



MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 001917

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

TO: Mayor and City Commission

DATE: November 26, 2001

FROM: City Attorney

CITY ATTORNEY

FIRST READING

SUBJECT: Ordinance No. 0-01-63, Petition No. 106TCH-01PB
An ordinance of the City of Gainesville, Florida, amending Section 30-69 of the Land Development Code by repealing certain uses permitted by right, and by clarifying the findings for special use permits in the "I-1: Limited industrial district"; amending Section 30-70 of the Land Development Code by repealing certain uses permitted by right, by changing certain uses to uses permitted by special use permit, and by clarifying the findings for special use permits in the "I-2: General industrial district"; amending Section 30-345 of the Land Development Code entitled "General Performance Standards" by changing the standards of performance for all uses and activities in all zoning districts of the City; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

STAFF REPORT

In May 2001, the City of Gainesville placed a moratorium on 48 manufacturing uses. The moratorium was put in effect to allow the City to determine whether the 48 manufacturing uses or other uses allowed in the City's industrial zones should, based on their environmental or nuisance impacts, be prohibited, restricted as a special use, or allowed subject to performance standards. In order to make these determinations, the City hired a consultant to perform a study to evaluate its industrial areas and to make recommendations on changes to its regulations

The study found that the majority of the uses allowed in the I-1 district are appropriate given that the purpose of this district is to provide locations for retail-commercial sales and services, research operations, distributions concerns and light manufacturing. However, staff and the consultant are recommending that the uses shown in Table 4.1 be removed from I-1 and placed in the I-2 district.

In the I-2 district, the uses listed in Table 4.2 should be removed from the list of allowable uses. These uses are determined to be inappropriate within the City of Gainesville, given the pollution potential of these uses, the size and location of most of the I-2 areas, and the proximity of residential and other incompatible uses to I-2 districts. It should be noted that it is

highly improbable that a number of these uses could economically locate in the City. The consultant's report recommended that several uses (raw cane sugar, beet sugar, soybean oil mills and distilled liquor) could be allowed by special use permit. However, it is staff's recommendation that these uses be prohibited.

In table 4.3, the consultant recommended that asphalt paving mixtures and blocks (IN-2951) should be allowed as a use by right, if clean-burning, low sulfur fuel is used and by Special Use Permit, if it is not. Staff recommends that this use be allowed in the I-2 district by Special Use Permit, even if the clean-burning fuel is used by the industry. Special use permits are intended for developments that, due to the nature, extent and external effects, require special care in the control of location, design, and methods of operations. Requiring a special use permit for this use will allow for additional review to determine whether the use is compatible with surrounding areas. The consultant's report states that some of the uses may be appropriate in certain 1-2 areas and inappropriate in others. It is staff's opinion that the only way to make this determination for the uses in Table 4.3, is through the special use permit process. The criteria for issuing a special use permit are listed in Section 30-233 of the Land Development Code.

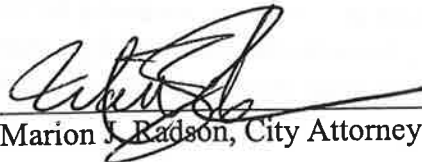
The Consultant has also recommended changes to the City's general performance standards, based on a review of similar standards from municipalities throughout the United States. The general performance standards apply to all uses and activities permitted in any zoning district while certain amendments apply particularly to the industrial zones (I-1 and I-2). Impacts of concern are fire and explosion hazards, radiation, electromagnetic interference, vibration, sound, glare and lighting, odor, and waste disposal. In addition to these impacts, impacts of concern that are associated primarily with industrial activities are impacts due to air pollution, toxics and hazardous materials storage. Staff, based on the consultant's study and further review, recommends that Section 30-345 General Performance Standards be amended as recommended by the Consultant, with the exception that changes to the noise section be reflected in the noise ordinance, and that changes to the glare and lighting section be reviewed as part of the lighting ordinance changes.

