not exceed the maximum sound

level limits designated in this chapter, except as provided in Table I and Table I-A, will be immediately reviewed as a matter of right by the circuit court upon the filing of an appropriate pleading by the city.

(b) *Permits for entertainment.* Permits may be granted for the purpose of entertainment under the following conditions:

(1) The function must be open to the general public (admission may be charged).

(2) The function must take place on public property, or public space, provided only six functions requiring a special permit may be held on any particular public space per calendar year.

(3) The permit will be granted for only four hours in one 24-hour day or any reasonable extension thereof as authorized by the city manager or designee.

(4) The permit will only be granted for hours between 9:00 a.m. and. 12:00 midnight on all days other than Friday and Saturday; and, on Friday and Saturday, between the hours of 9:00 a.m. and 1:00 a.m. of the following day, except in the following circumstances:

a. A permit will be granted for hours between 9:00 a.m. on New Year's Eve and 1:00 a.m. the following day (New Year's Day).

b. A permit will be granted for hours between 9:00 a.m. and 2:00 a.m. the following day if there are no private residences, hospitals or nursing homes within a 0.5 mile radius of the property where the function is taking place.

(5) Functions for which the permits are issued shall be limited to a continuous airborne sound level not to exceed 70 dB(A), as measured 200 feet from the real property boundary of the source property. When one or more streets are closed adjacent to the source of the sound, the measurement shall be taken 200 feet from the boundary of the closed area.

(c) *Other permits.* Special permits for nonentertainment special purposes, other than for emergency work that is exempt pursuant to section 15-3(e)(3), may be issued under the following conditions:

(1) *Nonrecurring.*

a. If the special purpose relates to the operation of a trade or business, the special purpose shall not be in the ordinary course of that trade or business; or

b. If the special purpose does not relate to the operation of a trade or business, the special purpose shall not be an ordinary event in the affairs of the applicant;

(2) *Recurring.* If the special purpose is a recurring purpose, it shall not recur more often than four times each calendar year; and:

a. The special purpose shall be essential to the operation of the applicant's trade or business; or

b. If the special purpose is not essential to the operation of a trade or business, the special purpose shall be compatible with the ordinary activities of the surrounding neighborhood;

(3) *Hours.* The special permit may be issued only for hours between 7:00 a.m. and 11:00 p.m. the same day on weekdays; and

(4) *Duration.* Special permits may be issued for no longer than one week, renewable by further application to the city manager or designee provided the applicant otherwise meets the provisions of this chapter.

(d) *Use of loudspeakers on exterior of building.* No permit may be issued to permit the use of any loudspeaker or sound device on the exterior of any building which at any time exceeds the sound level limits in Table II, except those used for emergency systems or devices as allowed by section 15-3(d)(6) above.

(e) *Fraternity or sorority events.* Special permits shall be issued for off-campus fraternity/sorority events as follows:

(1) Sound level permits may be obtained to allow an increased residential sound level of 65 dB(A) between 9:00 p.m. and 1:00 a.m. the following day on designated dates, which permits will be valid only at the fraternity/sorority residence and only when all sources of music are located in a completely enclosed building as defined in section 30-23 of the land development code. Each fraternity/sorority is responsible for obtaining its sound level permit on the appropriate date.

(2) All fraternities/sororities will receive sound level permits on five dates each year, three of which shall be the last Saturday of fall and spring rush and the Saturday of the University of Florida Homecoming.

(3) The off-campus fraternities/sororities, collectively, shall choose the two optional dates on which they may receive additional sound level permits, which dates shall be submitted to the city manager or designee on or before September thirtieth of each year. After the submission of dates, the city manager or designee will approve and designate the optional dates hereinabove described.

(4) Other student organizations officially registered with the University of Florida may file an application with the city manager or designee for issuance of a special permit for comparable events.

(Ord. No. 3868, § 1, 6-22-93; Ord. No. 960423, § 1, 9-22-97; Ord. No. 960008, § 1, 12-8-97; Ord. No. 970646, § 1, 12-15-97; Ord. No. 980395, § 1, 9-28-98; Ord. No. 980590, § 1, 10-26-98; Ord. No. 981314, § 1, 4-10-00; Ord. No. 000048, § 1, 8-14-00; Ord. No. 000712, § 1, 1-8-00)

Sec. 15-5. Measurement or assessment of sound.

