

DRAFT

3/4/2004

ORDINANCE NO.
0-03-70

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5 **An ordinance of the City of Gainesville, Florida; amending the**
6 **Land Development Code, Chapter 30, relating to requirements**
7 **for street trees, wetlands and surface waters; amending section**
8 **30-23, Land Development Code, deleting the definition of**
9 **wetlands designated, providing a definition for wetland**
10 **function, and amending the definition of wetlands; amending**
11 **section 30-251, Land Development Code, clarifying street**
12 **plantings should be uniform, clarifying approval may be by a**
13 **board; amending section 30-300, Land Development Code,**
14 **repealing obsolete definitions; amending section 30-301, Land**
15 **Development Code, clarifying regulated surface waters and**
16 **wetlands; amending section 30-302, Land Development Code,**
17 **amending, clarifying and updating general requirements and**
18 **procedures regarding surface waters, wetlands and buffers;**
19 **creating section 30-302.1, Land Development Code, specifying**
20 **criteria and conditions for the avoidance of loss or degradation**
21 **of wetlands; amending section 30-303, Land Development**
22 **Code, amending criteria and requirements for special permits**
23 **for certain single family lots; amending section 30-304, Land**
24 **Development Code, amending, conforming, and updating**
25 **exemptions of the provisions of the surface waters and**
26 **wetlands sections of the Code; amending section 30-311, Land**
27 **Development Code, amending penalties for violations of the**
28 **provisions of the surface waters and wetlands section of this**
29 **Code to include City Manager authority to revoke a permit or**
30 **issue a cease and desist order under certain conditions;**
31 **amending the Gainesville Tree List, Land Development Code,**
32 **conforming change to clarify street plantings should be**
33 **uniform; providing directions to the codifier; providing a**
34 **severability clause; providing a repealing clause; and**
35 **providing an immediate effective date.**

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WHEREAS, the City Plan Board authorized the publication of notice of a Public

38 Hearing that the text of the Land Development Code of the City of Gainesville, Florida,
39 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 April 12, 2004.

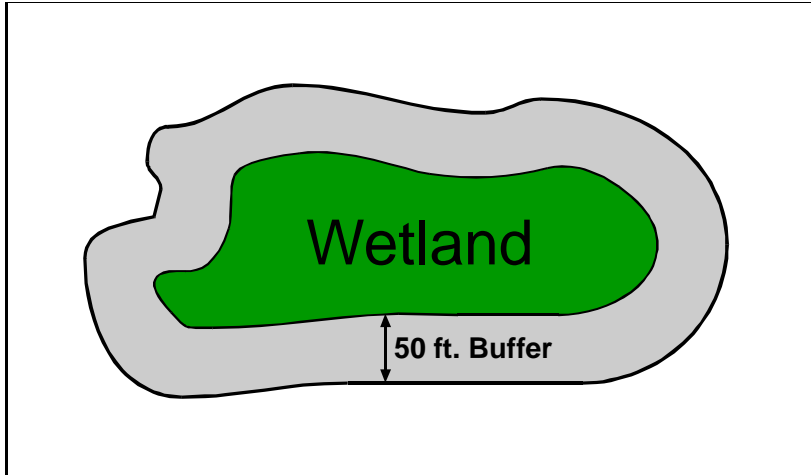
5 (b) Buffers ~~and Setbacks.~~ Except as otherwise provided, there shall be no development in, on
6 or over a surface water or wetland, or within ~~35~~ 75 feet of the landward extent of a regulated
7 lake ~~or wetland~~, or within 35 feet of the break in slope at the top of the bank of any regulated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

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

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

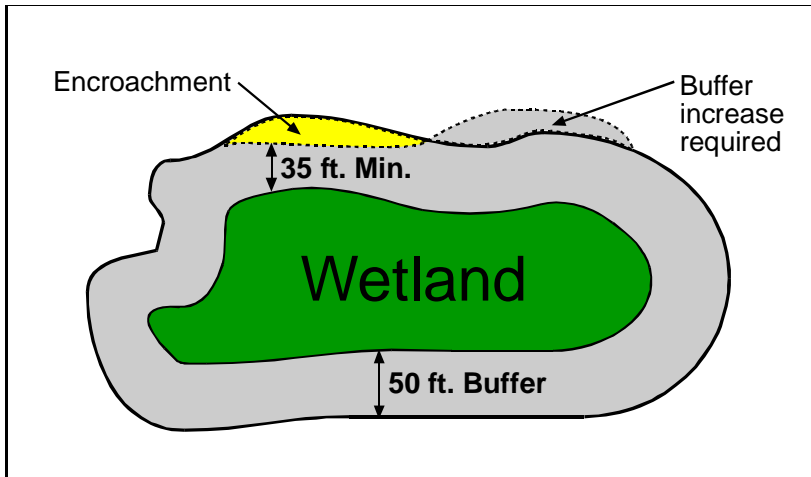
33 Within required wetland or surface water buffers, there shall be no placement of impervious
34 surfaces or sod, except as otherwise allowed pursuant to this article. All invasive, non-native
35 plant species listed in Sec. 30-251(7)g. shall be removed prior to issuance of the certificate of
36 occupancy.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

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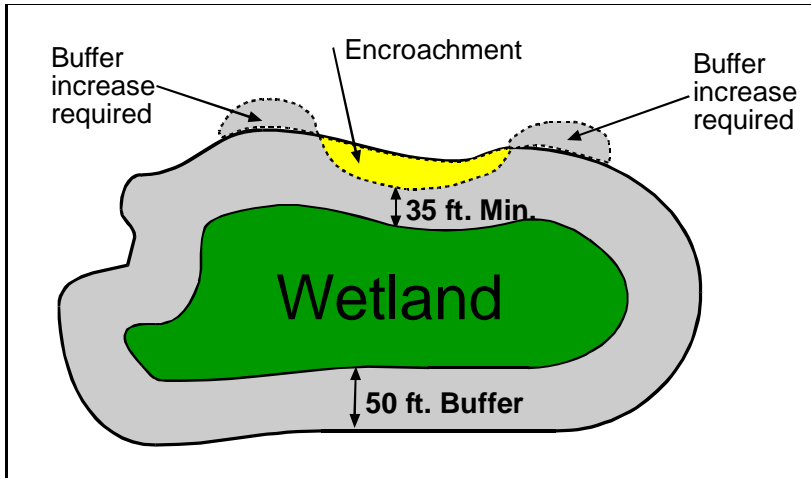
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Figure 1. Minimum 50-ft. buffer.



