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ORDINANCE NO. \_\_\_\_\_  
0-05-95

**An ordinance of the City of Gainesville, Florida, amending the Land Development Code relating to cluster subdivisions; amending section 30-190, establishing criteria for classifying cluster subdivisions as either environmental or infill, establishing lot sizes, clarifying the cluster open space requirement, and modifying the criteria for the review of cluster subdivisions; 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 August 18, 2005; and

**WHEREAS**, the City Commission heard and approved this petition on September 26, 2005; and

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

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

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

1 Section 1. Section 30-190, City of Gainesville Land Development Code, is  
2 amended to read as follows:

3 **Sec. 30-190. Cluster subdivisions.**

4 (a) *Purpose and intent.* The purpose of this section is to establish a process by which  
5 environmentally sensitive land and infill sites may be developed for residential  
6 purposes without strict adherence to the dimensional requirements of the zoning  
7 code of the city. The intent is to encourage better site planning than would  
8 normally occur by conventional subdivision procedures. Specifically, the  
9 objectives are to better preserve valuable open spaces, environmentally sensitive  
10 areas, existing tree cover ~~and scenic vistas~~; to provide for infill development  
11 where appropriate; to provide for better utilization of land; to provide for zero lot  
12 line development; to promote efficiency through design ~~which shortens street and~~  
13 ~~utility lines thereby reducing required investment in such infrastructure and its~~  
14 ~~maintenance~~; and to provide for design flexibility to meet changing market  
15 conditions. Such development will be accomplished without an overall increase in  
16 density otherwise permitted in the zoning district in which the development is  
17 located as determined by the minimum lot size.

18 (b) *Permitted districts; minimum size.* A cluster subdivision may be permitted in any  
19 zoning district in which single-family dwellings are allowed as a permitted use  
20 and where the parcel to be subdivided has an area of ~~40,000 square feet~~ ≥ 5 acres  
21 or more.

22 (c) *Approval procedure; design standards; name.*

23 (1) Cluster developments shall be approved in accordance ~~to~~ with the  
24 procedures established for design plats and final plats under criteria  
25 provided in this article. Further, cluster subdivisions involving attached  
26 housing in zoning districts that allow such housing types, shall also secure  
27 development plan approval in accordance with Article VII. Applications  
28 for the approval of cluster subdivisions shall be processed in the same  
29 manner as design plats.

30 (2) Design standards for improvements shall be in accordance with the  
31 provisions and regulations of this chapter.

32 (3) The name of a subdivision approved pursuant to this article shall be  
33 followed by the words "cluster subdivision" which shall become and be  
34 made a part of its official name.

35 (4) Application for cluster subdivision will be classified as either  
36 environmental or infill based on the following criteria:

37 Environmental – development site must be located in the Significant  
38 Ecological Communities Districts or have at least ~~two~~ one or more of the  
39 following environmental features: wetlands, creeks, lakes, significant tree

1 grouping/upland community, sinkholes, and/or endangered plants and  
2 animals species.

3 Infill – Cluster subdivision that provide for infill development where  
4 appropriate, provide for better utilization of land, provide for zero lot line  
5 development, and/or promote efficiency through design.

6 (d) *Dwelling types permitted.* Except in the RSF-1, RSF-2, RSF-3 and RSF-4 zoning  
7 districts, all types of attached and detached single-family residential dwellings  
8 may be permitted in a cluster subdivision. In the RSF-1, RSF-2, RSF-3 and RSF-4  
9 districts only single-family detached dwellings will be permitted in a cluster  
10 subdivision. Within cluster subdivisions, a variety of lot sizes and architectural  
11 typologies ~~housing types~~ shall be encouraged.

12 (e) *Modification of street, yard and lot requirements.* Modifications and variations to  
13 the lot area, lot width and depth, ~~and~~-minimum yard setback, street width and  
14 layout requirements of the applicable zone may be permitted if shown on the  
15 design plat and such plat is approved by the ~~development review board~~ and city  
16 commission. Each cluster subdivision may use zero lot line, regular lots or a  
17 combination of the two. However, each lot in a cluster subdivision which directly  
18 abuts developed property not in a cluster subdivision shall not:

- 19 (1) Have an abutting side or rear yard which is less than that required for the  
20 abutting property; and
- 21 (2) Have a lot width, which is less than 75 percent of the minimum lot width  
22 required in the zoning district for the abutting property.

23 The provisions of (1) and (2) above may be waived if the subdivision provides a  
24 35-foot buffer around the subdivision to which no variance will be permitted.

