

1 **ARTICLE III. HOW-TO GUIDE**

2 **DIVISION 1. REVIEWING AUTHORITIES**

3 **Section 30-3.1. Development review coordinator.**

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

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

15 **Section 30-3.2. Technical review committee.**

16 A. *Establishment and purpose.* The Technical Review Committee (TRC), which shall be chaired by the  
17 development review coordinator, is hereby created and shall have the following duties:

- 18 1. *Meetings.* The committee shall meet at least monthly to review development proposals as  
19 prescribed in this article.
- 20 2. *Recommendations.* The committee shall make recommendations to the Development Review  
21 Board, City Plan Board or City Commission, depending upon which is the decision-making entity.
- 22 B. *Membership.* The membership of the committee shall be composed of an employee appointed from  
23 each of the following city departments and government agencies:
  - 24 1. Planning and development services.
  - 25 2. Public works department.
  - 26 3. Fire/rescue department.
  - 27 4. Parks and recreation department.
  - 28 5. Gainesville Regional Utilities department.
  - 29 6. Representatives of other city, county, state, regional or federal departments or agencies as  
30 deemed appropriate.

31 **Section 30-3.3. City plan board.**

32 A. *Establishment and purpose.* The City Plan Board (CPB), which shall be designated as the Local  
33 Planning Agency in accordance with Section 163.3174, Florida Statutes, is hereby created and shall  
34 have the following duties:

- 1 1. Plan for the proper growth and development of the city, meaning the scientific, aesthetic, and  
2 orderly disposition of land, resources, facilities and services with the goal of securing an  
3 environment for present and future generations that is environmentally sustainable, socially  
4 just and desirable and economically sound. The board shall keep constantly informed of and in  
5 touch with the physical changes of the city and its surrounding environs and is authorized to  
6 gather information and make recommendations to the City Commission with regard to such  
7 growth and development.
- 8 2. Prepare the City of Gainesville Comprehensive Plan and amendments thereto, and make  
9 recommendations to the City Commission regarding the adoption or amendment of such plan.
- 10 3. Monitor and oversee the effectiveness and status of the Comprehensive Plan, and  
11 recommend to the City Commission such changes in the Comprehensive Plan as may from  
12 time to time be required, including the periodic evaluation and appraisal of the  
13 Comprehensive Plan required by Section 163.3191, Florida Statutes.
- 14 4. Review proposed land development regulations, the Land Development Code, or amendments  
15 thereto, and make recommendations to the City Commission as to the consistency of each  
16 proposal with the adopted Comprehensive Plan.
- 17 5. Perform all other functions, duties, and responsibilities designated by the Land Development  
18 Code or otherwise assigned by the City Commission.

19 B. *Membership.*

- 20 1. The City Plan Board shall have seven regular members, representing a cross section of the city,  
21 appointed by the City Commission. Regular members of the City Plan Board shall be and remain  
22 bona fide residents of the city. If at any time a member of the City Plan Board fails to remain a  
23 resident of the city, such person shall no longer serve on the board.
- 24 2. The City Plan Board shall have an additional member (hereinafter, the "school board  
25 representative") that represents and is appointed by the School Board of Alachua County. The  
26 duties of the school board representative are limited to attending City Plan Board meetings at  
27 which the City Plan Board considers Comprehensive Plan amendments and rezonings that  
28 would, if approved, increase residential density on the property that is the subject of the  
29 proposed amendment or rezoning. The school board representative shall be a non-voting  
30 member.
- 31 3. Each member shall be appointed to a three-year term commencing on November 1 of the year  
32 appointed. Members may be reappointed for consecutive terms and may hold office after  
33 expiration of their term until a successor has been appointed and qualified.
- 34 4. When a regular member position becomes vacant before the end of the term, the City  
35 Commission shall appoint a substitute member to fill the vacancy for the duration of the vacated  
36 term. When the school board representative position becomes vacant before the end of the  
37 term, the School Board of Alachua County shall appoint a substitute member to fill the vacancy  
38 for the duration of the vacated term.
- 39 5. *Probationary period for regular members.*
  - 40 a. New appointees to the City Plan Board shall complete a 60-day probationary period prior to  
41 commencement of the term of office. During this period appointees shall meet the same  
42 attendance requirements as other board members, but shall not have the power to vote or  
43 be counted for the purpose of constituting a quorum.

- 1           b. Any appointee who fails to successfully complete the probationary period, except as  
2           provided below, shall be automatically disqualified for membership on the City Plan Board,  
3           upon the filing with the Clerk of the Commission of appropriate proof that the appointee  
4           has failed to successfully complete the probationary period.
- 5           c. *Exception.* The City Commission may waive the required probationary period for any  
6           appointee to the City Plan Board upon good cause shown and entered in the record of the  
7           minutes of the City Commission.

8   C. *Officers.*

- 9           1. The members of the City Plan Board shall annually elect a chair and vice-chair from among the  
10           regular members and may create and fill other offices as the board deems necessary. The chair  
11           shall preside over the board and shall have the right to vote. In the absence of the chair, the  
12           vice-chair shall perform the duties of the chair.
- 13           2. The City Plan Board may create whatever subcommittees it deems necessary to carry out the  
14           purposes of the board. The chair of the board shall annually appoint the membership of each  
15           subcommittee from the regular members of the board. The school board representative is  
16           eligible for subcommittee membership, and the chair of the board may appoint the school  
17           board representative to any given subcommittee.
- 18           3. The City Manager shall appoint a city employee to serve as secretary to the board, recorder and  
19           custodian of all board records.

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

- 21           1. Neither regular members nor the school board representative shall be compensated, but may  
22           be paid for travel and other expenses incurred on board business under procedures prescribed  
23           in advance by the City Commission.
- 24           2. The City Commission shall appropriate funds to permit the City Plan Board to perform its  
25           prescribed functions.
- 26           3. Absenteeism by regular board members shall be governed by board rules.
- 27           4. The City Attorney shall provide legal counsel to advise and represent the board as necessary.

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

- 31           1. The board shall meet at least once each calendar month, unless cancelled by the board or its  
32           chair, and more often at the call of the chair or the City Commission.
- 33           2. The board shall adopt rules setting the number of members needed to establish a quorum.
- 34           3. Each decision of the board shall be approved by a majority vote of the regular members present  
35           at a meeting in which a quorum is in attendance and voting.
- 36           4. The board shall conduct hearings in accordance with this article and state law.
- 37           5. The board shall keep minutes of its proceedings, indicating the attendance of each member, and  
38           the decision on every question.

39   F. *Final and non-final decisions.* The City Plan Board has final decision authority for special use permits  
40           (other than wellfield special use permits), development plans, determinations for nonpresumptive

1 vested rights and concurrency, and decisions on binding resource determinations. All other actions  
2 of the board are non-final and advisory to the City Commission. Advisory actions of the board shall  
3 not obligate the city.