(a) *Measurement with sound level meter.*

(1) The measurement of sound shall be made with a sound level meter meeting the standards prescribed by ANSI S1.4-1971 (R1976). The instruments shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any sound level measurement. Measurements recorded shall be taken so as to provide a proper representation of the source of the sound. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used at all times. However, a violation of this chapter may occur without the occasion of the measurements being made as otherwise provided.

(2) The slow meter response of the sound level meter shall be used in order to best determine the average amplitude.

(3) The measurement shall be made at any point on the property into which the sound is being transmitted and shall be made at least three feet away from any ground, wall, floor, ceiling, roof and other plane surface.

(4) In case of multiple occupancy of a property, the measurement may be made at any point inside the premises to which any complainant has right of legal private occupancy; provided that the measurement shall not be made within three feet of any ground, wall, floor, ceiling, roof or other plane surface.

(5) All measurements of sound provided for in this chapter will be made by qualified officials of the city who are designated by the city manager or designee to operate the apparatus used to make the measurements.

(b) *Assessment without sound level meter.* Any police officer or other official designated by the city manager or designee who hears a noise or sound that is plainly audible, as defined in section 15-2, in violation of this chapter, shall assess the noise or sound according to the following standards:

(1) The primary means of detection shall be by means of the official's normal hearing

faculties, so long as the official's hearing is not enhanced by any mechanical device, such as a hearing aid.

(2) The official must have a direct line of sight and hearing to the real property of the source of the sound or noise so that the official can readily identify the offending source of the sound or noise and the distance involved. If the official is unable to have a direct line of sight and hearing to the real property of the source of the sound or noise, then the official shall confirm the source of the sound or noise by approaching the suspected real property source of the sound or noise until the official is able to obtain a direct line of sight and hearing, and identify the identical or same sound or noise that was heard at the place of original assessment of the sound or noise.

(3) The official need not determine the particular words or phrases being said or produced or the name of any song or artist producing the noise or sound. The detection of a rhythmic bass reverberating type of noise or sound is sufficient to constitute a plainly audible noise or sound.

(Ord. No. 3868, § 1, 6-22-93; Ord. No. 981314, § 1, 4-10-00)

Sec. 15-6. Violation procedures.

(a) *Violation of sound level limits; violation of plainly audible standard on other than posted property.*

(1) *Warnings:*

a. When a designated official of the city determines that there is a violation of section 15-3 and the sound is coming from non-posted property, the official shall issue a written warning to the person or persons responsible for the sound. The warning shall advise the person of the violation, and of the possible penalty if the person fails to eliminate the sound or reduce the sound so that it is within permitted limits.

b. The person or persons receiving the warning shall have a reasonable time, as defined in section 15-2, to comply with the warning.

c. For the purposes of this section, it is sufficient warning for all prohibited sounds if the person or persons responsible for any succeeding sounds are warned of, or cited for, one or more offending sounds of the same type within the previous 90 days, or in the case of a business, in the time period since ownership of the business changed, whichever is less.

(2) *Citation; confiscation of sound emitter.*

a. If the sound is not eliminated or is not reduced to allowable limits within a reasonable time after the warning, or if the noise or sound is abated after warning and then reoccurs, the person so warned and not complying shall be cited for a violation of this chapter.

b. The city manager or designee shall notify the operator of any device that produces sound in excess of the limits set by Table I or Table I-A in section 15-3(b) that the device is a health hazard. The city manager or designee shall have the power and authority to have the device removed or toned down instantly until such time as it can be otherwise operated in compliance with this chapter.

(b) *Violation of plainly audible standard on posted property.*

(1) When a designated official of the city determines a person or persons are making, causing or allowing the making of sound that is in violation of the plainly audible standard on property posted as described below, the official shall issue a citation for violation of this chapter to such person or persons.

(2) Property shall be considered posted for the purposes of this subsection if at least

one warning sign is posted in a conspicuous place on the property, clearly visible and readable to all persons entering the property, warning persons that noise that is plainly audible is prohibited. Signs shall read as follows:

WARNING
Playing a stereo
radio, or amplifier
that can be heard 200 feet
away is prohibited.
City Ord. Sec. 15-3

Letters in the word "WARNING" must be at least two inches high in bold type. Letters for the remaining text must be at least one inch high in normal type, and the words "City Ord. Sec. 15-3" must be at least one-half inch high in normal type. All letters must be light-reflective on a contrasting background. The sign structure containing the required warning must be permanently installed with the word "WARNING" not less than three feet and not more than six feet above ground level.