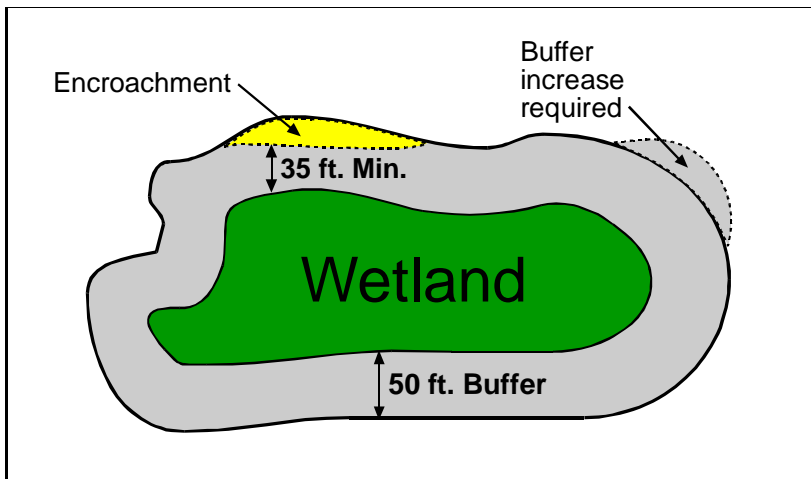
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Figure 2. Buffer encroachment with contiguous increase.



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Figure 3. Buffer encroachment with contiguous increases.



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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):

1 (1) The development will not introduce ~~increase~~ erosion and sediment pollution to the creek
2 both during and after construction;

3 (2) The first one inch of runoff or appropriate water management district standards,
4 whichever is greater, will either be retained or detained through filtration on the project
5 site;

6 (3) There will be no net increase in the rate of runoff from the site;

7 (4) There is no threat to the stability of the creek bank;

8 (5) There will be no placement of buildings, structures, impervious surfaces, or sod that
9 would require the removal of vegetation integral to the creek's ecological value, ~~including~~
10 ~~removal that would have an adverse impact on the viability of "special protection~~
11 ~~species" as determined and regulated by the water management district with jurisdictional~~
12 ~~responsibility.~~ All invasive, non-native plant species listed in Sec. 30-251(7)g. shall be
13 removed prior to issuance of the certificate of occupancy. All plants listed on the
14 Noxious Weed List, Section 5B-57.007, Florida Administrative Code, shall be removed
15 prior to issuance of the certificate of occupancy. Native ~~Natural~~ vegetation shall be
16 installed and/or retained to protect ~~designated~~ surface water or wetland environmental
17 features.

18 ~~(d) Degradation of wetlands shall be mitigated in accordance with appropriate water management~~
19 ~~district standards, and as further regulated in this Code.~~

20 ~~(f)~~ (e) The development will not modify groundwater levels so as to have an adverse
21 impact on the hydrological regime of a surface water or wetland. For the purposes of this
22 provision, adverse impact is defined as a change that prevents the surface water or wetland from
23 maintaining a structure and function equivalent to pre-development levels.

24 ~~(g)~~ (f) If a proposed development requires development plan review pursuant to article
25 VII of this code, the showing of compliance with the requirements of the surface waters and
26 wetlands sections of article VIII shall be made in development plan review. The petition for
27 development plan review shall provide both a hydrological report and construction plans prepared
28 by a qualified engineer registered in the state.

29 ~~(h)~~ (g) If a proposed development does not require development plan review, a showing of
30 compliance shall be certified by the city manager's designee prior to issuance of any building
31 permit. To demonstrate compliance with the requirements concerning quality and control of
32 erosion and sediment pollution, the development plan may employ the city's "General Criteria for
33 Controlling Erosion and Sediment," in the design manual, or equivalent practices, rather than
34 employing the more elaborate hydrological and soil reports used in development plan review.
35 Compliance with the measures required by "General Criteria for Controlling Erosion and
36 Sediment" shall be presumed sufficient to meet the standards in subsections 30-302 ~~(e)(e)~~(1), (2)
37 and (3). The development plan shall provide enough information to demonstrate compliance with
38 the remaining standards, but need not ordinarily be prepared by a registered engineer. A
39 professional land surveyor certified by the state shall provide the lot boundaries survey and
40 topographical information.

41 ~~(i)~~ (h) On-site transfer of development intensity and density. In order to protect
42 ~~designated~~ surface water ~~environmental~~ features of a site, development intensity and density for
43 building areas may be transferred from a lower to a higher elevation within the same property or
44 adjacent property under the same ownership and zoning category. Intensity and density may be
45 apportioned over the property by reserving the surface water and its buffer area as common open

1 space. If all of the intensity and density is transferred to the adjacent property, the owner shall
2 record a restriction in the chain of title of the transferor property, prior to issuance of a final
3 development order, to restrict the use of the land in perpetuity to non-development uses, with
4 such restrictions being expressly enforceable by the city.

5 (j) The installation of new septic tanks is prohibited within 150 feet of the landward extent
6 of a regulated lake or wetland, or within 150 feet from the break in slope at the top of the bank of
7 the centerline of a regulated creek.

8 **Section 6.** Section 30-302.1, Land Development Code of the City of Gainesville, is created to
9 read:

10 **Sec. 30-302.1. Avoiding Loss or Degradation of Wetlands.**

11 Wetlands within and around the City of Gainesville provide environmental benefits such as water
12 quality improvement, floodplain and erosion control, groundwater recharge and wildlife habitat,
13 especially for species listed as endangered, threatened or of special concern by state and federal
14 agencies, plus recreational, aesthetic and educational opportunities for people. These functions
15 may be provided regardless of wetland size. Wetlands damaged or degraded shall either be
16 restored to their function and condition prior to such damage, or mitigated pursuant to the
17 mitigation requirements in the Comprehensive Plan, this Code, and in accordance with
18 appropriate water management district standards.

19
20 (a) Purpose and Intent. The purpose of this section is to avoid loss or degradation of
21 wetland functions, to minimize unavoidable degradation or loss of wetland functions and
22 to require mitigation that fully offsets any unavoidable loss or degradation of wetland
23 functions. In addition, it is the purpose of this section to ensure that development
24 activities that cause the unavoidable degradation or loss of wetland function are clearly in
25 the public interest and fully offset any degradation or loss of wetland functions through
26 sustainable mitigation. This section should contribute to the restoration of wetlands
27 functions in the City.

28
29 (b) Applicability. Except as provided below this section shall be applicable to all wetlands
30 within the City of Gainesville. This section shall not apply to the maintenance of
31 permitted stormwater systems.

32
33 (c) Delineation. Wetlands shall be delineated pursuant to Rule 62-340.300, Florida
34 Administrative Code. Delineations performed by the State of Florida pursuant to Rule
35 62-340.300, Florida Administrative Code, shall be binding on the City for the purposes of
36 this section.

37
38 (d) Avoidance through Minimization. Avoidance of loss of wetland function and wetland
39 habitat is of the highest priority. The Owner shall avoid loss of wetland function and
40 wetland habitat by implementing practicable design alternatives to minimize adverse
41 impacts to wetlands, except as permitted in this section:

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43 The adverse impacts remaining after practicable design modifications have been made
44 shall be offset by mitigation as provided herein. A development activity cannot cause a
45 net adverse impact on wetland functions, wetland habitat, or surface water functions, if
46 such activity is not offset by mitigation.
47

Avoidance through practicable design modifications is not required when the ecological value of the function provided by the area of wetland is low and the proposed mitigation will provide greater long-term ecological value than the area of wetland to be affected.

