

# DRAFT

3/3/2004

020461C

PROPOSED ORDINANCE NO. \_\_\_\_\_

0-03-70

1  
2  
3  
4  
  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37

**An ordinance of the City of Gainesville, Florida; amending the Land Development Code, Chapter 30, relating to requirements for street trees, wetlands and surface waters; amending section 30-23, Land Development Code, deleting the definition of wetlands designated, providing a definition for wetland function, and amending the definition of wetlands; amending section 30-251, Land Development Code, clarifying street plantings should be uniform, clarifying approval may be by a board; amending section 30-300, Land Development Code, repealing obsolete definitions; amending section 30-301, Land Development Code, clarifying regulated surface waters and wetlands; amending section 30-302, Land Development Code, amending, clarifying and updating general requirements and procedures regarding surface waters, wetlands and buffers; creating section 30-302.1, Land Development Code, specifying criteria and conditions for the avoidance of loss or degradation of wetlands; amending section 30-303, Land Development Code, amending criteria and requirements for special permits for certain single family lots; amending section 30-304, Land Development Code, amending, conforming, and updating exemptions of the provisions of the surface waters and wetlands sections of the Code; amending section 30-311, Land Development Code, amending penalties for violations of the provisions of the surface waters and wetlands section of this Code to include City Manager authority to revoke a permit or issue a cease and desist order under certain conditions; amending the Gainesville Tree List, Land Development Code, conforming change to clarify street plantings should be uniform; 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

1 WHEREAS, notice was given and publication made as required by law and  
2 Public Hearings were then held by the City Plan Board on October 17, 2002 and June 19,  
3 2003; and

4 WHEREAS, at least 10 days notice has been given once by publication in a  
5 newspaper of general circulation notifying the public of this proposed ordinance and of a  
6 Public Hearing to be held in the City Commission Auditorium, City Hall, City of  
7 Gainesville; and

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

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

13 Section 1. The following definitions, stated at section 30-23, Land Development Code of the City  
14 of Gainesville, are amended to read:

15 Sec. 30-23. Definitions

16 Wetland function means the values of a wetland for: water quality protection and  
17 enhancement; attenuation of flood damage; aesthetic, scenic and open space values; recreation;  
18 habitat for fish, wildlife and native plant communities; historic and archeological heritage;  
19 groundwater recharge; contributions to the base flow of streams; scientific investigation and  
20 education; or as a type of place that is rare or unique in the area.

21 Wetlands have the meaning as ascribed in Rule 62-340.200(19), Florida Administrative  
22 Code.

23 ~~Wetland, designated means those wetlands for which a federal, state, regional, or local~~  
24 ~~agency asserts regulatory jurisdiction.~~

25 ~~Wetland means areas inundated by surface water or groundwater with a frequency and~~  
26 ~~duration sufficient to support, and which, under normal circumstances, do support, a prevalence~~  
27 ~~of vegetation typically adapted for life in saturated or seasonally saturated soil conditions, as~~  
28 ~~regulated by the appropriate water management district.~~

29 Section 2. Paragraph f. of subsection (2) of section 30-251, Land Development Code of the City  
30 of Gainesville, is amended to read:

31 (2) Minimum requirements for landscaped areas. All areas designed to meet the  
32 requirements of these sections shall comply with the following:

1 f. All required trees shall be selected from the Gainesville Tree List. Tree  
 2 species not appearing on the Gainesville Tree List may be planted only with  
 3 prior approval of the city manager or designee or appropriate reviewing  
 4 board. In order to encourage plant diversity, no more than 50 percent of the  
 5 selected canopy trees shall be of the same genus, except for street tree  
 6 plantings, which, on a given street should be uniform with respect to genus,  
 7 size, and shape. Street tree diversity is to be attained city-wide in order to  
 8 reduce the effect of loss of street tree species due to insect or disease  
 9 outbreaks, even though street tree diversity may not be attained on an  
 10 individual street. The applicant or landscape contractor shall schedule an on-  
 11 site meeting with the city arborist prior to the installation of any trees or  
 12 shrubs to ensure compatibility with infrastructure and compliance with  
 13 landscape code requirements.