Public notice was published in the Gainesville Sun in a legal ad on October 2, 2001 and in a 2 x 10 display ad on October 3, 2001. The Plan Board held a public hearing October 18, 2001. Planning Division staff recommended that the Plan Board approve the petition, with staff recommendations. The Plan Board recommended that the City Commission approve Petition 106TCH-01 PB, with staff recommendations. Plan Board vote 5-0.

CITY ATTORNEY MEMORANDUM

Large scale advertisements appeared in the Gainesville Sun notifying the public of the public hearings on this ordinance.

Prepared and Submitted by:



Marion J. Radson, City Attorney

Attachment

ORDINANCE NO. 0-01-63

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An ordinance of the City of Gainesville, Florida, amending Section 30-69 of the Land Development Code by repealing certain uses permitted by right, and by clarifying the findings for special use permits in the "I-1: Limited industrial district"; amending Section 30-70 of the Land Development Code by repealing certain uses permitted by right, by changing certain uses to uses permitted by special use permit, and by clarifying the findings for special use permits in the "I-2: General industrial district"; amending Section 30-345 of the Land Development Code entitled "General Performance Standards" by changing the standards of performance for all uses and activities in all zoning districts of the City; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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

WHEREAS, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on October 18, 2001; and

WHEREAS, a legal advertisement was placed in a newspaper of general circulation notifying the public of this proposed Ordinance and of the Public Hearing to be held in the City Commission Auditorium, First Floor, City Hall, of the City of Gainesville approximately seven days after the day the first legal advertisement was published; and

WHEREAS, a second legal advertisement was placed in the aforesaid newspaper notifying the public of the second Public Hearing to be held approximately five days after the day the second legal advertisement was published; and

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

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

6 Section 1. Subsection (c) of Section 30-69, Land Development Code of the City
7 of Gainesville, is amended to read as follows:

8 **Sec. 30-69. Limited Industrial District (I-1)**

9 (c) *Permitted uses.*

10 (1) *Uses by right.*

- 11 a. Wholesale trade (Div. F), excluding the following: scrap and
12 waste materials (IN-5093); construction and mining machinery and
13 equipment (IN-5082); transportation equipment and supplies,
14 except motor vehicles (IN-5088); and petroleum and petroleum
15 products (GN-517).
- 16 b. Lumber and other building material dealers (GN-521).
- 17 c. Construction (Div. C), excluding heavy construction other than
18 building construction contractors (MG-16).
- 19 d. Printing, publishing and allied industries (MG-27), excluding
20 gravure commercial printing (IN-2754).
- 21 e. Railroad transportation (MG-40).
- 22 f. Local and suburban transit and interurban highway passenger
23 transportation (MG-41).
- 24 g. Motor freight transportation and warehousing (MG-42).
- 25 h. U.S. Postal Service (MG-43).
- 26 i. Transportation services (MG-47).
- 27 j. Business services (MG-73).
- 28 k. Miscellaneous manufacturing industries (MG-39).
- 29 l. Measuring, analyzing and controlling instruments; photographic,
30 medical and optical goods; watches and clocks (MG-38).

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- m. Communications (MG-48).
- n. Food and kindred products (MG-20), excluding the following: wet corn milling (IN-2046), raw cane sugar (IN-2061), and beet sugar (IN-2063).
- o. Textile mill products (MG-22), excluding cotton finishing plants (IN-2261).
- p. Wood containers (GN-244).
- q. Apparel and other finished products made from fabrics and similar materials (MG-23).
- r. Eating places.
- s. Personal services (MG-72).
- t. Automotive repair, services and parking (MG-75).
- u. Miscellaneous repair services (MG-76).
- v. Outdoor storage in accordance with Article VI.
- w. Nonstore retailers (GN-596).
- x. Public service vehicles, in accordance with the conditions and requirements of Article VI.
- y. Gasoline service stations (GN-554), in accordance with the conditions and requirements of Article VI.
- z. Landscape and horticultural services (GN-078).
- aa. Veterinary services (GN-074), in accordance with the conditions and requirements of Article VI.
- bb. Animal specialty services (IN-0752).
- cc. Farm labor and management services (GN-076).
- dd. Building materials, hardware, garden and mobile home dealers (MG-52).
- ee. Reserved.
- ff. Reserved.
- gg. Auto and home supply stores (GN-553).
- hh. Boat dealers (GN-555).
- ii. Motorcycle dealers (GN-557).
- jj. Automotive dealers, not elsewhere classified (e.g., aircraft, go-carts) (GN-559).

