

Legislative #

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9 **ORDINANCE NO. 190293**

10 **An ordinance of the City of Gainesville, Florida, amending Section 30-8.7.**
11 ***Permits for Tree Removal; Mitigation of the Land Development Code (Chapter***
12 ***30 of the City of Gainesville Code of Ordinances) relating to tree mitigation***
13 ***requirements for single-family developments and affordable housing***
14 ***developments; providing directions to the codifier; providing a severability***
15 ***clause; providing a repealing clause; and providing an effective date.***

16 **WHEREAS**, the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, secures for
17 municipalities the broad exercise of home rule powers granted by Article VIII, Section 2 of the
18 Florida Constitution, including the exercise of any power for municipal purposes not expressly
19 prohibited by law; and

20 **WHEREAS**, Sections 163.3167 and 163.3177(1), Florida Statutes, requires the City of Gainesville
21 to maintain a Comprehensive Plan to guide the future development and growth of the city by
22 providing the principles, guidelines, standards, and strategies for the orderly and balanced future
23 economic, social, physical, environmental and fiscal development of the city; and

24 **WHEREAS**, the City of Gainesville is required by Section 163.3202, Florida Statutes, to adopt or
25 amend and enforce land development regulations that are consistent with and implement the
Comprehensive Plan, and that are combined and compiled into a single land development code
for the city (the City of Gainesville’s Land Development Code is Chapter 30 of the Code of
Ordinances); and

WHEREAS, this ordinance, which was noticed as required by law, will amend the text of the Land
Development Code as described herein; and

WHEREAS, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of
the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant

1 to Section 163.3174, Florida Statutes, held a public hearing on December 10, 2019, and voted to
2 recommend the City Commission approve this text change to the Land Development Code; and

3 **WHEREAS**, at least ten days’ notice has been given once by publication in a newspaper of general
4 circulation notifying the public of this proposed ordinance and of public hearings before the City
5 Commission of the City of Gainesville; and

6 **WHEREAS**, public hearings were held pursuant to the notice described above at which hearings
7 the parties in interest and all others had an opportunity to be and were, in fact, heard; and

8 **WHEREAS**, the City Commission finds that the Land Development Code text amendment
9 described herein is consistent with the City of Gainesville Comprehensive Plan.

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

12 **SECTION 1.** Section 30-8.7 of the Land Development Code is amended as follows. Except as
13 amended herein, the remainder of Section 30-8.7 remains in full force and effect.

14 **Section 30-8.7. Permits for Tree Removal; Mitigation.**

15 A. *Removal or relocation permits.* Except as provided below, no living regulated tree may be
16 removed or relocated without a removal permit and mitigation as provided for in this section.
17 Only the tree advisory board may approve or deny the removal, relocation or replacement of
18 champion trees.

19 B. *Exemptions.*

20 1. On property with single-family dwellings, permits shall be required only for the removal
21 of champion or heritage trees.

22 2. Developments in which 100% of housing is affordable to low-income households may
23 mitigate for removal of high-quality heritage trees through inch-for-inch replacement
24 rather than payment of the tree appraised value. For purposes of this section, “low-
25 income households” means those that make less than 80% of the Gainesville area median
26 income adjusted for family size, and “affordable housing” means housing where the total

1 monthly cost of that housing including taxes, insurance, and utilities is less than 30% of
2 the household's total monthly income.

3 ~~3.2-~~ Removal of loblolly or slash pines less than 20 inches in diameter from a natural or
4 naturalized landscape shall not require mitigation planting, unless the removals result in
5 a uniform tree density on the site of less than one tree per 900 square feet of unpaved
6 area. Where resulting tree density would be less, sufficient mitigation trees meeting the
7 standard of section 30-8.10 shall be established to achieve the specified minimum
8 density.

9 ~~4.3-~~Removal of regulated trees in connection with ecosystem management or restoration on
10 parcels with conservation easements, in conservation management areas or on parcels
11 managed as nature parks or preserves, provided the following criteria are met:

- 12 a. A plan for the removal and revegetation of the area has been approved by the city
13 manager or designee;
- 14 b. The only trees that may be removed are of the following species: Loblolly Pine,
15 Slash Pine, Water Oak, Laurel Oak, Sweetgum, Sugarberry, and any species not
16 native to Alachua County;
- 17 c. The tree removal is being done in furtherance of restoration of a natural
18 community or communities appropriate to the site as indicated by soils, remnant
19 vegetation, and hydrological and geological conditions;
- 20 d. The applicant has demonstrated that after the removals, the land will be
21 maintained in a manner that promotes the continuation of the restored natural
22 community; and
- 23 e. The plan has been approved by the nature centers commission.