14 **Section 3.** Section 30-300, Land Development Code of the City of Gainesville, is repealed in its  
 15 entirety.

16 **Sec. 30-300. Reserved Definitions.**

17 ~~As regards the provisions of the surface water sections of this article, the following words~~  
 18 ~~are defined:~~

19 ~~*Centerline of a regulated creek* means the center of the flood channels of such creek as~~  
 20 ~~shown on the city master flood control planning maps adopted pursuant to the flood control~~  
 21 ~~district provisions of article VIII.~~

22 ~~*Development* means any alteration of land and/or vegetation except permanent~~  
 23 ~~reestablishment of native vegetation the requirements of the surface waters and wetlands.~~

24 **Section 4.** Section 30-301, Land Development Code of the City of Gainesville, is amended to  
 25 read:

26 **Sec. 30-301. Regulated surface waters and wetlands.**

27 (a) The regulated creeks, lakes, and wetlands are as follows:

28 (1) Creeks and lakes delineated on the map entitled: "Surface Waters and Wetlands District",  
 29 on file with the public works department, the department of community development and the  
 30 clerk of the commission, and other creeks and lakes that are "waters in the state" as defined in  
 31 Section 373.019 (17), Florida Statutes.

32 (2) All ~~regulated~~ wetlands, as delineated pursuant to Rule 62-340.300, Florida  
 33 Administrative Code, the location and extent of which are as defined or determined by the  
 34 water management district with jurisdictional authority.

35 (b) In the event the city annexes property containing one or more creeks, lakes, or wetlands, the  
 36 affected annexed property will be included in the district. All creeks and lakes that are "waters in  
 37 the state" and all wetlands delineated pursuant to Rule 62-340.300 which are located in the City,  
 38 including those in the annexed areas, are regulated by this article. upon adoption of a new map by  
 39 ordinance.

40 **Section 5.** Section 30-302, Land Development Code of the City of Gainesville, is amended to  
 41 read:

1 **Sec. 30-302. General Requirements and Procedures**

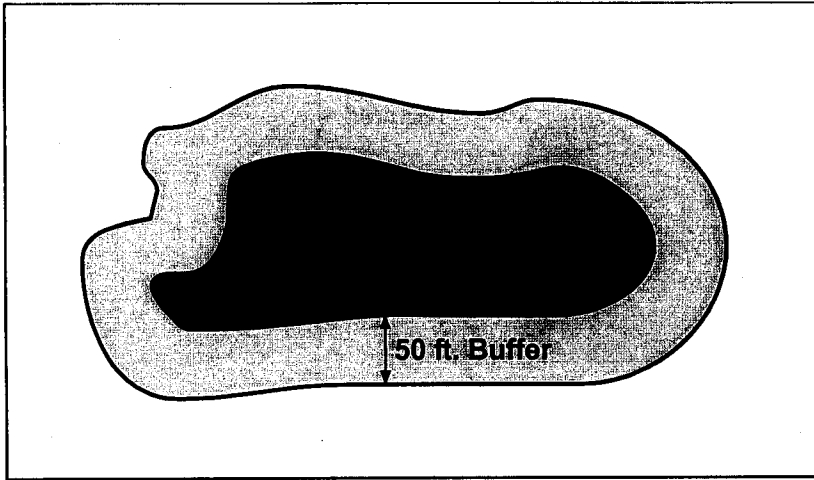
2 (a) Platted lots. It is the policy of the City that wetlands and required wetland buffers not be  
3 included within any platted lots or blocks for lots or blocks of any subdivision (not including  
4 lot splits and minor subdivisions) which are approved after \_\_\_\_\_ (insert adoption date of  
5 this ordinance).