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- 1 kk. Fuel dealers (GN-598).
- 2 ll. Car washes (IN-7542), in accordance with Article VI.
- 3 mm. Membership sports and recreation clubs (IN-7997).
- 4 nn. Amusement and recreation services, not elsewhere classified (IN-
5 7999), excluding go-cart raceway operations and go-cart rental (see
6 special use permit).
- 7 oo. Engineering, architectural and surveying services (GN-871).
- 8 pp. Noncommercial research organizations (IN-8733).
- 9 qq. Home furniture, furnishings and equipment stores (MG-57).
- 10 rr. Any accessory use incidental to any permitted principal use.
- 11 ss. Miscellaneous wood products (GN-249).
- 12 tt. Accounting, auditing and bookkeeping services (GN-872).
- 13 uu. Bowling centers (GN-793).
- 14 vv. Furniture and fixtures (MG-25).
- 15 ww. Converted paper and paperboard products, except containers and
16 boxes (GN-267), excluding coated and laminated paper packaging
17 (IN-2671).
- 18 xx. Paperboard containers and boxes (GN-265).
- 19 yy. Drugs (GN-283), excluding medicinals and botanicals (IN-2833).
- 20 zz. Soap, detergents and cleaning preparations, perfumes, cosmetics
21 and other toilet preparations (GN-284).
- 22 aaa. Leather and leather products (MG-31).
- 23 bbb. Glass products, made of purchased glass (GN-323).
- 24 ccc. Cut stone and stone products (GN-328).
- 25 ddd. Sheetmetal work (IN-3444).
- 26 eee. Farm and garden machinery and equipment (MG-352).
- 27 fff. Electronic and other electrical equipment and components, except
28 computer equipment (MG-36).
- 29 ggg. Meat and fish (seafood) markets, including freezer provisioners
30 (GN-542).
- 31 hhh. Fruit and vegetable markets (GN-543).
- 32 iii. Job training and vocational rehabilitation services (GN-833).

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- 1 jjj. Millwork, veneer, plywood and structural wood members (GN-
2 243).
- 3 kkk. Used merchandise stores (GN-593), only within enclosed
4 buildings.
- 5 lll. Ice dealers.
- 6 mmm. Facilities on premises for security personnel.
- 7 nnn. Motor vehicle dealers (new and used) (IN-5511).
- 8 ooo. Research, development and testing services (GN-873).
- 9 ppp. Air courier services (IN-4513).
- 10 qqq. Corporate offices.
- 11 (2) *Uses by special use permit.* Uses by special use permit, provided the
12 requirements and conditions of Article VI are met, if applicable, and that
13 the findings in Sec. 30-233 are made:
- 14 a. Transmitter towers.
- 15 b. Sale of used rental vehicles as an accessory use to automotive
16 rental and leasing, without drivers (GN-751), with the following
17 conditions and limitations:
 - 18 1. *Permits.* It shall be unlawful to conduct such sale without
19 first obtaining a permit from the building official indicating
20 compliance with the provisions of this section.
 - 21 2. *Sales.* Only two (2) sales are permitted in any three-
22 hundred-sixty-five-day period, and each such sale may not
23 extend beyond seven (7) consecutive days.
 - 24 3. *Motor vehicles.* Only motor vehicles owned by the person
25 or entity actually operating the principal use, and leased
26 from the subject location, may be offered for sale.
 - 27 4. *Signs.* No signs or street graphics are permitted which
28 indicate that motor vehicles are offered for sale with the
29 exception of signs affixed to the motor vehicles which shall
30 not exceed one (1) sign per vehicle and one (1) square foot
31 in area.
- 32 c. Alcoholic beverage establishments.
- 33 d. Wholesale trade: petroleum and petroleum products (GN-517).
- 34 e. Recycling centers.
- 35 f. Hazardous materials recycling.