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

10 **Section 30-3.4. Development review board.**

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

- 13 1. Review and act upon applications for development plan approval pursuant to the Land  
14 Development Code. The airport authority shall act in the capacity of the Development Review  
15 Board for development plans for the Gainesville Regional Airport in accordance with an  
16 approved airport layout plan.
- 17 2. Review and approve, approve with conditions or deny modifications and variances from the  
18 requirements of this Land Development Code, as specifically provided in this Land Development  
19 Code.
- 20 3. Unless otherwise specified in the Code of Ordinances, the board shall have the power and duty  
21 to hear and decide appeals where it is alleged there is error in any order, requirement, decision  
22 or determination made by an administrative official of the city in the enforcement of the Land  
23 Development Code or building chapters. The board shall not have the power or duty to hear and  
24 decide appeals from any order, requirement, decision, or determination when such are made as  
25 part of, or are inherent in, a chapter 2, article V, division 8, notice of violation, or division 6, civil  
26 citation, issued by a code enforcement officer or sworn law enforcement officer, unless  
27 otherwise provided in this Code of Ordinances. This shall not preclude hearing and deciding  
28 requests for special exceptions or variances, which may include matters also at issue in a notice  
29 of violation or civil citation. Public notice shall be given in the manner specified in **Division 2** of  
30 this article.
- 31 4. Make recommendations to the City Plan Board on land development regulations either upon  
32 referral by the City Plan Board or upon its own initiation
- 33 5. Perform all other functions, duties, and responsibilities designated by the Land Development  
34 Code or otherwise assigned by the City Commission.

35 B. *Membership.*

- 36 1. The Development Review Board shall have seven regular members appointed by the City  
37 Commission. Members of the Development Review Board shall be and remain bona fide  
38 residents of the city. If at any time a member of the Development Review Board fails to remain a  
39 resident of the city, such person shall no longer serve on the board. When appointing residents  
40 to the Development Review Board, the City Commission shall give special consideration to those  
41 with the following experience:
- 42 a. An architect or landscape architect.

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

- 1 E. *Rules of procedure.* The Development Review Board shall adopt rules of procedure to carry out its  
2 purposes. All rules shall conform to this article, the Code of Ordinances and state law, and shall be  
3 reviewed and approved by the City Commission.
- 4 1. The board shall meet at least once each calendar month, unless cancelled by the board or its  
5 chair, and more often at the call of the chair or the City Commission.
- 6 2. The board shall adopt rules setting the number of members needed to establish a quorum.
- 7 3. Each decision of the board shall be approved by a majority vote of the members present at a  
8 meeting in which a quorum is in attendance and voting.
- 9 4. The board shall conduct hearings in accordance with this article and state law.
- 10 5. The board shall keep minutes of its proceedings, indicating the attendance of each member, and  
11 the decision on every question.
- 12 F. *Implementation of board's decision.* Any permit, authorization or other development order issued,  
13 based on the board's decision, prior to the end of the period for filing an appeal for any available  
14 administrative or judicial remedies is considered conditional. Any action taken during the appeal  
15 period is taken at the sole risk of the property owner or representative, who may be required to  
16 undo any work done if the decision of the board is overturned either by a rehearing of the board, an  
17 appeal for an administrative remedy, or an appeal to a court of competent jurisdiction.

18 **Section 30-3.5. Historic preservation board.**

- 19 A. *Establishment and purpose.* The Historic Preservation Board (HPB) is hereby created and shall have  
20 the following duties:
- 21 1. Update the official inventory of cultural resources and submit to the City Commission  
22 recommendations and documentation concerning such updating.
- 23 2. Develop programs to stimulate public interest in urban neighborhood conservation and  
24 participation in the adaptation of existing codes, ordinances, procedures and programs to reflect  
25 urban neighborhood conservation policies and goals.
- 26 3. Explore funding and grant sources and advise property owners concerning which might be  
27 available for the identification, protection, enhancement, perpetuation and use of historic,  
28 architectural, archaeological and cultural resources.
- 29 4. Cooperate with agencies of city, county, regional, state and federal governments in planning  
30 proposed and future projects to reflect the concerns and policies expressed in this article, and  
31 assist in the development of proposed and future land use plans.
- 32 5. Advise property owners and local governmental agencies concerning the proper protection,  
33 maintenance, enhancement and preservation of cultural resources.
- 34 6. Advise the City Commission concerning the effects of local governmental actions on cultural  
35 resources.
- 36 7. Conduct regular public meetings and call special meetings.
- 37 8. Otherwise further the objectives and purposes stated in the historic preservation and  
38 conservation regulations of this chapter, which can be found in **Article V, Division 6.**
- 39 9. Report to the City Commission concerning the board's activities at least once a year.

- 1 10. Review and recommend sites, buildings, structures, objects, areas and districts, both public and  
2 private, for listing on the local register for historic places.
- 3 11. Approve or deny petitions for certificates of appropriateness required under **Article V, Division**  
4 **6.**
- 5 12. Notify the City Manager who will take appropriate action when it appears that there has not  
6 been compliance with the requirements of **Article V, Division 6.**
- 7 B. *Membership.*
- 8 1. The Historic Preservation Board shall have nine regular members appointed by the City  
9 Commission. Members of the board shall be and remain bona fide residents of the city. If at any  
10 time a member of the board fails to remain a resident of the city, such person shall no longer  
11 serve on the board. When appointing residents to the Historic Preservation Board, the City  
12 Commission shall appoint at least one registered architect and shall, when possible, appoint a  
13 representative from each of the following areas of expertise:
- 14 a. History.
- 15 b. Real estate or real property appraisal or finance.
- 16 c. Urban planning or law.
- 17 d. Engineering or building construction.
- 18 e. Landscape architecture.
- 19 2. Each member shall be appointed to a three-year term. Members may be reappointed for  
20 consecutive terms and may hold office after the expiration of their term until a successor has  
21 been appointed and qualified.
- 22 3. When a member position becomes vacant before the end of a term, the City Commission shall  
23 appoint a substitute member to fill the vacancy for the duration of the vacated term.
- 24 C. *Officers.*
- 25 1. The board shall annually elect a chair and a vice-chair from among the members and may create  
26 and fill other offices as the board deems necessary. The chair shall preside over the board and  
27 shall have the right to vote. In the absence of the chair, the vice-chair shall perform the duties of  
28 the chair.
- 29 2. The City Manager shall appoint a city employee to serve as secretary to the board, recorder and  
30 custodian of all board records.
- 31 D. *Rules of procedure.* The Historic Preservation Board shall adopt rules of procedure to carry out its  
32 purposes. All rules shall conform to this article, the Code of Ordinances and state law, and shall be  
33 reviewed and approved by the City Commission.
- 34 1. The board shall meet at least once each calendar month, unless cancelled by the board or its  
35 chair, and more often at the call of the chair or the City Commission.
- 36 2. No business shall be conducted by the board without the presence of a quorum of five voting  
37 members.
- 38 3. *Voting on certificates of appropriateness.* Approval or denial of petitions for certificates of  
39 appropriateness shall require the affirmative vote of at least four voting members. If insufficient

1 affirmative votes are obtained, a matter shall be tabled and placed on the agenda for the  
2 following meeting. However, petitions for certificates of appropriateness shall be deemed  
3 automatically granted if not approved or denied within 45 calendar days after the first meeting  
4 at which they were considered.

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

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

8 **Section 30-3.6. Heritage overlay district board.**

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

11 1. Review regulated work items submitted for its review pursuant to the provisions of **Section 30-**  
12 **5.29.**

13 B. *Membership.*

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

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

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

25 C. *Officers.*

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

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

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

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

38 2. *Meeting notice.* Subsequent to receiving a complete petition (on the form provided by the city)  
39 for a regulated work item requiring board review and payment of the petition fee, city staff shall  
40 provide a notice sign to the applicant at least 15 calendar days prior to the meeting. The  
41 applicant shall post the sign on the subject property in a location visible from the public road



1 right-of-way, at least 10 calendar days prior to the meeting. Additionally, written notice of the  
2 time and place of the meeting, and the location of the subject property, shall be sent by regular  
3 mail to the applicant and all property owners within the district at least 10 calendar days prior  
4 to the meeting.

