

LEGISLATIVE #
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ARTICLE III. HOW-TO GUIDE

DIVISION 1. REVIEWING AUTHORITIES

Section 30-3.1. Development Review Coordinator.

The City Manager or designee shall serve as the development review coordinator and shall have the following duties:

- A. Receive all applications for development plan approval.
- B. Schedule all applications for review before the Technical Review Committee and Development Review Board.
- C. Chair the Technical Review Committee.
- D. Ensure that proper notice is given prior to all hearings on development applications.
- E. Ensure that all time limits are met.
- F. Monitor the progress of all development plan applications through the review process and be available to respond to the queries of interested persons.
- G. Schedule application cutoff dates.

Section 30-3.2. Technical Review Committee.

- A. *Establishment and purpose.* The Technical Review Committee (TRC), which shall be chaired by the development review coordinator, is hereby created and shall have the following duties:
 1. *Meetings.* The committee shall meet at least monthly to review development proposals as prescribed in this article.
 2. *Recommendations.* The committee shall make recommendations to the Development Review Board, City Plan Board or City Commission, depending upon which is the decision-making entity.
- B. *Membership.* The membership of the committee shall be composed of an employee appointed from each of the following city departments and government agencies:
 1. Planning and development services.
 2. Public works department.
 3. Fire/rescue department.
 4. Parks and recreation department.
 5. Gainesville Regional Utilities department.
 6. Representatives of other city, county, state, regional or federal departments or agencies as deemed appropriate.

Section 30-3.3. City Plan Board.

- A. *Establishment and purpose.* The City Plan Board (CPB), which shall be designated as the Local Planning Agency in accordance with Section 163.3174, Florida Statutes, is hereby created and shall have the following duties:
1. Plan for the proper growth and development of the city, meaning the scientific, aesthetic, and orderly disposition of land, resources, facilities, and services with the goal of securing an environment for present and future generations that is environmentally sustainable, socially just and desirable, and economically sound. The board shall keep constantly informed of and in touch with the physical changes of the city and its surrounding environs and is authorized to gather information and make recommendations to the City Commission with regard to such growth and development.
 2. Prepare the City of Gainesville Comprehensive Plan and amendments thereto, and make recommendations to the City Commission regarding the adoption or amendment of such plan.
 3. Monitor and oversee the effectiveness and status of the Comprehensive Plan, and recommend to the City Commission such changes in the Comprehensive Plan as may from time to time be required, including the periodic evaluation and appraisal of the Comprehensive Plan required by Section 163.3191, Florida Statutes.
 4. Review proposed land development regulations, the Land Development Code, or amendments thereto, and make recommendations to the City Commission as to the consistency of each proposal with the adopted Comprehensive Plan.
 5. Perform all other functions, duties, and responsibilities designated by the Land Development Code or otherwise assigned by the City Commission.
- B. *Membership.*
1. The City Plan Board shall have seven regular members, representing a cross section of the city, appointed by the City Commission. Regular members of the City Plan Board shall be and remain bona fide residents of the city. If at any time a member of the City Plan Board fails to remain a resident of the city, such person shall no longer serve on the board.
 2. The City Plan Board shall have an additional member (hereinafter, the "school board representative") that represents and is appointed by the School Board of Alachua County. The duties of the school board representative are limited to attending City Plan Board meetings at which the City Plan Board considers Comprehensive Plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the proposed amendment or rezoning. The school board representative shall be a non-voting member.
 3. Each member shall be appointed to a three-year term commencing on November 1 of the year appointed. Members may be reappointed for consecutive terms and may hold office after expiration of their term until a successor has been appointed and qualified.
 4. When a regular member position becomes vacant before the end of the term, the City Commission shall appoint a substitute member to fill the vacancy for the duration of the vacated term. When the school board representative position becomes vacant before the end of the term, the School Board of Alachua County shall appoint a substitute member to fill the vacancy for the duration of the vacated term.

1 5. *Probationary period for regular members.*

2 a. New appointees to the City Plan Board shall complete a 60-day probationary period prior to
3 commencement of the term of office. During this period appointees shall meet the same
4 attendance requirements as other board members, but shall not have the power to vote or
5 be counted for the purpose of constituting a quorum.

6 b. Any appointee who fails to successfully complete the probationary period, except as
7 provided below, shall be automatically disqualified for membership on the City Plan Board,
8 upon the filing with the Clerk of the Commission of appropriate proof that the appointee
9 has failed to successfully complete the probationary period.

10 c. *Exception.* The City Commission may waive the required probationary period for any
11 appointee to the City Plan Board upon good cause shown and entered in the record of the
12 minutes of the City Commission.

13 C. *Officers.*

14 1. The members of the City Plan Board shall annually elect a chair and vice-chair from among the
15 regular members and may create and fill other offices as the board deems necessary. The chair
16 shall preside over the board and shall have the right to vote. In the absence of the chair, the
17 vice-chair shall perform the duties of the chair.

18 2. The City Plan Board may create whatever subcommittees it deems necessary to carry out the
19 purposes of the board. The chair of the board shall annually appoint the membership of each
20 subcommittee from the regular members of the board. The school board representative is
21 eligible for subcommittee membership, and the chair of the board may appoint the school
22 board representative to any given subcommittee.

23 3. The City Manager shall appoint a city employee to serve as secretary to the board, recorder and
24 custodian of all board records.

25 D. *Compensation of members; funding; absenteeism; legal counsel.*

26 1. Neither regular members nor the school board representative shall be compensated, but may
27 be paid for travel and other expenses incurred on board business under procedures prescribed
28 in advance by the City Commission.

29 2. The City Commission shall appropriate funds to permit the City Plan Board to perform its
30 prescribed functions.

31 3. Absenteeism by regular board members shall be governed by board rules.

32 4. The City Attorney shall provide legal counsel to advise and represent the board as necessary.

33 E. *Rules of procedure.* The City Plan Board shall adopt rules of procedure to carry out its purposes. All
34 rules shall conform to this article, the Code of Ordinances and state law, and shall be reviewed and
35 approved by the City Commission.

36 1. The board shall meet at least once each calendar month, unless cancelled by the board or its
37 chair, and more often at the call of the chair or the City Commission.

38 2. The board shall adopt rules setting the number of members needed to establish a quorum.

39 3. Each decision of the board shall be approved by a majority vote of the regular members present
40 at a meeting in which a quorum is in attendance and voting.

1 4. The board shall conduct hearings in accordance with this article and state law.

2 5. The board shall keep minutes of its proceedings, indicating the attendance of each member, and
3 the decision on every question.

4 F. *Final and non-final decisions.* The City Plan Board has final decision authority for Special Use Permits
5 (other than wellfield Special Use Permits), development plans, determinations for nonpresumptive
6 vested rights and concurrency, and decisions on binding resource determinations. All other actions
7 of the board are non-final and advisory to the City Commission. Advisory actions of the board shall
8 not obligate the city.

9 G. *Implementation of board's decision.* Any permit, authorization, or other development order issued,
10 based on the board's decision, prior to the end of the period for filing an appeal for any available
11 administrative or judicial remedies is considered conditional. Any action taken during the appeal
12 period is taken at the sole risk of the property owner or representative, who may be required to
13 undo any work done if the decision of the board is overturned either by a rehearing of the board, an
14 appeal for an administrative remedy, or an appeal to a court of competent jurisdiction.

15 **Section 30-3.4. Development Review Board.**

16 A. *Establishment and purpose.* The Development Review Board (DRB) is hereby created and shall have
17 the following duties:

- 18 1. Review and act upon applications for development plan approval pursuant to the Land
19 Development Code. The Airport Authority shall act in the capacity of the Development Review
20 Board for development plans for the Gainesville Regional Airport in accordance with an
21 approved airport layout plan.
- 22 2. Review and approve, approve with conditions or deny modifications and variances from the
23 requirements of this Land Development Code, as specifically provided in this Land Development
24 Code.
- 25 3. Make recommendations to the City Plan Board on land development regulations either upon
26 referral by the City Plan Board or upon its own initiation.
- 27 4. Perform all other functions, duties, and responsibilities designated by the Land Development
28 Code or otherwise assigned by the City Commission.

29 B. *Membership.*

30 1. The Development Review Board shall have seven regular members appointed by the City
31 Commission. Members of the Development Review Board shall be and remain bona fide
32 residents of the city. If at any time a member of the Development Review Board fails to remain a
33 resident of the city, such person shall no longer serve on the board. When appointing residents
34 to the Development Review Board, the City Commission shall give special consideration to those
35 with the following experience:

- 36 a. An architect or landscape architect.
- 37 b. A civil engineer.
- 38 c. A person engaged in real estate sales or development.
- 39 d. A professional with experience in natural or environmental sciences.
- 40 e. An urban planner; and

- 1 f. A citizen at large.
- 2 2. Each member shall be appointed to a three-year term commencing on November 1 of the year
- 3 appointed. Members may be reappointed for consecutive terms and may hold office after
- 4 expiration of their term until a successor has been appointed and qualified.
- 5 3. When a member position becomes vacant before the end of the term, the City Commission shall
- 6 appoint a substitute member to fill the vacancy for the duration of the vacated term.
- 7 4. *Probationary period.*
- 8 a. New appointees to the Development Review Board shall complete a 60-day probationary
- 9 period prior to commencement of the term of office. During this period appointees shall
- 10 meet the same attendance requirements as other board members, but shall not have the
- 11 power to vote or be counted for the purpose of constituting a quorum.
- 12 b. Any appointee who fails to successfully complete the probationary period, except as
- 13 provided below, shall be automatically disqualified for membership on the Development
- 14 Review Board, upon the filing with the Clerk of the Commission of appropriate proof that
- 15 the appointee has failed to successfully complete the probationary period.
- 16 c. *Exception.* The City Commission may waive the required probationary period for any
- 17 appointee to the Development Review Board upon good cause shown and entered in the
- 18 record of the minutes of the City Commission.
- 19 C. *Officers.*
- 20 1. The members of the Development Review Board shall annually elect a chair and vice-chair from
- 21 among the members and may create and fill other offices as the board deems necessary. The
- 22 chair shall preside over the board and shall have the right to vote. In the absence of the chair,
- 23 the vice-chair shall perform the duties of the chair.
- 24 2. The Development Review Board may create whatever subcommittees it deems necessary to
- 25 carry out the purposes of the board. The chair of the board shall annually appoint the
- 26 membership of each subcommittee.
- 27 3. The City Manager shall appoint a city employee to serve as secretary to the board, recorder and
- 28 custodian of all board records.
- 29 D. *Compensation of members; funding; absenteeism; legal counsel.*
- 30 1. Board members shall not be compensated, but may be paid for travel and other expenses
- 31 incurred on board business under procedures prescribed in advance by the City Commission.
- 32 2. The City Commission may appropriate funds to permit the Development Review Board to
- 33 perform its prescribed functions.
- 34 3. Absenteeism by board members shall be governed by board rules.
- 35 4. The City Attorney shall provide legal counsel to advise and represent the board as necessary.
- 36 E. *Rules of procedure.* The Development Review Board shall adopt rules of procedure to carry out its
- 37 purposes. All rules shall conform to this article, the Code of Ordinances and state law, and shall be
- 38 reviewed and approved by the City Commission.
- 39 1. The board shall meet at least once each calendar month, unless cancelled by the board or its
- 40 chair, and more often at the call of the chair or the City Commission.

2. The board shall adopt rules setting the number of members needed to establish a quorum.
 3. Each decision of the board shall be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.
 4. The board shall conduct hearings in accordance with this article and state law.
 5. The board shall keep minutes of its proceedings, indicating the attendance of each member, and the decision on every question.
- F. *Implementation of board's decision.* Any permit, authorization, or other development order issued, based on the board's decision, prior to the end of the period for filing an appeal for any available administrative or judicial remedies is considered conditional. Any action taken during the appeal period is taken at the sole risk of the property owner or representative, who may be required to undo any work done if the decision of the board is overturned either by a rehearing of the board, an appeal for an administrative remedy, or an appeal to a court of competent jurisdiction.

Section 30-3.5. Historic Preservation Board.

- A. *Establishment and purpose.* The Historic Preservation Board (HPB) is hereby created and shall have the following duties:
1. Update the official inventory of cultural resources and submit to the City Commission recommendations and documentation concerning such updating.
 2. Develop programs to stimulate public interest in urban neighborhood conservation and participation in the adaptation of existing codes, ordinances, procedures and programs to reflect urban neighborhood conservation policies and goals.
 3. Explore funding and grant sources and advise property owners concerning which might be available for the identification, protection, enhancement, perpetuation and use of historic, architectural, archaeological and cultural resources.
 4. Cooperate with agencies of city, county, regional, state and federal governments in planning proposed and future projects to reflect the concerns and policies expressed in this article, and assist in the development of proposed and future land use plans.
 5. Advise property owners and local governmental agencies concerning the proper protection, maintenance, enhancement and preservation of cultural resources.
 6. Advise the City Commission concerning the effects of local governmental actions on cultural resources.
 7. Conduct regular public meetings and call special meetings.
 8. Otherwise further the objectives and purposes stated in the historic preservation and conservation regulations of this chapter, which can be found in **Article V, Division 6**.
 9. Report to the City Commission concerning the board's activities at least once a year.
 10. Review and recommend sites, buildings, structures, objects, areas and districts, both public and private, for listing on the local register for historic places.
 11. Approve or deny petitions for certificates of appropriateness required under **Article V, Division 6**.

12. Notify the City Manager who will take appropriate action when it appears that there has not been compliance with the requirements of **Article V, Division 6.**

B. *Membership.*

1. The Historic Preservation Board shall have nine regular members appointed by the City Commission. Members of the board shall be and remain bona fide residents of the city. If at any time a member of the board fails to remain a resident of the city, such person shall no longer serve on the board. When appointing residents to the Historic Preservation Board, the City Commission shall appoint at least one registered architect and shall, when possible, appoint a representative from each of the following areas of expertise:

- a. History.
- b. Real estate or real property appraisal or finance.
- c. Urban planning or law.
- d. Engineering or building construction.
- e. Landscape architecture.

2. Each member shall be appointed to a three-year term. Members may be reappointed for consecutive terms and may hold office after the expiration of their term until a successor has been appointed and qualified.

3. When a member position becomes vacant before the end of a term, the City Commission shall appoint a substitute member to fill the vacancy for the duration of the vacated term.

C. *Officers.*

1. The board shall annually elect a chair and a vice-chair from among the members and may create and fill other offices as the board deems necessary. The chair shall preside over the board and shall have the right to vote. In the absence of the chair, the vice-chair shall perform the duties of the chair.

2. The City Manager shall appoint a city employee to serve as secretary to the board, recorder and custodian of all board records.

D. *Rules of procedure.* The Historic Preservation Board shall adopt rules of procedure to carry out its purposes. All rules shall conform to this article, the Code of Ordinances and state law, and shall be reviewed and approved by the City Commission.

1. The board shall meet at least once each calendar month, unless cancelled by the board or its chair, and more often at the call of the chair or the City Commission.

2. No business shall be conducted by the board without the presence of a quorum of five voting members.

3. *Voting on certificates of appropriateness.* Approval or denial of petitions for certificates of appropriateness shall require the affirmative vote of at least four voting members. If insufficient affirmative votes are obtained, a matter shall be tabled and placed on the agenda for the following meeting. However, petitions for certificates of appropriateness shall be deemed automatically granted if not approved or denied within 45 calendar days after the first meeting at which they were considered.

4. The board shall conduct hearings in accordance with this article and state law.

- 1 5. The board shall keep minutes of its proceedings, indicating the attendance of each member, and
2 the decision on every question.

3 **Section 30-3.6. Heritage Overlay District Board.**

- 4 A. *Establishment and purpose.* The Historic Overlay District Board is hereby created and shall have the
5 following duties:

- 6 1. Review regulated work items submitted for its review pursuant to the provisions of **Section 30-**
7 **5.29.**

- 8 B. *Membership.*

- 9 1. The board shall consist of five members appointed by the City Commission. At least three
10 members shall reside in a heritage overlay district and, if more than one heritage overlay district
11 exists, at least one member shall reside in each existing district; however, if it is not possible to
12 meet the foregoing requirements in making appointments, the City Commission may appoint
13 any resident of the city to the board. If a member of the board ceases to be a resident of the
14 city, such person shall no longer serve on the board.

- 15 2. Each member shall be appointed to a two-year term commencing on November 1 of the year
16 appointed. Members may be reappointed for consecutive terms and may hold office after
17 expiration of their term until a successor has been appointed and qualified.

- 18 3. When a member position becomes vacant before the end of the term, the City Commission shall
19 appoint a substitute member to fill the vacancy for the duration of the vacated term.

- 20 C. *Officers.*

- 21 1. The board shall annually elect a chair and a vice-chair from among the members and may create
22 and fill other offices as the board deems necessary. The chair shall preside over the board and
23 shall have the right to vote. In the absence of the chair, the vice-chair shall perform the duties of
24 the chair.

- 25 2. The City Manager shall appoint a city employee to serve as secretary to the board, recorder and
26 custodian of all board records.

- 27 D. *Rules of procedure.* The board shall adopt rules of procedure to carry out its purposes. All rules shall
28 conform to this article, the Code of Ordinances and state law, and shall be reviewed and approved
29 by the City Commission.

- 30 1. The board shall meet once each calendar month, as necessary to consider any petitions timely
31 filed for that meeting. A meeting may be cancelled by the board or its chair as specified in the
32 board rules of procedure.

- 33 2. Three members shall be present to establish a quorum. A majority of the quorum is required for
34 approval. Petitions on the agenda, but not heard due to a lack of quorum, are continued to the
35 next meeting one time. If the board fails to reach a quorum a second consecutive time, the
36 petition is deemed approved.