- g. Go-cart raceway operations and go-cart rentals.
- h. Rehabilitation centers.

Section 2. Subsection (c) of Section 30-70, Land Development Code of the City

of Gainesville, is amended and relettered to read as follows:

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

(c) Permitted uses.

(1) Uses by right.

~~a. Manufacturing (Div. D).~~

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

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

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

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

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

f. Furniture and fixtures (MG-25).

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

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

i. Chemicals and allied products (MG-28), excluding the following: alkalis and chlorine (IN-2812); inorganic pigments (IN-2816); industrial inorganic chemicals (not elsewhere classified) (IN-2819); plastics materials and resins (IN-2821); cellulosic manmade fibers (IN-2823); noncellulosic organic fibers (IN-2824); gum and wood chemicals (IN-2861); industrial organic chemicals (not elsewhere classified) (IN-2869); nitrogenous fertilizers (IN-2873); phosphatic fertilizers (IN-2874); synthetic rubber (IN-2822); medicinals and botanicals (IN-2833); cyclic crudes and intermediates (IN-2865); explosives (IN-2892); and carbon black

- 1 (IN-2895).
- 2 j. Petroleum refining and related industries (MG-29), excluding the
3 following: petroleum refining (IN-2911); petroleum and coal
4 products (not elsewhere classified) (IN-2999); and asphalt paving
5 mixtures and blocks (IN-2951).
- 6 k. Rubber and miscellaneous plastics products (MG-30).
- 7 l. Leather and leather products (MG-31).
- 8 m. Stone, clay, glass, and concrete products (MG-32), excluding the
9 following: hydraulic cement (IN-3241); lime (IN-3274); flat glass
10 (IN-3211); glass containers (IN-3221); pressed and blown glass
11 (not elsewhere classified) (IN-3229); brick and structural clay tile
12 (IN-3251); ceramic wall and floor tile (IN-3253); clay refractories
13 (IN-3255); structural clay products (not elsewhere classified) (IN-
14 3259); vitreous plumbing fixtures (IN-3261); vitreous china food
15 utensils (IN-3262); gypsum products (IN-3275); and ground or
16 treated minerals (IN-3295).
- 17 n. Primary metal industries (MG-33), excluding the following: steel
18 works, blast furnaces, and rolling mills (IN-3312); electromet
19 allurgical products (IN-3313); primary copper (IN-3331); primary
20 aluminum (IN-3334); primary nonferrous metals (not elsewhere
21 classified) (IN-3339); secondary smelting and refining of
22 nonferrous metals (IN-3341); gray iron foundries (IN-3321);
23 copper rolling and drawing (IN-3351); aluminum extruded
24 products (IN-3354); aluminum rolling and drawing (IN-3355);
25 aluminum die-castings (IN-3363); and copper foundries (IN-3366).
- 26 o. Fabricated metal products, except machinery and transportation
27 equipment (MG-34), excluding the following: nonferrous forgings
28 (IN-3463); and metal coatings and allied services (IN-3479).
- 29 p. Industrial and commercial machinery and computer equipment
30 (MG-35).
- 31 q. Electronic and other electrical equipment and components, except
32 computer equipment (MG-36).
- 33 r. Transportation equipment (MG-37).
- 34 s. Measuring, analyzing, and controlling instruments; photographic,
35 medical and optical goods; watches and clocks (MG-38).
- 36 t. Miscellaneous manufacturing industries (MG-39).
- 37 bu. Construction (Div. C).
- 38 ev. Transportation, communications, electric, gas and sanitary services