25 No cluster subdivision of 50 acres or less shall have lot sizes that are less than the  
26 following for single family districts:

27 RSF-1 (8500 square feet minus 25%) 6375 square feet

28 RSF-2 (7500 square feet minus 25%) 5625 square feet

29 RSF-3 (6000 square feet minus 25%) 4500 square feet

30 RSF-4 (4300 square feet minus 25%) 3225 square feet

31

32 (f) *Number of dwelling units permitted.* The total number of dwellings permitted in a  
33 cluster subdivision shall not exceed the number of dwelling units, which would  
34 have been otherwise permitted by the density standards in the zoning district in  
35 which it is located. In the RSF-1, RSF-2, RSF-3, RSF-4, RMF-5 and RC district  
36 categories, the permitted number of dwelling units may be calculated by dividing  
37 the total land area of the cluster subdivision by the minimum lot size required for  
38 the applicable zoning district. The number of dwelling units shall not exceed the

1        density allowed by the zoning district.

2        (g)    *Cluster open space requirement.*

3            (1)    Each cluster subdivision that reduces lot sizes below the minimum area  
 4            required by the zoning district in which it is located shall provide cluster  
 5            open space to be preserved and maintained for its scenic value, for  
 6            recreational or conservation purposes and other related uses. This space  
 7            shall be clearly indicated on the plat by the use of the words "cluster open  
 8            space." The minimum amount of land to be designated as cluster open  
 9            space shall be equivalent to seventy-five (75) percent of the total amount  
 10           of area by which each lot was reduced below the minimum lot size  
 11           required in the zoning district plus any required wetland, creeks and  
 12           associated buffer acreage in which the subdivision is located. Cluster open  
 13           space is not required unless lot sizes are reduced below the minimum area  
 14           required in a zoning district.

15           (2)    Land area devoted to public or private vehicular streets and sidewalks,  
 16           rights-of-way and drainage structures shall not be included towards  
 17           meeting cluster open space requirements except when such land is being  
 18           jointly used for a greenway corridor as specified by subsection 30-187(o).  
 19           For the purposes of this section "drainage structures" shall be defined as  
 20           culverts, storm drains and stormwater retention or detention ponds. ~~with~~  
 21           ~~side slopes that must be stabilized by artificial means.~~ Fifty percent of  
 22           drainage facilities (unfenced) that utilize existing topography, have side  
 23           slopes that are stabilized by sod, grass or other plantings, or provide a  
 24           recreational or aesthetic amenity, provide environmental quality and  
 25           ecological value, and utilize native plants to create an aquatic or a  
 26           temporary aquatic type of ecosystem to the development, may be included  
 27           towards meeting cluster open space requirements. Unless otherwise  
 28           restricted, cluster open space may contain accessory structures and  
 29           improvements necessary for the educational, cultural, recreational or social  
 30           enjoyment of the residents or citizens plus any necessary utility services.  
 31           The appropriateness of accessory structures will be reviewed and  
 32           considered in terms of their enhancement of the cluster open space, the  
 33           purposes as provided in subsection (a) of this section, and the criteria as  
 34           provided in subsection 30-190(i). Accessory structures may be approved  
 35           during the design plat review process, or during the development plan  
 36           review process subject to the provisions of this section and the provisions  
 37           of Article VII. Accessory structures are prohibited within wetlands,  
 38           creeks, lakes and associated buffers.

39           (3)    Environmentally significant features such as but not limited to, creeks,  
 40           creek setback buffers, wetland, wetland setback buffers, flood channels,  
 41           floodplain areas, major tree groupings and individual trees of significant  
 42           size must be designated as cluster open space. Notwithstanding any  
 43           contrary language contained in section 30-301 or other city regulations, all

1 wetlands mitigation for a cluster subdivision must be done on site.

2 (4) The cluster subdivision shall strive to ~~must~~ protect ~~all~~ healthy heritage  
3 trees. The restrictive covenants for the cluster subdivision shall require  
4 that homes and other improvements are designed to protect the trees.

5 (h) *Ownership of cluster open space.*

6 (1) *Public ownership.* Cluster open space may be conveyed to the city unless  
7 the city commission finds that the size, location, nature and type of  
8 development, or fiscal impact (i.e., the cost and maintenance of  
9 development or open space) would make public use undesirable or  
10 unnecessary. Such conveyance shall be by statutory warranty deed free and  
11 clear of all liens and encumbrances, and shall take place on or before the  
12 recordation of the subdivision plat. In some instances, the city commission  
13 may authorize the conveyance of the cluster open space by a conservation  
14 easement as provided in F.S. § 704.06, when the nature and character of  
15 the cluster open space is suitable for such easement. Where the cluster  
16 subdivision encompasses lands designated for greenways or other forms of  
17 public ownership or access under the recreation; conservation, open space  
18 and groundwater recharge; and stormwater management elements of the  
19 comprehensive plan, the city may require dedication of such areas to the  
20 city as specified by subsection 30-187(o).

