



# MEMORANDUM

Office of the City Attorney

Legistar No. 991381

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

**TO:** Mayor and City Commission

**DATE:** September 25, 2000  
SECOND READING

**FROM:** City Attorney

**SUBJECT:** Ordinance No. 0-00-77; Petition No. 67TCH-99PB

An ordinance of the City of Gainesville, Florida, amending the Land Development Code with respect to undergrounding utilities; creating and adding subsection 30-345(11) to require utility service to be installed underground as a general performance standard; amending section 30-187 to require underground utilities for both residential and non-residential subdivisions; amending section 30-189 to require a statement that utilities will be installed underground for all minor subdivision and lot split applications; amending section 30-160 to require a statement that utilities will be installed underground on all preliminary development plans; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

## STAFF REPORT

The City of Gainesville Land Development Code currently does not require the placement of utilities underground for new development, other than residential subdivisions. In the past, developers have often volunteered to place certain utilities underground, such as electric lines. One of the goals of the City of Gainesville is to underground utilities where feasible. Policy 3.1.5 of the Conservation Element of the City of Gainesville Comprehensive Plan states that in order to promote compatibility with infrastructure, strategies such as placing overhead utilities underground shall be implemented when economically feasible. The aesthetic value of placing utilities underground is apparent. In 1997, Gainesville Regional Utilities provided a plan for placing utilities underground to the City Commission, and at this time, approximately half of the utilities have been placed underground in city right-of-way and within easements. In keeping with the City's goals for the placement of utilities underground, the proposed text change would require utilities for all new development to be placed underground, such as electric wires, cable lines and telephone lines. The placement of utilities underground is currently required for residential subdivisions. The proposed text change includes a provision to require the same for non-residential subdivisions as well.

The Plan Board recommended approval of the petition as presented by Staff.

Public notice was published in the Gainesville Sun on June 6, 2000. The Plan Board held a public hearing June 22, 2000. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 67TCH-00 PB. Plan Board vote 5-0.

Fiscal Note  
None

CITY ATTORNEY MEMORANDUM

This ordinance requires two public hearings. If the Commission adopts the ordinance on first reading, the second and final reading will be held on September 25, 2000.

Prepared by:



Patricia M. Carter  
Sr. Assistant City Attorney

Approved and  
Submitted by:



Marion J. Radson  
City Attorney

MJR:PMC:sw

**PASSED ON FIRST READING BY A VOTE OF 4-0.**

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ORDINANCE NO. 0-00-77

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**An ordinance of the City of Gainesville, Florida, amending the Land Development Code with respect to undergrounding utilities; creating and adding subsection 30-345(11) to require utility service to be installed underground as a general performance standard; amending section 30-187 to require underground utilities for both residential and non-residential subdivisions; amending section 30-189 to require a statement that utilities will be installed underground for all minor subdivision and lot split applications; amending section 30-160 to require a statement that utilities will be installed underground on all preliminary development plans; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

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

**WHEREAS**, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on June 22, 2000; and

**WHEREAS**, notice was given and publication made of a Public Hearing which was then held by the City Commission on September 11, 2000; and

**WHEREAS**, at least 10 days notice has been given prior to first reading by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the Auditorium of City Hall in the City of Gainesville; and

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

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

**Section 1.** The initial paragraph of subsection 30-345 of the Land Development Code of the City

1 of Gainesville is relettered to read as follows:

2 **Sec. 30-345. General performance standards.**

3 (a) All uses and activities permitted in any zoning district shall conform to the standards of  
4 performance described below, and the failure to conform to any of such standards is hereby  
5 declared to be a public nuisance:

6 **Section 2.** A new subsection 30-345 of the Land Development Code of the City of Gainesville is  
7 created and added to read as follows:

8 (b) Utility service. All utility services, including but not limited to those of franchised  
9 utilities, electric power and light, telephone, cable services, water, sewer and gas, shall be  
10 installed beneath the surface of the ground, unless the city manager or designee determines that  
11 the soil, topography and other compelling condition makes it unreasonable or impractical. The  
12 subsurface mounting of incidental appurtenances, including but not limited to transformer boxes  
13 or pedestal-mounted boxes for the provision of utilities, electric meters, back flow preventers and  
14 fire hydrants, is not required.

15 **Section 3.** Subsection 30-187(s) of the Land Development Code of the City of Gainesville is  
16 amended to read as follows:

17 **Sec. 30-187. Design standards.**

18 (s) Underground utilities. Provisions shall be made for utility lines of all kinds, including  
19 but not limited to those of franchised utilities, electric power and light, telephone ~~and telegraph,~~  
20 cable services television, water, sewer and gas, to be constructed and installed beneath the  
21 surface of the ground within residential and non-residential subdivisions, unless ~~it is determined~~  
22 ~~by the city commission~~ determines that soil, topographical or other compelling conditions make

1 such construction unreasonable or impractical. The subsurface mounting underground  
 2 ~~installation~~ of incidental appurtenances, including but not limited to such as transformer boxes or  
 3 ~~pedestal-mounted boxes for the provision of electric and communication utilities, electric meters,~~  
 4 back flow preventers and fire hydrants shall not be required.