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- 1 (Div. E).
- 2 ~~dw.~~ Wholesale trade (Div. F), excluding junkyards and salvage yards.
- 3 ~~ex.~~ Building materials, hardware, garden supply and mobile home
- 4 dealers (MG-52).
- 5 ~~fy.~~ Fuel dealers (GN-598).
- 6 ~~gz.~~ Business services (MG-73).
- 7 ~~haa.~~ Automotive repair, services and parking (MG-75).
- 8 ~~ibb.~~ Miscellaneous repair services (MG-76).
- 9 ~~jcc.~~ Reserved.
- 10 ~~kdd.~~ Landscape and horticultural services (GN-078).
- 11 ~~lee.~~ Eating places.
- 12 ~~mff.~~ Personal services (MG-72).
- 13 ~~ngg.~~ Outdoor storage.
- 14 ~~øhh.~~ Veterinary services (GN-074), in accordance with the conditions
- 15 and requirements of Article VI.
- 16 ~~pii.~~ Animal services, except veterinary (GN-075).
- 17 ~~qjj.~~ Nonstore retailers (GN-596).
- 18 ~~rkk.~~ Public service vehicles in accordance with the conditions and
- 19 requirements of Article VI.
- 20 ~~sll.~~ Farm labor and management services (GN-076).
- 21 ~~tmm.~~ Car washes (IN-7542).
- 22 ~~unn.~~ Membership sports and recreation clubs (IN-7997).
- 23 ~~voö.~~ Amusement and recreation services, not elsewhere classified (IN-
- 24 7999), excluding go-cart raceway operations and go-cart rentals.
- 25 ~~wpp.~~ Noncommercial research organizations (IN-8733).
- 26 ~~xqq.~~ Engineering, architectural and surveying services (IN-871).
- 27 ~~yrr.~~ Any accessory use incidental to a permitted principal use.
- 28 ~~zss.~~ Legal services (MG-81).
- 29 ~~aatt.~~ Motion picture production and allied services (GN-781); motion
- 30 picture distribution and allied services (GN-782).
- 31 ~~bbuu.~~ Bowling centers and billiard and pool establishments (GN-793).
- 32 ~~eevy.~~ Recycling centers, in accordance with Article VI.

- 1 ~~ddww~~. Research, development and testing service (GN-873).
- 2 (2) *Uses by special use permit.* Uses by special use permit, provided the
 3 requirements and conditions of Article VI are met, if applicable, and that
 4 the findings in Sec. 30-233 are made:
- 5 a. Transmitter towers.
- 6 b. Junkyards and salvage yards.
- 7 c. Gasoline service stations (GN-554).
- 8 d. Go-cart raceway operations and go-cart rentals.
- 9 e. Alcoholic beverage establishments.
- 10 f. Mining and quarrying of nonmetallic minerals, except fuels (MG-
 11 14).
- 12 g. Cigarettes (IN-2111).
- 13 h. Cotton finishing plants (IN-2261).
- 14 i. Packaging—coated and laminated paper (IN-2671).
- 15 j. Gravure commercial printing (IN-2754).
- 16 k. Synthetic rubber (IN-2822).
- 17 l. Medicinals and botanicals (IN-2833).
- 18 m. Cyclic crudes and intermediates (IN-2865).
- 19 n. Explosives (IN-2892).
- 20 o. Carbon black (IN-2895).
- 21 p. Asphalt paving mixtures and blocks (IN-2951).
- 22 q. Flat glass (IN-3211).
- 23 r. Glass containers (IN-3221).
- 24 s. Pressed and blown glass (not elsewhere classified) (IN-3229).
- 25 t. Brick and structural clay tile (IN-3251).
- 26 u. Ceramic wall and floor tile (IN-3253).
- 27 v. Clay refractories (IN-3255).
- 28 w. Structural clay products (not elsewhere classified) (IN-3259).
- 29 x. Vitreous plumbing fixtures (IN-3261).
- 30 y. Vitreous china food utensils (IN-3262).
- 31 z. Gypsum products (IN-3275).

- 1 aa. Ground or treated minerals (IN-3295).
- 2 bb. Gray iron foundries (IN-3321).
- 3 cc. Copper rolling and drawing (IN-3351).
- 4 dd. Aluminum extruded products (IN-3354).
- 5 ee. Aluminum rolling and drawing (IN-3355).
- 6 ff. Aluminum die-castings (IN-3363).
- 7 gg. Copper foundries (IN-3366).
- 8 hh. Nonferrous forgings (IN-3463).
- 9 ii. Metal coatings and allied services (IN-3479).