6 (b) Buffers and Setbacks. Except as otherwise provided, there shall be no development in, on  
7 or over a surface water or wetland, or within ~~35~~ 75 feet of the landward extent of a regulated  
8 lake ~~or wetland~~, or within 35 feet of the break in slope at the top of the bank of any regulated  
9 creek as referred to in section 30-301. ~~An exception is made for single family lots platted~~  
10 ~~prior to May 1, 2000, when the 35-foot setbacks would create a hardship by precluding the~~  
11 ~~right to build a single family structure on said lots.~~

12 A minimum buffer distance of 35 feet and an average minimum buffer distance of 50 feet shall be  
13 required between the developed area and the landward extent of any wetland or surface water,  
14 other than (as provided in the preceding paragraph) a regulated lake or creek. Figure 1 depicts  
15 the minimum 50-foot buffer distance without encroachment. Wherever the buffer distance is less  
16 than 50 feet, the amount of such encroachment along the 50-foot buffer line shall be mitigated  
17 along an equal length of buffer line contiguous to the encroachment. Such mitigation shall  
18 consist of increasing the minimum buffer distance so that the average minimum buffer distance of  
19 50 feet is maintained at that location. Figures 2 and 3 depict encroachment of the 50-foot  
20 distance with required mitigation contiguous to the encroachment. The required increase in  
21 minimum buffer distance can be provided along an equal length of buffer line not contiguous to  
22 the encroachment only if greater protection of wetland resources can be attained, subject to the  
23 approval of the city manager or designee or appropriate reviewing board. See Figure 4 for  
24 depiction of increased minimum buffer distance along equal length of buffer line not contiguous  
25 to the encroachment.

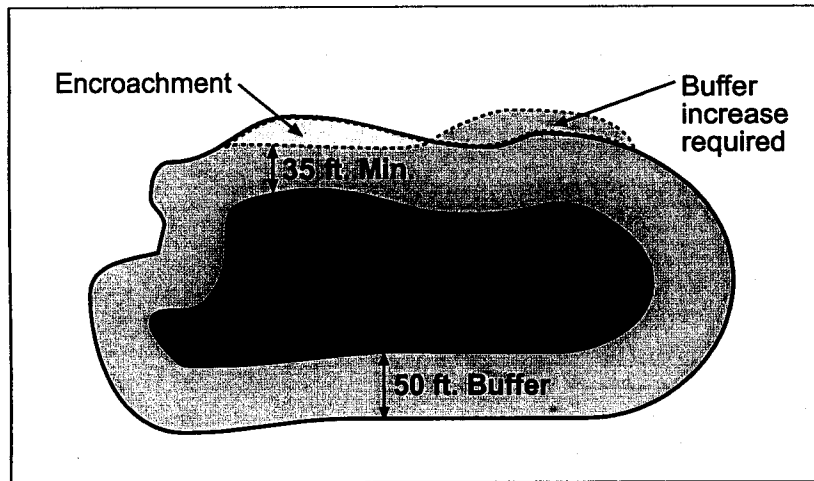
26 The average minimum distance of 50 feet shall be maintained under all circumstances unless it is  
27 established, prior to permitting, by competent, substantial evidence that a distance greater than 50  
28 feet is required for the protection of wetland functions, as required by this Ordinance. Buffers  
29 shall remain in an undisturbed condition except for drainage features that will not adversely affect  
30 wetland functions and public infrastructure exempted by Section 30-304. Outfall structures from  
31 stormwater retention or detention basins can be allowed within required buffers. The buffer shall  
32 not apply to surface waters or wetlands created by humans, except those wetlands that are created  
33 for mitigation. The buffer shall be clearly delineated with permanent markers.