21 (2) *Private ownership.* Where open space is not dedicated to the city or public  
22 use, it shall be protected by legal arrangements satisfactory to the city  
23 attorney sufficient to assure its maintenance and preservation for the  
24 purpose(s) intended. Covenants or other legal agreements shall specify, at  
25 a minimum, the ownership of the cluster open space, method of  
26 maintenance, maintenance of taxes and insurance, compulsory  
27 membership and assessment provisions; guarantees that any homeowners'  
28 association formed to own and maintain cluster open space will not be  
29 dissolved without the consent of the city; and any other provisions deemed  
30 necessary by the city attorney to meet the requirements of this section.

31 (i) *Criteria for review of cluster subdivisions.* A cluster subdivision shall provide for  
32 better utilization of land and for a total environment, which is improved  
33 over that which could be achieved under standard regulations. The  
34 applicant must present evidence that the proposed cluster subdivision  
35 utilizes the land better than a standard subdivision. If the city commission  
36 finds that a subdivision will be improved by the reasonable modification  
37 of the location, design or configuration of open space, building lots, streets  
38 and parking areas, the subdivision will be modified or denied. The  
39 following criteria shall guide the ~~development review board and city~~  
40 ~~commission~~ city in review of the proposed subdivision and in making any  
41 modifications thereof:

42 (1) Individual lots, buildings, streets and parking areas shall be designed and

- 1 situated to minimize alteration of the natural site features and topography.  
 2 A minimum of 50% of all heritage trees must be protected. All lot shall be  
 3 designed so that heritage trees 20 inches or larger lie fully outside of the  
 4 building setback lines and buildable area.
- 5 (2) Individual lots, buildings and other structures shall be arranged and  
 6 situated to relate to surrounding properties and to improve the view from,  
 7 and the view of, buildings, lots and structures.
- 8 (3) Individual lots, buildings, streets and parking areas, and any accessory  
 9 structures and improvements located in the cluster open space, shall be  
 10 situated to avoid the adverse effects of shadows, noise and traffic on the  
 11 residents of the site and to minimize the area devoted to motor vehicles.
- 12 (4) Cluster open space shall include any irreplaceable natural features located  
 13 on the tract such as, but not limited to, stream beds and adjacent banks,  
 14 wetlands, flood channels, floodplain areas, major tree groupings and  
 15 individual trees of significant size.
- 16 ~~(5) The suitability of cluster open space intended for scenic value shall be~~  
 17 ~~determined by its visibility from a significant number of units or buildings~~  
 18 ~~or streets.~~
- 19 (56) The usability of cluster open space intended for recreation or public use  
 20 shall be determined by the size, shape, topographic and location  
 21 requirements of the particular purpose proposed for the open space.  
 22 Further, such space intended for recreation or public use shall be easily  
 23 accessible to trail users including the elderly and handicapped, be  
 24 integrated to form unbroken trail linkages between uses within the  
 25 subdivision, and take advantage of opportunities to establish off-site  
 26 linkages to nearby land uses, bikeways, sidewalks and greenways.
- 27 (67) To the extent practical, lands designated for greenways or other forms of  
 28 public ownership or access in the conservation, open space or recreation  
 29 element shall be included as cluster open space and dedicated as specified  
 30 by subsection 30-187(o).
- 31 (78) Diversity and originality in lot layout and individual building design shall  
 32 be encouraged to achieve the best possible relationship between the  
 33 development and the land. Garage doors if forward facing must be set back  
 34 at least 20 feet from the back of sidewalk and shall not be forward of the  
 35 front façade of the building. Sidewalks must be included on both sides of  
 36 the street internal to the cluster subdivision.
- 37 (89) To the extent practical, cluster open space shall contain designated surface  
 38 water or upland environmental features.
- 39 (940) When lots abut wetlands or buffer areas, the property owner shall provide  
 40 a 10-foot building construction setback from those areas for a construction

1 work area, so that wetlands and buffer areas are not disturbed during any  
2 construction process.

3  
4 **Section 2.** It is the intention of the City Commission that the provisions of  
5 Section 1 of this ordinance shall become and be made a part of the Code of Ordinances of  
6 the City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance  
7 may be renumbered or relettered in order to accomplish such intentions.

8 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be  
9 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall  
10 in no way affect the validity of the remaining portions of this ordinance.

11 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the  
12 extent of such conflict hereby repealed.

13 **Section 5.** This ordinance shall become effective immediately upon final  
14 adoption.

15 **PASSED AND ADOPTED this** \_\_\_\_ day of \_\_\_\_\_, 2007.

16  
17 \_\_\_\_\_  
18 PEGEEN HANRAHAN, MAYOR

19  
20 ATTEST: Approved as to form and legality

21  
22 \_\_\_\_\_  
23 KURT M. LANNON MARION J. RADSON  
24 CLERK OF THE COMMISSION CITY ATTORNEY

25 This Ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2007.

26 This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2007.