(e) Conditions for the issuance of a development permit for property upon which wetlands are located. The City Manager or designee or appropriate reviewing board shall review all permit applications based on the conditions set forth below. No development of property containing wetlands shall be permitted unless the Owner provides reasonable assurance that the activity:

- 1. Will not adversely impact the value of wetland functions provided to fish and wildlife and listed species;
- 2. Will not cause adverse secondary or cumulative impacts to water and wetland resources;
- 3. Will be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed;
- 4. Will be conducted by an entity with the sufficient financial, legal and administrative capability to ensure that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued;
- 5. Will comply with criteria for buffer zones set forth herein;
- 6. Is consistent with the Owner’s stormwater management permit, if required; and
- 7. Is clearly in the public interest based on a balancing of the following criteria:
 - a. Whether the development activity requires location in, on, or over wetlands or surface waters in order to fulfill its basic function;
 - b. The effect of the development activity on the public health, safety, or welfare or the property of others;
 - c. The effect of the development activity on fish, wildlife and native plant communities;
 - d. The effect of the development activity on recreation, open space and aesthetic values;
 - e. The effect of the development activity on significant historical and archaeological resources;
 - f. Whether the development activity will be of a temporary or permanent nature;
 - g. The current condition and relative value of wetland functions being performed by areas affected by the proposed activity;
 - h. The type, extent, and geographic location of any mitigation proposed;

i. The extent to which the development furthers the goals of the Comprehensive Plan, and the proximity of the development to existing infrastructure.

(f) Mitigation. This section applies to development activities in wetlands, which cannot be avoided or minimized, as determined by the criteria stated herein. Mitigation means an action or series of actions to offset the adverse impacts that would otherwise cause a regulated activity to fail to meet the criteria set forth herein.

1. Types of mitigation; mitigation ratios. Mitigation consists of creation, preservation, enhancement, restoration, or a combination thereof in accordance with the ratios and preferences set forth in Chapter 62-345, Florida Administrative Code (Uniform Mitigation Assessment Method).

a. Preservation means the protection of wetlands, other surface waters or uplands from adverse impacts by placing a conservation easement or other comparable land use restriction over the property, in favor of the governmental entity with the appropriate jurisdiction.

b. Enhancement is an improvement in wetland function.

c. Restoration means converting existing wetlands, surface waters or uplands from a disturbed or altered condition to a previously existing natural condition to the maximum extent possible.

d. Creation means the establishment of new wetlands or surface waters by conversion of other landforms. Wetland creation is the least acceptable mitigation alternative and shall be considered only when preservation, restoration or enhancement within the sub-basin, basin or adjacent basin are infeasible at the ratios provided and when the Owner can demonstrate that the proper hydrology and geology exist to make a created wetland sustainable.

2. Location of mitigation. Any mitigation required pursuant to this Section shall be performed within the basins and sub-basins described below, and may be performed on-site. These basins and sub-basins shall be specifically delineated on a map in the Data and Analysis section of the Conservation, Open Space and Groundwater Recharge Element of the Comprehensive Plan. Sub-basins include but are not limited to those drainage units within basins described below and as determined by the City Manager or designee.

a. Newnans Lake Basin. This basin generally includes the areas east of the Hogtown Creek watershed and the Blues Creek watershed and north and east of the Paynes Prairie watershed. It includes Hatchet Creek, Little Hatchet Creek, Gum Root Swamp, Sunnyland Creek, Lake Forest Creek and the Newnans Lake watershed.

b. Paynes Prairie Basin. The Paynes Prairie Basin generally consists of the area west and south of the Newnans Lake Basin and south of the Hogtown Creek watershed flowing to Paynes Prairie and Alachua Sink. The Paynes Prairie Basin includes Sweetwater Branch, Rosewood Lateral, Tumbler Creek, Bivans Arm,

Extension Ditch, Calf Pond Creek, Alachua Sink and the Paynes Prairie watershed.

c. Hogtown Creek Basin. The Hogtown Creek basin generally includes the watershed for Hogtown Creek and Haile Sink and includes the depression basins that are adjacent to the west side of the watershed and within the Gainesville Community Basin. This Basin includes Hogtown Creek, Rattle Snake Creek, Springstead Creek, Pine Forest Creek, Ridge View Creek, Glenn Springs Creek, Possum Creek, Three Lakes Creek, Millhopper Creek, Monterey Creek, Royal Park Creek, Beville Creek, and the Lake Alice watershed, Lake Kanapaha, Rutledge Drain, Liberty Drain, Unnamed Branch and Unnamed Drain.

d. Blues Creek Basin. The Blues Creek Basin generally includes the area northwest of the Hogtown Creek Basin. The Basin includes Blues Creek, Alachua Slough and Sanchez Prairie.

e. Sub-basins may be delineated for each basin.

(g) Order of Mitigation Preference. The order of preference for the location of the mitigation area in relation to the impacted area is as follows:

- 1. In the same sub-basin;
- 2. In the same basin;
- 3. In another listed basin.

The appropriate reviewing board or City Manager or designee, in writing, may approve a deviation from this order of preference if greater ecological benefits would be achieved with another order.

(h) Mitigation Plan. Owners shall submit to the City Manager or designee detailed plans describing proposed construction, establishment, and management of mitigation areas. These plans shall include the following information, as appropriate for the type of mitigation proposed by the Owner:

- 1. A soils map of the mitigation area and other soils information pertinent to the specific mitigation actions proposed;
- 2. A topographic map of the mitigation area and adjacent hydrologic contributing and receiving areas;
- 3. A hydrologic features map of the mitigation area and adjacent hydrologic contributing and receiving areas;
- 4. A description of current hydrologic conditions affecting the mitigation area;
- 5. A map of plant communities in and around the mitigation area, including buffer areas;
- 6. Construction drawings detailing proposed topographic alterations and all structural components associated with proposed activities;

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- 7. Proposed construction activities, including a detailed schedule for implementation;
 - 8. Vegetation planting scheme and schedule for implementation, if planting is proposed;
 - 9. Sources of plants and soils used in wetland creation;
 - 10. Measures to be implemented during and after construction to avoid adverse impacts related to proposed activities;
 - 11. A management plan comprising all aspects of operation and maintenance, including water management practices, plant establishment, exotic and nuisance species control, fire management, and control of access;
 - 12. A proposed monitoring plan to demonstrate mitigation success;
 - 13. A description of the activities proposed to control exotic and nuisance species should these become established in the mitigation area. The mitigation proposal shall include reasonable measures to assure that these species do not invade the mitigation area in such numbers as to affect the likelihood of success of the project;
 - 14. A description of anticipated site conditions in and around the mitigation area after the mitigation plan is successfully implemented;
 - 15. A comparison of current fish and wildlife habitat to expected habitat after the mitigation plan is successfully implemented; and
 - 16. An itemized estimate of the cost of implementing mitigation, if applicable, as set forth herein.
- (i) Monitoring Requirements for Mitigation Areas. The owner shall monitor the progress of mitigation areas until success can be demonstrated as provided herein. Monitoring parameters, methods, schedules, and reporting requirements shall be specified as conditions within the appropriate permit. At a minimum, the Owner shall transmit to the city manager or designee monitoring reports certified by an environmental scientist, biologist, registered engineer or registered landscape architect. These reports shall be submitted no less frequently than every 12 months for at least 3 years, except as provided herein. At a minimum, the monitoring reports shall include the following:
- 1. An Executive Summary;
 - 2. A Table of Contents;
 - 3. A Map of the Site;
 - 4. Color photographs of the site and its important features;
 - 5. A description and analysis of water levels;
 - 6. A description and analysis of water quality;
 - 7. A description and analysis of the amount and types of nuisance and exotic plants;
 - 8. A description and analysis of the amount and types of intended and native plants;
 - 9. The survival rates of installed plants;
 - 10. Wildlife observations and
 - 11. A description of mitigating activities by Owner or agent.