34 Within required wetland or surface water buffers, there shall be no placement of impervious  
35 surfaces or sod, except as otherwise allowed pursuant to this article. All invasive, non-native  
36 plant species listed in Sec. 30-251(7)g. shall be removed prior to issuance of the certificate of  
37 occupancy. All plants listed on the Noxious Weed List, Section 5B-57.007, Florida  
38 Administrative Code, shall be removed prior to issuance of the certificate of occupancy. Native  
39 vegetation shall be retained and/or installed in order to protect wetland and surface water  
40 environmental features.



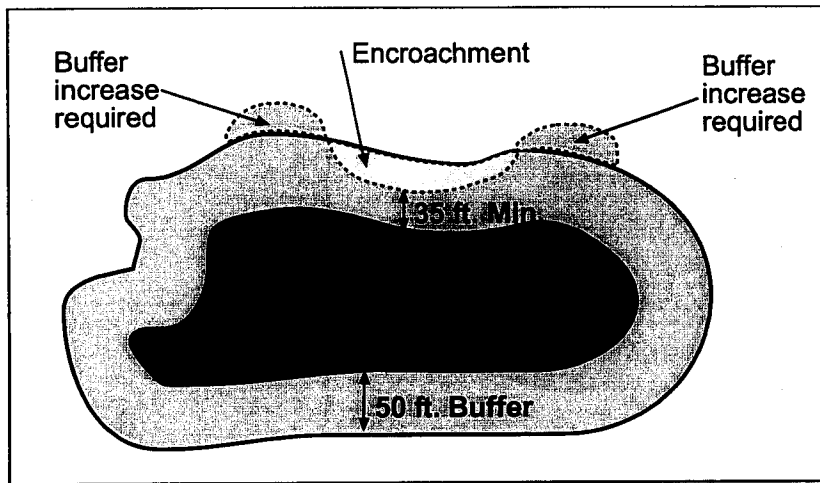
1  
2  
3  
4  
5

Figure 1. Minimum 50-ft. buffer.



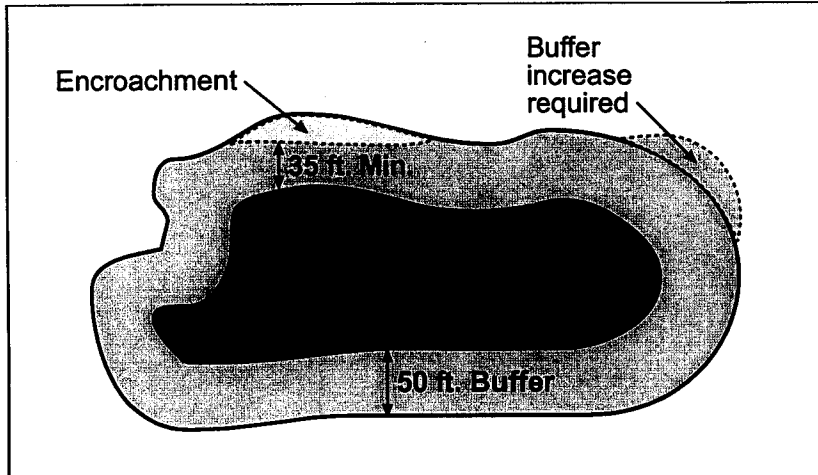
6  
7  
8  
9  
10

Figure 2. Buffer encroachment with contiguous increase.



1  
2  
3  
4

Figure 3. Buffer encroachment with contiguous increases.



5  
6  
7  
8

Figure 4. Buffer encroachment with non-contiguous increase.

9 (c b) Outstanding Florida Waters, as listed in Section 62-302.700, Florida  
10 Administrative Code, shall have a minimum buffer of 200 feet.

11 (d b) For development activity between 35 and 150 feet from the break in slope at the  
12 top of the bank of any regulated creek, it is a rebuttable presumption that the development activity  
13 is detrimental to the regulated creek and is therefore prohibited unless approval is granted as set  
14 forth below in subsection (e).

15 (e e) Development plans for lots within 150 feet of any regulated creek shall  
16 demonstrate compliance with the following standards (standards (2) and (3) shall not be applied  
17 to residential single-family lots):