- 37 3. The board shall conduct hearings in accordance with this article and state law.

- 38 4. At board meetings, the board deliberation and public comment shall be limited to whether or
39 not the regulated work item is consistent with the district's regulations, as set forth in the
40 ordinance for that district, including the design standards report.

5. The board can approve, approve with conditions, deny or continue to a date certain a petition for a regulated work item. The board may continue a petition only once. At the second hearing on a continued petition, the board shall render a decision or the petition shall be deemed approved.
6. The decision of the board on a petition shall be the final decision of the city.
7. The board shall keep minutes of its proceedings, indicating the attendance of each member, and the decision on every question.

Section 30-3.7. Neighborhood Workshop.

- A. *Purpose and intent.* Neighborhood workshops are intended to encourage applicants to be good neighbors and to allow for informed decision making, although not necessarily to produce complete consensus on all applications, by:
 1. Ensuring that applicants pursue early and effective citizen participation in conjunction with their applications, giving the applicants the opportunity to understand and try to mitigate any real or perceived impacts their applications may have on the community;
 2. Ensuring that citizens and property owners have an adequate opportunity to learn about applications that may affect them and to work with the applicant to resolve concerns at an early stage of the process; and
 3. Facilitating ongoing communication among the applicant, interested citizens and property owners, and city staff throughout the application review process.
- B. *Applicability.* Every application that requires board approval, including future land use map changes, rezonings, Special Use Permits, subdivisions, or development plans shall first hold a neighborhood workshop and shall include in the application a written record of such meeting. Development plans located within a transect zone that meet or exceed the thresholds for intermediate or major development review shall also conduct a neighborhood workshop. The following development applications are exempt from the requirements of this section:
 1. Text changes to the Comprehensive Plan or Land Development Code.
 2. City-initiated amendments to the future land use map of the Comprehensive Plan that change the future land use from Alachua County to City of Gainesville categories.
 3. City-initiated amendments to the zoning map that change the zoning from Alachua County to City of Gainesville districts.
 4. Development plan applications for nonresidential projects of 10,000 square feet or less of floor area when not abutting or adjacent to property zoned for single-family residential use.
 5. Development plan applications for residential projects of 10 units or less.
 6. Environmental remediation or safety improvements required by local, state, and federal agencies.
- C. *Workshop requirements.*
 1. The applicant shall provide the opportunity for a workshop to inform neighboring property owners of the proposed application. The workshop shall be held in a location generally near the subject property and shall be held in a facility that is ADA compliant. The applicant shall provide notification by mail to all owners of property located within 400 feet of the subject property and

to all neighborhood associations registered with the city and located within ½-mile of the property. The City Manager or designee shall provide mailing labels to the applicant. The applicant shall mail these notices with proper postage at least 15 calendar days before the workshop. The applicant shall also advertise the workshop in a newspaper of general circulation at least 15 calendar days before the date of the workshop.

2. The workshop shall start between 6:00 p.m. and 8:00 p.m. on a weekday or between 9:00 a.m. and 5:00 p.m. on a weekend. All required workshops shall be held prior to submittal of the application. The applicant shall be required to schedule an additional workshop if the initial workshop has occurred more than 6 months prior to submittal of the application.

Section 30-3.8. Public Notice.

- A. *General.* The notice provisions in this section shall be required prior to all board hearings and are supplemental to any notice required by state law. If two public hearings are required, then supplemental notice shall be provided prior to the first public hearing. A request by the applicant to continue a board hearing shall require the applicant to incur renotification and readvertising costs.
- B. *Mailed notice.* Unless otherwise provided by law, addresses for mailed notice required by this chapter shall be obtained from the latest ad valorem tax records provided by the county property appraiser. The failure of any person to receive notice shall not invalidate an action if a good faith attempt was made to comply with the notice requirements. The notice shall identify the physical address of the subject property; the date, time, and location of the public hearing; and a description of the application including the nature and degree of the request, potential uses, and other information as required by the city. The notice shall be mailed at least 15 calendar days prior to the date of the board hearing to all real property owners whose land will be affected and whose property lies within 400 feet of any affected property.
- C. *Posted notice.* Posted notice signs shall be posted by the applicant in accordance with procedures established by the city, and shall include a description of the application with the nature and degree of the request, potential uses, and other information as required by the city, and shall identify the date, time, and location of the public hearing. Signs shall be posted at least 15 calendar days prior to the date of the board hearing. Properties under consideration for a land use or zoning map change that involve more than 50 non-contiguous acres shall not be required to post signs when the application is initiated by the city.
- D. *Failure to perfect supplemental notice.* If an applicant fails to provide supplemental notice in accordance with this section prior to the public hearing, then the public hearing shall be cancelled to allow compliance with the notice requirements. The failure to provide the supplemental notice required by this section shall not be construed to invalidate any final action on a land development decision, if discovered after final action has been taken.

Table III - 1: Public Notice.

APPLICATION TYPE	NEWSPAPER AD	MAILED NOTICE	POSTED NOTICE
COMPREHENSIVE PLAN AMENDMENTS/LAND USE CHANGES			
Text changes not including amendments to the list of permitted/prohibited	As required by law.	Not required.	Not required.

APPLICATION TYPE	NEWSPAPER AD	MAILED NOTICE	POSTED NOTICE
uses.			
Text changes amending the list of permitted/prohibited uses involving less than 5% of the total land area of the city.	As required by law.	Required.	Not required.
Text changes amending the list of permitted/prohibited uses involving more than 5% of the total land area of the city.	As required by law.	Not required.	Not required.
Land Use Map changes involving less than 5% of the total land area of the city.	As required by law.	Required.	Required.
Land Use Map changes involving more than 5% of the total land area of the city.	As required by law.	Not required.	Required, except as provided in this section.
LAND DEVELOPMENT CODE AMENDMENTS/REZONINGS			
Text changes not including amendments to the list of permitted/prohibited uses.	As required by law.	Not required.	Not required.
Text changes amending the list of permitted/prohibited uses involving less than 5% of the total land area of the city.	As required by law.	Required.	Not required.
Text changes amending the list of permitted/prohibited uses involving more than 5% of the total land area of the city.	As required by law.	Not required.	Not required.
Zoning Map changes involving less than 5% of the total land area of	As required by law.	Required.	Required.

APPLICATION TYPE	NEWSPAPER AD	MAILED NOTICE	POSTED NOTICE
the city.			
Zoning Map changes involving more than 5% of the total land area of the city.	As required by law.	Not required.	Required, except as provided in this section.
Special Use Permits	As required by law.	Required.	Required.
Development Review Board	As required by law.	Required.	Required.
Variances	As required by law.	Required.	Required.
Historic Preservation Board (COA)	As required by law.	Not required.	Required.
Heritage Overlay District Board	As required by law.	Not required.	Required.
Right-of-Way Vacations	As required by law.	Required.	Not required.

DIVISION 2. ZONING VERIFICATION LETTERS

Section 30-3.9. Required.

An application for a Zoning Verification Letter (ZVL) may be voluntarily submitted by any individual seeking verification of the zoning status of a specific parcel of land. However, submittal of a ZVL application shall be required in the following situations and it shall be unlawful to conduct any of the following activities until the City Manager or designee has issued a Zoning Verification Letter (ZVL) certifying that such activity complies with the applicable provisions of this chapter.

- A. Establish any business, profession or occupation, or change the location of a business, profession or occupation that is subject to a business tax as provided for in Chapter 25 of the Code of Ordinances.
- B. Begin any new use, or undertake an addition to any existing use.
- C. Make a change of use, as the term is defined in this chapter, of any land or structure, or extend any use or any lot on which exists a legally nonconforming use.

Section 30-3.10. Review Procedures.

- A. *Applications.* Applications for a ZVL shall be submitted on a form provided by the city. The request shall provide sufficient information to identify the property and the information the requestor seeks to verify. The requestor is solely responsible for the accuracy of the information provided in the application.
- B. *Staff review.* Upon receipt of a completed application, the City Manager or designee shall review the application and issue a ZVL that may only address the following information:
1. The future land use designation of the property.
 2. The zoning district of the property.
 3. A list of permitted uses in the property's zoning district.
 4. Verification that a particular use is permitted within the property's zoning district.
 5. The development regulations applicable to the property.
 6. Zoning action needed to permit a particular use.
 7. Identification of any outstanding Notice of Violations issued for code enforcement violations of the property.

Section 30-3.11. Duration, Limitations, Effect.

- A. *Duration.* There is no specific expiration date for an issued ZVL. However, the regulations in this chapter are continually under review and may change at any time, and any ZVLs issued are subject to changes to this chapter adopted after the issuance of the letter. Applicants have the responsibility of ensuring that all applicable rules, regulations, and circumstances have not changed subsequent to the issuance of a ZVL.
- B. *Limitations.* If the City Manager or designee determines that a ZVL was based on inaccurate or misleading information or if the ZVL does not comply with this Chapter, then the City Manager or designee may at any time issue a modified ZVL that complies with this chapter or revoke the ZVL.
- C. *Effect.* A ZVL does not authorize development activity.
- D. *Review.* The determinations made within a ZVL are not subject to appeal.

DIVISION 3. TEXT AMENDMENTS, LAND USE AND ZONING CHANGES

Section 30-3.12. Review Procedures.

The following procedures shall apply to all applications, including those initiated by the city, for text amendments to the Comprehensive Plan or Land Development Code, and land use or zoning changes.

- A. *Pre-application meeting.* It is recommended that applicants meet with the planning and development services department prior to submitting an application, in order to discuss the application process. No person may rely upon any comment made by any participant at the pre-application conference as a representation or implication that the application will be ultimately approved or rejected in any form.
- B. *Application submittal.*

1. An application for a text amendment to the Comprehensive Plan or Land Development Code may be submitted by any citizen or owner of land in the city.
2. Applications for a land use change or rezoning may be submitted by the property owner. If there are multiple owners, each shall include authorization on the application. The property owners may authorize an agent to represent the owners by submitting an affidavit with the application.
- C. *Staff review.* Staff shall submit to the City Plan Board a written report that includes analysis of the application and a recommendation based on the applicable criteria required by this division.
- D. *Neighborhood workshop.* Applicants for a land use change or rezoning shall hold a neighborhood workshop as required by this article.
- E. *City Plan Board review.* The City Plan Board shall review the application at a public hearing. When reviewing the application, the City Plan Board may receive and consider the comments and concerns of other relevant boards serving the City Commission, such as the Development Review Board and the Historic Preservation Board. This City Plan Board shall make a recommendation to the City Commission regarding the application, and such recommendation shall be processed as follows:
 1. If both staff and the City Plan Board recommend approval of the application as submitted or with amendments voluntarily agreed upon by the applicant, then the application may be forwarded to the City Attorney's Office to prepare the appropriate ordinance in accordance with law.
 2. If either staff or the City Plan Board recommends denial of the application, then the application shall be forwarded to the City Commission for approval, denial, approval with amendment, or remand to the board for further consideration. If the City Commission approves the application as submitted or with amendments, then the City Attorney's Office shall prepare the appropriate ordinance in accordance with law.
- F. *City Commission review.*
 1. The City Commission shall consider the application at public hearings as required by law.
 2. If the matter is quasi-judicial as determined by the City Attorney's Office, the City Commission shall conduct the quasi-judicial hearing at first reading of the ordinance, as applicable. The recommendations of city staff or other regulatory agencies and the appropriate reviewing boards shall be included and become a part of the record before the City Commission.
 3. The City Commission may act on any application without a recommendation from the City Plan Board if the board has not acted on the matter within 45 calendar days of the date of the first regular meeting of the City Plan Board after an application has been submitted.
 4. If an application is not acted upon finally by the City Commission within six months of the date upon which the City Plan Board made a recommendation to the City Commission, the application shall be deemed denied without prejudice. However, no application shall be deemed denied if the City Commission has continued its consideration to a date certain, or has stayed action on the application by enactment of a moratorium ordinance.
- G. *Withdrawal of applications.* An application for any action provided by this chapter may be withdrawn by the applicant. However, if notice has been given, the application shall be withdrawn by the applicant at a public hearing, and for purposes of refiling a land use change or rezoning application, a withdrawn application shall be limited as if it were denied. Fees paid shall not be refundable if any expense has been incurred by the city for public notice.

1 H. *Limits on applications relating to same property.*

- 2 1. If the City Commission has denied an application for a land use change or rezoning, the City Plan
3 Board shall not consider any land use change or rezoning applications for any part of the same
4 property for a period of 12 months from the date of the denial.
- 5 2. Whenever the City Commission has adopted an ordinance to change the land use or zoning for a
6 property, the City Plan Board shall not consider any land use change or rezoning applications for
7 any part of the same property for a period of 12 months from the date of the ordinance
8 adoption.
- 9 3. The City Commission may waive the above time limitations by the affirmative vote of five
10 commissioners, provided 30 calendar days have elapsed since the action of the commission, and
11 if the City Commission deems such action necessary to prevent an injustice or facilitate the
12 proper development of the city.

13 **Section 30-3.13. Land Use Change Criteria.**

14 Applications to change the land use category for a property by amending the future land use map of the
15 Comprehensive Plan shall be reviewed according to the following criteria:

- 16 A. The goals, objectives, and policies of the Comprehensive Plan.
- 17 B. The need for additional land in the proposed land use category based on the projected population of
18 the city and the relative availability of the current and proposed land use categories.
- 19 C. The proposed land use category of the property in relation to surrounding properties and other
20 similar properties.
- 21 D. The potential impact of the land use change on adopted level of service standards.

22 **Section 30-3.14. Rezoning Criteria.**

23 Applications to rezone property shall be reviewed according to the following criteria:

- 24 A. Compatibility of permitted uses and allowed intensity and density with surrounding existing
25 development.
- 26 B. The character of the district and its suitability for particular uses.
- 27 C. The proposed zoning district of the property in relation to surrounding properties and other similar
28 properties.
- 29 D. Conservation of the value of buildings and encouraging the most appropriate use of land throughout
30 the city.
- 31 E. The applicable portions of any current city plans and programs such as land use, traffic ways,
32 recreation, schools, neighborhoods, stormwater management and housing.
- 33 F. The needs of the city for land areas for specific purposes to serve population and economic
34 activities.
- 35 G. Whether there have been substantial changes in the character or development of areas in or near
36 an area under consideration for rezoning.
- 37 H. The goals, objectives, and policies of the Comprehensive Plan.
- 38 I. The facts, testimony, and reports presented at public hearings.

- J. Applications to rezone to a transect zone shall meet the following additional criteria:
1. The proposed T-Zone shall provide a logical extension of an existing zone, or an adequate transition between zones.
 2. The area shall have had a change in growth and development pattern to warrant the rezoning to a more or less urban T-Zone.
 3. The request shall be consistent with the overall City of Gainesville vision for growth and development as expressed in the City of Gainesville Comprehensive Plan.
 4. If not adjacent to an existing T-Zone, the rezoning site shall comprise a minimum of 10 acres.

DIVISION 4. PLANNED DEVELOPMENTS

Section 30-3.15. Purpose.

- A. *Purpose.* The purpose of the Planned Development (PD) district is to provide a particularized zoning district that recognizes unique conditions, allows design flexibility, and promotes planned diversification and integration of uses and structures, which other zoning districts cannot accommodate, while also retaining the City Commission's authority to establish such limitations and regulations as it deems necessary to protect the public health, safety, and general welfare. The PD district is designed to:
1. Encourage flexible land development that sustainably uses land and infrastructure, reduces transportation needs, conserves energy, and maximizes the preservation of natural resources.
 2. Allow the integration of different land uses and densities in one development that would not otherwise be provided for in other zoning districts in this chapter, and which encourage compatibility in overall site design and scale both internal and external to the project site.
 3. Permit outstanding and innovative residential and nonresidential developments with quality-of-life design features, such as an integration of housing types and accommodation of changing lifestyles within neighborhoods; design that encourages internal and external convenient and comfortable travel by foot, bicycle, and transit through such strategies as pedestrian scale, a building orientation generally toward streets and sidewalks, parking located to the side or rear of buildings, narrow streets, modest setbacks, front porches, connected streets, multiple connections to nearby land uses, terminated vistas, recessed garages, alleys, enhances landscaping, and mixed-uses.
 4. Provide flexibility to meet changing needs, technologies, economics, and consumer preferences and allows for ingenuity and imagination in the planning and development of relatively large tracts.
 5. Achieve overall coordinated building and facility relationships and infill development, and eliminate the negative impacts of unplanned and piecemeal development.

Section 30-3.16. Applicability of Other Regulations.

All building code, housing code and other land use regulations of this chapter are applicable to a PD, except to the extent that they conflict with a specific provision of an approved PD.

Section 30-3.17. Review Criteria.