5 3. Three members shall be present to establish a quorum. A majority of the quorum is required for  
6 approval. Petitions on the agenda, but not heard due to a lack of quorum, are continued to the  
7 next meeting one time. If the board fails to reach a quorum a second consecutive time, the  
8 petition is deemed approved.

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

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

13 6. The board can approve, approve with conditions, deny or continue to a date certain a petition  
14 for a regulated work item. The board may continue a petition only once. At the second hearing  
15 on a continued petition, the board shall render a decision or the petition shall be deemed  
16 approved.

17 7. The decision of the board on a petition shall be the final decision of the city.

18 8. The board shall keep minutes of its proceedings, indicating the attendance of each member, and  
19 the decision on every question.

## 21 **DIVISION 2. HEARINGS**

### 22 **Section 30-3.7. Quasi-judicial proceedings.**

23 A quasi-judicial proceeding shall conform to the following procedures, as required by law. Development  
24 orders that are quasi-judicial in nature, including, but not limited to, the consideration of development  
25 plans, subdivision plats, street vacations, special use permits, certificates of appropriateness and  
26 variances (hereinafter "development orders") shall be considered quasi-judicial proceedings.

27 A. *Burden and nature of proof.* The burden of proof shall be as required by law.

28 B. *Rules of procedure.* The appropriate board shall by rule or by-laws adopt procedures for the conduct  
29 of quasi-judicial proceedings. These procedural rules shall be subject to review and approval of the  
30 City Commission.

31 C. *Record.* The record of the quasi-judicial proceeding shall contain the following:

32 1. The reports and recommendations of the city's departments or other regulatory agencies;

33 2. The reports and recommendations of the appropriate governmental reviewing boards.

34 3. Physical evidence and exhibits admitted into evidence at the quasi-judicial proceeding; and

35 4. Such other documentation and competent substantial evidence including testimony deemed  
36 appropriate by the reviewing body at the quasi-judicial proceeding.

### 37 **Section 30-3.8. Legislative matters.**

38 Any comprehensive rezoning of the city, change in land use, text amendment to the Comprehensive  
39 Plan or this chapter or any other matter deemed legislative in nature shall be considered a legislative

1 matter. A change in land use shall not include small scale development activities as defined in F.S. Ch.  
2 163. Each legislative hearing shall conform to the following requirements:

3 A. *Notice.* Notice that complies with the requirements of state law shall be given as otherwise  
4 prescribed in this chapter.

5 B. *Conduct of hearing.* The public hearing shall at a minimum:

6 1. Comply with the requirements of state law.

7 2. Present the department's analysis of the proposed decision.

8 3. Present the department's summary of reports by other agencies.

9 4. Permit any person to submit documents before or during the hearing, as provided by rule or  
10 order.

11 5. Permit a reasonable opportunity for interested persons to make oral statements, as provided by  
12 rule or order.

13 **Section 30-3.9. Neighborhood workshop.**

14 A. *Purpose and intent.* It is not the purpose of the citizen participation process to produce complete  
15 consensus on all applications, but to encourage applicants to be good neighbors and to allow for  
16 informed decision making. The purpose of the neighborhood workshop is to:

17 1. Ensure that applicants pursue early and effective citizen participation in conjunction with their  
18 applications, giving the applicants the opportunity to understand and try to mitigate any real or  
19 perceived impacts their applications may have on the community;

20 2. Ensure that citizens and property owners have an adequate opportunity to learn about  
21 applications that may affect them and to work with the applicant to resolve concerns at an early  
22 stage of the process; and

23 3. Facilitate ongoing communication among the applicant, interested citizens and property  
24 owners, and city staff throughout the application review process.

25 B. *Applicability.* Every development review application that requires a public hearing for the approval  
26 of a development plan, subdivision, rezoning, special use permit or change to the future land use  
27 map also requires that public participation be obtained at a neighborhood workshop. Minor  
28 development plans located within a transect zone that meet or exceed the thresholds for  
29 intermediate or major development review shall also conduct a neighborhood workshop. The  
30 following development applications are exempt from the requirements of this section:

31 1. City-initiated Comprehensive Plan amendments (as described in F.S. ch. 163) to the future land  
32 use map of the city's Comprehensive Plan that change the future land use from Alachua County  
33 to City of Gainesville categories for annexed properties;

34 2. City-initiated amendments to the zoning map that change the zoning from Alachua County to  
35 City of Gainesville districts for annexed properties;

36 3. Special use permits for minor decorative functional or safety improvements to legal  
37 nonconforming uses, per **section 30-3.9.**

38 4. Development plan approvals for nonresidential projects of 10,000 square feet or less of floor  
39 area when not located adjacent to or across the street from property designated for single  
40 family residential use on the future land use map;

- 1 5. Development plan approvals for residential projects of 10 units or less;
- 2 6. Environmental remediation or safety improvements required by local, state and federal
- 3 agencies;
- 4 7. All text changes to the Comprehensive Plan or Land Development Code.
- 5 C. Except for development applications that are exempt from the requirements of this section, every
- 6 application that requires a public hearing for a development plan, subdivision, rezoning, special use
- 7 permit or change to the future land use map shall include a written record of the citizen
- 8 participation process.
- 9 D. *Workshop requirements.*
- 10 1. The applicant shall provide the opportunity for a workshop to inform neighboring property
- 11 owners of the proposed application. The workshop shall be held in a location generally near the
- 12 subject property and shall be held in a facility that is ADA compliant. The applicant shall provide
- 13 notification by mail to all owners of property located within 400 feet of the subject property and
- 14 to all neighborhood associations registered with the city and located within ½-mile of the
- 15 property. The City Manager or designee shall provide mailing labels to the applicant. The
- 16 applicant shall mail these notices with proper postage at least 14 calendar days before the
- 17 workshop. The applicant shall also advertise the workshop in a newspaper of general circulation
- 18 at least 14 calendar days before the date of the workshop.
- 19 2. The workshop shall start between 6:00 p.m. and 8:00 p.m. on a weekday or between 9:00 a.m.
- 20 and 5:00 p.m. on a weekend. All required workshops shall be held prior to submittal of the
- 21 application. The applicant shall be required to schedule an additional workshop if the initial
- 22 workshop has occurred more than 6 months prior to submittal of the application.

23 **Section 30-3.10. Hearing notification requirements.**

- 24 A. The hearing notifications listed in
- 25 B. Table IV - 1 shall be required prior to all public hearings.
- 26 C. Unless otherwise provided by law, notice of a hearing pursuant to this division shall be provided in
- 27 the legal notice section of a newspaper of general circulation in Alachua County.
- 28 D. Unless otherwise provided by law, addresses for a mailed notice required by this chapter shall be
- 29 obtained from the latest ad valorem tax records provided by the county property appraiser. The
- 30 failure of any person to receive notice shall not invalidate an action if a good faith attempt was
- 31 made to comply with the notice requirements of this article.
- 32 E. The property under consideration for a land use or zoning map change, special use permit, street
- 33 vacation or development plan review shall also have signs posted at least 15 calendar days prior to
- 34 the hearing date. The signs, which shall be posted by the property owner or agent in accordance
- 35 with procedures established by the City, shall specify that the property is under consideration for
- 36 review and specify the time, date and place of the public hearing.
- 37 F. Properties under consideration for a land use or zoning map change that involve more than 50 non-
- 38 contiguous acres shall not be required to post signs when the petition is initiated by the City.
- 39 G. A request by the petitioner to continue a public hearing shall require the petitioner to incur
- 40 renotification and readvertising costs.