5 **Section 4.** Subsection 30-189(a)(1)b. of the Land Development Code of the City of Gainesville  
 6 is amended to read as follows:

7 **Sec. 30-189. Minor subdivisions and lot splits.**

8 (a) *Minor subdivisions.* Every minor subdivision shall be processed in the following manner:

9 (1) An application form provided by the department of community development  
 10 ~~planning division~~ shall be completed and filed with the department ~~division~~ accompanied  
 11 with the following:

12 b. A statement indicating whether water and/or sanitary sewer service is  
 13 available to the property; and a statement indicating that all utility service shall be  
 14 installed beneath the surface of the ground in accordance with section 30-345; and

15 **Section 5.** Subsection 30-189(b)(1)b. of the Land Development Code of the City of Gainesville  
 16 is amended to read as follows:

17 **Sec. 30-189. Minor subdivisions and lot splits.**

18 (b) *Lot splits.* Every lot split shall be processed in the following manner:

19 (1) An application form provided by the department of community development shall  
 20 be completed and filed with the department accompanied with the following:

21 b. A statement indicating whether water and/or sanitary sewer service is  
 22 available to the property; and a statement indicating that all utility service shall be

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1 installed beneath the surface of the ground in accordance with section 30-345; and

2 **Section 6.** Subsection 30-160(d)(34) of the Land Development Code of the City of Gainesville  
3 is created and added to read as follows:

4 **Sec. 30-160. Submittal requirements.**

5 (d) *Preliminary development plan.* Each preliminary development plan shall include the  
6 following:

7 (34) A statement indicating that all utility services shall be installed beneath the  
8 surface of the ground in accordance with section 30-345.

9 **Section 7.** It is the intention of the City Commission that the provisions of Sections 1 through 6  
10 of this ordinance shall become and be made a part of the Code of Ordinances of the City of  
11 Gainesville, Florida, and that the Sections and Paragraphs of this ordinance may be renumbered  
12 or relettered in order to accomplish such intentions.

13 **Section 8.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or  
14 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect  
15 the validity of the remaining portions of this ordinance.

16 **Section 9.** All ordinances or parts of ordinances in conflict herewith are to the extent of such  
17 conflict hereby repealed.

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

19 **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

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PAULA M. DeLANEY  
MAYOR

ATTEST:

Approved as to form and legality

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1 \_\_\_\_\_  
2 KURT M. LANNON  
3 CLERK OF THE COMMISSION

\_\_\_\_\_  
MARION J. RADSON  
CITY ATTORNEY

4 This Ordinance passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

5 This Ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

CITY  
-----OF-----  
GAINESVILLE

INTER-OFFICE COMMUNICATION

Item No. 4

TO: City Plan Board

DATE: June 22, 2000

FROM: Planning Division Staff

SUBJECT: Petition 67 TCH-00 PB, City of Gainesville. Amend the City of Gainesville Land Development Code to provide for the underground installation of utility services.

Recommendation

Staff recommends approval of Petition 67TCH-00PB.

Explanation

The City of Gainesville Land Development Code currently does not require the placement of utilities underground for new development, other than residential subdivisions. In the past, developers have often volunteered to place certain utilities underground, such as electric lines. One of the goals of the City of Gainesville is to underground utilities where feasible. Policy 3.1.5 of the Conservation Element of the City of Gainesville Comprehensive Plan states that in order to promote compatibility with infrastructure, strategies such as placing overhead utilities underground shall be implemented when economically feasible. The aesthetic value of placing utilities underground is apparent. In 1997, Gainesville Regional Utilities provided a plan for placing utilities underground to the City Commission, and at this time, approximately half of the utilities have been placed underground in city right-of-way and within easements. In keeping with the City's goals for the placement of utilities underground, the proposed text change would require utilities for all new development to be placed underground, such as electric wires, cable lines and telephone lines. The placement of utilities underground is currently required for residential subdivisions. The proposed text change includes a provision to require the same for non-residential subdivisions as well.

The following changes are proposed:

**Amend Section 30-345. General Performance Standards**

(11) Utility Service. All utility service, including, but not limited to, those of franchised utilities, electric, power and light, telephone and telegraph, cable services, water, sewer and gas, shall be installed beneath the surface of the ground, unless it is



(34) A statement indicating that all utility services shall be installed beneath the surface of the ground in accordance with Section 30-345.

Respectfully submitted,



Ralph Hilliard  
Planning Manager

4. **Petition 67TCH-00 PB** City Plan Board. Amend the City of Gainesville Land Development Code to provide for the underground installation of utility services.

Ms. Kathy Winburn was recognized. Ms. Winburn explained that the Land Development Code currently did not require that new development, other than residential subdivisions, place utilities underground. She noted that, in most cases, developers voluntarily placed utilities underground. She discussed the recommended regulations regarding placement of utilities. Ms. Winburn offered to answer any questions from the board.

Mr. McGill asked when the requirement would be applied to existing development.

Ms. Winburn indicated that underground utilities would be required unless new utilities were required.

Mr. Polshek asked if the regulation covered all forms of development.

Ms. Winburn replied that it did.

Mr. Polshek discussed problems with existing utilities in redevelopment areas. He asked if utilities could be installed in a manner that would facilitate redevelopment in the future.

Mr. Hilliard suggested that it would be very difficult to predict how a property would redevelop in the future.

There was discussion of utility design and records of plans.

There was no comment from the public.

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| <u>Motion By:</u> Mr. Polshek                  | <u>Seconded By:</u> Mr. McGill   |
| <u>Moved to:</u> Approve Petition 67TCH-00 PB. | <u>Upon Vote:</u> Motion Carried 5-0<br>Yeas: Fried, Polshek, Guy, McGill, Myers |