Pursuant to the requirements of the Comprehensive Plan, regulatory fees for mitigation plan review and mitigation plan implementation shall be borne by the owner. Similar reporting to and review by the Water Management District shall be acceptable in lieu of this review.

(j) Protection of Mitigation Areas. The owner shall propose and be responsible for implementing methods to assure that mitigation areas will not be adversely impacted by incidental encroachment or secondary activities which might compromise mitigation success.

(k) Mitigation Success. After 3 years of monitoring, the owner shall provide to the City Manager or designee a written certification by an environmental scientist, biologist or registered engineer or registered landscape architect that the mitigation meets applicable success criteria as described below. If certification of success is not submitted or is not approved by the City Manager or designee, then monitoring shall continue and monitoring reports shall be submitted until the City Manager or designee deems the mitigation successful.

Mitigation Success Criteria. Mitigation success will be measured in terms of whether the objectives of the mitigation are realized. The success criteria to be included in permit conditions will specify the minimum requirements necessary to attain a determination of success. The City Manager or designee shall deem the mitigation successful when all applicable water quality standards are met, the mitigation area has achieved viable and sustainable ecological and hydrological functions, and the specific success criteria contained in the permit are met. If success is not achieved within the time frame specified within the permit, remedial measures shall be required. Monitoring and maintenance requirements shall remain in effect until success is achieved.

(l) Financial Assurances. As part of compliance with this section, the owner shall provide proof of financial assurance when:

1. conducting the mitigation activities;
2. conducting any necessary management of the mitigation site;
3. conducting monitoring of the mitigation; and
4. conducting any necessary corrective action indicated by the monitoring.

1. Cost Estimates. The amount of financial assurance provided by the owner shall be an amount equal to 120 percent of the cost estimate for each phase of the mitigation plan. For the purposes of determining the amount of financial assurance that is required by this subsection, the owner shall submit a detailed written estimate, in current dollars, of the total cost of conducting the mitigation, including any maintenance and monitoring activities, and the owner shall comply with the following:

- a. The cost estimate for conducting the mitigation and monitoring shall include all associated costs for each phase thereof, including earthmoving, planting, structure installation, maintaining and operating any structures, controlling

nuisance or exotic species, fire management, consultant fees, monitoring activities and reports.

b. The owner shall submit the estimates, together with comprehensive and verifiable documentation, to the City Manager or designee along with the draft of the financial assurance.

c. The costs shall be estimated based upon a qualified third party performing the work and supplying services and materials at fair market value. All cost estimates shall be supported by comprehensive and verifiable documentation.

2. Financial Responsibility Assurances. Financial responsibility for the mitigation, monitoring, and corrective action for each phase of the project may be established by any of the following methods, at the discretion of the owner:

a. Bond. A performance bond shall be filed with the City Manager or designee which is executed by a surety company authorized to do business in the state with a rating of not lower or less than A-XII as rated by A.M. Best Company, Inc., an independent national rating service for performance companies, which bond shall be conditioned to secure the required mitigation, monitoring, and corrective action in a satisfactory manner within 12 months from final plat approval and any extension of such period approved by the city commission, or, in the case of development (site) plan review, prior to final development plan approval. The bond shall be enforceable by and payable to the city in a sum at least equal to 120 percent of the total cost of the required mitigation, monitoring, and corrective action as estimated by the project engineer and verified and approved by the city manager or designee. The bond shall be first approved by the city attorney as to form and legality prior to its submission with the proposed final plat to the city commission for approval and shall be executed by both the owner and the party or parties with whom the owner has contracted to perform the required mitigation, monitoring, and corrective action. In the case of development (site) plan review, the bond shall be first approved by the city attorney as to form and legality prior to submission of the proposed final development plan to the appropriate reviewing entity (board or city manager or designee) and shall be executed by the developer and the party or parties with whom the developer has contracted to perform the required mitigation, monitoring, and corrective action; or

b. Irrevocable letter of credit. Deposit with the city manager or designee an irrevocable and unconditional letter of credit by a Florida bank that has authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency. The letter of credit shall be for an amount equal to 120 percent of the estimated costs of the required mitigation, monitoring, and corrective action. The letter of credit shall remain with the city as a valid letter of credit until the city is satisfied that all of the required mitigation, monitoring, and corrective action has been completed in accordance with plans and specifications, that mitigation success as provided herein has been achieved, and that all other provisions of this chapter relating thereto have been fully complied with; or

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c. An insurance certificate from a company authorized to do business in the state and which has a rating of not lower or less than A-XII as rated by A.M. Best Company, Inc. The insurance certificate and its associated insurance policy shall be reviewed and approved by the city manager or designee before the City can accept the certificate as a financial responsibility assurance to secure the mitigation, monitoring and corrective action. The insurance certificate shall name the City named as an additional insured and shall provide not less than 30 days notice to the City of cancellation; or

d. A cash deposit in an amount equal to 120 percent of the estimated costs of the required mitigation, monitoring, and corrective action. The cash deposit shall remain with the city until the city is satisfied that all of the required mitigation, monitoring, and corrective action has been completed in accordance with plans and specifications, that mitigation success as provided herein has been achieved, and that all other provisions of this chapter relating thereto have been fully complied with.

3. Owners Not Subject to Financial Assurance Requirements. Owners whose mitigation is deemed successful pursuant to the mitigation success criteria provided herein prior to undertaking the construction activities authorized under their permit, or owners who purchase credits in a mitigation bank to offset the adverse impacts as required herein, are not subject to the financial assurance requirements of this section.

4 General Terms for Financial Assurances. In addition to the specific provisions regarding financial assurances set forth herein, the following shall be complied with:

a. The City Attorney shall approve the form and content of all financial assurances prior to the commencement date of the activity authorized by the permit.

b. The financial assurance(s) shall name the City as sole beneficiary or shall be payable solely to the City. If the financial assurance is of a type that is retained by the beneficiary according to industry standards, the City shall retain the original financial assurance. For mitigation projects required both by the City and the water management district, the financial assurance(s) shall name the City and the water management district as joint beneficiaries or shall be payable to the City and the water management district jointly, unless the City and the water management district establish an alternative arrangement in writing with respect to the designated beneficiary or payee.

c. The financial assurances shall be effective on or prior to the date that the activity authorized by the permit commences and shall continue to be effective through the date of notification of final release by the City, which shall occur within 30 days of the determination that the mitigation is successful.

d. The financial assurances cannot be revoked, terminated, or canceled without the owner first providing an alternative financial assurance that meets the requirements of this code. Once the owner receives actual or constructive notice of revocation, termination, or cancellation of a financial assurance or other actual