1

2 **Table IV - 1: Hearing notification requirements**

<b>Application Type</b>	<b>Newspaper Ad</b>	<b>Mailed Notice</b>	<b>Posted Notice</b>
<b>Comprehensive Plan</b>			
Text changes not including amendments to the actual list of permitted uses.	15 calendar days prior to the date of the public hearing	Not required	Not Required
Text changes amending the list of permitted uses involving less than 5% of the total land area of the City.	Not required	Mailed notice at least 15 calendar days prior to the date of the public hearing, to all real property owners whose land will be redesignated and all owners of property within 400 feet of the affect property.	Not Required
Text changes amending the list of permitted uses involving more than 5% of the total land area of the City.	Display Ad in the newspaper as required by law	Not required	Not required
Land Use Map changes involving less than 5% of the total land area of the City	Not required	Mailed notice at least 15 calendar days prior to the date of the public hearing, to all real property owners whose land will be redesignated and all owners of property within 400 feet of the affect property.	Required 15 day notice
Land Use Map changes involving more than 5% of the total land area of the City	Display Ad in the newspaper as required by law	Not required	Required 15 day notice, with some exceptions for citywide rezonings
<b>Zoning and Land Development Code</b>			
Text Changes not including amendments to the actual list of permitted uses	15 calendar days prior to the date of the public hearing	Not required	Not required
Text changes amending the list of permitted uses involving less than 5% of the total land area of the City.	Not required	Mailed notice at least 15 calendar days prior to the date of the public hearing, to all real property owners whose land will be redesignated and all owners of property within 400 feet of the affect property.	Not required
Text changes amending the list of permitted uses	Display Ad in the newspaper as	Not required	Not required

Application Type	Newspaper Ad	Mailed Notice	Posted Notice
involving more than 5% of the total land area of the City.	required by law		
Zoning Map changes involving less than 5% of the total land area of the City	Not required	Mailed notice at least 15 calendar days prior to the date of the public hearing, to all real property owners whose land will be redesignated and all owners of property within 400 feet of the affect property.	Required 15 day notice
Zoning Map changes involving more than 5% of the total land area of the City	Display Ad in the newspaper as required by law	Not required	Required 15 day notice with some exceptions for citywide rezoning
<b>Special Use Permit</b>	Legal Ad	Mailed notice at least 15 calendar days prior to the date of the public hearing, to all real property owners whose land will be affected and all owners of property within 400 feet of the affect property.	Required 15 day notice
<b>Development Review Board</b>	Not required	Mailed notice at least 15 calendar days prior to the date of the public hearing, to all real property owners whose land will be affected and all owners of property within 400 feet of the affect property.	Required 15 day notice
<b>Variances</b>	Legal Ad	Mailed notice at least 15 calendar days prior to the date of the public hearing, to all real property owners whose land will be affected and all owners of property within 400 feet of the affect property	Required 15 day notice
<b>Historic Preservation Board (COA)</b>	Not Required	Not required	Required 10 day notice.

1

2 **DIVISION 3. ZONING MAP, LDC AND COMPREHENSIVE PLAN CHANGES**

3 **Section 30-3.11. Review procedures.**

4 The following procedures shall apply to all applications for zoning or land use changes, and Land  
5 Development Code and Comprehensive Plan amendment applications. Proposals originated by the City  
6 Commission or initiated by the City Plan Board shall be processed in the same manner.

7 A. *Pre-application conference.* It is recommended that anyone intending to file a petition for  
8 amendments to the future land use map or zoning map atlas, or text of the Comprehensive Plan or

1 this chapter, meet with the planning and development services department prior to filing the  
2 petition, in order to discuss the amendment and petition process. No person may rely upon any  
3 comment concerning a proposed amendment, or any expression of any nature about the proposal  
4 made by any participant, at the pre-application conference as a representation or implication that  
5 the proposal will be ultimately approved or rejected in any form.

- 6 B. *Application submittal.* Applications for rezoning of land and changes to the future land use map may  
7 be filed by an owner thereof or by any person having a legal or equitable interest therein. If there  
8 are multiple owners, each shall be named on the petition. If an agent represents the owner(s) in this  
9 proceeding he/she shall be so authorized by affidavit from the owner(s). A petition for a text  
10 amendment may be filed by any citizen or owner of land in the city.
- 11 C. *Staff review.* The City Manager or designee shall submit to the City Plan Board a written report that  
12 includes analysis of the application and a recommendation based on the findings required in **Section**  
13 **30-3.12** for Comprehensive Plan amendments, **Section 30-3.13** for zoning map Land Development  
14 Code amendments, and **Section 30-3.14** for transect zone amendments.
- 15 D. *Neighborhood workshop.* The applicant shall hold a neighborhood workshop per **Section 30-3.9.**
- 16 E. *City Plan Board review.* The City Plan Board shall review the proposed application at a public  
17 hearing. When reviewing the petition, the City Plan Board may receive and consider the comments  
18 and concerns of other relevant boards serving the City Commission, such as the Development  
19 Review Board and the historic preservation board.

20 After consideration of a petition for rezoning of land, change in the future land use map, or text  
21 amendment to the Land Development Code or Comprehensive Plan the appropriate reviewing  
22 board shall transmit the petition and its recommendation thereon either to the City Commission or  
23 the City Attorney, as follows:

- 24 1. If both the planning and development services department and the City Plan Board recommend  
25 approval of the petition as submitted or with amendments voluntarily agreed upon by the  
26 petitioner, then the petition may be forwarded to the City Attorney who is authorized to  
27 prepare the appropriate ordinance in accordance with law.
  - 28 2. If either the planning and development services department or the City Plan Board recommends  
29 denial of the petition, then the petition shall be forwarded to the City Commission for approval,  
30 denial, approval with amendment, or remand to the board for further consideration. If the City  
31 Commission approves the petition as submitted or with amendments, then the City Attorney is  
32 authorized to prepare the appropriate ordinance in accordance with law.
- 33 F. *City Commission review.*
    - 34 1. The City Commission shall consider the application at one public hearing for small-scale  
35 Comprehensive Plan amendments as required by section 163.3187, Florida Statutes, or two  
36 hearings (transmittal/first reading and adoption) for expedited Comprehensive Plan  
37 amendments per section 163.3184(3), Florida Statutes. Land Development Code and zoning  
38 map amendments require two hearings.
    - 39 2. If the matter is determined to be quasi-judicial (rezoning), the City Commission shall conduct the  
40 quasi-judicial proceeding at first reading of the ordinance, as applicable. The recommendations  
41 of city departments or other regulatory agencies and the appropriate reviewing boards shall be  
42 included and become a part of the record before the City Commission.