24
25 ~~5.4-~~ For the immediate protection of the health, safety, or welfare of the public, trees may
26 be removed without obtaining a permit in advance. However, the property owner or its
27 authorized agent shall file a permit application during the next city work day. Permit
28 approval shall be granted, provided the trees removed are mitigated in accordance with
29 this code.

30 C. *Methods of mitigation.* Mitigation is allowed by two methods: 1) mitigation trees (on an
31 inch-for-inch basis or as otherwise specified); and 2) mitigation payment. The amount of
32 mitigation is as specified in subsections D. and E. below.

33 1. *Mitigation trees.* Mitigation trees shall be of high quality shade species as identified on
34 the Gainesville tree list and sited in accordance with the requirements of section 30-8.3.A.
35 The installation of new trees for a development as required by this chapter may count as
36 mitigation for trees removed from the site, except where those removed trees are of a
37 high-quality species. Increasing the diameter of trees required to be planted with a
38 development shall not be used to meet mitigation requirements. The preference is for
39 mitigation trees to be planted on the site, but where it is demonstrated that no space is

1 available, mitigation trees may be planted offsite within city limits as approved by the city
2 manager or designee.

3 2. *Mitigation payment.* Mitigation payment shall be based on tree appraised value, or as
4 otherwise specified in this code. Payment shall be made prior to the approval of a final
5 development order, or prior to issuance of a certificate of occupancy for any development
6 requiring only building permits. Mitigation payments received by the city shall be
7 deposited in the city tree mitigation fund, which must be used in accordance with this
8 subsection. This fund may be used for new tree plantings associated with public
9 improvement projects or for the preservation of trees through the purchase of
10 conservation lands, but shall not be used for tree maintenance or toward the installation
11 of new trees that would already be required for a development. In addition, this fund may
12 be used for an ecological assessment of the urban forest every five years, and for an
13 update of the urban forest management plan every ten years.

14 a. *Offsets for tree mitigation payment.* A tree mitigation payment may be offset by
15 installing improvements that create an improved growing environment for existing
16 or proposed trees located within the project's street tree landscape zone within the
17 public right-of-way, including:

- 18 i. Use of a pre-manufactured, modular structural product to suspend and support
19 paving over the root zone volume area of the tree in order to prevent soil
20 compaction.
- 21 ii. Provision of root zone volume greater than the required minimum as specified in
22 section 30-8.3.A, provided that the root zone volume does not exceed six feet in
23 depth. Credit will be granted per cubic foot over the required minimum up to
24 2,000 cubic feet total root zone volume. Trees must be provided with a minimum
25 of 1,000 cubic feet of root zone volume to be eligible.

26
27 Proposed improvements and installation methods must be consistent with industry
28 standards, and must be approved by the city arborist or urban forestry inspector
29 prior to installation and inspected and approved prior to any credit towards the
30 project's tree mitigation payment. The requested offset may not exceed the project's
31 total tree mitigation payment, and proposed improvements must be used on the
32 project requiring tree mitigation. Improvements must be installed by a qualified
33 installer of the product as identified by the manufacturer's specifications.
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35 D. *Removal and mitigation of regulated trees subject to subdivision or development plan*
36 *approval.* When tree removal or relocation is contemplated in conjunction with any
37 development requiring approval of a development plan or subdivision plat, such removal or
38 relocation shall be considered and either approved or denied at the same time a development
39 plan or plat is approved or denied, based upon the criteria specified in Subsection F of this
40 section. No separate tree removal permit is required. All of the required plans, data or other

1 information required with the application shall be included on the proposed development
 2 plan or on the supporting documents submitted with the plan or the plat. The following
 3 requirements apply:

- 4 1. Decisions on tree removal shall be based on a tree survey or a qualitative tree survey. The
 5 landscaping plan shall show all trees to be preserved, provide for protective tree barriers
 6 that meet the requirements of Section 30-8.8, and specify the details of the mitigation
 7 required in this section.
- 8 2. Construction drawings shall be submitted to the building department and application for
 9 building permits made before any trees are removed.
- 10 3. Subdivisions must be designed to maximize preservation of high-quality heritage trees.
 11 The owner/developer shall avoid or minimize removal of high-quality heritage trees by
 12 implementing practicable design alternatives including, but not limited to:
 - 13 a. Limiting the scope, degree, or magnitude of the proposed project;
 - 14 b. Exploring alternative on-site locations to avoid or reduce impacts to heritage trees;
 - 15 c. Designing open-space common areas to incorporate high-quality heritage trees;
 - 16 d. Configuring lots to include high-quality heritage trees along the sides of the lot, rather
 17 than in the center where removal is necessary for construction; and
 - 18 e. Preserving trees along roadways as street trees.

19 ~~4.3~~-After a certificate of occupancy has been issued for a development, any additional tree
 20 removal shall require either a tree removal permit or a development plan amendment.
 21 Failure to obtain a tree removal permit before removing or relocating any existing
 22 regulated tree or any tree that was planted to comply with the approved development
 23 plan shall be subject to the measures for enforcement specified in Section 30-8.43.