In addition to the general review criteria for rezonings provided by this article, the City Plan Board and the City Commission shall evaluate PD applications according to the following additional criteria:

- A. *Consistent with Comprehensive Plan.* A PD application may only be approved if it is consistent with the Comprehensive Plan.
- B. *Conformance to PD objectives.* A PD application may only be approved if it is in conformance with the objectives and purpose of PDs as articulated in **Section 30-3.12**.
- C. *Internal compatibility.* All uses proposed within a PD shall be compatible with other proposed uses; that is, no use may have any undue adverse impact on any neighboring use, based on the streetscape, treatment of pedestrian ways and circulation, motor vehicle circulation, and the separation and buffering of parking areas and sections of parking areas; the existence or absence of, and the location of, focal points and vistas, open spaces, plazas, recreational areas and common areas, and use of existing and proposed landscaping; use of the topography, physical environment and other natural features; use and variety of building setback or build-to lines, separations and buffering; use and variety of building groupings, building sizes, architectural styles, and materials; variety and design of dwelling types; particular land uses proposed, and conditions and limitations thereon; and any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of any proposed use within the PD.
- D. *External compatibility.* All uses proposed within a PD shall be compatible with existing and planned uses of properties surrounding the PD; that is, no internal use may have any avoidable or undue adverse impact on any existing or planned surrounding use, nor shall any internal use be subject to undue adverse impact from existing or planned surrounding uses. An evaluation of the external compatibility of a PD should be based on the following factors: adjacent existing and proposed uses, design of the development, traffic circulation, and density and intensity.
- E. *Intensity of development.* The residential density and intensity of use of a PD shall be compatible with and shall have no undue adverse impact upon the physical and environmental characteristics of the site and surrounding lands, and shall comply with the policies and density limitations set forth in the Comprehensive Plan. Within the maximum limitation of the Comprehensive Plan, the permitted residential density and intensity of use in a PD may be adjusted upward or downward in consideration of the following factors: the availability and location of public and utility services and facilities; the trip capture rate of development; and the degree of internal and external connectedness of streets.
- F. *Usable open spaces, plazas and recreation areas.* Usable open spaces, plazas and recreation areas provided within a PD shall be evaluated based on conformance with the policies of the Comprehensive Plan and the sufficiency of such areas to provide appropriate recreational opportunities, protect sensitive environmental areas, conserve areas of unique beauty or historical significance, enhance neighborhood design, and encourage compatible and cooperative relationships between adjoining land uses.
- G. *Environmental constraints.* The site of the PD shall be suitable for use in the manner proposed without hazards to persons either on or offsite from the likelihood of increased flooding, erosion or other dangers, annoyances or inconveniences. Condition of soil, groundwater level, drainage and topography shall all be appropriate to the type, pattern and intensity of development intended. The conditions and requirements of the protection of resources article shall be met.

- 1 H. *External transportation access.* A PD shall be located on, and provide access to, a major street
2 (arterial or collector) unless, due to the size of the PD and the type of uses proposed, it will not
3 adversely affect the type or amount of traffic on adjoining local streets. Access shall meet the
4 standards set in **Chapter 23** and **Chapter 30, Article VI**. Connection to existing or planned adjacent
5 streets is encouraged. The trip generation report shall be signed by a professional engineer
6 registered in the state when there is a difference between the traffic report provided by the
7 petitioner and the concurrency test.
- 8 I. *Internal transportation access.* Every dwelling unit or other use permitted in a PD shall have access
9 to a public street either directly or by way of a private road, pedestrian way, court or other area that
10 is either dedicated to public use or is a common area guaranteeing access. Permitted uses are not
11 required to front on a dedicated public road. Private roads and other accessways shall be required
12 to be constructed so as to ensure that they are safe and maintainable.
- 13 J. *Provision for the range of transportation choices.* Sufficient off-street and on-street parking for
14 bicycles and other vehicles, as well as cars, shall be provided. Parking areas shall be constructed in
15 accordance with such standards as are approved by the City Commission to ensure that they are
16 safe and maintainable and that they allow for sufficient privacy for adjoining uses. When there is
17 discretion as to the location of parking in the project, it is strongly encouraged that all motor vehicle
18 parking be located at the rear or interior side of buildings, or both. The design of a PD should,
19 whenever feasible, incorporate appropriate pedestrian and bicycle accessways so as to provide for a
20 variety of mobility opportunities. Connection to all sidewalks, greenways, trails, bikeways, and
21 transit stops along the perimeter of the PD is required. Where existing perimeter sidewalks do not
22 exist, sidewalks shall be provided by the development.

23 **Section 30-3.18. Review Procedures.**

- 24 A. *Unified control.* All land included in any PD application shall be owned or under the legal control of
25 the applicant, whether the applicant be an individual, partnership, corporation, other entity, group
26 or agency. The applicant shall provide evidence of such ownership or control, including upon
27 request of the City Manager or designee all agreements, contracts, guarantees and other necessary
28 documents and information that the city deems necessary.
- 29 B. *Pre-application meeting.* Before application submittal, the applicant shall present a generalized
30 description of the project to the City Manager or designee at a pre-application conference.
- 31 C. *First-step meeting.* Before application submittal, the applicant shall attend a first-step meeting to
32 discuss the development review process, code requirements and to confer with staff about the PD.
33 The first-step meeting may be attended by staff of the Technical Review Committee or staff of the
34 planning and development services department. Comments made by staff at a first-step meeting
35 are made solely for preliminary informational purposes and shall not be construed as an approval or
36 denial or agreement to approve or deny any application.
- 37 D. *Application submittal.* The applicant shall submit a complete application, accompanied by the
38 applicable fee, on a form provided by the city together with all plans, documentation and
39 information deemed necessary by the city.
- 40 E. *Technical Review Committee review.* The Technical Review Committee shall review the application
41 for conformance with the city's Comprehensive Plan and Land Development Code, and issue a
42 recommendation.

- 1 F. *Neighborhood workshop*. The applicant shall hold a neighborhood workshop per the requirements
2 of this article.
- 3 G. *City Plan Board review*. The City Plan Board shall review the application (PD layout plan and report)
4 and the Technical Review Committee recommendation at a public hearing. The City Plan Board shall
5 recommend denial, approval, or approval subject to conditions, and the recommendation shall be
6 forwarded to the City Commission for consideration.
- 7 H. *City Commission review*.
- 8 1. The City Commission shall deny the application, approve the application, or approve the
9 application with conditions that it deems necessary and appropriate.
- 10 2. If the City Commission approves an application with conditions, then the applicant shall revise
11 the application to clearly incorporate such conditions and file with the City Manager or designee
12 within 60 calendar days of such approval. Failure to file the revised application within the time
13 prescribed shall render any approval of the City Commission null and void unless the applicant
14 files with the City Commission a written request for an extension of time within such 60-day
15 period. The City Commission may grant an extension for good cause shown.

16 **Section 30-3.19. Phasing.**

17 The City Commission may allow or require the phasing of a PD. When provisions for phasing are included
18 in a PD, each phase shall be planned and related to previous development, surrounding properties and
19 the available public facilities and services so that a failure to proceed with phases will have no adverse
20 impact on the PD or surrounding properties.

21 **Section 30-3.20. Development Time Limits.**

22 The City Commission may establish reasonable time limits for the completion of any dedicated public
23 facilities within a PD, facilities planned for common areas, and the total PD. If phasing is provided for,
24 time limits for the completion of each phase may also be established or may be deferred until
25 development review. Any such time limit may be extended by the City Commission for an additional
26 reasonable time limit upon the written request of an applicant and based upon good cause, as
27 determined by the City Commission. Any such extension shall not automatically extend the normal
28 expiration date of a building permit, site plan approval or other development order.

29 **Section 30-3.21. Amendments.**

- 30 A. Except as otherwise provided in this section, an amendment to an approved PD (except for an
31 extension of a time limit) shall be accomplished only by a new PD rezoning application.
- 32 B. The following types of amendments to the requirements of an approved PD may be authorized by
33 the appropriate reviewing board during development plan review, provided such amendments meet
34 the criteria set forth in this article for the development review process:
- 35 1. Minor adjustments or shifts in the location and siting of buildings, structures, parking bays, and
36 parking spaces.
- 37 2. Changes in the location of utility tie-ins and solid waste, recycling, and yard trash containers.
- 38 3. Reductions in the overall density or intensity of structural ground coverage of the development.
- 39 4. Changes in the location and types of landscape materials, excluding changes in location of
40 buffers.

5. Minor changes in the walkway and bikeway systems.
6. The addition of accessory structures or utility buildings of less than 1,000 square feet where there are no major changes to the perimeter features of the development.
7. The addition of up to 10 new parking spaces.
8. Any expansion of gross floor area or enlargement of the building envelope that does not require the addition of required parking spaces or alter standards of the PD ordinance.
9. Modifications that do not entail amendments to specific language included within the PD ordinance.

DIVISION 5. SPECIAL USE PERMITS

Section 30-3.22. Purpose.

It is the intent of this division to recognize and permit certain uses and developments that require special review, and to provide the standards by which the applications for permits for uses and development shall be evaluated. It is further intended that Special Use Permits be required for developments that, because of their inherent nature, extent, and external effects, require special care in the control of their location, design, and methods of operation in order to ensure conformance with the Comprehensive Plan and this chapter.

Section 30-3.23. Required.

The applicable uses listed in **Article IV** may be established in that zoning district only after issuance and recordation of a Special Use Permit by the City Plan Board.

Section 30-3.24. Review Criteria.

No Special Use Permit shall be approved by the City Plan Board unless the following findings are made concerning the proposed special use. The burden of proof on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant.

- A. The proposed use or development is consistent with the Comprehensive Plan and the Land Development Code.
- B. The proposed use or development is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan. Factors by which compatibility of the proposed use or development shall be reviewed include scale, height, mass and bulk, design, intensity, and character of activity.
- C. The proposed use will not adversely affect the health, safety, and welfare of the public.
- D. Ingress and egress to the property, proposed structures, and parking/loading/service areas is provided and allows for safe and convenient automobile, bicycle, and pedestrian mobility at the site and surrounding properties.
- E. Off-street parking, service, and loading areas, where required, will not adversely impact adjacent properties zoned for single-family residential use.
- F. Noise, glare, exterior lighting, or odor effects will not negatively impact surrounding properties.

- 1 G. There is adequate provision for refuse and service/loading areas, and these areas shall be reviewed
2 for access, screening, location on the site, and pedestrian/bicycle mobility and safety. Outdoor
3 storage or display areas, if included, will not adversely impact surrounding properties and shall be
4 reviewed for screening and location on the site.
- 5 H. Necessary public utilities are available to the proposed site and have adequate capacity to service
6 the proposed use or development.
- 7 I. Screening and buffers are proposed of such type, dimension, and character to improve compatibility
8 and harmony of the proposed use and structure with the uses and structures of adjacent and nearby
9 properties.
- 10 J. The hours of operation will not adversely impact adjacent properties zoned for single-family
11 residential use.
- 12 K. Any special requirements set forth in the Land Development Code for the particular use involved are
13 met.

14 **Section 30-3.25. Review Procedures.**

- 15 A. *Pre-application meeting.* A pre-application meeting is not required; however, the applicant is
16 encouraged to attend a meeting with staff to review applicable procedural and regulatory
17 requirements.
- 18 B. *Applications.* Each application shall be filed with the City Manager or designee on the form
19 prescribed. Any incomplete applications will be returned to the applicant. The application shall
20 include proof of having met the requirements of a neighborhood workshop as provided in this
21 article.
- 22 C. *Staff meeting.* The applicant for a Special Use Permit shall meet with city staff to discuss the
23 procedures and requirements and to consider the elements of the proposed use and site and the
24 proposed site layout.
- 25 D. *Staff report.* The City Manager or designee shall submit to the City Plan Board a written report that
26 includes analysis of the application and a recommendation based on the review criteria provided in
27 this division.
- 28 E. *City Plan Board hearing.*
- 29 1. The City Plan Board shall consider the evidence presented in the public hearing and the written
30 report submitted by the City Manager or designee and shall act on the application based on the
31 review criteria provided in this division.
- 32 2. Action on the application shall be one of the following:
- 33 a. Approval;
- 34 b. Approval subject to conditions; or
- 35 c. Denial, with a statement of the reasons for denial.
- 36 F. *Effect of denial or withdrawal.* No application for a Special Use Permit may be submitted within two
37 years after the date of denial or withdrawal of a request for the same use for the same property.
38 The City Plan Board may waive this time limitation by the affirmative vote of five members, provided
39 30 calendar days have elapsed and provided the City Plan Board deems such action necessary to
40 prevent an injustice.

- 1 G. *Amended application.* Amendment of an application may be allowed at any time prior to or during
2 the public hearing, provided that no such amendment shall be such as to make the case different
3 from its description in the notice of public hearing. If the amendment is requested by the applicant
4 after notice of the hearing has been given and such amendment is at variance with the information
5 set forth in the notice, then the applicant shall pay an additional fee in the same amount as the
6 original fee for amended public notice. If the amended notice can be mailed at least 10 calendar
7 days prior to the hearing originally scheduled, the hearing on the amended petition may be held on
8 that date; otherwise, the chairperson shall announce at the public hearing that the hearing will be
9 continued to a future meeting with proper public notice.

10 **Section 30-3.26. Effect and Limitations.**

- 11 A. *Effect.* Special Use Permits, including any permit conditions, shall run with the land and shall be
12 binding on the original applicant as well as any successors or assigns.
- 13 B. *Modifications.* After approval and issuance of a Special Use Permit, the following situations are
14 allowed only with the review and issuance of a new Special Use Permit:
- 15 1. A change in the boundaries of the approved site.
 - 16 2. A change from the approved use.
 - 17 3. Either an increase of 10% or more or incremental increases that total 10% or more in the floor
18 area or number of parking spaces as approved.
 - 19 4. Substantial changes in the approved location of principal or accessory structures.
 - 20 5. Structural alterations significantly affecting the basic size, form, style, ornamentation, and
21 appearance of principal or accessory structures as shown on the approved plans.
 - 22 6. Substantial changes in approved pedestrian or vehicular access or circulation.
 - 23 7. Substantial change in the approved amount or location of landscape screens or buffers.
- 24 C. *Expiration.* Special Use Permits shall expire 12 months after the date of approval unless, at that
25 time, the authorized use has commenced or development at the site is continuing in good faith with
26 an active building permit. At the request of the applicant and for good cause shown, the City Plan
27 Board may extend the time of the permit's expiration for good cause shown and if not in conflict
28 with any other provision of this chapter.
- 29 D. *Abandonment.* On request of the permit holder, the City Manager or designee may approve the
30 abandonment of a Special Use Permit provided no construction has begun. In addition, if the use
31 allowed by a Special Use Permit has been abandoned for a continuous period of 12 months, the
32 permit shall be void. The process to determine whether a use has been abandoned shall be the
33 same as that provided for nonconforming uses in **Article X**.
- 34 E. *Revocation.* If any conditions of an issued Special Use Permit are violated, the City Plan Board may,
35 after giving proper notice to the permit holder, revoke the permit at a public hearing. The permit
36 may be reinstated by the City Manager or designee if the circumstances leading to the revocation
37 are corrected.
- 38

DIVISION 6. WELLFIELD PROTECTION SPECIAL USE PERMIT

Section 30-3.27. Purpose.

- A. This division is established for the purpose of protecting the immediate and long-term supply of potable water in the community by creating a permit procedure for uses and developments within the Murphree Wellfield Protection Zones (also known as Murphree Wellfield Management Zones) as delineated in the Alachua County Code of Ordinances, as may be amended from time to time, and to provide the standards by which the applications for permits for uses and development shall be evaluated.
- B. It is further intended that wellfield protection permits or wellfield protection Special Use Permits be required for developments that require special care in the control of their location, design, and methods of operation in order to ensure conformance with the city's Comprehensive Plan and Alachua County Murphree Wellfield Management Code (also known as Murphree Wellfield Protection Code), as may be amended from time to time.

Section 30-3.28. Required.

Unless exempt as provided in this division, all new development and existing development within the primary, secondary, and tertiary wellfield protection (management) zones of Alachua County that will intensify, expand, or modify a use directly associated with the storage of hazardous materials (as defined in the Alachua County Hazardous Materials Management Code) shall first obtain a Wellfield Protection Special Use Permit (WPSUP).

- A. The standards and requirements of this division shall apply to all properties located in the wellfield protection management zones. Properties that may only be partially located in a wellfield protection management zone shall be treated as if the entire property is located completely within the wellfield protection management zone.
- B. The primary, secondary, and tertiary wellfield protection zones are those zones delineated on the Murphree Wellfield Protection management zones map on file with the city.

Section 30-3.29. Exemptions.

- A. Uses allowed within residential zoning districts.
- B. Any proposed uses or development associated with the Murphree Water Treatment Plant, or electric transmission and distribution systems or generally the provision of utility service by a government-owned utility shall be exempt from the provisions of this division.
- C. Exemptions from the permit requirements shall be allowed for uses and developments that meet the following criteria, except for specially regulated industrial uses allowed by Special Use Permit :
 - 1. There is no manufacture, storage, use, or sale of hazardous materials at the site or development as defined and regulated in the Alachua County Hazardous Materials Management Code, other than hazardous materials excluded from the provisions of the Hazardous Materials Management Code, as may be amended from time to time.
 - 2. The project is part of an environmental cleanup or facility upgrade that is required by a local, state or federal environmental agency, and the project is in compliance with the Alachua County Hazardous Management Materials Code and all other applicable state and federal regulations.

- 1 3. Redevelopment of an existing site that may manufacture, store, use, or sell hazardous materials
2 at the site or development as defined and regulated in the Alachua County Hazardous Materials
3 Management Code, but where the actual development project will not involve hazardous
4 materials other than those associated with similar construction projects, and the project is in
5 compliance with the Alachua County Hazardous Materials Management Code and all other
6 applicable state and federal regulations.