- 1 3. The City Commission may act on any change or amendment without a recommendation from  
2 the City Plan Board if the board has not acted on the matter within 45 calendar days of the date  
3 of the first regular meeting of the City Plan Board after a petition or proposal for a change or  
4 amendment has been filed with or received by the City Manager designee.
- 5 4. If a petition or recommendation for a change or amendment is not acted upon finally by the City  
6 Commission within six months of the date upon which the report of the City Plan Board is filed  
7 with the City Commission, the petition shall be deemed denied without prejudice. However, no  
8 petition shall be deemed denied if the City Commission has continued its consideration to a date  
9 certain, or has stayed action on the petition by enactment of a moratorium ordinance.

10 **Section 30-3.12. Review criteria for future land use map and comprehensive plan text amendments.**

11 In reviewing and formulating recommendations to the City Commission on requested or proposed  
12 changes to the future land use map, the City Plan Board shall consider and evaluate the changes in  
13 relation to all pertinent factors, including the following:

- 14 A. The goals, objectives and policies of the Comprehensive Plan.
- 15 B. An analysis, by planning and development services staff, of the need for the additional land based  
16 on the projected population of the city and the availability of property designated for the land use  
17 being requested by the petitioner.
- 18 C. The location of the site in relation to adjacent uses and other similar uses.
- 19 D. The potential impact of the proposed use on adopted level of service standards.

20 **Section 30-3.13. Review criteria for zoning map amendments.**

21 In reviewing and formulating recommendations to the City Commission on requested or proposed  
22 changes in the zoning ordinances that are quasi-judicial in nature, the City Plan Board shall consider and  
23 evaluate the changes in relation to all pertinent factors, including the following:

- 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 peculiar suitability for particular uses;
- 27 C. Conservation of the value of buildings and encouraging the most appropriate use of land throughout  
28 the city;
- 29 D. The applicable portions of any current city plans and programs such as land use, traffic ways,  
30 recreation, schools, neighborhoods, stormwater management and housing;
- 31 E. The needs of the city for land areas for specific purposes to serve population and economic  
32 activities;
- 33 F. Whether there have been substantial changes in the character or development of areas in or near  
34 an area under consideration for rezoning;
- 35 G. The goals, objectives and policies of the Comprehensive Plan; and
- 36 H. The facts, testimony and reports presented to the City Plan Board at public hearings.

37 **Section 30-3.14. Additional criteria for rezoning to transect zones.**

38 Applications to rezone to a transect zone (T-Zone) shall meet the following additional criteria:

- 39 A. The proposed T-Zone shall provide a logical extension of an existing zone, or an adequate transition

- 1 between zones:
- 2 B. The area shall have had a change in growth and development pattern to warrant the rezoning to a  
3 more urban or less urban T-Zone; and
- 4 C. The request shall be consistent with the overall City of Gainesville vision for growth and  
5 development as expressed in the City of Gainesville Comprehensive Plan; and
- 6 D. If not adjacent to an existing T-Zone, the rezoning site shall comprise a minimum of 10 acres.

7 **Section 30-3.15. Withdrawal of applications.**

8 Any application for any action provided by this chapter may be withdrawn by the applicant. However if  
9 notice has been given, the application shall be withdrawn by the applicant at a public hearing, and, for  
10 purposes of refiling a land use or zoning map petition, a withdrawn application shall be limited as if it  
11 were denied as prescribed in **Section 30-3.16**. Fees paid shall not be refundable if any expense has been  
12 incurred by the city for public notice.

13 **Section 30-3.16. Limit on petitions relating to same property.**

- 14 A. When the City Commission has taken action to deny a petition for a land use change or rezoning the  
15 City Plan Board shall not consider any further petition to any part of the same property for a period  
16 of 12 months from the date of the action. If a Comprehensive Plan amendment is necessary for a  
17 rezoning to planned development the foregoing one-year limitation may be waived by a simple  
18 majority of the City Commission.
- 19 B. Whenever the City Commission has changed the zoning or land use of property by an ordinance  
20 amendment, the City Plan Board shall not consider any petition for rezoning of any part of the same  
21 property for a period of 12 months from the date of the action.
- 22 C. The City Commission may waive the above time limitations by the affirmative vote of five  
23 commissioners, provided 30 calendar days have elapsed since the action of the commission to deny  
24 the original request, and if the City Commission deems such action necessary to prevent an injustice  
25 or facilitate the proper development of the city.

26

27 **DIVISION 4. PLANNED DEVELOPMENT REZONE**

28 **Section 30-3.17. Minimum requirements for rezoning to planned development.**

29 An applicant for a PD rezoning shall present evidence that justifies the rezoning. Justification shall  
30 include one or more of the following:

- 31 A. The proposed development does not fit the standard development parameters contained in the city  
32 code. Although it does not fit within an existing zoning district, it is consistent with the city  
33 Comprehensive Plan, except it may require a land use change. Other options available under the  
34 existing zoning district(s) in the city Land Development Code would not allow the use and associated  
35 design elements of the proposed project.
- 36 B. Size, scale, complexity and design. The proposed development is of such size, scale, complexity,  
37 and/or unique design that it would be inconvenient and inefficient to process such a proposal  
38 outside the PD process.
- 39 C. Specialized compatibility and design characteristics. The nature of the proposed use at a specific site  
40 requires specialized design characteristics to preserve and protect neighborhood character,



1 environmental concerns and other concerns unique to the immediate area, consistent with  
2 Comprehensive Plan policies.

3 **Section 30-3.18. Review procedures.**

4 The review and approval process consists of a mandatory first-step meeting, Technical Review  
5 Committee review, and City Plan Board and City Commission hearings. At the applicant's request, the  
6 review of the PD rezone may be done concurrently with the subdivision review and/or development  
7 review.

8 A. *Pre-application meeting.* Before submittal of a PD application, the developer shall present a  
9 generalized description of the project to the City Manager or designee at a pre-application  
10 conference.

11 B. *First step.* Prior to filing an application for development plan review, the applicant shall attend a  
12 first step meeting to discuss the development review process, code requirements and to confer with  
13 staff about the development process. The first step meeting may be attended by staff of the  
14 Technical Review Committee or staff of the planning and development services department.  
15 Comments made by staff at a first step meeting are made solely for preliminary informational  
16 purposes and shall not be construed as an approval or denial or agreement to approve or deny any  
17 development order.

18 C. *Application submittal.* After the pre-application conference, the applicant shall submit a complete  
19 application on a form provided by the planning and development services department and  
20 accompanied by the applicable fee and plans.

21 D. *Technical Review Committee review.* The Technical Review Committee shall review the application  
22 for conformance with the city's Land Development Code and Comprehensive Plan and issue a  
23 recommendation.

24 E. *Neighborhood workshop.* The applicant shall hold a neighborhood workshop per **Section 30-3.9.**

25 F. *City Plan Board review.* The City Plan Board shall review the application (PD layout plan and report)  
26 and the Technical Review Committee recommendation at a public hearing. The City Plan Board shall  
27 make a motion recommending approval, approval subject to modifications, or denial of the  
28 application. The recommendation is forwarded to the City Commission for its consideration.

29 G. *City Commission review.*

30 1. The City Commission shall hold a public hearing on the proposed petition and shall either deny  
31 the petition, approve the petition, or approve the petition with whatever amendments or  
32 additions to the development plan it deems necessary and appropriate.

33 2. Should the applicant not be agreeable to a PD in the form in which it is approved by the City  
34 Commission, the petition may be withdrawn at any time prior to the second reading of an  
35 ordinance enacting the rezoning.