1 or constructive notice of cancellation, the owner shall provide such an alternate
2 financial assurance prior to expiration of the financial assurance.
3

4 5. Financial Assurance Conditions. For owners subject to the financial assurance
5 requirements of this Section, the City Manager or designee will include the following
6 conditions in the permit:
7

8 a. An owner shall notify the City Attorney by certified mail of the commencement
9 of a voluntary or involuntary proceeding under Title XI (Bankruptcy), U.S. Code
10 naming the permittee as debtor within 10 business days of the owner filing of the
11 petition.
12

13 b. An owner who fulfills the requirements of this section by obtaining a letter of
14 credit or bond will be deemed to be without the required financial assurance in
15 the event of bankruptcy, insolvency or suspension or revocation of the license or
16 charter of the issuing institution. The owner shall reestablish a financial
17 assurance in accordance with this section within 60 days after such event.
18

19 c. When transferring a permit, the new owner or person with legal control shall
20 submit documentation to satisfy the financial assurance requirements of this
21 section. The prior owner or person with legal control of the project shall
22 continue financial assurance until the City Manager or designee has approved the
23 permit transfer and substitute financial assurance.
24

25 6. Releases.
26

27 a. Partial Releases. The owner may request the City Attorney to release portions of
28 the financial assurance as phases of the mitigation plan, such as earth moving or
29 other construction activities for which cost estimates were submitted in
30 accordance with this section, are successfully completed. The request shall be in
31 writing and include documentation that the phase or phases have been completed
32 and have been paid for, or will be paid for, upon release of the applicable portion
33 of the financial assurance. The City Attorney shall authorize the release of the
34 portion requested upon verification that the construction or activities has been
35 completed in accordance with the mitigation plan.
36

37 b. Final Release. Within 30 days of successful mitigation, as determined by the
38 City Manager or designee and based on the criteria stated herein, the City shall
39 notify the owner and shall authorize the return and release of all funds held or
40 give written authorization to the appropriate party of the cancellation or
41 termination of the financial assurance.
42

43 (m) Application procedure. An owner seeking a permit for a development activity in an area
44 containing wetlands shall adhere to the application procedure set forth in Section 30
45 Article VII, Development Review Process, of the Gainesville Code of Ordinances.
46

47 (n) Density Transfers. The provisions of Chapter 30, Gainesville Code of Ordinances,
48 relevant to Onsite Transfer of Development Intensity and Density, shall apply to the
49 transfer of intensity and density of developments within or in an area containing
50 wetlands.

1 (o) Waivers and Exceptions; Appeals. The wetlands protection regulations do not apply to
2 owners and applications exempted pursuant to Section 30-304. Owners may use the
3 appeals process set forth in Section 30-352.1 to appeal the denial of a permit under the
4 wetlands protection regulations.

5 **Section 7.** Subsection (b) of Section 30-303, Land Development Code of the City of Gainesville,
6 is amended to read:

7 **Sec. 30-303. Single Family Lots.**

8 (b) *Special permits.* In order to allow the reasonable development of a single-family dwelling
9 and customary accessory structures and driveways on platted lots regulated by the surface
10 waters and wetlands sections of this article, the board of adjustment may grant a special
11 permit that allows exception from compliance with the minimum buffer requirements to
12 ~~the requirements~~ of these sections only to the extent necessary to accommodate such
13 reasonable development. As part of the same proceedings, the board may also grant
14 variances to the yard setbacks required by this chapter in order to facilitate compliance
15 with these sections subject to a finding that such special permits will neither be injurious
16 to adjacent property owners or the neighborhood nor detrimental to the public welfare.

17 (1) *Minimum requirement for special permits.* Special permits may be granted by the
18 Board of Adjustment for single-family lots located within the 75-foot required
19 minimum buffer for regulated lakes, or within the required average minimum
20 buffer distance of 50 feet from the landward extent of any wetland or surface
21 water, or within 150 feet of the break in slope at the top of bank of a regulated
22 creek for lots which are lawfully created before April 12, 2004.. ~~Special permits~~
23 ~~may be granted for lots with a depth or width less than 120 feet from the~~
24 ~~landward extent of a regulated lake or wetland, or within 150 feet of the~~
25 ~~centerline of any regulated creek.~~

26 (2) *Criteria for granting of special permits.* The following criteria shall be used in
27 deciding whether and to what extent a special permit exceptions should be
28 granted:

29 a. The board of adjustment shall determine what is reasonable development
30 of a single-family lot, accessory structures and drives and shall consider
31 the following factors:

- 32 1. The size of existing single-family dwellings in the immediate
33 vicinity should serve as a guide to what is customary and
34 reasonable for the property under review.
- 35 2. No special permit shall be granted for the purpose of
36 accommodating a swimming pool, tennis court, racquetball court
37 or similar recreational structure, or to accommodate accessory
38 uses that are not customary on single-family lots or exceed the
39 customary size.

40 b. The board of adjustment shall consider features of the site, including its
41 topography, the width of the creek bed, and the presence or absence of
42 vegetation natural to the creek, lake or wetland, which indicate that a
43 special permit would or would not further the goals of these sections.

44 c. The board of adjustment shall consider building code requirements,
45 including building orientation requirements to meet energy efficiency

- standards that affect the design and/or orientation of structures on the lot.
- d. The board of adjustment shall consider presence of trees eight inches or greater in diameter at a point 4¹/₂ feet above the ground level that can only be preserved if a special permit is granted.
- (3) Furthermore, the board of adjustment shall consider staff reports as needed in reaching its decision. In granting a special permit the board shall establish measures to ensure that the goals of these sections are substantially met, in particular maintaining natural vegetation where feasible, preventing sedimentation loading to the creek, lake or wetland, maintaining the stability of the creek or lake bank, and preventing the degradation of the water quality of the creek, lake or wetland. To achieve these aims, the board of adjustment shall attach such reasonable conditions and safeguards, such as construction control techniques and other mitigative measures, as it deems necessary.

Section 8. Section 30-304, Land Development Code of the City of Gainesville, is amended to read:

Sec. 30-304. Exemptions.

- (a) The provisions of the surface waters and wetlands sections of this article shall not apply to:
 - (1) Unless otherwise provided herein, any construction, development or use initiated pursuant to any valid building permit or approved development plan issued or approved before April 12, 2004 ~~March 9, 1987~~.
 - (2) Any public works or utilities projects initiated by the city or by a property owner acting with the authorization of the city and state agencies (the state department of environmental protection or the appropriate water management district) to provide utility services ~~or access to the property~~ or to maintain or modify existing public works or utilities infrastructure or to provide controlled stormwater discharge to the creek, lake or wetland. However, such projects shall not be exempt from first avoiding loss or degradation of wetland functions and habitats, and then minimizing unavoidable loss or degradation of wetland function and habitats. Such projects that cause unavoidable loss or degradation of wetland functions or habitats shall be clearly in the public interest.
 - (3) Repairs or replacement to the site structure(s) that do not increase the external dimensions of site impervious surface. When such development does increase said dimensions, the development up to the point at which dimensions increase will be exempt.
 - (4) Additions or accessory structures that do not add more than ~~one hundred (100)~~ square feet of impervious surface area cumulative from April 12, 2004 ~~March 9, 1987~~, including any construction that does not require a building permit, and are at a distance greater than ~~thirty five (35)~~ 50 feet from the landward extent of the ~~lake or wetland,~~ or greater than seventy five (75) feet from the landward extent of the lake, or greater than ~~thirty five (35)~~ feet from the break in slope at the top of the bank ~~creek centerline~~ of a regulated creek. However, the placement of limerock surface, irrespective of size, shall comply with the provisions of these sections.