7 **Section 30-3.30. Review Criteria.**

- 8 A. *Primary zone.* No use involving hazardous materials shall be allowed in this zone, except for uses or
9 development associated with the Murphree Water Treatment Plant, or electric transmission and
10 distribution systems or generally the provision of utility service by a government-owned utility. All
11 other uses shall obtain a WPSUP.
- 12 B. *Secondary and tertiary zone.* The development or use shall be reviewed using the following criteria:
- 13 1. The criteria for Special Use Permits provided in **Section 30-3.24** have been met.
- 14 2. The proposed use or development will not endanger the city's potable water supply.
- 15 3. The necessary public utilities are available to the proposed site and have adequate capacity to
16 service the proposed use and development. The development must be connected to the potable
17 water and wastewater system.
- 18 4. There has been proper abandonment, as regulated by the applicable water management district
19 or state agency, of any unused wells or existing septic tanks at the site. An existing septic tank
20 may remain if it is used solely for domestic waste and if it meets all applicable state and local
21 regulations.
- 22 5. There is no current or proposed underground storage of petroleum products or hazardous
23 materials at the development site.
- 24 6. The applicant is in compliance with the requirements of the Alachua County Hazardous
25 Materials Management Code, and all applicable state and federal regulations.
- 26 7. The development property addresses environmental features such as wetlands, creeks, lakes,
27 sinkholes, and soils to ensure that hazardous materials will not endanger the potable water
28 supply and the environmental features.

29 **Section 30-3.31. Review Procedures.**

- 30 A. *Pre-application meeting.* The applicant for a WPSUP shall meet with staff to discuss the procedures
31 and requirements and to consider the elements of the proposed use and site, and the proposed site
32 plan.
- 33 B. *Applications.* Applications shall be filed with the City Manager or designee on the form prescribed.
34 Any incomplete applications will be returned to the applicant.
- 35 Applications shall include a development plan. However, if any of the items required for the
36 development plan are inapplicable or irrelevant to a proposed development, such item may be
37 omitted upon approval of the appropriate staff, provided the applicant identifies in writing any
38 missing item and includes a brief explanation of why it is inapplicable or irrelevant. The City Plan
39 Board may, at the public hearing, approve the omission of items from the development plan if it
40 finds they are not relevant to a determination that the proposed use or development meets the
41 requirements of this division.

- 1 C. *Staff review.* Staff from Gainesville Regional Utilities, Alachua County Environmental Protection
2 Department, and the city shall review the request and submit to the City Plan Board a written
3 analysis of the application and a recommendation based on the criteria provided in this division.
- 4 D. *City Plan Board hearing.*
- 5 1. The City Plan Board shall consider the evidence presented in the public hearing and the written
6 report submitted by staff and shall act on the application based on the review criteria provided
7 in this division.
- 8 2. Action on the application shall be one of the following:
- 9 a. Approval;
- 10 b. Approval subject to conditions; or
- 11 c. Denial, with a statement of the reasons for denial.
- 12 E. *Effect of denial or withdrawal.* No application for a WPSUP may be submitted within two years after
13 the date of denial or withdrawal of a request for the same use for the same property. The City Plan
14 Board may waive this time limitation by the affirmative vote of five members, provided 30 calendar
15 days have elapsed and provided the City Plan Board deems such action necessary to prevent an
16 injustice.
- 17 F. *Amended application.* Amendment of an application may be allowed at any time prior to or during
18 the public hearing, provided that no such amendment shall be such as to make the case different
19 from its description in the notice of public hearing. If the amendment is requested by the applicant
20 after notice of the hearing has been given and such amendment is at variance with the information
21 set forth in the notice, then the applicant shall pay an additional fee in the same amount as the
22 original fee for amended public notice. If the amended notice can be mailed at least 10 calendar
23 days prior to the hearing originally scheduled, the hearing on the amended petition may be held on
24 that date; otherwise, the chairperson shall announce at the public hearing that the hearing will be
25 continued to a future meeting with proper public notice.

26 **Section 30-3.32. Effect and Limitations.**

- 27 A. *Effect.* WPSUPs, including any permit conditions, shall run with the land and shall be binding on the
28 original applicant as well as any successors or assigns. If there is a change of ownership or operator
29 at the development site, the new owner or operator shall inform the city of its identity and
30 registered agent for service of notice within 30 calendar days. Failure to do so shall be considered a
31 violation of a condition of the permit.
- 32 B. *Modifications.* After approval and issuance of a WPSUP, the following situations are allowed only
33 with the review and issuance of a new Special Use Permit:
- 34 1. A change in the boundaries of the approved site.
- 35 2. A change from the approved use.
- 36 3. An increase in the storage capacity or type of any hazardous materials used, manufactured, sold
37 or stored at the site, including new hazardous materials not previously listed in the original
38 WPSUP. This criterion shall not apply to hazardous materials excluded from the provisions of the
39 Alachua County Hazardous Materials Management Code, as may be amended from time to
40 time.

- 1 C. *Expiration.* WPSUPs shall expire 12 months after the date of approval unless, at that time, the
2 authorized use has commenced or development at the site is continuing in good faith with an active
3 building permit. At the request of the applicant and for good cause shown, the City Plan Board may
4 extend the time of the permit's expiration for good cause shown and if not in conflict with any other
5 provision of this chapter.
- 6 D. *Abandonment.* On request of the permit holder, the City Manager or designee may approve the
7 abandonment of a WPSUP provided no construction has begun. In addition, if the use allowed by a
8 WPSUP has been abandoned for a continuous period of 12 months, the permit shall be void. The
9 process to determine whether a use has been abandoned shall be the same as that provided for
10 nonconforming uses in **Article X**.
- 11 E. *Revocation.* If any conditions of an issued WPSUP are violated, the City Plan Board may, after giving
12 proper notice to the permit holder, revoke the permit at a public hearing. The permit may be
13 reinstated by the City Manager or designee if the circumstances leading to the revocation are
14 corrected.
- 15

16 **DIVISION 7. SUBDIVISIONS**

17 **Section 30-3.33. Purpose.**

18 This division is intended to provide standards for the division of land in a manner that would facilitate
19 the coordination of land development in accordance with orderly physical patterns; to encourage
20 development of an economically stable and healthful community; to ensure proper identification,
21 monumentation and recording of real estate boundaries; to ensure that adequate and necessary
22 physical improvements of lasting quality will be installed in subdivisions by the subdividers and that
23 taxpayers will not bear this cost; to provide for safe and convenient vehicle, bicycle, pedestrian and
24 transit access; to provide an efficient, adequate, and economic supply of utilities and services to new
25 land developments; to prevent periodic or seasonal flooding and to protect groundwater and surface
26 water quality through provision of protective flood control and stormwater management facilities; to
27 help conserve and protect physical and scenic resources; to sustain and replenish the urban forest; to
28 promote the public health, safety, comfort, convenience, and general welfare; and to implement the
29 Comprehensive Plan.

30 **Section 30-3.34. Lot Splits and Lot Line Adjustments.**

- 31 A. *Lot splits.* Lot splits shall be processed as follows:
- 32 1. *Lot split restrictions.*
- 33 a. Lot splits are not permitted in minor subdivisions approved in accordance with the
34 provisions of this chapter.
- 35 b. No further division of an approved lot split is permitted, unless a minor subdivision or record
36 plat is prepared and submitted in accordance with this chapter.
- 37 c. Only those lot splits that do not require any street, sidewalk, bikeway, bridge, drainage
38 facility, screening wall or any other improvement required under this chapter may be
39 processed under this section.
- 40 2. *Lot split standards.*

- 1 a. Each proposed lot shall conform to the provisions of this chapter.
- 2 b. Each lot shall front a public street or approved private street for the required minimum lot
- 3 width for the zoning district where the lots are located, except as provided in **Section 30-**
- 4 **6.8.**
- 5 c. If any lot abuts a public right-of-way that does not conform to the design specifications
- 6 provided in **Section 30-6.6**, as further specified in the Design Manual, the owner may be
- 7 required to dedicate, at no cost to the city, one-half of the right-of-way width necessary to
- 8 meet the minimum design requirements.
- 9 d. A lot split shall be allowed only where water, sewer, fire and solid waste services are
- 10 available to service the proposed lots. Alternatively, in the event city water or sewer is not
- 11 available at any lot line, the lot may be served by a well or septic tank; provided the lot is a
- 12 minimum size of one acre and the well or septic tank is permitted and approved by the
- 13 governmental agencies with jurisdiction. Based on the review by the governmental
- 14 permitting agencies, a well or septic tank may not be allowed within the wellfield districts,
- 15 special environmental concern areas or areas with the presence of hazardous materials or
- 16 known environmental contamination, due to health and safety concerns. Further, at the
- 17 time city water or sewer become available at the lot line, the property owner shall, at its
- 18 sole expense, connect to city water or sewer. This connection requirement shall run with
- 19 the land and shall be evidenced in a written document executed by the property owner and
- 20 recorded in the public records of Alachua County, Florida, at the time of approval of the lot
- 21 split. In the case of a vacant lot, the connection shall be required at the time of application
- 22 for development. In the case of existing development (other than single-family or two-
- 23 family), the connection shall be required at the time of application for development plan
- 24 review at the rapid review level or higher. In the case of single-family or two-family
- 25 development, the connection shall be required at the time of application for a permit for an
- 26 additional bathroom or for any structure equal to or greater than 25% of the square footage
- 27 of the existing principal structure.
- 28 3. *Review.*
- 29 a. *Application.* After a mandatory pre-application conference with staff, an application shall be
- 30 completed on a form prescribed by the city and submitted together with the following:
- 31 i. A boundary survey and lot split for the proposed division prepared by a professional land
- 32 surveyor registered in the state according to Chapter 472, Florida Statutes. The proposed
- 33 lot split shall show the intended division, legal descriptions, and acreage for the parent
- 34 parcel and proposed lots.
- 35 ii. A statement indicating the location where water or sanitary sewer service is available to
- 36 the property, and a statement indicating that all utility service shall be installed beneath
- 37 the surface of the ground in accordance with **Section 30-8.2.**
- 38 b. Upon receipt of a completed application, the several departments of the city shall review
- 39 and provide comment.
- 40 c. If the proposed lot split meets the conditions of this section and otherwise complies with all
- 41 applicable laws and ordinances, the City Manager or designee shall approve the lot split by
- 42 affixing his or her signature to the application form.

1 d. Upon approval of the lot split, the city shall record the split on the appropriate maps and
2 documents in the city. In addition, the applicant shall file lot splits with the Alachua County
3 Property Appraiser's office and in the public records of Alachua County.

4 B. *Lot line adjustments.* The lot lines of lots within an existing minor subdivision or existing lot split may
5 be altered in accordance with the following requirements. A lot line adjustment shall only be used
6 to adjust the lot lines of existing lots that were created by minor subdivision or lot split and shall not
7 be used to further subdivide existing lots or create new lots.

8 1. An application for a lot line adjustment, signed by the owners of all lots that will be adjusted,
9 shall be completed on a form prescribed by the city and submitted together with a surveyor's
10 affidavit prepared by a professional land surveyor registered in the state that describes and
11 depicts the adjustment in the lot lines and references the filing or recording information for the
12 minor subdivision or lot split.

13 2. The applicant shall pay the same fee as for a lot split as specified in Appendix A.

14 3. The application shall be reviewed by city staff to verify that the requested adjustment, if
15 approved, will not create any nonconformity or violations of this chapter. If same are created,
16 the application shall be denied.

17 4. The lot line adjustment, if approved by the City Manager or designee, shall not be effective until
18 the applicant records the surveyor's affidavit in the public records of Alachua County.

19 **Section 30-3.35. Single Lot Replatting.**

20 A. *Purpose.* The purpose of this section is to establish an abbreviated process by which existing
21 (improved) subdivision lots may be replatted without going through the standard process of platting
22 or replatting subdivisions.

23 B. *Applicability.* Individual lots shown on recorded plats that depict easements or front, side, or rear
24 building setback lines may be replatted under this section. The lot shall be improved (building or
25 structure) and there shall be an encroachment upon one or more of the building setback lines or
26 easements indicated on the recorded plat.

27 C. *Review.*

28 1. *Application.* An application, on a form prescribed by the city, shall be completed and submitted
29 together with the following:

30 a. The proposed (final) plat of the lot. The record plat should be signed by all lot owners of
31 record and mortgagees, if any.

32 b. A survey of the lot and improvements certified by a professional land surveyor registered in
33 the state according to Chapter 472, Florida Statutes. The survey should be drawn and
34 submitted on a drawing no less than 11 inches by 17 inches in size.

35 c. Copies of the existing recorded subdivision.

36 d. Title evidence that conforms to the requirements of Section 177.041, Florida Statutes.

37 e. Taxes paid receipt.

38 f. Formal consent of the requisite number of owners of properties within the subdivision or
39 from the authorized representative of the homeowners association of the subdivision or

1 other authorized entity or individual affixed to or attached to the linen or film that will be
2 recorded in the public records.

3 g. In the event there is an encroachment over, under, upon or through an easement, the
4 release or extinguishment of the easement from applicable utilities.

5 h. An opinion from an attorney addressed to the City of Gainesville that the homeowners
6 association, entity, or owners of property have the authority to amend the restrictions, plat
7 lines, easements, as applicable, and that the consent has been properly executed by the
8 appropriate parties.

9 2. Upon receipt of a completed application, the several departments of the city shall review and
10 provide comment.

11 3. Upon the adoption of a resolution approving the replat of the single lot, the original linen or
12 stable base film drawing of the replat shall be recorded with the clerk of the circuit court. It shall
13 be recorded by the property owner requesting replat with all fees paid by that owner. Upon
14 recording the replat, copies shall be submitted to the city in the form prescribed by the city.

15 **Section 30-3.36. Minor Subdivisions.**

16 *A. Minor subdivision standards.*

17 1. Each proposed lot shall conform to the provisions of this chapter.

18 2. All existing principal and accessory structures on each lot shall conform to the use and
19 development standards of this chapter.

20 3. All lots have city water and sewer services available and constructed to the lot line of at least
21 one lot, with appropriate easements granted to allow future water and sewer connections to
22 each of the lots at the time each lot is developed.

23 4. If the proposed minor subdivision abuts a public right-of-way that does not conform to the
24 provisions of **Section 30-6.6**, as further specified in the Design Manual, the owner may be
25 required to dedicate, at no cost to the city, one-half of the right-of-way width necessary to meet
26 the minimum design requirements. If the proposed minor subdivision abuts both sides of a
27 substandard street, one-half of the right-of-way width necessary to meet those minimum design
28 requirements may be required from each side. The dedication of this right-of-way or any
29 easements necessary shall be accomplished by a separate document. The applicant shall provide
30 the city with legal descriptions of all easements or rights-of-way to be dedicated, and the city
31 shall prepare and record the necessary documents as part of the approval process.

32 5. Each lot in the minor subdivision shall front for the entire required minimum lot width on a
33 public street or an approved private street. Where there is no minimum lot width requirement,
34 each lot shall abut a public street or approved private street for a width equivalent to the
35 maximum driveway width required in **Section 30-6.20**, plus any required turning radii area.
36 Notwithstanding the above, the length of street frontage may be modified during minor
37 subdivision review by the City Manager or designee, based on the need to achieve the most
38 efficient lot layout, access to and from the minor subdivision, operational needs of service
39 vehicles, vehicular circulation and the health, welfare, and safety of the public.

40 6. The minor subdivision shall create vehicular and pedestrian access to serve the minor
41 subdivision and improve gridded connectivity by connecting to surrounding existing streets and
42 by including new streets within the minor subdivision so that the resulting blocks will not exceed

1 a maximum block perimeter of 2,000 feet. Modifications to this requirement may be granted by
2 the City Manager or designee where the construction of a street is limited by existing conditions
3 such as, but not limited to:

- 4 a. Access management standards;
- 5 b. Regulated environmental features; or
- 6 c. Public facilities, such as, but not limited to, stormwater facilities, parks, or schools.

7 Alternatively, where the Technical Review Committee determines that it is not possible to
8 construct the streets that would be required to meet the block perimeter standard, the block
9 perimeter shall be completed with the provision of pedestrian and bicycle paths or multi-use
10 paths. The required streets or paths shall be constructed at the expense of the applicant
11 according to the appropriate city standards as determined through the minor subdivision review
12 process, but may be sited and configured in a manner so that the streets provide the most
13 appropriate access to the minor subdivision and connectivity to the surrounding street network.
14 Where a street or path is planned to provide a future connection to a street or path beyond the
15 extent of the minor subdivision, the applicant shall provide for the connection of the street by
16 stubbing out the road improvements as close as practicable to the boundary of the minor
17 subdivision.