36 3. Approval of the petition is not effective until the ordinance rezoning the property to PD has  
37 been adopted. If a petition is withdrawn or denied, further petitions for rezoning the property to  
38 PD will be subject to the limits described in **Section 30-3.26.**

39 4. If the City Commission approves a PD layout plan with conditions or modifications, then the  
40 applicant shall revise the plan to clearly indicate such conditions or modifications, and the  
41 revised plan with the Planning and Development Services Department within 60 calendar days  
42 of such approval. Failure to file the revised PD layout or development plan within the time

1 prescribed herein shall render any approval of the City Commission null and void unless the  
2 applicant files with the City Commission a written request for an extension of time within such  
3 60-day period. The City Commission may grant an extension for good cause shown and upon  
4 evidence that an unexpired valid certificate of preliminary concurrency has been issued;  
5 however, the rezoning ordinance may not be prepared, advertised, or adopted until the revised  
6 PD layout plan and PD report are submitted.

7 **Section 30-3.19. Review criteria.**

8 In considering a proposed PD for approval, the City Plan Board and the City Commission shall evaluate  
9 the proposal in consideration of these criteria:

- 10 A. *Conformance with the PD objectives and the Comprehensive Plan.* No development plan may be  
11 approved unless it is consistent with the Planned Development objectives set forth in **Article V**, and  
12 the city's Comprehensive Plan, future land use map and concurrency management system.
- 13 B. *Concurrency.* The proposed PD shall meet the level of service standards adopted in the  
14 Comprehensive Plan. Proof of meeting these standards shall exist in the form of a certificate of  
15 concurrency exemption, certificate of preliminary or final concurrency (as applicable at the  
16 particular review stage), or certificate of conditional concurrency reservation.
- 17 C. *Internal compatibility.* All land uses proposed within a PD shall be compatible with other proposed  
18 uses; that is, no use may have any undue adverse impact on any neighboring use, based on the  
19 streetscape, treatment of pedestrian ways and circulation, motor vehicle circulation, and the  
20 separation and buffering of parking areas and sections of parking areas; the existence or absence of,  
21 and the location of, focal points and vistas, open spaces, plazas, recreational areas and common  
22 areas, and use of existing and proposed landscaping; use of the topography, physical environment  
23 and other natural features; use and variety of building setback or build-to lines, separations and  
24 buffering; use and variety of building groupings, building sizes, architectural styles, and materials;  
25 variety and design of dwelling types; particular land uses proposed, and conditions and limitations  
26 thereon; and any other factor deemed relevant to the privacy, safety, preservation, protection or  
27 welfare of any proposed use within the PD.
- 28 D. *External compatibility.* All land uses proposed within a PD shall be compatible with existing and  
29 planned uses of properties surrounding the PD; that is, no internal use may have any avoidable or  
30 undue adverse impact on any existing or planned surrounding use, nor shall any internal use be  
31 subject to undue adverse impact from existing or planned surrounding uses. An evaluation of the  
32 external compatibility of a PD should be based on the following factors: adjacent existing and  
33 proposed uses, design of the development, traffic circulation, and density and intensity.
- 34 E. *Intensity of development.* The residential density and intensity of use of a PD shall be compatible  
35 with (that is, shall have no undue adverse impact upon) the physical and environmental  
36 characteristics of the site and surrounding lands, and they shall comply with the policies and density  
37 limitations set forth in the Comprehensive Plan. Within the maximum limitation of the  
38 Comprehensive Plan, the permitted residential density and intensity of use in a PD may be adjusted  
39 upward or downward in consideration of the following factors: the availability and location of public  
40 and utility services and facilities; the trip capture rate of development; and the degree of internal  
41 and external connectedness of streets.
- 42 F. *Usable open spaces, plazas and recreation areas.* Usable open spaces, plazas and recreation areas  
43 provided within a PD shall be evaluated based on conformance with the policies of the  
44 Comprehensive Plan and the sufficiency of such areas to provide appropriate recreational

1 opportunities, protect sensitive environmental areas, conserve areas of unique beauty or historical  
2 significance, enhance neighborhood design, and encourage compatible and cooperative  
3 relationships between adjoining land uses.

4 G. *Environmental constraints.* The site of the PD shall be suitable for use in the manner proposed  
5 without hazards to persons either on or off the site from the likelihood of increased flooding,  
6 erosion or other dangers, annoyances or inconveniences. Condition of soil, groundwater level,  
7 drainage and topography shall all be appropriate to the type, pattern and intensity of development  
8 intended. The conditions and requirements of **article IX**, resource and environmental management  
9 shall be met.

10 H. *External transportation access.* A PD shall be located on, and provide access to, a major street  
11 (arterial or collector) unless, due to the size of the PD and the type of uses proposed, it will not  
12 adversely affect the type or amount of traffic on adjoining local streets. Access shall meet the  
13 standards set in **article VII**, development site and subdivision design, and **chapter 23**, streets,  
14 sidewalks, and other public places. Connection to existing or planned adjacent streets is  
15 encouraged. The trip generation report shall be signed by a professional engineer registered in the  
16 state when there is a difference between the traffic report provided by the petitioner and the  
17 concurrency test.

18 I. *Internal transportation access.* Every dwelling unit or other use permitted in a PD shall have access  
19 to a public street either directly or by way of a private road, pedestrian way, court or other area that  
20 is either dedicated to public use or is a common area guaranteeing access. Permitted uses are not  
21 required to front on a dedicated public road. Private roads and other accessways shall be required  
22 to be constructed so as to ensure that they are safe and maintainable.

23 J. *Provision for the range of transportation choices.* Sufficient off-street and on-street parking for  
24 bicycles and other vehicles, as well as cars, shall be provided. The requirements of **article VIII** shall  
25 be used as a guide only. Parking areas shall be constructed in accordance with such standards as are  
26 approved by the City Commission to ensure that they are safe and maintainable and that they allow  
27 for sufficient privacy for adjoining uses. When there is discretion as to the location of parking in the  
28 project, it is strongly encouraged that all motor vehicle parking be located at the rear or interior side  
29 of buildings, or both. The design of a PD should, whenever feasible, incorporate appropriate  
30 pedestrian and bicycle accessways so as to provide for a variety of mobility opportunities.  
31 Connection to all sidewalks, greenways, trails, bikeways, and transit stops along the perimeter of the  
32 PD is required. Where existing perimeter sidewalks do not exist, sidewalks shall be provided by the  
33 development.

#### 34 **Section 30-3.20. Phasing.**

35 The City Commission may permit or require the phasing or staging of a PD. When provisions for phasing  
36 are included in the development plan, each phase shall be so planned and so related to previous  
37 development, surrounding properties and the available public facilities and services that a failure to  
38 proceed with subsequent phases will have no adverse impact on the PD or surrounding properties.  
39 Concurrency certification is not reserved by PD phasing.

#### 40 **Section 30-3.21. Development time limits.**

41 The City Commission may establish reasonable periods of time for the completion of any dedicated  
42 public facilities within a PD, facilities planned for common areas, and the total PD. If phasing is provided  
43 for, time limits for the completion of each phase shall also be established or may be deferred until  
44 development review. Any such limit may be extended by the City Commission, plan board or

1 Development Review Board for reasonable periods upon the petition of an applicant for an amendment  
2 to the PD layout plan or development plan and based upon good cause, as determined by the City  
3 Commission. Any such extension shall not automatically extend the normal expiration date of a building  
4 permit, site plan approval or other development order. If time limits contained in the approved PD  
5 layout plan are not complied with and not extended for good cause, the City Commission may rezone  
6 the property or any part of it, or amend the approved development plan, so as to best protect adjoining  
7 properties and the public health, welfare or safety. Failure to complete phasing on schedule shall  
8 require a new concurrency review and appropriate concurrency permit.