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- 1 (5) Any construction or development initiated pursuant to the development plan of a
2 planned development approved prior to April 12, 2004~~June 10, 1992~~, if the
3 development plan depicts the location of the buildings and structures on the site
4 or if special consideration has been given to the issue of creek, lake or wetland
5 protection as evidenced by specific limitations and/or restrictions having been
6 placed on the lots or buildings during the approval process.
- 7 (6) Construction of public or private nature trails if the proposed plan is consistent
8 with the intent of these sections and complies with the following restrictions:
- 9 a. There is no significant alteration of creek, lake or wetland drainage
10 patterns or special protection species population reduction or habitat
11 alteration due to the trail.
- 12 b. The natural grade within the buffer area ~~setback zone~~ is maintained to the
13 maximum feasible extent.
- 14 c. The maximum width for private trails within ~~thirty-five (35)~~ feet of the
15 centerline break in slope at the top of the bank of a regulated creek or
16 landward extent of lakes or within 50 feet of a wetlands is ~~fifty (50)~~
17 inches. The maximum width for private trails within 75 feet of a
18 regulated lake is 50 inches. A private trail greater than ~~fifty (50)~~ inches
19 in width that is located between ~~thirty-five (35)~~ feet and ~~one hundred~~
20 ~~fifty (150)~~ feet from the break in slope at the top of the bank centerline of
21 a the regulated creek, is presumed detrimental to the creek unless the trail
22 plan demonstrates otherwise. The width of public trails shall be set
23 during site plan review.
- 24 d. Materials used for the trails construction are limited to asphaltic
25 concrete, concrete, wood, compacted earth, mulch, crushed shells or
26 other materials that ~~which~~ will not result in the creek receiving
27 significant amounts of sediment or other adverse material harmful to the
28 creek water quality. If materials other than asphaltic concrete or concrete
29 are used, such materials shall be stabilized to prevent washouts or soil
30 erosion.
- 31 e. Developers, their successors and assigns of private trails shall provide
32 the city with a maintenance agreement which is acceptable to the city
33 attorney and provide for maintenance and preservation of the trail to
34 ensure there is no adverse impact to creek, lake or wetland vegetation,
35 water quality, or creek or lake bank soils.
- 36 (7) The reestablishment of native vegetation. When the reestablishment of native
37 vegetation is for any property other than single-family residential, a vegetative
38 reestablishment plan shall be subject to the approval of the ~~public works~~
39 ~~department~~ City Manager or designee ~~and the county department of~~
40 ~~environmental protection~~ to ensure the appropriateness of the vegetation
41 proposed and to ensure the incorporation of proper sediment control measures.
- 42 (8) All human-built impoundments, lakes, streams, ponds, and artificial or created
43 wetlands, ~~and all stormwater management facilities~~, provided that development
44 activities in these areas will not adversely impact natural or mitigation surface
45 waters and wetlands. If these facilities were required as a mitigation project, they
46 shall not be exempt from the provisions of these sections. If any surface waters or

wetlands are part of a stormwater management facility approved by the city, the same functions shall be provided and any modifications shall be subject to approval by the city public works department.

(9) Stormwater management facilities are allowed within wetland buffers provided that: the stormwater management facility will not adversely impact natural or mitigation surface waters and wetlands; the hydroperiod of the wetland will be maintained or restored; the stormwater management facility will have a maximum slope of 4:1; littoral zones will be established and maintained in all wet detention facilities; and that landscaping of stormwater management facilities will conform to Sec. 30-251 and all other applicable requirements of Chapter 30, and to the public works department design manual. Stormwater management facilities are not exempt from the buffer requirements of Sec. 30-302 (b) for regulated creeks or lakes. as approved by the public works department within 150 feet of a lake or wetland for single family residences.

~~(10) Backyards of single family residences within 150 feet of a lake or wetland.~~

(b) All development, even if exempt or otherwise granted an exemption from any other provisions of these sections, shall incorporate either the city's General Criteria for Controlling Erosion and Sediment or equivalent practices.

Section 9. Subsection (b) of Section 30-311, Land Development Code of the City of Gainesville, is amended to read:

Sec. 30-311. Violations, enforcement and penalty.

(b) ~~Surface waters and wetlands district. Should any person violate~~ As regards the provisions of the surface waters and wetlands sections of this article, and Chapter, in addition to the provisions, requirements, and penalties stated at of Article X, Division 4, of this Chapter, the City will require appropriate corrective measures be taken by the violator. In the event the violation is not corrected by the violator, the City may, depending upon the severity of the violation, take the following actions: in the case of destruction of vegetation within the thirty five foot setback or any greater or lesser setback imposed in development plan or compliance review,

(1) a. For a violation of any condition imposed pursuant to a permit or for a violation of the provisions of the surface waters and wetlands sections of this Chapter, the City Manager or designee may revoke, in whole or in part, any permit issued pursuant to this Code. In the event the City Manager or designee chooses to revoke a permit, written notice of the intent of the City Manager or designee to revoke such permit shall be provided to the property owner, setting forth the specific reasons for the revocation. The property owner shall have the right to appear before the City Manager at a time and date specified in such notice to show cause why the permit issued to the owner should not be immediately revoked.

b. If the City Manager or designee determines to revoke a permit issued pursuant to this Code, after the notice and appearance procedure as provided in subparagraph a., above, the property owner shall immediately cease all work on the site until the violation is corrected or mitigated. The property owner shall have the right to appeal the administrative decision of the City Manager to the Board of Adjustment and shall show cause why the permit issued to the owner should be reinstated.

(2) If the City Manager or designee determines an imminent risk to the environment exists due to a violation of conditions imposed pursuant to the permit or due to a violation of the provisions of the surface waters and wetlands sections of this Chapter, the City Manager or designee may issue a cease and desist order for any and all development on the site. Any person receiving such an order for cessation of operations shall immediately comply with the requirements thereof. It shall be a violation of this Code for any person to fail to or refuse to comply with a cease and desist order issued once written notice of the cease and desist order is delivered by hand delivery or by certified mail, return receipt requested, to the person to whom the permit is issued or, in the absence of a permit, to the owner of the property.

(3) For any site where work has commenced and a permit has not been obtained but is required pursuant to this Code, the City Manager or designee may issue a cease and desist order for any and all development on the site. Any person receiving such an order for cessation of operations shall immediately comply with the requirements thereof. It shall be a violation of this Code for any person to fail to or refuse to comply with a cease and desist order issued once written notice of the cease and desist order is delivered by hand delivery or by certified mail, return receipt requested, to the person to whom the permit is issued or, in the absence of a permit, to the owner of the property.