10 **Section 3.** Section 30-345, Land Development Code of the City of Gainesville is
 11 amended and relettered and renumbered to read as follows:

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

- 13 (a) All uses and activities permitted in any zoning district shall conform to the
 14 standards of performance described in this section. ~~below, and the failure to~~
 15 ~~conform to any of such standards is hereby declared to be a public nuisance:~~
- 16
- 17 (b) Showing of probable compliance. Uses and activities required to comply with this
 18 section shall make a showing of probable compliance with the performance
 19 standards described in this section. This showing shall be in the form of a letter
 20 submitted with a zoning compliance permit or development plan, as applicable,
 21 prepared by a professional engineer licensed by the State of Florida, certifying that
 22 the use or activity complies with all performance standards described in this
 23 section.
- 24 (1) *Fire and explosion hazards.* All activities and all storage of flammable and
 25 explosive materials or products at any place shall be provided with
 26 adequate safety devices against the hazards of fire and explosion,
 27 including adequate firefighting and fire suppression equipment, as
 28 prescribed by the fire prevention code adopted in section 10-30.
- 29 (2) *Radiation.* ~~Any operation involving radiation, (e.g., the use of neutrons,~~
 30 ~~protons and other atomic or nuclear particles) shall be conducted in~~
 31 ~~accordance with the codes, rules and regulations of the state department of~~
 32 ~~health and rehabilitative services and the state department of pollution~~
 33 ~~control. All sources of ionizing radiation shall be registered or licensed by~~
 34 the Florida Department of Health. The handling of radioactive materials,
 35 the discharge of such materials into air or water, and the disposal of
 36 radioactive wastes shall be in conformance with applicable state and
 37 federal regulations

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

~~(4) Smoke and other particulate matter. Any activity emitting or discharging any smoke or other particulate matter shall comply with all state, federal and local laws and all regulations of any federal, state or local agency concerning pollution control.~~

(4) Waste disposal. No activity shall be conducted which results in the discharge of any liquid or solid waste, including industrial wastes, into any public or private sewage system, the ground, or any lake, stream or other body of water, in violation of any provision of state, federal or local law or any regulation of any state, federal or local agency. All waste disposal including discharge of any liquid or solid waste into any public or private sewage system, the ground, or any lake, creek, or wetland shall be in accordance with state, federal, and local law and applicable regulations of state, federal and local agencies.

~~(5) Toxic or noxious matter. Any activity involving the use of toxic or noxious matter shall comply with all state, federal and local laws and all regulations of any federal, state or local agency concerning pollution control or toxic substances.~~

(5) Vibration. No use of any property shall cause perceptible earth vibrations beyond any property line. All stamping machines, punch presses, press brakes, hot forgings, steam board hammers or similar devices shall be placed on shock absorption mountings and on suitable reinforced concrete footings. No machine shall be loaded beyond the capacity as described by the manufacturers. No use shall at any time create earth-born vibration which when measured at the boundary property line of the source operation exceed the limits of displacement set forth below:

Frequency	Maximum Displacement (Inches)	
(Cycles per Second)	Steady State	Impact
0 to 10	0.0055	0.0010
10 to 19	0.0044	0.0008

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1	<u>20 to 29</u>	<u>0.0033</u>	<u>0.0006</u>
2	<u>30 to 39</u>	<u>0.0002</u>	<u>0.0004</u>
3	<u>40 and over</u>	<u>0.0001</u>	<u>0.0002</u>