9 **Section 30-3.22. Bonds.**

10 In addition to the usual requirements of **section 30-4.43** for bonds for subdivision improvements, the  
11 City Commission may also include, in the development plan, requirements for bonds (or alternatives  
12 therefor as provided in **article IV**) conditioned upon the satisfactory and timely completion of facilities  
13 planned for common areas, for the benefit of purchasers from the applicant, when the development  
14 time limits and phasing schedule do not preclude the sale of individual units prior to the completion of  
15 such facilities.

16 **Section 30-3.23. Model home centers.**

17 The Development Review Board may, in conjunction with the review of the PD rezone, authorize a  
18 temporary permit for a model home center in residential PDs and residential portions of mixed use PDs,  
19 subject to the provisions and conditions for model homes set forth in **Article VI**.

20 **Section 30-3.24. Applicability of other regulations.**

21 All building code, housing code and other land use regulations of this chapter are applicable to a PD,  
22 except for those permitting special use permits and variances, and except to the extent that they  
23 conflict with a specific provision of the approved PD. Unless otherwise provided in the approved  
24 development plan, all land use regulations that apply in relation to a zoning district category, including  
25 the regulation of signs, shall apply to areas of a PD. All such land use regulations shall apply in other  
26 areas of a PD in the manner determined by the City Commission as part of the approved PD layout plan  
27 or, if not determined therein, by the Development Review Board during the development plan approval  
28 process, giving due regard to the purpose of each such regulation and the similarity of each area of the  
29 PD to other zoning districts, in terms of permitted uses.

30 **Section 30-3.25. Amendments to approved planned development.**

- 31 A. Except as noted in **subsection B** of this section, an amendment to an approved PD (except for an  
32 extension of a time limit) shall be accomplished only by a rezoning petition and ordinance  
33 accompanied by a new proposed PD. All appropriate maps, plans and reports submitted with the  
34 approved PD layout plan may be resubmitted with the rezoning petition, along with sufficient new  
35 maps, plans and reports to clearly and thoroughly indicate the proposed changes, as the new  
36 proposed PD layout plan.
- 37 B. Amendments to the final plan of an approved PD of the following types may be authorized by the  
38 Development Review Board during any required development plan review, provided such  
39 amendments meet the criteria set forth in this article for the development review process:
- 40 1. Minor adjustments or shifts in the location and siting of buildings, structures, parking bays and  
41 parking spaces;
  - 42 2. Changes in the location of utility tie-ins and solid waste, recycling, and yard trash containers;

- 1        3. Reductions in the overall density or intensity of structural ground coverage of the development;
- 2        4. Changes in the location and types of landscape materials, excluding changes in location of
- 3            buffers;
- 4        5. Minor changes in the walkway and bikeway systems;
- 5        6. The addition of accessory structures or utility buildings of less than 1,000 square feet where
- 6            there are no major changes to the perimeter features of the development;
- 7        7. The addition of up to 10 new parking spaces;
- 8        8. Any expansion of gross floor area or enlargement of the building envelope that does not require
- 9            the addition of required parking spaces or alter standards of the PD ordinance; and
- 10       9. Modifications that do not entail amendments to specific language included within the PD
- 11           ordinance.

12       **Section 30-3.26. Time limits for rezoning to planned development.**

13       The rezoning of property, by amendatory ordinance, to a PD district based on a particular PD layout  
 14       plan, shall operate the same as any other rezoning to prohibit the consideration by the City Plan Board  
 15       of any new petition for rezoning for any part of such property, excluding an application to amend the  
 16       approved PD layout plan, development plan, or both, for a period of 12 months from the date of the  
 17       amendatory action. Neither the denial of a petition to rezone to PD, nor the withdrawal of a petition to  
 18       rezone to PD, shall operate to deny the applicant consideration of a new rezoning petition at any time,  
 19       except that no new petition to rezone to PD may be considered by the City Plan Board within a period of  
 20       12 months from the date of such denial or withdrawal. The denial of a petition to rezone to a category  
 21       other than PD shall not act to prohibit the filing of a petition for PD zoning at any time.

22

23       **DIVISION 5. ZONING COMPLIANCE PERMITS**

24       **Section 30-3.27. Required.**

25       Except as otherwise specifically provided in this chapter, it shall be unlawful to conduct any of the  
 26       following activities until the City Manager or his/her designee has issued a zoning compliance permit  
 27       certifying that such activity complies with the applicable provisions of this chapter.

- 28       A. Begin a new business or use, or an addition to an existing business or use.
- 29       B. Make a change of use, as the term is defined in **article II** of this chapter, of any land or structure, or
- 30            to extend any use or any lot on which exists a nonconforming use.
- 31       C. Establish any business, profession or occupation, or to change the location of a business, profession
- 32            or occupation that is subject to a business tax as provided for in **sections 25-41 through 25-43 of the**
- 33            **Code of Ordinances.**

34       **Section 30-3.28. Procedures.**

- 35       A. *Application submittal.* Applications for a zoning compliance permit shall be submitted per **Section**
- 36            **30-3.62.**Error! Reference source not found..
- 37       B. *Staff review.* Upon receipt of a completed application, the City Manager or designee shall direct staff
- 38            to review the application to determine compliance with the applicable provisions of this chapter.

1 Final action shall be based on findings as to compliance with all applicable provisions of this chapter  
2 and shall be one of the following;

- 3 1. Approval;
- 4 2. Approval subject to conditions; or
- 5 3. Denial.

6 C. *Actions subsequent to decision.* In the case of approval or approval with conditions, the City  
7 Manager or designee shall issue the zoning compliance permit. In the case of denial of an  
8 application, the applicant shall be notified as soon as possible, of the reasons for such denial.

9 **Section 30-3.29. Expiration.**

10 If the use, construction or activity authorized by approval of an application for a zoning compliance  
11 permit is not commenced within six months of the date of issuance of the zoning compliance permit, or  
12 within such further time stipulated in such permit, the zoning compliance permit shall automatically  
13 expire. Any other approval, grant, certificate, building permit or special permit issued or granted by the  
14 City Plan Board, Development Review Board, City Commission, City Manager, building official or other  
15 official pursuant to or in conjunction with the zoning compliance permit shall become null and void  
16 unless any required work thereon is substantially underway or lawful use has begun within six months  
17 after the effective date of the issuance of such approval, certificate, grant, building permit or special  
18 permit, unless otherwise provided in this chapter. The City Manager or designee shall determine  
19 whether the use, construction or activity is substantially underway or has begun upon review of  
20 substantial competent evidence.

21 **Section 30-3.30. Revocation.**

22 If any conditions of a zoning compliance permit or other requirements of this chapter applicable to the  
23 permit are violated, the City Manager or designee may revoke the zoning compliance permit after  
24 reasonable notice has been given to the permit holder. The City Manager or designee may reinstate a  
25 revoked zoning compliance permit if he/she determines that:

- 26 A. The holder of a revoked zoning compliance permit submitted a request for reinstatement within 90  
27 calendar days of the revocation;
- 28 B. The violations that were the cause of the revocation have been corrected; and
- 29 C. The development fully complies with all conditions of the zoning compliance permit and all  
30 applicable requirements of this chapter.