(4) In the event of failure to comply with the revocation of a permit or a cease and desist order the City Manager may request the City Attorney's office seek injunctive relief in a court of equitable jurisdiction so that the property owner will cease any and all activity on the site.

~~appropriate corrective measures shall be required or may be obtained through injunctive relief.~~

Section 10. The Gainesville Tree List, contained within the Land Development Code of the City of Gainesville, is amended to read:

GAINESVILLE TREE LIST

Common Name	Scientific Name	Maximum Height (feet)	Estimated Crown (20-Year) (feet)	Average Spread (35-Year) (feet)	Native	Street	Buffer	Lot	Gate	Wet	Foliage	Soil	Light	Wildlife	Color	Problems
Ash, white (local)	Fraxinus americana	100	40	60	*	*	*	*	Lrg		D			1		
Basswood	Tilia caroliniana	90	40	55	*	*	*				D	F		1		
Birch, river	Betula nigra	60	25	35	*		*		Med	W	D	M		0	C	
Blackgum	Nyssa sylvatica	90	25	40	*	*	*	*	Med		D			2	C	
Boxelder	Acer negundo	50	30	40 - O	*						D			1		B
Buckeye, red	Aesculus pavia	40	10	15	*	*					D			0	C	T
Buckthorn, Carolina	Rhamnus caroliniana	20	10	15 -O	*		*				E	D		1	C	
Bumelia	Bumelia tenax or B. lanuginosa	30	10	15	*	*	*				E			1		

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Catalpa, Southern	Catalpa bignonioides	60	20	30	*	*						D			0	C	
Cedar, Atlantic white	Chamaecyparis thyoides	80	15	25	*		*					E	M		0		
Cedar, Eastern red	Juniperus virginiana	60	15	25	*		*					E			1		
Cedar, Southern red	Juniperus silicicola	60	20	30	*	*	*					E			1		
Cherry, Flowering	Prunus campanulata	50	15	25								D			1	C	I
Cherry-laurel	Prunus caroliniana	40	20	20 - O	*	*	*					E			1	C	P
Chinese pistachio	Pistacia chinensis	60	25	45	*							D				C	
Crabapple	Malus angustifolia	40	20	20 - O	*	*						D			1	C	I, P
Crape Myrtle	Lagerstroemia indica	40	15	25						Sm		D		F	0	C	
Cypress, bald	Taxodium distichum	100	20	30	*	*			Med	W	D	M			0		L
Cypress, pond	Taxodium ascendens	90	15	20	*	*				W	D	M			0		
Devil's-walkingstick	Aralia spinosa	30	10	15 - O	*							D			2	C	P
Dogwood, flowering	Cornus florida	40	25	40	*	*						D	D	S	1	C	
Elm, cedar	Ulmus crassifolia	100	30	50	*	*	*	*	Lg			D			1		
Elm, Chinese (Drake)	Ulmus parvifolia	60	40	60				*	Med			D					
Elm, Florida	Ulmus americana floridana	80	30	50	*	*	*	*	Lg		D	M			1		
Elm, winged	Ulmus alata	100	40	60	*	*		*	Med		D				1		
Fringe tree, Chinese	Chionanthus retusus	30	15	25					Sm			D				C	
Fringe tree	Chionanthus virginicus	30	15	25	*	*			Sm		D				1	C	
Hawthorn	Crataegus spp.	30	15	25	*	*			Sm	W	D				1	C	
Hercules club	Zanthoxylum clava-herculis	50	25	40	*		*					D	D		1		
Hickory	Carya spp.	100	30	50	*					W	D				1		
Holly	Ilex spp.	50	20	30	*	*	*		Sm		E				2	C	
Holly, American	Ilex opaca	50	15	25	*	*	*		Med		E				2	C	
Holly, Dahoon	Ilex cassine	40	15	25	*	*	*		Med	W	E	M			2	C	
Holly, East Palatka	Ilex x attenuata "E. Palat."	50	20	35	*	*	*	*	Med		E				2	C	
Holly, Savannah, etc.	Ilex x attenuata varieties	50	20	35	*	*	*	*	Med		E				2	C	
Hop-hornbeam	Ostrya virginiana	40	25	40	*	*			Sm	W	D				1		
Hornbeam	Carpinus caroliniana	40	25	40	*	*			Sm	W	D	M			1		
Jerusalem-thorn	Parkinsonia aculeata	30	25	30 - O								D	D	F	0	C	

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Loblolly bay	Gordonia lasianthus	60	20	35	*		*			W	E	M		0	C	
Locust, black	Robinia pseudoacacia	60	20	35	*	*					D				C	
Locust, honey	Gleditsia triacanthos	40	20	35	*	*			Med		D	F		1	C	
Loquat	Eriobotrya japonica	30	20	30			*				E			1		
Magnolia, Ash	Magnolia ashei	20	15	25		*			Sm		D		S	1	C	
Magnolia, Oriental	Magnolia spp.	Varies	15	25		*					D			1	C	
Magnolia, Southern	Magnolia grandiflora	90	20	35	*		*	*	Lrg		E			1	C	
Magnolia, Sweetbay	Magnolia virginiana	80	25	40	*	*	*			W	S	M		1	C	
Maple, Florida	Acer barbatum (floridanum)	60	25	40	*	*	*	*	Med		D			1	C	
Maple, red	Acer rubrum	80	25	40	*	*			Med	W	D	M		1	C	
Mulberry, red	Morus rubra	50	25	35	*						D			1		
Oak, basket	Quercus michauxii	100	25	40	*	*					D	F		2		L
Oak, bluejack	Quercus incana	60	25	40	*	*					D	D	F	2		D, P
Oak, bluff (local)	Quercus austrina (durandii)	100	30	60	*			*	Lrg		D			2		
Oak, diamondleaf	Quercus laurifolia	100	40	60	*						S			2		L, B
Oak, laurel	Quercus hemispherica	100	40	60	*			*		W	S			2		L, B
Oak, live	Quercus virginiana	80	45	80	*	*	*	*	Lrg		E			3		L
Oak, post	Quercus stellata	80	25	40	*	*		*			D			2		
Oak, sand live	Quercus geminata	60	30	50	*	*		*			E			3		
Oak, Shumard	Quercus shumardii	100	30	50	*	*		*	Lrg		D	F		2	C	L
Oak, Southern red	Quercus falcata	100	30	50	*	*					D	L		2		L
Oak, turkey	Quercus laevis	60	25	40	*	*					D	D	F	3	C	
Oak, white	Quercus alba	100	20	35	*			*	Lrg		D			2		
Olive, wild	Osmanthus americanus	40	20	30	*	*	*		Sm		E			1		
Palm, cabbage	Sabal palmetto	80	14	12	*	*			Med(S)	W	E			1		
Palm, date	Phoenix spp.	60	26	24		*			Med(S)		E			0		F
Palm, pindo	Butia capitata	20	14	12					Med(S)		E			1		
Palm, Washington	Washingtonia robusta	90	12	10					Med(S)		E			0		F
Pear, Aristocrat	Pyrus calleryana (Aristocrat)	40	15	20					Med		D		F	0	C	
Pecan	Carya illinoensis	100	35	55	*						D			2		I
Persimmon	Diospyros virginiana	60	15	30	*	*					D			1		