18 7. Each approved private street shall meet the following requirements in addition to the
19 requirements in **Section 30-6.8**:

- 20 a. An approved private street shall be paved to a minimum width of 12 feet wide for one-
21 directional traffic flow and 18 feet wide for two-directional traffic flow. Alternatively, a
22 determination shall be made by the city public works department, the city fire rescue
23 department, and city solid waste department that the approved private street is adequate
24 to support service vehicles as necessary to provide municipal services.
- 25 b. The structure and sub-base of the approved private street shall meet the standards set forth
26 in the Design Manual.
- 27 c. Each approved private street shall be connected directly to a public street or to another
28 approved private street. The method and type of connection shall be subject to approval by
29 the city public works department in accordance with the standards set forth in the Design
30 Manual. The private street serving the minor subdivision shall have a maximum length of
31 1,000 feet (measured by traversing the length of the approved private street from its
32 farthest extent to the nearest public street). At the point the private street reaches 1,000
33 feet in length, the applicant shall provide one of the following, as determined by the city fire
34 rescue department: appropriate emergency connection to the nearest public road, if such a
35 connection can be made on property within the minor subdivision; or a turnaround sized to
36 accommodate fire and rescue vehicles.
- 37 d. The owners of each approved private street shall provide necessary easements to the city
38 for the purpose of providing municipal services. Alternatively, if the city finds the street
39 serves a valid public purpose, the owners may gratuitously dedicate an approved private
40 street for purposes of public right-of-way.
- 41 e. Lots created on an approved private street shall be designed to minimize the number of
42 curb cuts onto the street. Shared driveway access shall be required of adjoining lots, except

- 1 where an odd number of lots are created, in which case, one lot, as determined by the city
2 public works department, may be allowed to have a separate driveway.
- 3 f. Approved private streets shall provide a sidewalk having a minimum width of five feet. The
4 sidewalk shall be provided on one side of the street in accordance with standards of the
5 Design Manual. Where five feet of pavement is not possible due to a natural or permanent
6 man-made obstruction, the pavement width may be decreased to a minimum of three feet
7 as necessary to avoid the obstruction. If paving is not possible due to natural conditions, a
8 minimum three-foot wide stabilized pedestrian trail shall be constructed.
- 9 8. All proposed minor subdivisions shall meet the level of service standards in the Comprehensive
10 Plan. Proof of meeting these standards shall exist in the form of a certificate of concurrency
11 exemption, certificate of preliminary concurrency or certificate of conditional concurrency
12 reservation. The approval of a nonresidential minor subdivision in no way reserves capacity for
13 the purposes of concurrency.
- 14 B. *Review.*
- 15 1. *Application.* After a mandatory pre-application conference with staff, an application shall be
16 completed on a form prescribed by the city and submitted together with the following:
- 17 a. A map of boundary survey and minor subdivision certified by a professional land surveyor
18 registered in the state according to Chapter 472, Florida Statutes. The survey shall be drawn
19 on a 24-inch by 36-inch linen or stable base film with a three-inch margin on the left for
20 binding, and a one-half-inch margin on the other three sides. Additional information to be
21 shown on the survey shall include but not be limited to:
- 22 i. The lot lines, dimensions, legal descriptions and acreages for each lot being created.
23 ii. The acreage of the total tract.
24 iii. A vicinity map showing the location of the survey in relationship to major thoroughfares.
25 iv. A note stating, "THIS IS NOT A RECORD PLAT."
26 v. A municipal approval statement, to be signed by the director of planning and
27 development services, director of public works and general manager for Gainesville
28 Regional Utilities or their designee, certifying that the minor subdivision conforms to all
29 applicable ordinances and regulations of the city.
30 vi. A statement to be signed by the clerk of the court, stating, "Received and filed as an
31 unrecorded map in accordance with Section 177.132, Florida Statutes."
32 vii. The minor subdivision book and page where the survey is to be filed.
33 viii. The exact location of all existing principal and accessory structures on each lot. If the
34 existing structures obscure the alignment of the proposed lots they may be left off the
35 map of minor subdivision and be submitted separately on a boundary survey of the
36 parent parcel. Any shared use of said structures shall be clearly stated and shown as
37 easements on the minor subdivision.
- 38 b. A statement indicating the location where water or sanitary sewer service is available to the
39 property, and a statement indicating that all utility service shall be installed beneath the
40 surface of the ground in accordance with **Section 30-8.2**, and a statement indicating where

1 stormwater management facilities are available to accommodate stormwater runoff of the
2 proposed development.

3 c. If located on an approved private street, a signed consent (on the form provided by the city)
4 from the owners of each approved private street that serves the minor subdivision.

5 d. Payment of fees as required by Appendix A.

6 2. Upon receipt of a completed application, the several departments of the city shall review and
7 provide comment.

8 3. Minor subdivisions that require any street, sidewalk, bikeway, bridge, drainage facility,
9 screening wall or any other improvement required under this chapter may receive conditional
10 approval but will not receive final approval or be filed with the clerk of the circuit court until all
11 required improvements are fully constructed and approved by the city. No building permits may
12 be issued for any of the lots until final approval is granted and the minor subdivision is filed.

13 4. If the proposed minor subdivision meets the conditions of this section and otherwise complies
14 with all applicable laws and ordinances, the Technical Review Committee shall approve the
15 minor subdivision by affixing their signatures to the original document.

16 5. Upon approval of the minor subdivision, the original linen or stable base film drawing of the
17 survey and any covenants, deed restrictions or other required documents shall be filed with the
18 clerk of the circuit court as an unrecorded map, in accordance with Section 177.132, Florida
19 Statutes. It shall be filed by the subdivider with all fees paid by the subdivider. Upon filing of the
20 approved minor subdivision, copies of the filed minor subdivision and any required documents
21 shall be submitted to the city, in the form prescribed by the city.

22 **Section 30-3.37. Subdivisions.**

23 A. *Requirements.* To effectuate the purpose of this article, every subdivision of land within the city
24 shall be made in accordance with the requirements specified in this article. Such requirements
25 include a pre-application conference; obtaining design plat approval; obtaining construction plan
26 approval; obtaining final plat approval; constructing required public improvements; and supplying
27 security for the construction and maintenance of such improvements. Proposed residential
28 subdivisions shall meet the level of service standards adopted in the Comprehensive Plan. Proof of
29 meeting these standards shall exist in the form of a certificate of concurrency exemption, certificate
30 of preliminary or final concurrency (as applicable at the particular review stage), or certificate of
31 conditional concurrency reservation.

32 B. *Pre-application conference.*

33 1. *Required.* Prior to the preparation of a design plat, the subdivider shall seek the advice of city
34 staff to become familiar with the subdivision requirements, city policies and provisions of the
35 Comprehensive Plan. The subdivider is encouraged to bring plans and data specified in this
36 section so as to clearly show existing conditions of the site and its vicinity and the proposed
37 layout of the subdivision. It is intended that the procedure will assist the subdivider in preparing
38 a plat that will meet the requirements of this article. This procedure does not require a formal
39 application or fee.

40 2. *Prohibited or discouraged designs or improvements.* As indicated in this article and further
41 referenced in the Design Manual, certain practices, designs or improvements are discouraged or
42 prohibited. If prohibited, a modification will be required in order for the same to be allowed. If

discouraged, the same may be allowed by the City Commission depending on a proper showing of necessity and the infeasibility of requiring the preferred practices, designs or improvements when applied to the particular circumstances involved.

3. *Concept review (Sketch drawing).* The applicant may submit an application for the optional concept subdivision review by city staff, with a sketch that contains the following:
 - a. Approximate tract boundaries.
 - b. Approximate location with respect to section lines.
 - c. Streets on and adjacent to the tract.
 - d. Proposed general street layout.
 - e. Environmental features including but not limited to significant topographical and physical features, regulated surface waters and wetlands, regulated natural and archaeological resources, creeks, uplands, lakes, wetlands, FEMA and community determined flood plains, and heritage trees.
 - f. Generalized existing vegetation, including areas of native forest where the land shows no evidence of prior use for agriculture.
 - g. Proposed general lot layout and the total number of lots.
 - h. Existing buildings on the property.
 - i. Land use and zoning designation of the subject property.
 - j. Generalized stormwater management plan.

The review schedule for concept subdivision plans shall follow the same submittal and review schedule for development plans. As far as may be practicable on the basis of a sketch, the reviewer will, without prejudice to the city, advise the subdivider of the extent to which the proposed subdivision conforms to the standards of this chapter and other applicable ordinances or statutes, and will discuss possible plat modifications necessary to secure compliance and whether a traffic study will be required.

C. *Design plat.*

1. *Generally.* Prior to the recording of an approved final plat, or prior to the conditional approval of a final plat, clearing and grubbing of land, tree removal, and the construction of improvements is expressly prohibited. Following a pre-application conference, the requirements of this section become applicable and supersede any other regulation on tree removal.
2. *Application.* After a mandatory pre-application conference with staff, an application shall be completed on a form prescribed by the city and submitted together with the applicable fee. Each application shall include multiple copies of the design plat as necessary to facilitate the review process, prepared in accordance with the standards specified in this chapter and including all of the specifications set forth in this section. Proposed residential subdivisions shall meet the level of service standards adopted in the Comprehensive Plan. Proof of meeting these standards shall exist in the form of a certificate of concurrency exemption, certificate of preliminary concurrency or certificate of conditional concurrency reservation.
3. *Fees.* The fee required with an application for design plat approval shall be as set forth in Appendix A. Such fees are required to defray the cost of filing the application, notifying

1 interested parties, conducting investigations, and holding hearings on the design plat and final
2 plat.

- 3 4. *Developments of regional impact.* For any subdivision that is presumed to be a development of
4 regional impact as provided in Chapter 380, Florida Statutes and Chapter 27F, Florida
5 Administrative Code, additional copies of the design plat and a completed application for
6 development approval shall be submitted for filing with the regional planning agency and the
7 state land planning agency.

8 5. *Specifications.*

- 9 a. The design plat shall be drawn clearly and legibly at a scale of at least one inch equals 100
10 feet on linen or stable base film, using a sheet size of 24 inches by 36 inches, reserving a
11 three-inch binding margin on the left side and a one-inch margin on the other three sides. If
12 more than one sheet is required, an index map relating each sheet to the entire subdivision
13 shall be shown on the first sheet. The design plat shall be prepared by a land surveyor,
14 signed and sealed before review, and shall contain the following information:

- 15 i. Proposed name of the subdivision.
16 ii. Name and registration number of surveyor.
17 iii. Date of survey approval, north point with bearing or azimuth reference clearly stated in
18 the notes or legend, graphic and written scale, and space for revision dates.
19 iv. Vicinity map showing location with respect to major roads and acreage of the
20 subdivision.
21 v. Boundary line of the tract by bearings and distances.
22 vi. Legal description of the tract to be subdivided.
23 vii. Preliminary layout including streets, alleys and easements with dimensions and
24 proposed street names, lot lines with approximate dimensions, land to be reserved or
25 dedicated for public uses, and designation of any land to be used for purposes other
26 than single-family dwellings.
27 viii. Total number of lots.
28 ix. The front building setback line for each lot.
29 x. An inscription stating "NOT FOR FINAL RECORDING."
30 xi. Sidewalks, on all streets, on both sides, and at least five feet wide. Sidewalks not
31 required on cul-de-sac or dead-end or loop less than 100 feet long. Sidewalk required on
32 at least one side of street on cul-de-sac or dead-end or loop from 100 to 250 feet long,
33 and for a project in which the closest lots to a connecting street on a cul-de-sac or dead-
34 end are at least 1,000 feet from the street it stems from. Sidewalks on both sides on cul-
35 de-sac or dead-end or loop greater than 250 feet long.

- 36 b. The design plat shall also contain or be accompanied by:

- 37 i. The name, address, and telephone number of the property owner and of any agent of
38 the property owner involved in the subdivision of the property.
39 ii. The exact locations, names, and widths of all existing streets, alleys, and recorded
40 easements within and immediately adjoining the subdivided lands.

- 1 iii. The location and a general description of any utilities facility on the subdivision tract.
- 2 iv. The invert elevation of existing and proposed sewers.
- 3 v. The location and size of existing improvements on the subdivision tract.
- 4 vi. The zoning and land use plan designations of lands within the subdivision tract and of
- 5 abutting property.
- 6 vii. Natural and manmade features on the subdivision tract, including creeks, ponds, lakes,
- 7 sinkholes, wetlands, watercourses, municipal, and community wellfield management
- 8 zones, major aquifer recharge areas, and lands within the floodplain and flood channel
- 9 as shown on the community determined flood control maps and FEMA.
- 10 viii. The location of all major tree groupings and identification of all heritage trees by genus
- 11 and species on the subdivision tract, a designation of which tree groupings and heritage
- 12 trees are proposed to be removed, and identification by genus and species of all
- 13 regulated trees located in or within 15 feet of any proposed right-of-way or utility
- 14 improvement. A generalized landscaping plan that shows the locations of the required
- 15 shade trees with the appropriate space allocations to meet code requirements for street
- 16 trees, buffers, retention basins, and stormwater management facilities. The design plat
- 17 and the final plat shall include a statement that all champion and high quality heritage
- 18 trees shall be preserved or mitigated in accordance with the requirements of this code.
- 19 ix. Stormwater management plan in accordance with this chapter and the Design Manual.
- 20 x. A soil survey map.
- 21 xi. A generalized statement outlining, as far as is known, the subsurface conditions of the
- 22 subdivision tract, including subsurface soil, rock, and groundwater conditions, the
- 23 location and results of any soil permeability tests, the location of any underground
- 24 storage tanks, and the location and extent of any muck pockets.
- 25 xii. A topographic map of the subdivision tract and a minimum of 100 feet or more of the
- 26 surrounding area as required to determine the offsite drainage and any impacts caused
- 27 by or related to the offsite drainage. The map shall be prepared by a land surveyor, with
- 28 maximum intervals of one foot where overall slopes are no more than 2%, two feet
- 29 where slopes are between two and 10%, and five feet where slopes are 10% or greater
- 30 based on North American Vertical Datum, 1988.
- 31 xiii. A general location map showing the relationship of the subdivision tract to such external
- 32 facilities as streets, residential area, commercial facilities, and recreation or open space
- 33 areas, and greenways, within one mile of the tract.
- 34 xiv. A plan for the elimination and future control of invasive non-native plant species from
- 35 the site. The non-native removal shall be completed as specified in the management
- 36 plan prior to the issuance of the first certificate of occupancy and yearly inspections for
- 37 three years to assure that infested areas have remained at less than 10% of the initial
- 38 population.
- 39 c. If the proposed subdivision contains land located within the floodplain as shown on the
- 40 community determined flood control maps and FEMA maps, the subdivider shall be
- 41 required to submit topographic information for areas adjoining sides of the channel, cross

- 1 sections for land to be occupied by the proposed development, high water information,
2 boundaries of the land within the floodplain and other pertinent information.
- 3 d. If the proposed subdivision includes regulated surface waters or wetlands, or regulated
4 natural and archaeological resources, the subdivider shall be required to submit the
5 following additional information for those areas designated:
- 6 i. A design plat showing buffer distances between the areas to be developed and
7 regulated surface waters and wetlands, and regulated natural and archaeological
8 resources.
- 9 ii. Square footage and percent of total subdivision tract to consist of impervious surface.
- 10 iii. A description of strategies to protect or restore environmental features on the
11 subdivision tract.
- 12 iv. Projected on-site and off-site water quality impacts to Outstanding Florida Waters
13 (OFW) that may result from the proposed subdivision.
- 14 v. Any required set-aside, conservation management area, or mitigation area.
- 15 6. *Officials' examination.*
- 16 a. The design plat shall be reviewed and commented on by the Technical Review Committee
17 and other applicable departments and agencies.
- 18 b. The Public Works Director or designee shall examine the design plat to determine if the
19 application conforms to criteria for general engineering, traffic stormwater management,
20 flood plains and maintenance easement requirements.
- 21 c. The General Manager for Utilities or designee shall examine and check the design plat for
22 needed utility easements.
- 23 d. The Planning and Development Services Department shall, at the Development Review
24 Board and City Commission hearings on the design plat, report the findings and
25 recommendations of the reviewing officials and county, state, and federal agencies,
26 together with an analysis of the conformance and nonconformance of the design plat to the
27 provisions of this chapter and other applicable requirements.
- 28 7. *Development Review Board review.*
- 29 a. At a scheduled public meeting, the Development Review Board will receive reports on and
30 review the design plat to determine its conformance with all applicable requirements.
- 31 b. The Development Review Board review shall include consideration of staff findings and
32 evidence and testimony from the general public. The board shall determine if the proposed
33 subdivision is in conformity with the general goals and objectives of the city with respect to
34 the Comprehensive Plan; the city's official roadway map; existing zoning requirements,
35 including amendments thereto; policies and plans established by the city with respect to
36 neighborhoods, lake levels, water supply, maintenance of the tree canopy levels identified
37 in the Comprehensive Plan, control of invasive non-native plant species, protecting
38 environmental features, provision for emergency access, consideration of pedestrian,
39 bicycle and transit access and greenway connections, waste disposal and other essential
40 utilities; the overall stormwater management plan including landscaping of stormwater
41 management basins; and policies for development in any special improvement and

1 redevelopment districts. Particular attention shall be given to the arrangement, location,
2 and width of streets, the provision of high quality shade trees along the streets, their
3 relation to the topography of the land, water supply, sewage disposal, stormwater
4 management, lot sizes and arrangement, and the present or future development of abutting
5 property.

- 6 c. The board may approve the design plat as presented if found to be in compliance, require
7 modifications, or disapprove the plat. Approval of the design plat, subject to conditions,
8 revisions and modifications as stipulated by the board, shall constitute conditional board
9 approval of the subdivision as to the character and intensity of development and the
10 general layout and approximate dimensions of streets, lots and other proposed features. If
11 the design plat is disapproved, the Development Review Board shall indicate the reasons
12 therefor.

13 8. *City Commission review.*

- 14 a. Within 60 calendar days after Development Review Board approval, the subdivider shall file
15 with the city at least three copies of the design plat, including any modifications imposed by
16 the Development Review Board. If the subdivider does not file the design plat within the
17 prescribed time period, no preliminary development order shall be issued unless an
18 extension of time is requested in writing prior to the expiration of that period and is granted
19 by the City Commission. In granting an extension, the City Commission may attach such
20 other restrictions or conditions as the commission deems appropriate to serve the public
21 interest. In the case of residential subdivisions, the City Commission may vote to grant
22 extensions for design plat review of up to six months only and only if the subdivider
23 possesses a valid, unexpired certificate of concurrency exemption, certificate of preliminary
24 concurrency or certificate of conditional concurrency reservation, as appropriate. Further
25 extensions for City Commission review of design plats for residential subdivisions shall
26 require a new concurrency review.
- 27 b. The City Commission shall review the recommended design plat and consider findings made
28 by the Development Review Board and staff. The City Commission shall determine if the
29 proposed subdivision is in conformity with the general goals and objectives of the city with
30 respect to the Comprehensive Plan; existing zoning requirements, including all amendments
31 thereto; policies and plans established by the city with respect to neighborhoods, lake
32 levels, water supply, sustaining the urban forest, protecting environmental features,
33 provision for emergency access, consideration of pedestrian, bicycle, vehicle, and transit
34 access and greenway connections, waste disposal and other essential utilities; the overall
35 stormwater management plan; and policies for development in any special improvement
36 and redevelopment districts. Particular attention shall be given to the arrangement,
37 location, function, and width of streets, their consistency with the goal of developing a
38 multimodal transportation network and providing sufficient space for street trees both
39 above and below ground, their interaction with the overall transportation system and
40 relation to the topography of the land, water supply, sewage disposal, stormwater
41 management, lot sizes and arrangement, and the present or future development of abutting
42 property.
- 43 c. The commission may approve the design plat as presented if found to be in compliance,
44 require modifications, or disapprove the design plat if it is not in compliance. If disapproved,
45 the design plat shall be redesigned before resubmission for approval.