24 ~~5.4~~The requirements for mitigation of regulated trees approved for removal as part of
 25 development plan or subdivision plat review are as follows:

CATEGORY	MITIGATION
High quality heritage trees, in fair or better condition.	Mitigation payment based on tree appraised value, limited to three trees per acre averaged over the entire site. If more than three trees per acre in this category are located on the site then the trees with the highest tree appraised value throughout the site shall be used to calculate the payment. High quality heritage trees proposed for removal in excess of the overall average of

CATEGORY	MITIGATION
	three per acre shall require mitigation trees on an inch-for-inch on a diameter basis.
<u>High-quality heritage trees in 100% affordable housing developments as defined by Section 30-8.7.B.2.;</u> heritage trees of other than high quality species, in fair or better condition, excluding laurel oaks and water oaks.	Mitigation trees on an inch-for-inch diameter basis.
Any heritage trees in less than fair or better condition; any heritage laurel oak or water oak; and any other regulated tree.	Mitigation trees consisting of two trees of high quality shade species established for each tree removed.

- 1 E. *Removal and mitigation of regulated trees not part of subdivision or development plan*
2 *approval.* Any person desiring to remove or relocate a regulated tree, except tree removal
3 approved as part of subdivision or development plan approval, shall file a tree removal permit
4 with the City Manager or designee. As a condition to granting a permit, the applicant shall
5 mitigate each tree being removed. The following requirements apply:
- 6 1. Permit applications shall include the name of the property owner, address from which
7 tree will be removed, tree species and diameter, and reason for removal of the tree. The
8 permit application shall be signed by the property owner and, if applicable, its authorized
9 agent. Applications for tree removal shall also include a scaled drawing of the site showing
10 tree size and location, and a statement of how any other regulated trees are to be
11 protected during any approved tree removal and any associated construction or clearing,
12 or grade changes. The City Manager or designee shall attempt to verify the information
13 contained in the application and shall either approve or deny the application as to each
14 regulated tree proposed to be removed.
 - 15 2. Where construction is associated with the tree removal, construction drawings shall be
16 submitted to the building department and application for building permits made before
17 any trees are removed.
 - 18 3. The requirements for mitigation of regulated trees not associated with development plan
19 or subdivision plat review are as follows:

CATEGORY	MITIGATION
Single Family Dwellings	
High quality heritage trees, in fair or better condition, wherever they are located on the property.	Mitigation trees on an inch-for-inch diameter basis, with a minimum of two

	shade trees of high quality species planted on site for each tree removed.
Heritage trees of other than high quality species and high quality heritage trees in less than fair or better condition, wherever they are located between the property lines and legal setbacks.	Mitigation trees consisting of two shade trees of high quality species planted on the site for each tree removed.
All Other Uses	
High quality heritage trees, in fair or better condition.	Mitigation payment based on tree appraised value, and mitigation trees consisting of a minimum of two shade trees of high quality species planted on site for each tree removed.
<u>High-quality heritage trees in 100% affordable housing developments as defined by Section 30-8.7.B.2.;</u> h Heritage trees of other than high quality species, in fair or better condition; and high quality heritage trees, in fair or better condition, which are causing structural problems to buildings or underground utilities.	Mitigation trees on an inch-for-inch diameter basis, with a minimum of two shade trees of high quality species planted on site for each tree removed.
Any heritage trees in less than fair or better condition; and any other regulated tree.	Mitigation trees consisting of two shade trees of high quality species planted on the site for each tree removed.

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2 **SECTION 2.** It is the intent of the City Commission that the provisions of Section 1 of this
3 ordinance become and be made a part of the Code of Ordinances of the City of Gainesville,
4 Florida, and that the sections and paragraphs of the Code of Ordinances may be renumbered or
5 relettered in order to accomplish such intent.

6 **SECTION 3.** If any word, phrase, clause, paragraph, section, or provision of this ordinance or the
7 application hereof to any person or circumstance is held invalid or unconstitutional, such finding

1 will not affect the other provisions or applications of this ordinance that can be given effect
2 without the invalid or unconstitutional provision or application, and to this end the provisions of
3 this ordinance are declared severable.

4 **SECTION 4.** All ordinances or parts of ordinances in conflict herewith are to the extent of such
5 conflict hereby repealed.

6 **SECTION 5.** This ordinance will become effective immediately upon adoption.

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8 **PASSED AND ADOPTED** this ____ day of _____, 2020.

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LAUREN POE
MAYOR

Attest:

Approved as to form and legality:

OMICHELE D. GAINNEY
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2020.

This ordinance passed on second reading this ____ day of _____, 2020.