(3) The city manager or designee may require a property to be posted if it is used for commercial purposes, including as a parking lot for an adjacent business, and:

a. The business is generally unattended by the owner or an agent of the owner during normal operating hours; or

b. Two or more citations for violation of this chapter resulting in payment of a fine or adjudication of guilt by a judge are issued due to acts of patrons or visitors during any 90-day period.

(c) *Other limits; complaint procedure.*

(1) Any complaint regarding a sound or noise disturbance based solely on its disturbing a reasonable person of normal sensitivities must be filed by a person who is disturbed by the sound or noise. The burden of proof of this complaint will be on the complainant if the complaint results in a hearing before a judge. The complaint may be filed at the time of the disturbance or within a reasonable period of time after the fact.

(2) When a complaint has been received, a designated official shall investigate the charges. If the official finds probable cause to believe the owner/operator is in violation of this chapter, the official shall issue a warning to cease and desist the violation.

(3) If the owner/operator does not take corrective action within a reasonable time as defined in section 15-2, or if the noise or sound is abated after warning and then reoccurs, the official may issue a citation or file a sworn complaint with the state attorney. For purposes of section 15-3(d)(5) (animal noises), the noise will be considered to be unabated, or abated and reoccurring, if the official hears the same noise more than ten minutes after issuing the warning; and the official may then issue a citation based on this violation.

(d) *Joint and several responsibility.* The owner, tenant or lessee of property, or a manager, overseer or agent, or any other person lawfully entitled to possess the property from which the offending sound is emitted at the time the offending sound is emitted, shall be responsible for compliance with this chapter. It shall not be a lawful defense to assert that some other person caused the sound. The lawful possessor or operator of the premises shall be responsible for operating or maintaining the premises in compliance with this chapter and shall be punished whether or not the person actually causing the sound is also punished.

(e) *Violation may be declared public nuisance.* The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this chapter which endangers the public health, safety and quality of life of residents in the area is declared to be a public nuisance, and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. No. 3868, § 1, 6-22-93; Ord. No. 4016, § 1, 9-12-94; Ord. No. 951346, § 1, 5-28-96; Ord. No. 960008, § 1, 12-8-97; Ord. No. 981314, § 1, 4-10-00)

Sec. 15-7. Penalties.

(a) The provisions of this chapter may be enforced by civil citation or by criminal citation. Any person not in compliance with this chapter shall, upon conviction, be subject to the penalties designated in section 1-9 or section 2-339. Each violation shall be considered a separate offense, which can be prosecuted separately.

(b) Any person responsible for an unlawful sound shall be subject to the confiscation of the sound emitter or emitters if convicted three times under this chapter within a 12-month period and provided the convictions are for sounds created by the same or same type of sound emitter. Upon the third conviction, the appropriate court shall authorize the city to confiscate the sound emitter until such time as the offender can positively demonstrate to the court both willingness and ability to operate the emitter within the limits prescribed by this chapter. Any further conviction shall authorize the permanent confiscation of the sound emitter by the appropriate court.
(Ord. No. 4016, § 2, 9-12-94; Ord. No. 981314, § 1, 4-10-00)

1. **Petition 31TCH-02 PB** City Plan Board. Amend the City of Gainesville Land Development Code to add special review criteria for certain industrial uses to be allowed by special use permit.

Chair Polshek noted that the board had heard the presentation on the petition and had all the information provided in their packets.

The Board agreed that there was no need for a lengthy presentation.

Chair Polshek noted that on Page 5, under intent, there were categories of pollution and those categories included truck pollution. He asked about the components of that truck pollution.

Mr. Nozzi agreed that the wording of truck pollution was redundant in some ways. He explained that the matter was raised by a number of citizens in the City.

Chair Polshek recommended that the words be stricken. He noted that there was no comment in the reduction of adjacent property values in the intent paragraph. He suggested that it might be a useful addition when industrial uses were placed next to non-industrial uses since it frequently reduced their value. He noted that the petition spoke to one percent of the average release of pollutants reported for that industry. He asked about the really toxic industries where there would be no acceptable level of release.

Mr. Nozzi indicated that the matter was a policy issue and there was no consensus on what it should be.

Chair Polshek asked if the issue of very toxic uses and terminating non-conforming uses had been reviewed.

Mr. Nozzi indicated that he had not seen language of that nature in any of the ordinances he reviewed.

Chair Polshek indicated that the International Standards Organization (ISO) had certain criteria for industrial processes, effluents, and construction. He asked if it would be possible to state that, if an applicant was a specially regulated industry, it must comply with the appropriate ISO guidelines, which were internationally recognized standards.