1 d. *Effect of approval.* Approval of the design plat by the City Commission is a preliminary
2 development order. It shall not constitute acceptance of a final plat but shall be deemed an
3 expression of approval of the layout submitted as a guide to the preparation of the final
4 plat. The preliminary development order and the associated design plat shall expire and be
5 of no further effect 12 months from the date of approval unless either a timely final plat is
6 filed for approval or the time is extended with appropriate conditions by the City
7 Commission prior to expiration; otherwise, the subdivider shall reapply for design plat
8 approval in accordance with the provisions of this chapter. In the case of residential
9 subdivisions, the City Commission may vote to grant extensions of up to six months only,
10 and only if all the concurrency management requirements of this chapter can be met and if
11 the extension would not be in conflict with any other ordinance of the city. The approval of
12 nonresidential subdivisions in no way reserves capacity for the purposes of concurrency.
13 This provision regarding the effect of approval and expiration of a design plat shall not be
14 subject to a variance or otherwise superseded by any ordinance or regulation of the city.

15 D. *Construction plans.*

16 1. *Preparation.* Following City Commission approval of the design plat, the subdivider shall submit
17 construction plans and specifications for all subdivision improvements required in accordance
18 with this article. The construction plans shall be prepared by an engineer registered in the state
19 in conformance with this article, the Design Manual, and other applicable local, state, and
20 federal regulations.

21 Plans for the proposed improvements and a boundary survey shall be required. The
22 improvement plans shall show the proposed locations, sizes, types, grades, and general design
23 features of each facility, and shall be based upon reliable field data. These drawings shall
24 include, at a minimum, a topographic map, stormwater management plan, a landscape plan, an
25 invasive exotic plant control plan, and construction drawings showing street profiles, street
26 cross sections, and water supply, sewer and stormwater management as specified by the Public
27 Works Department and Gainesville Regional Utilities and all champion and heritage trees
28 identified for preservation or removal, with protective barricades drawn to scale. The landscape
29 plan shall show all buffers and stormwater management areas as well as the locations and
30 specifications for street trees.

31 2. *Review.* The subdivider shall submit multiple sets of plans as necessary to facilitate review by
32 the city in accordance with development review. The construction plans shall be approved if
33 they are consistent with the approved design plat and comply with all standards and
34 specifications. If the construction plans are not consistent with the design plat as approved by
35 the City Commission or do not comply with all standards and specifications, the city shall issue
36 either:

- 37 a. Conditional approval, subject to any necessary modifications that shall be indicated on the
38 plans or attached to them in writing; or
- 39 b. Disapproval of the construction plans or any portion thereof, indicating in writing the
40 reasons for the disapproval. The subdivider shall be responsible for timely resubmittal of
41 acceptable plans within 12 months from the date of approval of the preliminary
42 development order.

43 E. *Final plat.*

1. *Generally.* The final plat shall conform to the design plat as approved by the City Commission and shall incorporate all modifications and revisions specified in the approval, except shifts in stormwater and roadway facilities that do not change lot layout may deviate from the design plat with approval from the City Manager or designee.
2. *Application.* After approval of the design plat and construction plans, the final plat and other information required in this section shall be submitted in the correct form as prescribed by the city. The following shall be submitted for the final plat review:
 - a. The original stable base film tracing of the final plat prepared in accordance with the requirements of this article, Chapter 177, Florida Statutes, and any other applicable statutes and ordinances.
 - b. A title opinion of an attorney at law licensed in Florida or a certification by an abstractor or title company as required by Chapter 177, Florida Statutes.
 - c. Applicable public improvement security documents.
 - d. An additional fee as set forth in Appendix A to defray the expense of investigating, holding hearings and acting upon the final plat.
 - e. An additional fee as set forth in Appendix A to defray the expenses of inspection of roadway and drainage facilities by the City Manager or designee.
3. *Specifications.* The final plat shall be legibly drawn at a scale of at least one inch equals 100 feet using a sheet size of 24 inches by 36 inches, reserving a three-inch binding margin on the left-hand side and a one-inch margin on the other three sides. If more than one sheet is required, an index map relating each sheet to the entire subdivision shall be shown on the first sheet. The final plat shall be prepared by a land surveyor in accordance with and include all of the information required by Chapter 177, Florida Statutes. The final plat shall also contain:
 - a. The exact boundary line of the tract.
 - b. A vicinity map showing the location and acreage of the lands subdivided.
 - c. The location of all creeks, ponds, lakes, sinkholes, wetlands, and watercourses within the subdivided lands and any part of the lands within the flood channel or floodplain as shown on the city's flood control maps adopted pursuant to this chapter as of the date of final plat submission.
 - d. The front building setback line for each lot.
 - e. Any subdivision boundary that is within a half-mile radius of any horizontal geodetic control monument established by the county control densification survey or National Geodetic Survey Horizontal or Vertical Control Network bearing confirmed coordinate values related to the 1983 and the 1990 North American Datum Adjustment shall conform to the following requirements:
 - i. All final plats shall identify all horizontal and vertical geodetic control monuments as described above located within 500 feet of the proposed plat boundary.
 - ii. All plats shall have a minimum of three permanent reference monuments per 40 acres of platted subdivision, which shall have state plane coordinates established from the 1983 and the 1990 North American Datum Adjustment delineated on the plat and shall be tied directly to the plat boundaries.

- iii. All plats shall have a minimum of two benchmarks located and described with the plat that shall be projected from North American Vertical Datum, 1988, or later.
- iv. The basis of bearings for all plats shall be grid north as established from the county control densification survey and state plane coordinate system or National Geodetic Survey Horizontal Control Network.
- v. The state plane coordinates and bearing basis shall be established by conducting a self-closing traverse between two horizontal geodetic control monuments. Each traverse shall meet or exceed third order class one standards of accuracy as described in the most recent version of the Standards and Specification for Geodetic Control Network (SSGCN), as set forth by the Federal Geodetic Control Committee. When a development contains multiple units, a major control traverse tied to two horizontal geodetic control monuments may be submitted with the first phase, with subsequent units being tied to this control traverse.
- vi. A traverse sheet identifying the field angles, permanent reference points, distances and the adjustments shall be submitted on 8½-inch by 11-inch paper with the plat submitted for final development review. Copies of the field notes shall also be submitted. All documents shall be signed and sealed by a surveyor.
- vii. All geodetic monuments, including traverse stations set for the county control densification survey, that fall within the limits of a development shall be shown on the development plan and construction plans. All geodetic monuments that are in danger of being disturbed or destroyed shall be referenced by a surveyor prior to the start of construction and reset by a surveyor after the construction is complete. If it is not practical to reset the geodetic monument in its original position, an off-set monument may, with the approval of the City Manager or designee, be set. The referencing and resetting of a geodetic monument shall be in accordance with the specifications set forth in Article 2.1, SSGCN. Traverse stations shall require an accuracy of third order class one and primary stations and their Azimuth marks shall require second order class one accuracy standards. The surveyor who resets the geodetic monument shall be responsible for the preparation and submittal of all documents necessary for the notification of the state department of environmental protection, city engineer, the county property appraiser's office and any other appropriate government agency. Notification shall include, but not be limited to, a complete description of the geodetic monument with all its accessories, an accurate how-to-reach description, the date of last station recovery, the name of the person recovering monumentation, and the address of the recovery party. This work shall be performed prior to the final inspection and/or acceptance of the development.
- viii. Any person who disturbs or destroys a geodetic monument shall be fully responsible for the expense of having the monument reset by a surveyor. The city may, at the expense of the person responsible for disturbing or destroying the monument, have a surveyor reset the geodetic monument in accordance with the specifications set forth in Article 2.1, SSGCN.
- ix. For purposes of this section, a surveyor means a person who is registered to engage in the practice of surveying and mapping under Chapter 472, Florida Statutes.

4. *Review.*

- a. *Staff review.* Prior to final plat approval, city staff and the City Attorney's office shall review the proposed plat and supporting documents. If the proposed plat and supporting documents meet the technical requirements of this chapter and other applicable laws and ordinances, the departments shall approve the plat as to the requirements within their areas of responsibility.
 - b. *City Commission review.* If the final plat is consistent with the design plat as approved by the City Commission, meets all requirements of this chapter, and otherwise complies with all applicable laws and ordinances, it shall be forwarded to the City Commission for final consideration. Upon approval, the final plat shall bear certification of the approval by the Clerk of the City Commission.
5. *Recording.* Upon approval of the final plat by the City Commission, the original linen or stable base film tracing of the final plat, any required covenants or deed restrictions, and the declaration of condominium if the subdivision is a condominium development, shall be recorded with the clerk of the circuit court by the subdivider with all recording fees paid by the subdivider within 15 calendar days from the date the final plat has been returned to the subdivider by city staff. Recording the approved final plat shall constitute a final development order. Within 15 calendar days from the date of recording, three Mylar copies of the recorded plat and three paper copies of the recorded plat signed and sealed by the clerk of the circuit court shall be submitted to the city.

Section 30-3.38. Subdivision Improvements.

A. Generally.

1. Within 12 months after final plat approval, the subdivider shall construct the subdivision improvements required by **Article VI**, other applicable ordinances and statutes, and such additional standards and specifications as may be adopted from time to time by the City Commission.
2. An engineer shall design the installation of all streets, sidewalks, bikeways, drainage structures, bridges, bulkheads, and water and sewer facilities.

B. Monuments.

1. Permanent reference monuments (PRM's) and permanent control points (PCP's), as defined in Chapter 177, Florida Statutes, shall be placed as required by Chapter 177, Florida Statutes. PRM's shall be set in the ground so that the upper tip is flush with or no more than one foot below the finish grade.
2. All lot corners shall be designated with a permanent marker such as an iron rod, iron pipe or concrete monument.
3. The land surveyor shall, within one year after City Commission approval of the final plat, including conditional approval if applicable, certify that the above-required monuments have been set and the dates they were set.

C. Inspection of improvements.

1. The Directors of Public Works and Gainesville Regional Utilities shall be authorized to inspect required subdivision improvements during construction to ensure that the work is in accordance with the approved plans and specifications. If any substantial changes are required in the

1 approved plans or specifications during construction, the changes shall be submitted for
2 approval of the Directors of Public Works and Gainesville Regional Utilities as applicable.

- 3 2. The subdivider shall retain a reputable recognized commercial laboratory that shall certify all
4 materials and perform and certify all required density, LBR, concrete or other tests as may be
5 required by the city when reasonably necessary to ensure that all improvements are
6 constructed as per approved plans and specifications.

7 D. *Acceptance for maintenance.*

- 8 1. Prior to acceptance for maintenance by the city, the subdivider shall notify the Gainesville
9 Regional Utilities in writing that all required subdivision improvements have been completed.
10 Upon receipt of notice from the subdivider, the Directors of Public Works and Gainesville
11 Regional Utilities will make an inspection of the construction work. If work is found to be
12 satisfactorily completed, the city will accept the improvements for maintenance.

- 13 2. Acceptance for maintenance is intended to mean normal maintenance functions as routinely
14 performed by the city. It shall not include removal of soil accumulations on streets caused by
15 excessive erosion from adjacent lots, either prior to or during building construction within the
16 subdivision. It shall not include damage to any improvements caused by private construction or
17 private utility vehicles within the one-year maintenance period. All decisions regarding
18 abnormal damage or maintenance shall be made by the Public Works Department or Gainesville
19 Regional Utilities.

20 **Section 30-3.39. Security for Subdivision Improvements.**

- 21 A. *Construction security.* Except as otherwise provided in this section, no final plat of any subdivision
22 shall be approved by the city unless security is filed with the city to secure the construction and
23 completion of the required subdivision improvements in a satisfactory manner within 12 months
24 from the date of final plat approval. If the subdivider fails to construct and complete the required
25 subdivision improvements within the required time frame, the city shall use the security to
26 complete the required subdivision improvements. In determining the cost of the improvements for
27 which security is required, improvements otherwise covered by a separate bond or security
28 arrangement between the subdivider and the city and those improvements already constructed and
29 approved by the Director of Public Works shall not be included. The form of security shall be one of
30 the following:

- 31 1. *Surety bond.* A surety bond executed by a surety company authorized to do business in the
32 state with a rating of not lower or less than A-XII as rated by A.M. Best Company, Inc., an
33 independent national rating service for surety companies. The surety bond shall be enforceable
34 by and payable to the city in a sum at least equal to 120% of the total cost of the required
35 subdivision improvements provided in the subdivision as estimated by the subdivider's engineer
36 and verified and approved by the Directors of Public Works and Gainesville Regional Utilities.
37 The surety bond shall be first approved by the City Attorney as to form and legality prior to its
38 submission with the proposed final plat to the City Commission for approval and shall be
39 executed by both the subdivider and the party or parties with whom the subdivider has
40 contracted to perform the work and construct the improvements.
- 41 2. *Cash deposit.* A cash deposit with the city in the same amount that would be required for the
42 surety bond, which cash shall be deposited with the Director of Management and Budget of the
43 city and held under the same conditions as are required in a surety bond. Such deposit will be
44 held for the developer and, in the event of any nonperformance by the developer as required by

1 the ordinances of the city, will be used by the city to complete the required subdivision
2 improvements. During construction, upon the request of the subdivider, and upon inspection
3 and approval of construction and costs thereof by the city, the city shall refund to the subdivider
4 an amount equal to the approved costs for such improvements; provided, at no time shall the
5 balance of the cash deposit with the city be reduced to less than 30% of the estimated costs of
6 the subdivision improvements until all the subdivision improvements are completed and so
7 certified to by the city. Interest earned on all such cash deposits with the city shall be for the
8 account and to the credit of the person or persons making such deposit.

- 9 3. *Letter of credit.* Deposit with the city and place with the City Manager or designee an
10 irrevocable and unconditional letter of credit by a Florida bank. The letter of credit shall be for
11 an amount equal to 120% of the estimated costs of the required subdivision improvements. The
12 letter of credit shall remain with the city as a valid letter of credit until the city is satisfied that all
13 construction of required subdivision improvements has been completed in accordance with
14 plans and specifications and that all other provisions of this chapter relating thereto have been
15 fully complied with.

16 4. *Construction loan agreement.*

- 17 a. Deposit with the city a construction loan agreement in the amount of at least 120% of the
18 estimated cost of the required subdivision improvements, which agreement shall be
19 entered into by a recognized lending institution with the subdivider for the benefit of and
20 satisfactory to the city, providing that:
- 21 i. The lending institution will make payments on the proceeds of the loan to the city if the
22 subdivision improvements are not completed and approved by the city within the time
23 required;
- 24 ii. No payments of proceeds of the portion of the loan reserved for improvements shall be
25 made to anyone until the city has approved the payment, which approval will be given if
26 work is accomplished in accordance with approved plans and specifications and
27 ordinances of the city; and
- 28 iii. At no time will the loan proceeds be expended by that lending institution in excess of
29 90% of the estimated costs of the required subdivision improvements until all the
30 improvements are completed and so certified to by the city.
- 31 b. Deposit with the city a construction loan agreement in the amount of at least 100% of the
32 estimated cost of the required subdivision improvements, which agreement otherwise
33 meets the requirements of Subsection a. above, and an unconditional guaranty from the
34 subdivider in the amount of at least 20% of the estimated cost of the required subdivision
35 improvements that meets the following requirements:
- 36 i. Absolutely and unconditionally, jointly and severally, guarantees to the city the full and
37 prompt payment of the amount set forth in the guaranty that will be used by the city to
38 complete the required subdivision improvements, and the complete performance of the
39 subdividers of all conditions and requirements to be performed by the subdivider under
40 the City Code;
- 41 ii. Unconditionally, jointly and severally, agrees to pay all reasonable expenses and
42 charges, legal fees and other fees (including attorney's fees and costs, including court

- costs at trial, appeal or bankruptcy proceeding) paid or incurred by the city in enforcing the unconditional guaranty;
- iii. Jointly and severally agrees to indemnify and hold harmless the city, its elected and appointed officers, employees, and agents from any loss suffered or occasioned by the failure of the subdivider to satisfy its obligations to third parties arising out of the subdivision of the land;
- iv. Binds the guarantors and their successors and assigns, and inures to the benefit of the city; and
- v. Makes such other representations and warranties requested by the City Manager or designee to protect the interests of the city.
5. *Combination.* Use a combination of the allowable security types as provided for in this section in order to reach the total of 120% of estimated costs of required subdivision improvements.
- B. *Conditional final plat.*
1. In lieu of the security requirements of this section, the City Commission may approve a conditional final plat, where approval of the plat is conditioned on the subdivider proceeding with installation of the required subdivision improvements and fully completing the improvements, in full accordance with approved plans and specifications and the ordinances of the city, within two years of the date of conditional final plat approval. The plat shall not be recorded, but shall be retained by the Clerk of the Commission until the City Manager shall have certified that all required subdivision improvements have been completed in accordance with approved plans and specifications and ordinances of the city and the same has been approved by the City Commission. Upon certification by the City Manager and upon proof by title insurance or other similar assurance to the satisfaction of the city that there are no liens or possibilities of liens on the subdivision improvements or on the property to be dedicated to the public, and that the dedicator has clear fee title thereto, the city shall approve the final plat and accept the dedication of the public right-of-way easements, and other dedicated portions as previously shown on the prior approved plat as set out in this chapter, and the subdivider shall record the plat and provide copies as specified in **Section 30-3.37**.
2. No building permits shall be issued on property within the boundaries of the subdivision plat until the plat shall have been approved and accepted by the City Commission and placed on record in the public records of the county.
3. During construction the subdivider may, upon the posting of a bond or other such security for the cost of the uncompleted improvements, have a prior conditional approval converted to final approval and acceptance provided that all other requirements and conditions of this chapter applicable to final plat acceptance have been met.
- C. *Maintenance security.*
1. Under any arrangement for subdivision development within the city, the subdivider is obligated to the city for any necessary repair of all required subdivision improvements under the ordinances of the city for the period of one year following the date the city accepted the improvements for maintenance. During the one-year period, the subdivider shall provide the city with security in a form set forth in this section in an amount equal to 15% of the costs of the required subdivision improvements, which may be used by the city to pay the costs of any

1 necessary repairs and maintenance on the subdivision improvements during the one-year
2 period.