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Pine, pond	<i>Pinus serotina</i>	90	20	30	*	*				W	E		F	1		
Pine, loblolly	<i>Pinus taeda</i> (rust resistant)	110	20	30	*						E			1		
Pine, longleaf	<i>Pinus palustris</i>	90	20	30	*	*					E		F	1		
Pine, shortleaf	<i>Pinus echinata</i>	100	15	25	*	*					E			1		
Pine, slash	<i>Pinus elliottii</i> (rust resistant)	100	20	30	*						E		F	1		
Pine, spruce	<i>Pinus glabra</i>	100	25	40	*	*	*		Med		E			1		
Plum, American	<i>Prunus americana</i>	30	20	30	*	*					D			1	C	I
Plum, wild	<i>P. angustifolia</i> or <i>P. umbellata</i>	20	15	25 - O	*	*			Sm		D			1	C	I, P
Podocarpus	<i>Podocarpus macrophylla</i>	40	10	15			*				E			0		
Redbay	<i>Persea borbonia</i> or <i>humilis</i>	60	25	40	*		*				E			1		D
Redbud	<i>Cercis canadensis</i>	30	25	30 - O	*				Sm		D			0	C	D
Rusty blackhaw	<i>Viburnum rufidulum</i>	30	15	20	*		*		Sm		S			1	C	
Soapberry	<i>Sapindus marginatus</i>	50	25	40	*						D				C	
Sparkleberry, tree	<i>Vaccinium arboreum</i>	20	10	15	*	*			Sm		S			1	C	
Sugarberry	<i>Celtis laevigata</i>	100	45	70	*	*		*			D			1		B, P
Sweetgum	<i>Liquidambar styraciflua</i>	100	30	50	*					W	D	M		1	C	L, D
Sycamore	<i>Platanus occidentalis</i>	100	40	60	*	*		*	Lrg		D			0		D
Tulip tree	<i>Liriodendron tulipifera</i>	100	25	40	*	*			Lrg	W	D			0	C	
Tupelo, Ogeechee	<i>Nyssa ogeche</i>	70	25	40	*	*					D	M		2		
Tupelo, swamp	<i>Nyssa sylvatica biflora</i>	100	25	40	*	*				W	D	M		2	C	
Tupelo, water	<i>Nyssa aquatica</i>	100	25	40	*	*					D	M		2		
Viburnum, Walter	<i>Viburnum obovatum</i>	30	15	20	*	*	*				S			1	C	
Walnut, black	<i>Juglans nigra</i>	60	25	40	*						D		F	1		
Waxmyrtle	<i>Myrica cerifera</i>	30	25	20	*		*			W	E			1		B, P

NOTE: (S) in Gateway Tree column means that this species requires special permission from the City Arborist for use as a Gateway Street Tree

1

2 COLUMN LEGEND:

3

- Street = Street tree.
- Buffer = Shade tree for buffer strips.
- Lot = Shade tree for parking lots.
- Gate = Gateway tree. "Lrg" is large tree for 50-foot spacing. "Med" is medium tree for 35-foot spacing. "Sm" is small tree for placement adjacent to or under overhead utility lines at 25-

foot spacing.
Wet = Tree suitable for littoral zone and wet detention plantings.

1

Foliage:

D = Deciduous.
E = Evergreen.
S = Semi-evergreen.

Soil:

D = Well-drained.
F = Fertile.
M = Moist to wet.

Light:

F = Requires full sun.
S = Requires some shade.

Problems:

B = Prone to stem breakage or windthrow.
D = Prone to disease problems.
I = Prone to insect problems.
L = Large (10-foot or more) bed required.
P = Prolific reproduction (sucker or seed).
T = Toxic to humans.
F = Suffers freeze damage (not reliably cold-hardy).

Wildlife value:

0 = Low or none.
1 = Moderate.
2 = High.
3 = Very high.

Color:

C = Color from flowers, fruit or foliage at some time of year.

2

3 ADDITIONAL COMMENTS:

4 All trees on the Gainesville Tree List except pines and palms are suitable for reforestation. When
5 the crown spread at thirty-five (35) years of age is "O" or is followed by "O," this means that this
6 species commonly dies before reaching thirty-five (35) years of age. The word "local" after the
7 common name means that specimens derived from native Florida populations shall be used. It is
8 almost always best to use local seed sources for any species. The words "rust resistant" after slash
9 and loblolly pine mean that sources of these species that are resistant to fusiform rust shall be
10 used. Trees requiring full sun or some shade or moist or fertile soil conditions may be planted
11 only in such situations.

12 Trees already existing on the site that are preserved in good health during construction may be
13 counted in the same manner as planted trees, except for the following species which aggressively
14 invade natural forests, causing damage to wildlife: camphor tree (*Cinnamomum camphora*),
15 Chinese tallow (*Sapium sebiferum*), mimosa (*Albizia julibrissin*), chinaberry (*Melia azedarach*),
16 glossy privet (*Ligustrum lucidum*). Also, tropical species not reliably cold-hardy in Gainesville,
17 such as Australian pine, queen palm and silk oak, do not count.

1 When planting pine trees, pot-bound specimens may not be used, and all the roots circling the
2 sides and bottom of the container shall be severed.

3 ~~Diversity of plantings should be strived for. No more than 50 percent of any one tree genus shall
4 be planted. There are several reasons for this. One is to reduce the danger of having a disease
5 wipe out a large percentage of the tree cover. Another is that diversity of species provides much
6 better habitat for most kinds of wildlife. Finally, an overabundance of one species is visually
7 monotonous and uninteresting.~~

8 In order to encourage plant diversity, no more than 50 percent of the selected canopy trees shall
9 be of the same genus, except for street tree plantings, which, on a given street should be uniform
10 with respect to genus, size, and shape. Street tree diversity is to be attained city-wide in order to
11 reduce the effect of loss of street tree species due to insect or disease outbreaks, even though
12 street tree diversity may not be attained on an individual street.

13 No trees with a listed mature height of greater than 40 feet may be planted within the right-of-
14 way of overhead utility lines.

15
16 **Section 11.** It is the intention of the City Commission that the provisions of
17 Sections 1 through 10 of this Ordinance shall become and be made a part of the Code of
18 Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of
19 this Ordinance may be renumbered or relettered in order to accomplish such intentions.

20 **Section 12.** If any section, sentence, clause or phrase of this Ordinance is held to
21 be invalid or unconstitutional by any court of competent jurisdiction, then said holding
22 shall in no way affect the validity of the remaining portions of this Ordinance.

23 **Section 13.** All Ordinances, or parts of Ordinances, in conflict herewith are to the
24 extent of such conflict hereby repealed.

25 **Section 14.** This Ordinance shall become effective immediately upon final
26 adoption.

27

D R A F T

3/4/2004

1

2 **PASSED AND ADOPTED** this ____ day of _____, 200__.

3

4

5

THOMAS D. BUSSING, MAYOR

6

7

8

ATTEST:

Approved as to form and legality

9

10

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

11

12

13

14 This Ordinance passed on first reading this ____ day of _____, 200__.

15 This Ordinance passed on second reading this ____ day of _____, 200__.