Mr. Nozzi explained that he would consult with County Environmental staff on the matter.

Mr. Andrews indicated that the Florida Statutes preempted the regulation of water, soil and air pollution and the only way a city or county could adopt a pollution program was to submit it to the State of Florida for approval.

Chair Polshek pointed out that Page 6 of the staff report stated that a use should abide by all Federal, State, Regional and Local Regulations.

Mr. Nozzi stated that staff did not recommend that the ordinance preempt state of federal regulation. He pointed out that staff only recommended that there be a list of high impact industries and consider spacing rules as a local prerogative. He agreed that there would be some preemption on the emissions regulations.

Mr. Rwebyogo indicated that he still believed a risk assessment should be required of the individual industries since each use was unique in a specific setting and how they would affect the community. He noted that there had been discussion of who would pay for a risk assessment, but his concern was finding a basis to establish the regulations. He stated that there was no basis for the proposed 2,000 foot spacing regulation.

Mr. Pearce indicated that he agreed with the concern about the 2,000-foot spacing requirement. He noted that there were regulations and general performance standards that addressed many of the concerns about the impact of the industries. He suggested that there was no need for the spacing requirement since any of the uses had to come before the Plan Board for a Special Use Permit.

Mr. Andrews stated that he would vote against the petition because emissions were already a regulated area with much scientific data and specific criteria that could be applied. He indicated that every industry had to show that their control of emissions was according to the best available technology. He stated that every industry that was licensed to operate had to show that it controlled its emissions to the lowest level that any technology in the world can provide. He noted that the staff report stated that, "Certain uses can be considered "high-impact" because they have the potential to produce substantial levels of air, water, soil, truck and noise pollution. He asked if the "substantial" was over and above the state and federal permitted levels. Mr. Andrews suggested that the ordinance would require industries coming to Gainesville to undergo far more stringent review than they do at the present time.

Mr. Hilliard indicated that there had been some misunderstanding about the proposal. He pointed out that the City Commission had already required a Special Use Permit for uses on the list of specially regulated industries. He explained that the only thing determined by the ordinance was the setback between larger hi-impact industries and residential areas. He noted that the study done by Water and Air Research during the industrial Moratorium included detailed tables of data from the different industries and it was determined by the City Commission that, if an industry could prove that it produced less than one percent of the average for the industry, it could be exempt from the Special Use Permit process.

Chair Polshek referring to Mr. Rwebyogo's request for a risk assessment, noted that the data had been provided that was essentially a form of risk assessment for all the industries. He indicated that the purpose of the petition was to enhance the quality of life in Gainesville, and allow industries that met the criteria to locate in the area and to discourage industries that were unwilling or unable to meet the standards. Regarding the issue of distance, he asked if the 2,000 feet was determined by the consultant's report.

Mr. Nozzi explained that staff did an analysis and determined how many properties would be affected by the ordinance.

Chair Polshek stated that he could support the petition as written.

Mr. Rwebyogo indicated that he agreed with the purpose of the petition, but he did not believe there was data to support the proposed regulation. Regarding the setback requirement, he suggested that a risk assessment could determine whether it should be 100 feet or 10,000 feet.

Mr. Pearce reiterated that there were performance standards that would regulate the industry and he did not see the need for a 2,000-foot distance requirement.

Mr. Nozzi explained that there were a number of people in the community that did not wish to live close to high-impact industries such as asphalt or cement plants. He explained that the problem with the performance standards was that there was no enforcement available on the local level, unless there was major controversy around an industry.

Chair Polshek opened the floor to public comment.

Ms. Sara Poll was recognized. Ms. Poll suggested that some newer board members might not be aware of the basis for the petition and how the Commission and the public were involved in development of the ordinance.

Chair Polshek closed the floor to public comment.

Mr. Pearce indicated that he could support the petition if the 2,000-foot spacing requirement was removed.

Mr. Guy indicated that he could support the petition with the inclusion of the ISO Standards requirement.

Motion By: Mr. Guy	Seconded By: Mr. Pearce
Moved to: Approve Petition 31TCH-02 PB, striking the requirement for a 2,000-foot spacing requirement and adding the language, "and is also compliant with the appropriate ISO series environmental management guidelines," to the submittal requirements.	Upon Vote: Motion Carried 4 - 2 Ayes: Pearce, Guy, Gold, Polshek Nays: Andrews, Rwebyogo