- 4
- 5 (6) Sound. All uses and activities shall not exceed the sound pressure levels
- 6 set forth in Chapter 15 (Noise Ordinance) of the City's Code of
- 7 Ordinances.
- 8 (7) *Heat, cold, dampness or movement of air.* Activities on any property
- 9 which produce any adverse effect on the temperature, motion or humidity
- 10 of the atmosphere beyond the lot lines are not permitted.
- 11
- 12 (8) *Glare.* All lighting shall be so hooded or shielded as to reflect the light in
- 13 such a manner that no illumination source or glare creates a nuisance to
- 14 any adjoining property or unreasonably interferes with the lawful use and
- 15 enjoyment of any adjoining property. Such lighting shall not under any
- 16 circumstances exceed a maximum intensity of 25 foot-candles at ground
- 17 level. However, the maximum light intensity may be increased by the city
- 18 plan board through site plan review, or the board of adjustment by special
- 19 exception if site plan review is not required, provided that the applicant
- 20 establishes that such an increase is reasonably required for security
- 21 purposes for the particular use or activity in question, that the increased
- 22 intensity will not result in a nuisance to adjoining properties, does not
- 23 interfere with the lawful use and enjoyment of property, and that necessary
- 24 screening will be erected or exists to reduce the impact of the increased
- 25 intensity on adjoining properties.
- 26
- 27 (9) Light Pollution. All building lighting for security or aesthetics will be fully
- 28 cut-off type, not allowing any upward distribution of light.
- 29
- 30 ~~(10) *Noise, odor, etc.* No use of any lands shall be conducted in any fashion which~~
- 31 ~~produces noise, odor or other irritant at a level which unreasonably~~
- 32 ~~disturbs the peaceful and healthful enjoyment of any adjoining lands.~~
- 33
- 34 (10) Odor. No use shall be operated in any zoning district in such a manner that
- 35 the emission of odorous matter occurs in such quantity or volume as to
- 36 produce a nuisance, source of discomfort, or hazard beyond the bounding
- 37 property lines of such a use. For the purpose of this performance standard,
- 38 the presence of such a described odor shall be determined by observation
- 39 by a person or persons designated by the City Manager or designee. In any
- 40 case, where the operator of an odor-emitting use may disagree with the
- 41 enforcing officer where specific measurement of odor concentration is
- 42 required, the method and procedures specified by the American Society for
- 43 Testing and Materials (ASTM) E679 and E1432, entitled "Standard
- 44 Practice for Determination of Odor and Taste Thresholds By a

Forced-Choice Ascending Concentration Series Method of Limits” and “Standard Practice for Defining and Calculating Individual and Group Sensory Thresholds for Forced-Choice Data Sets of Intermediate Size,” respectively. The operator and the City shall equally share the cost of conducting the more elaborate ASTM E679 Procedure.

(11) Air Pollution Emissions. No industrial operation or use shall cause, create, or allow the emission of air contaminants which at the emission point or within the bounds of the property are in violation of the standards specified by the Florida Department of Environmental Protection, or successor agency.

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

(13) Toxics. No industrial operation or use shall emit toxic or noxious matter at a concentration exceeding ambient air quality standards for the State of Florida across the property line of the parcel on which the operation or use is located. Where toxic materials are not listed in the ambient air quality standards of the state, concentrations shall not exceed one percent (1%) of the threshold limit values (TLVs) adopted by the American Conference of Governmental Industrial Hygienists (ACGIH). If a toxic substance is not listed by the ACGIH, verification of safe levels of the proposed toxic material for public health, plant and animal life will be required.

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

Section 4. It is the intention of the City Commission that the provisions of

D R A F T

11/07/01

1 Sections 1 through 3 of this ordinance shall become and be made a part of the Code of
2 Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of
3 this ordinance may be renumbered or relettered in order to accomplish such intentions.

4 **Section 5.** If any section, sentence, clause or phrase of this ordinance is held to be
5 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall
6 in no way affect the validity of the remaining portions of this ordinance.

7 **Section 6.** All ordinances, or parts of ordinances, in conflict herewith are to the
8 extent of such conflict hereby repealed.

9 **Section 7.** This ordinance shall become effective immediately upon final
10 adoption.

11
12 **PASSED AND ADOPTED** this _____ day of _____, 2001.
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THOMAS D. BUSSING, MAYOR

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19 ATTEST: Approved as to form and legality

20
21
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23 _____
KURT M. LANNON MARION J. RADSON
24 CLERK OF THE COMMISSION CITY ATTORNEY

25 This Ordinance passed on first reading this _____ day of _____, 2001.

26 This Ordinance passed on second reading this _____ day of _____,
27 2001.