- 3 2. In those developments where lands and improvements remain under private common
4 ownership, instruments relating to the use and maintenance of such areas and improvements
5 shall be required. The city may require the establishment of an appropriate entity and the
6 execution and recording of any appropriate legal instrument necessary to ensure the
7 maintenance, protection, and preservation of common areas designated on the plat. The title to
8 all land and improvements that are shown on the plat as common areas, private roads, etc.,
9 shall be held and continue to be held so as to ensure their proper maintenance and care and to
10 permit and ensure their continued use as intended in the approved plat. The instruments shall
11 include means legally enforceable by the city, the subdivider and his/her successors to
12 guarantee payment of such sums of money as are necessary for the maintenance; and all
13 conveyances or transfers of any interest in any of the property of the development shall be
14 legally encumbered of record so as to guarantee the continued use of the common areas and
15 roads as contemplated by the plat and the guarantee of the payment of the cost of the
16 maintenance.

17 **Section 30-3.40. Enforcement.**

- 18 A. *Generally.* No subdivision shall be made, platted or recorded, nor any building permit issued on
19 subdivided lands, unless the subdivision meets all the requirements of this chapter and has been
20 approved in accordance with the requirements provided in this chapter. The city or any aggrieved
21 person may have recourse to such remedies in law and equity as may be necessary to ensure
22 compliance with the provisions of this chapter, including injunctive relief to enjoin and restrain any
23 person from violating the provisions of this chapter, and any rules and regulations adopted under
24 this chapter.
- 25 B. *Building permits and certificates of occupancy.* No building permit or certificate of occupancy shall
26 be issued for any lot or parcel of land subject to the provisions of this chapter, except as follows:
- 27 1. If the lot or parcel is within a subdivision for which a final plat has been approved by the City
28 Commission and recorded and the required subdivision improvements have been installed and
29 accepted for maintenance by the city, both a building permit and a certificate of occupancy may
30 be issued.
- 31 2. If the lot or parcel is within a subdivision for which a final plat has been approved by the City
32 Commission and recorded and security for the required subdivision improvements has been
33 provided by the developer in accordance with this division, a building permit may be issued, but
34 no certificate of occupancy may be issued unless the City Manager determines that all required
35 subdivision improvements serving such lot or parcel have been satisfactorily completed and that
36 reasonable ingress and egress can be provided to the lot or parcel and the remaining portions of
37 the subdivision until all improvements are complete and the required maintenance security is
38 received and approved.
- 39 3. If the lot or parcel is within a minor subdivision that has been approved by the director of
40 planning and development services, city engineer, city traffic engineer and deputy manager for
41 utilities (or their designees) in accordance with the provisions of this chapter.
- 42 4. If the lot or parcel is part of a legal lot split that has been approved by the City Manager or
43 designee in accordance with the provisions of this chapter.

5. If the lot or parcel is a nonconforming lot as provided in **Article X**.

- C. *Violations.* Any person who, in connection with a subdivision of lands, shall do or authorize any clearing and grubbing, or shall lay out, construct, open, or dedicate any street, sanitary sewer, storm sewer, water main, or drainage structure, or shall erect any building or transfer title to any land or building, without having first complied with the provisions of this chapter, or who performs any of such actions contrary to the terms of an approved subdivision plat, or who otherwise violates this chapter, shall be guilty of an offense. Each day that the violation continues shall constitute a separate violation.

DIVISION 8. RIGHT-OF-WAY VACATIONS

Section 30-3.41. Right-of-Way Vacations.

A. *Review procedures.*

1. *Application.* An application to vacate a public right-of-way may be submitted by either the City Commission or by all the owners of land abutting the subject right-of-way.

2. *Board review.* Applications to vacate a public right-of-way shall be reviewed by the City Plan Board and the City Commission according to the criteria provided in this section, with notice of the board hearings provided in accordance with law and this article. The City Plan Board's review shall be a recommendation to the City Commission. Prior to the public hearing before the City Plan Board, the application shall be reviewed by city staff in accordance with the development plan review process as stated in this article.

B. *Review criteria.* Right-of-ways may only be vacated by the City Commission upon its finding that the criteria in both 1 and 2 as provided below have been met:

1. The public right-of-way no longer serves a public purpose and the vacation of the public right-of-way is in the public interest, which shall be based on a consideration of the following:
 - a. Whether the public benefits from the use of the subject right-of-way as part of the city street system;
 - b. Whether the proposed action is consistent with the Comprehensive Plan;
 - c. Whether the proposed vacation is consistent with the minimum block size requirements and other applicable street connectivity standards;
 - d. Whether the proposed action would deny access to private property;
 - e. The effect of the proposed action upon public safety;
 - f. The effect of the proposed action upon the safety of pedestrians and vehicular traffic;
 - g. The effect of the proposed action upon the provision of municipal services including, but not limited to, emergency service and waste removal;
 - h. The necessity to relocate utilities both public and private; and
 - i. The effect of the proposed action on the design and character of the area.
2. If the public right-of-way is a street, the city shall not vacate the right-of-way except if the following additional criteria are met:

- a. The loss of the street will not foreclose reasonably foreseeable future bicycle/pedestrian use;
- b. The loss of the street will not foreclose non-motorized access to adjacent land uses or transit stops;
- c. The loss of the street is necessary for the construction of a high density, mixed-use project containing both residential and non-residential uses or creating close proximity of residential and non-residential uses; and
- d. There is no reasonably foreseeable need for any type of transportation corridor for the area.

DIVISION 9. DEVELOPMENT PLAN REVIEW

Section 30-3.42. Purpose.

The purpose of this division is to promote harmonious, functional relationships among the various elements within any development such as the location of activities, vehicular and pedestrian circulation systems, and visual form. Development plan review is intended to permit maximum flexibility in reviewing each plan on its merits and encourage variety and innovation within the intent and purpose specified for each zoning district and the minimum requirements specified in the Code of Ordinances.

Section 30-3.43. Generally.

- A. This division sets forth the application and review procedures required for obtaining development orders and certain types of permits. Development activity may be undertaken only when the activity is authorized by a final development order and any required development permits are issued by the city. A final development order shall be issued only when all applicable procedures, inspections, and reviews have been completed as provided in this chapter.
- B. Development orders are transferable. However, so long as the land or structure or any portion thereof covered under the site development order continues to be used for the purposes for which it was issued, then no person (including successors and assigns of the person who obtained the site development order) may make use of the land except in accordance with the conditions and requirements of the site development order. The provisions of the site development order run with and burden the real property to which it relates until release or amended in accordance with formal action of the city.

Section 30-3.44. Exemptions.

The following development activities do not require development review under this article:

- A. *Signs*. New signs and modifications or removal of existing signs that are authorized by a sign permit issued by the city.
- B. *Removal of regulated trees*. The removal of regulated trees that is authorized by a tree removal permit issued by the city and is not associated with a development plan.

Section 30-3.45. Levels of Development Review.

All development shall require rapid, intermediate, or major development review in accordance with the thresholds set forth in the table below. Any development activity below the thresholds identified for rapid review shall be reviewed in conjunction with a building permit application. Development that

- 1 includes components within different thresholds shall be reviewed as one submittal in accordance with
 2 the highest threshold that is triggered by the development.

3 **Table III - 2. Levels of development review.**

	RAPID	INTERMEDIATE	MAJOR
Residential	Developments of 3 to 10 multiple-family dwelling units.	Developments of 11 to 99 multiple-family dwelling units.	Developments of 100 or more multiple-family dwelling units.
Non-Residential	New construction or expansions of 1,001 and up to 10,000 square feet of building area.	New construction or expansions of 10,001 to 50,000 square feet of building area.	New construction or expansions over 50,001 square feet of building area.
Parking; other Impervious Areas; Construction Activity	Parking areas that include 8-40 new parking spaces. Impervious areas: 1,000-20,000 square feet. Excavation, filling, or removal of more than 200 cubic yards of material for the purpose of development.	Parking areas that include 41-100 new parking spaces. Impervious areas: 20,001-50,000 square feet.	Parking areas that include more than 100 new parking spaces. Impervious areas: more than 50,000 square feet.

4 **Notes to Table:**

- 5 Development plan review by the appropriate board shall be required when the development includes
 6 one or more requests for a variance per this article.

7

8 **Table III - 3. Summary of development review process.**

	RAPID	INTERMEDIATE AND MAJOR	MASTER PLAN
First-Step Meeting	Required.	Required.	Required.
Neighborhood Workshop	Not required.	Required.	Required.
Technical Review Committee	Required.	Required.	Required.
Board Review	Required if requesting a variance; board issues a preliminary development order.	Required if requesting a variance; board issues a preliminary development order.	Required if requesting a variance; board issues a preliminary development order.
Final Staff Review	Required; staff issues a final development order.	Required; staff issues a final development order.	Not required.

9

Section 30-3.46. Review Criteria.

An application for a development plan or amendment to any previously approved development plan may be approved only if the application meets both of the following criteria:

- A. The plan meets submittal requirements of the Land Development Code, including payment of fees, and complies with submittal schedules to provide adequate notice and review; and
- B. The proposed development is consistent with the Comprehensive Plan and complies with the Comprehensive Plan, the Land Development Code, and other applicable regulations.

Section 30-3.47. Review Procedures.

A. *First-Step Meeting.* Prior to filing an application for development plan review, the applicant shall attend a first-step meeting to discuss the development review process, code requirements, and to confer with staff about the development process. Comments made by staff at a first-step meeting are made solely for preliminary informational purposes and shall not be construed as an approval or denial or agreement to approve or deny any development order.

B. *Application.* A completed application, on the form provided by the city, shall be signed and notarized by all owners of the property and by any agents of the owners. Applicable fees, attachments, and other information as deemed necessary by the city shall be submitted as part of the application. The City Manager or designee shall determine completeness based on level of review required, the nature of the proposed development and other requirements as set forth in this chapter, the Comprehensive Plan, and other city requirements deemed necessary to provide a professional and complete review and evaluation of the application.

C. *Review.* A copy of the application shall be sent to each member of the Technical Review Committee, who shall review the application and determine that the application is either: 1) incomplete and return the application to the applicant with a general description of the deficiencies; or 2) complete. If the application is determined to be complete, the application and associated materials shall be reviewed according to this section.

1. *Board review not required.* The Technical Review Committee shall review the application in accordance with the review criteria provided in this division and provide comments, findings, and conclusions supporting the committee's final decision, which may include one of the following:

- a. Find that all requirements of the review criteria provided in this division have been met and issue a final development order;
- b. Find that all requirements of the review criteria provided in this division can be met with conditions specified in writing and issue a preliminary development order, which requires final staff review as provided in this section; or
- c. Deny the application based upon a determination that the proposed development, even with reasonable modifications and conditions, does not meet the review criteria set forth in this division.

2. *Board review required.* If board review is required, the Technical Review Committee shall prepare a recommendation to the board to: 1) approve and issue a preliminary development order; 2) approve with specified conditions and issue a preliminary development order; or 3) deny a preliminary development order based upon a determination that the proposed development, even with reasonable modifications and conditions, does not meet the review

criteria set forth in this division. The reviewing board shall consider the recommendation of the Technical Review Committee and other relevant information pertaining to the application and, using the review criteria provided in this division, shall decide one of the following:

- a. Find that all requirements of the review criteria provided in this division have been met and issue a final development order;
- b. Find that all requirements of the review criteria provided in this division can be met with conditions specified in writing and issue a preliminary development order, which requires final staff review as provided in this section; or
- c. Deny the application based upon a determination that the proposed development, even with reasonable modifications and conditions, does not meet the review criteria set forth in this division.

3. *Final staff review.* If the applicant was issued a preliminary development order, as opposed to a final development order, the applicant shall timely submit all materials and information as deemed necessary by the city for final staff review. Upon receipt of a complete application, as determined by the City Manager or designee, the Technical Review Committee shall review the application in accordance with the review criteria provided in this division and:

- a. Find that all requirements of the review criteria and the preliminary development order have been met and issue a final development order;
- b. Inform the applicant in writing of the changes necessary for the development to comply with the requirements of the review criteria and the preliminary development order; or
- c. Find that the plan as submitted fails to meet the requirements of the review criteria or the preliminary development order and not issue a final development order.

D. *Preliminary development orders.*

1. A preliminary development order shall contain the following:

- a. An approved development plan, with a listing of conditions and modifications, if required, in order for a final development order to be issued. The modifications shall be described in sufficient detail and exactness to inform the applicant to amend the plan accordingly. However, the failure to list all requirements of this chapter and other regulations of the city shall not relieve the applicant from complying with such requirements and regulations at the time of issuance of a final development order.
- b. Notice that the preliminary development order does not constitute a final development order and that subsequently adopted ordinances, regulations and laws may require additional amendments to the proposal.
- c. An initial determination of concurrency.

2. A preliminary development order shall be effective for 6 months from the date of approval. During this 6 month period, the applicant shall obtain final development approval. At the request of the applicant and for good cause shown, the reviewing authority may extend the period for obtaining final development plan approval for a period of up to 12 months from the date of approval of the preliminary development order.

E. *Final development orders.*

1. A final development order shall contain the following:

- a. An approved development plan.
 - b. A certificate of final concurrency.
 - c. The expiration date for the final development order. A final development order shall remain valid only if development commences and continues pursuant to an active building permit to completion with due diligence and in good faith according to the terms and conditions of approval.
2. A final development order shall be effective for a period of one year from the date of approval unless otherwise specified in the order.

Section 30-3.48. Amendments to Approved Development Plans.

After a final development order has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the order without first obtaining an amendment to the approved development order. Amendment of the development plan shall be made in accordance with the process for development review.

Section 30-3.49. Master Plans.

- A. *Master plan review.* Master plan review is an optional step for projects that fall within the intermediate or major level of development review. A master plan is intended to provide for large area planning for phased developments. The master plan is reviewed by the Technical Review Committee, is publicly noticed in accordance with this chapter, and is reviewed and a decision rendered at a public hearing by the appropriate reviewing board. The board may approve (with or without conditions) or deny the master plan. Approval shall constitute a preliminary development order. Individual phases or portions of the project shall be consistent with the approved master plan. A master plan is intended to serve as a basis for review of future development plans in a phased development. Once a master plan has received a final development order, individual phases may be reviewed and approved by staff. The intent of the master plan is to identify internal and external connectivity, regulated natural and archeological resources, and developable areas. A master plan shall contain justification of any requested phasing schedule.
- B. *Approval of master plan.* A master plan for an entire development site shall demonstrate that the completed development will be consistent with this chapter and with the Comprehensive Plan. Each phase shall include a proportionate share of any required recreational and open space, and other site and building amenities of the entire development, except that more than a proportionate share of the total amenities may be included in the earlier phases with corresponding reductions in the later phases. A certificate of preliminary and final concurrency shall be required for each phase. A revised master plan shall be submitted with any development plan that includes deviations from the previously approved master plan, and shall be approved by the appropriate reviewing board.
- C. *Expiration of master plan.* A master plan shall be effective for up to 5 years from the date of approval.
- D. *Review criteria.* A master plan shall be reviewed in accordance with the criteria set forth in this division for development plan review.

Section 30-3.50. Concept Review.

Concept review is optional for all intermediate and major development. Concept review is intended for the applicant to receive public input and city comments on a concept for development prior to the

1 preparation of detailed plans and data and to alert an applicant to issues with, or objections to, a
2 particular proposed development. Concept plans should address conformity with the Comprehensive
3 Plan, zoning standards, site design, environmental concerns, concurrency, and transportation issues.
4 The concept plan is reviewed by the Technical Review Committee and by the appropriate reviewing
5 board. Comments made by the Technical Review Committee and the reviewing board during concept
6 review are made solely for informational purposes and shall not be construed as an approval or denial
7 or agreement to approve or deny a development order. The reviewing board shall issue no order,
8 finding or other indication of approval or disapproval of the proposal.

9 **Section 30-3.51. Affordable Housing Concept Review.**

10 Affordable housing concept review is encouraged for all certified affordable housing developments and
11 is intended solely to assist affordable housing developers with meeting the application requirements for
12 the State of Florida Housing Tax Credit program, in support of the state housing strategy stated at
13 Chapter 420, Florida Statutes. The review will alert an applicant to problems with, or objections to, a
14 particular proposed development. This concept plan shall address conformity with the Comprehensive
15 Plan, zoning, environment concerns, and concurrency. The appropriate reviewing board may grant a
16 non-binding conceptual approval. The conceptual approval does not grant to the applicant any
17 development rights and does not represent a development order. This conceptual approval is only an
18 indication that the development proposal appears to be consistent with general requirements for
19 development approval and that a development order will only be granted after the requirements for a
20 final development plan have been met.

22 **DIVISION 10. BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY**

23 **Section 30-3.52. Building Permit.**

24 No building shall be constructed, reconstructed, altered, or extended unless a building permit has been
25 issued indicating that the proposed use is in compliance with the provisions and regulations of this
26 chapter; and there shall be no excavation, cut, or fill of earth or debris, no curb shall be cut or access
27 opened onto a public street, no land shall be used for purposes other than agricultural, no signs shall be
28 erected, and no building shall be moved unless all applicable required development permits have been
29 obtained in accordance with this chapter.

30 **Section 30-3.53. Certificate of Occupancy.**

31 No land, water, building, or any part thereof shall be used and no existing use of land, water, or building
32 shall be changed unless a certificate of occupancy has been issued for such land, water, building, or part
33 thereof.

35 **DIVISION 11. MODIFICATIONS AND VARIANCES**

36 **Section 30-3.54. Modifications.**

37 A. *Purpose.* In order to provide flexibility for the unique circumstances of individual developments,
38 certain modifications from the standards provided in this chapter, as provided in this section, may
39 be requested by an applicant as part of the development review process.

B. *Review procedures.* All requests for modifications shall be submitted in writing with the application for development review on forms provided by the city. If an applicant requests multiple modifications, each modification shall be evaluated independently. The City Manager or designee shall have the authority to approve the modifications specifically set forth in this section. The request shall be approved or denied during development plan review and, if approved, shall be noted on the final development plan. No administrative appeals are available for any decision to approve or deny a modification.

C. *Review criteria.* The City Manager or designee may approve a modification if the request meets all of the following criteria:

1. The request is consistent with the Comprehensive Plan and meets the intent of this chapter and the zoning district.
2. The applicant is providing a compensating enhancement of the public realm.
3. The request will not have a material negative impact on adjacent uses, and is not injurious to the public health, safety, and welfare.

D. *Available modifications.*

REQUESTED MODIFICATION	MIN COMPENSATING ENHANCEMENT OF PUBLIC REALM
Variation in required street setback up to 3 feet.	<ol style="list-style-type: none">1. 10% increase above required 1st floor glazing.2. Increase of 2 feet above required sidewalk width.3. 10% increase above required building frontage.4. Increase of 4 feet above min 1st floor height.5. Increase of 2 feet above min landscape zone.
Reduction in required glazing percentages up to 10%.	
Reduction in required building frontage percentages up to 10%.	
Reduction in required landscape zones up to 2 feet; however, in no case shall a landscape area be less than 4 feet in depth.	

Section 30-3.55. Variances.

- A. *Generally.* Variance from strict compliance with the requirements of the Land Development Code is provided for in this section.
- B. *Authorized variances.* Variances may be approved only for height of structures; size of yard setbacks; driveway widths; building form standards in transect zones; building design standards for transect zones (dimensional standards only); landscaping requirements for vehicular use areas; landscape buffer requirements for buffer strip areas; landscape zones; street setbacks; glazing percentages; and minimum first floor height. Under no circumstances may a variance be granted to allow a use not permitted generally or by Special Use Permit in the district involved, or any use expressly or by necessary implication prohibited in the district by the terms of this chapter.
- C. *Review criteria.* A variance from the terms of this chapter or building chapters shall not be granted unless the appropriate reviewing board affirmatively finds that each of the following criteria have been met:
1. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and that are not applicable to other lands, structures, or buildings in the same district.
 2. The special conditions and circumstances do not result from the action of the applicant.
 3. Granting the variance requested will not confer on the applicant any special privilege that is denied by this section to other lands, structures, or buildings in the same district.
 4. Literal enforcement of the provisions of the Land Development Code or building chapters would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Land Development Code or building chapters.
 5. The variance requested is the minimum variance required to make possible the reasonable use of the land, building, or structure.
 6. The variance is in harmony with the general intent and purpose of the regulation at issue and the Land Development Code, and such variance will not be injurious to the abutting lands or to the area involved or otherwise detrimental to the public welfare.
- D. *Prohibited considerations.* The following factors shall not be considered in any variance request:
1. The presence of nonconformities in the zoning district or adjoining districts.
 2. Financial loss or business competition.
 3. Whether the property was purchased with the intent to develop or improve the property, whether or not it was known at the time of purchase that such development would be a violation.
- E. *Review procedures.*
1. *Pre-application meeting.* A pre-application meeting is not required; however, the applicant is encouraged to attend a meeting with staff to review procedural and regulatory requirements.
 2. *Application submittal.* The applicant shall submit a complete application on a form prescribed by the city and accompanied by the applicable fee and plans.
 3. *Staff review.* The City Manager or designee shall review the application and prepare a staff report for submittal to the appropriate review board.

1 4. *Board hearing.* The appropriate reviewing board shall hold a public hearing to consider the
2 request according to the review criteria provided in this section.

3 F. *Conditions and limitations.* In granting any variance, the board may prescribe appropriate
4 conditions and safeguards in conformity with the Land Development Code or building chapters.
5 Violation of such conditions and safeguards, when made a part of the terms under which the
6 variance is granted, shall be deemed a violation of this chapter and punishable according to
7 applicable law. If a variance request is denied, the same variance may not be considered for the
8 property for a period of two years from the date of denial.

9 G. *Expiration.* Any variance granted shall expire one year after the date of variance approval, unless a
10 building permit based upon and incorporating the variance is issued within the aforesaid one-year
11 period and construction has begun thereunder.

13 **DIVISION 12. APPEALS**

14 **Section 30-3.56. Land Use Hearing Officer.**

15 A. *Establishment and purpose.* There is hereby created the position of City of Gainesville Land Use
16 Hearing Officer (Hearing Officer), which shall have the purpose of providing an administrative
17 process for appealing certain decisions regarding the administration and enforcement of the Land
18 Development Code, as provided in this division. No party shall be deemed to have exhausted his or
19 her administrative remedies for the purpose of seeking judicial review unless the party first obtains
20 review by a Hearing Officer as provided in this division.

21 B. *Appointment and removal.*

22 1. The City Commission shall appoint one or more Hearing Officers, who shall be compensated as
23 determined by the City Commission.

24 2. Each Hearing Officer shall be appointed for a definite term of office, not to exceed four years,
25 and may be reappointed at the conclusion of any term.

26 3. A Hearing Officer shall be removed only for cause by the City Commission. Cause for removal of
27 a Hearing Officer shall include, but not be limited to, violations of the standards set forth in the
28 Code of Judicial Conduct adopted by the Florida Supreme Court or the State of Florida Code of
29 Ethics for Public Officers and Employees in Chapter 112, Florida Statutes.

30 C. *Minimum qualifications.* Hearing Officers shall meet the following minimum qualifications:

31 1. A licensed attorney who is an active member of the Florida Bar in good standing.

32 2. At least three years of professional experience in land use or local government law.

33 3. Not an employee of or office holder with the city.

34 D. *General authority.* The Hearing Officer shall have all powers necessary to perform the functions
35 prescribed by this division, including the power to interpret and administer this division, the power
36 to dispose of procedural requests or similar matters, the power to issue notices of hearings and
37 subpoenas requiring attendance, and the power to administer oaths.

Section 30-3.57. Administrative Decisions.

- A. *Authority of Hearing Officer.* The Hearing Officer has authority to hear and decide appeals where it is alleged a city administrative official charged with the administration and enforcement of the provisions of the Land Development Code or building chapter (Chapter 6 of the Code of Ordinances) erred in issuing or denying a final decision, order, requirement, interpretation, determination, or action. The Hearing Officer is not authorized to hear appeals based on the following:
1. Any order, requirement, decision, or determination made regarding code enforcement, including notice of violations and civil citations.
 2. Acts of administrative officials pursuant to the orders, resolutions, or directives of the City Commission.
 3. Zoning Verification Letters.
 4. Challenges to a development order controlled by Section 163.3215, Florida Statutes.
 5. Appeals that circumvent procedures required by this chapter, including those that are more appropriately addressed in an application for a modification, variance, or rezoning.
- B. *Standing to appeal.*
1. *Decisions of general applicability.* Any resident, landowner, or person having a contractual interest in land in the City shall have standing to appeal an administrative decision that is of general applicability and that is not specifically related to a particular parcel of real property or project.
 2. *Decisions relating to particular property.* The following persons shall have standing to appeal an administrative decision that is not of general applicability and that is specifically related to a particular project or parcel of real property:
 - a. An applicant who is adversely affected by the decision.
 - b. A property owner whose property is the subject of the decision.
 - c. All owners of real property that lies within 400 feet of the property that is the subject of the decision.
 - d. Any resident, landowner, or person having a contractual interest in land in the city who demonstrates a direct adverse impact from the decision that exceeds in degree the general interest in community good shared by all persons.
- C. *Appeal procedures.*
1. A Notice of Appeal of an administrative decision, together with the applicable fee as set forth in Appendix A and any submittal requirements established by the city, shall be filed with the city within 30 calendar days of the date the administrator signed the decision at issue or the decision is otherwise rendered in writing. The Notice of Appeal shall set forth a detailed basis for the appeal.
 2. *Stay during appeal.* The filing of a timely Notice of Appeal shall stay all proceedings in furtherance of the decision being appealed, including the issuance of any building permit or development order, until the appeal has been concluded in accordance with this division. The applicant may file applications, plans, or other information with the city pending the outcome of the review, but the filing of such shall create no rights to any related approval by the city.

3. Within 20 calendar days of the filing of a Notice of Appeal pursuant to this section, any person with standing may intervene and become a party to the appeal by filing a Notice of Appeal in accordance with this section.
 4. The matter shall be set for a public hearing within 50 calendar days of the date of the Notice of Appeal. This period may be extended by agreement of the city and all parties appealing the decision.
 5. The hearing shall be limited to the record on appeal and shall consist of oral argument by city staff and parties with standing, each of whom may be represented by legal counsel. The hearing shall be conducted in accordance with established Florida law for quasi-judicial hearings.
 6. *Record on appeal.*
 - a. The record on appeal shall consist of the following: 1) the application and accompanying information; and 2) the written decision of the administrative official and accompanying information.
 - b. All parties may freely refer to provisions from the following:
 - i. The Comprehensive Plan, Land Development Code, and any other City of Gainesville ordinance, resolution, or rule; and
 - ii. Any federal or state statute, rule, or decision.
 - c. If any party desires to admit any additional evidence, the additional evidence shall be disclosed to the other parties and the Hearing Officer not less than five calendar days before the hearing. At the beginning of the hearing, the Hearing Officer shall rule on whether such additional evidence may be presented and shall freely allow the evidence when such evidence is relevant to the issue on appeal.
 7. The Hearing Officer shall make a decision based on the appeal criteria provided in this section, and may affirm, reverse, or modify the decision or action of the administrative official. In making a decision, the Hearing Officer may take any action that the administrative official was authorized to take.
 8. The decision of the Hearing Officer shall be rendered in writing not later than seven calendar days after the date of the hearing's conclusion, and shall include findings of fact, if any, and conclusions of law.
 9. The decision of the Hearing Officer shall be final, and may be subject to judicial review as provided in law.
- D. *Appeal criteria.* The Hearing Officer shall give deference to the administrative official's final decision, order, requirement, interpretation, determination, or action, and may only reverse or modify such when the Hearing Officer finds that the administrative official's final decision, order, requirement, interpretation, determination, or action:
1. Was clearly erroneous or unreasonable; and
 2. Will result in a miscarriage of justice.
- The Hearing Officer shall use established Florida law as it relates to this standard of review.

1 **Section 30-3.58. Board Decisions.**

- 2 A. *Authority of Hearing Officer.* The Hearing Officer has authority to hear and decide appeals of the
3 decisions of the boards established by or administering the Land Development Code, including the
4 City Commission and the reviewing boards provided in **Division 1** of this article, when all of the
5 following criteria are met:
- 6 1. The board decision was quasi-judicial, meaning the board applied established policy or law to a
7 specific, individualized situation. Quasi-judicial board decisions include but are not limited to
8 rezonings, Special Use Permits, subdivisions, and development plan review. Quasi-judicial board
9 decisions do not include legislative decisions such as land use changes or text amendments to
10 the Comprehensive Plan and Land Development Code.
 - 11 2. The board decision was final, and not advisory.
 - 12 3. The appeal is not a challenge to a development order controlled by Section 163.3215, Florida
13 Statutes.
- 14 B. *Standing to appeal.* The following persons shall have standing to appeal a board decision pursuant
15 to this section:
- 16 1. An applicant who is adversely affected by the decision.
 - 17 2. A property owner whose property is the subject of the decision.
 - 18 3. All owners of real property that lies within 400 feet of the property that is the subject of the
19 decision.
 - 20 4. Any resident, landowner, or person having a contractual interest in land in the city who
21 demonstrates a direct adverse impact from the decision that exceeds in degree the general
22 interest in community good shared by all persons.
- 23 C. *Appeal procedures.*
- 24 1. A Notice of Appeal of a board decision, together with the applicable fee as set forth in Appendix
25 A and any submittal requirements established by the city, shall be filed with the city within 30
26 calendar days of the effective date of the board decision at issue. The Notice of Appeal shall set
27 forth a detailed basis for the appeal.
 - 28 2. *Stay during appeal.* The filing of a timely Notice of Appeal shall stay all proceedings in
29 furtherance of the decision being appealed, including the issuance of any building permit or
30 development order, until the appeal has been concluded in accordance with this division. The
31 applicant may file applications, plans, or other information with the city pending the outcome of
32 the review, but the filing of such shall create no rights to any related approval by the city.
 - 33 3. Within 20 calendar days of the filing of a Notice of Appeal pursuant to this section, any person
34 with standing may intervene and become a party to the appeal by filing a Notice of Appeal in
35 accordance with this section.
 - 36 4. The matter shall be set for a public hearing within 50 calendar days of the date of the Notice of
37 Appeal. This period may be extended by agreement of the city and all parties appealing the
38 decision.
 - 39 5. The hearing shall be limited to the record on appeal and shall consist of oral argument by city
40 staff and parties with standing, each of whom may be represented by legal counsel. The hearing
41 shall be conducted in accordance with established Florida law for quasi-judicial hearings.

- 1 6. *Record on appeal.* The record on appeal shall consist of an exact replication of the information
2 that was before the board for the decision being appealed, which may include the following:
 - 3 a. The application and accompanying information.
 - 4 b. Staff reports and recommendations, and any accompanying information.
 - 5 c. All exhibits and documentary evidence.
 - 6 d. The summary, findings, conclusions, and decision of the board that is the subject of the
7 appeal.
 - 8 e. Any audio or video recording of the board hearing that is the subject of the appeal.
 - 9 f. Any verbatim transcript available of the board hearing that is the subject of the appeal.
- 10 7. The Hearing Officer shall make a decision based on the appeal criteria provided in this section,
11 and may either affirm the board decision or remand the decision back to the reviewing board
12 with specific issues for the reviewing board to address.
- 13 8. The decision of the Hearing Officer shall be rendered in writing not later than seven calendar
14 days after the date of the hearing's conclusion, and shall include findings of fact, if any, and
15 conclusions of law.
- 16 9. If the Hearing Officer affirms the board decision at issue, the Hearing Officer's decision shall be
17 final and may be subject to judicial review as provided in law.
- 18 10. If the Hearing Officer remands the board decision at issue, the reviewing board shall reconsider
19 its decision and shall consider the issues specified by the Hearing Officer and may accept, reject,
20 or modify the Hearing Officer's findings and conclusions in making the final decision. After
21 considering the Hearing Officer's findings and conclusions, the reviewing board's decision shall
22 be final and may be subject to judicial review as provided in law.
- 23 D. *Appeal criteria.* The Hearing Officer shall affirm the board decision unless an appealing party with
24 standing demonstrates that any one of the following three requirements was not met. The Hearing
25 Officer shall use established Florida law as it relates to this standard of review.
 - 26 1. The appealing parties were afforded procedural due process, which includes:
 - 27 a. Notice of the board hearing that is the subject of the appeal;
 - 28 b. A fair hearing before an impartial decision-maker;
 - 29 c. An opportunity to be heard and present evidence at the hearing; and
 - 30 d. The opportunity to cross-examine any witnesses.
 - 31 2. The reviewing board observed the essential requirements of law.
 - 32 a. A departure from the essential requirements of law is something more than mere legal
33 error. A decision made according to the form of the applicable law and the rules prescribed
34 for rendering it, although it may be erroneous in its conclusion as applied to the facts, is not
35 an act that amounts to a departure from the essential requirements of law.
 - 36 b. The Hearing Officer shall examine the seriousness of any error and exercise discretion only
37 when there has been a violation of a clearly established principle of law that results in a
38 miscarriage of justice.
 - 39 3. The reviewing board's decision was supported by competent substantial evidence.

- 1 a. Competent substantial evidence means such evidence that may establish a substantial basis
2 from which the fact at issue can be reasonably inferred, or material and relevant evidence
3 that a reasonable mind could accept as adequate to support a conclusion. The opinions and
4 recommendations of experts, including city staff, are deemed expert testimony and
5 constitute competent substantial evidence. Citizen testimony during any public comment
6 portion of a hearing may constitute competent substantial evidence if it is fact-based and
7 not a mere generalized statement of support or opposition.
- 8 b. The Hearing Officer may not reweigh the evidence or substitute his or her judgment for that
9 of the reviewing board, but rather shall rule upon only whether the reviewing board's
10 decision was supported by any competent substantial evidence.
- 11