31

32 **DIVISION 6. SPECIAL USE PERMITS**

33 **Section 30-3.31. Intent.**

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

1 **Section 30-3.32. Special use permit required.**

2 Those uses listed in **article V** as permitted special uses in a zoning district may be established in that  
3 district only after issuance and recordation of a special use permit by the City Plan Board.

4 **Section 30-3.33. Review criteria.**

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

- 9 A. The proposed use or development is consistent with the Comprehensive Plan and the Land  
10 Development Code.
- 11 B. The proposed use or development is compatible with the existing land use pattern and future uses  
12 designated by the Comprehensive Plan. Factors by which compatibility of the proposed use or  
13 development shall be reviewed include scale, height, mass and bulk, design, intensity, and character  
14 of activity.
- 15 C. The proposed use shall not adversely affect the health, safety, and welfare of the public.
- 16 D. Ingress and egress to the property, proposed structures, and parking/loading/service areas is  
17 provided and allows for safe and convenient automobile, bicycle, and pedestrian mobility at the site  
18 and surrounding properties.
- 19 E. Off-street parking, service, and loading areas, where required, shall not adversely impact adjacent  
20 properties shown as single-family on the future land use map.
- 21 F. Noise, glare, exterior lighting, or odor effects shall not negatively impact surrounding properties.
- 22 G. There is adequate provision for refuse and service/loading areas, and these areas shall be reviewed  
23 for access, screening, location on the site, and pedestrian/bicycle mobility and safety. Outdoor  
24 storage or display areas, if included, shall not adversely impact surrounding properties and shall be  
25 reviewed for screening and location on the site.
- 26 H. Necessary public utilities are available to the proposed site and have adequate capacity to service  
27 the proposed use or development.
- 28 I. Screening and buffers are proposed of such type, dimension, and character to improve compatibility  
29 and harmony of the proposed use and structure with the uses and structures of adjacent and nearby  
30 properties.
- 31 J. The hours of operation do not adversely impact adjacent properties designated single-family on the  
32 future land use map.
- 33 K. Any special requirements set forth in the Land Development Code for the particular use involved.

34 **Section 30-3.34. Pre-application conference.**

35 Pre-application meeting. A pre-application meeting is not required; however, the applicant is  
36 encouraged to attend a meeting with staff to go over procedural and regulatory requirements.

37 **Section 30-3.35. First step meeting.**

38 Prior to filing an application for development plan review, the applicant shall attend a first step meeting  
39 to discuss the development review process, code requirements and to confer with staff about the

1 development process. The first step meeting may be attended by staff of the Technical Review  
2 Committee or staff of the planning and development services department. Comments made by staff at  
3 a first step meeting are made solely for preliminary informational purposes and shall not be construed  
4 as an approval or denial or agreement to approve or deny any development order.

5 **Section 30-3.36. Procedures for approval.**

- 6 A. *Applications submittal.* Each application shall be filed with the city's planning and development  
7 services department on the form prescribed. Applications shall include a development plan or  
8 master plan in accordance with this article. Any incomplete applications will be returned to the  
9 applicant. The application shall include proof of having met the requirements of **Section 30-3.9,**  
10 neighborhood workshop.
- 11 B. *Preliminary conference with applicant.* The applicant for a special use permit shall meet with the  
12 Technical Review Committee to discuss the procedures and requirements and to consider the  
13 elements of the proposed use and site and the proposed site layout.
- 14 C. *Report to City Plan Board.* The City Manager or designee shall submit to the City Plan Board a  
15 written report that includes analysis of the application and a recommendation based on the findings  
16 required in **Section 30-3.33 and 0.**
- 17 D. *City Plan Board hearing and action.*
- 18 1. The City Plan Board shall consider the evidence presented in the public hearing and the written  
19 report submitted by the City Manager or designee and shall act on the application based on the  
20 findings required in **Section 30-3.33 and 0.**
  - 21 2. Action on the application shall be one of the following:
    - 22 a. Approval;
    - 23 b. Approval subject to conditions; or
    - 24 c. Denial, with a statement of the reasons for denial.
- 25 E. *Effect of denial or withdrawal on subsequent application.* No application for a special use permit  
26 shall be entertained within two years after the denial or withdrawal of a request for the same use  
27 for the same property. The City Plan Board may waive this time limitation by the affirmative vote of  
28 a super [sic] majority of the members provided 30 calendar days have elapsed since the action of  
29 the City Plan Board to deny the original request, and the City Plan Board deems such action  
30 necessary to prevent an injustice.
- 31 F. *Amended application.* Amendment of a petition by the applicant may be permitted at any time prior  
32 to or during the public hearing, provided that no such amendment shall be such as to make the case  
33 different from its description in the notice of public hearing. If the amendment is requested by the  
34 applicant after notice of the hearing has been given, and such amendment is at variance with the  
35 information set forth in the notice, the applicant shall pay an additional fee, in the same amount as  
36 the original fee, to cover amended public notice. If the amended notice can be mailed at least 10  
37 calendar days prior to the hearing originally scheduled, the hearing on the amended petition may be  
38 held on that date, otherwise the chairperson shall announce that the public hearing will be  
39 continued to a future meeting, before which appropriate notice will be given.
- 40 G. *Appeal of decision.* Any affected person may appeal the City Plan Board's decision on an application  
41 for a special use permit to a hearing officer. The appeal shall be filed within 15 calendar days of the



1 decision. The procedure for the appeal shall be the same as is provided in **Section 30-3.78** for  
2 appeals from decisions of the Development Review Board.

3 H. *Final development plan approval.* Prior to the issuance of any development order or building permit,  
4 final development plan approval will be required in accordance with applicable provisions of this  
5 Article.

6 **Section 30-3.37. Amendments to and modification of special use permits.**

7 Any change or amendment that modifies one of the following criteria shall constitute a modification of  
8 the special use permit and will be processed as a new special use permit:

9 A. A change in the boundaries of the approved site;

10 B. A change from the approved use;

11 C. Either an increase of 10% or more or incremental increases that total 10% or more in the floor area  
12 or number of parking spaces as approved;

13 D. Substantial changes in the approved location of principal and/or accessory structures;

14 E. Structural alterations significantly affecting the basic size, form, style, ornamentation and  
15 appearance of principal and/or accessory structures as shown on the approved plans;

16 F. Substantial changes in approved pedestrian or vehicular access or circulation; and

17 G. Substantial change in the approved amount or location of landscape screens or buffers.

18 **Section 30-3.38. Expiration, abandonment, revocation and extension of permits.**

19 A. *Expiration.* Special use permits issued under this article will expire within 12 months, or an  
20 additional time period should the City Plan Board deem necessary, if the petitioner has taken no act  
21 in reliance on the issued permit.

22 B. *Abandonment of permits.* On request of the permit holder, the Planning and Development Services  
23 Department may approve the abandonment of a special use permit provided no construction has  
24 begun.

25 C. *Cessation of use.* If use granted by a special use permit pursuant to this article ceases for a  
26 continuous period of 12 months, the permit becomes void.

27 D. *Revocation of permit.* If any conditions of the special use permit are violated, the permit issuing  
28 authority may revoke the permit after giving proper notice to the grantee. The permit may be  
29 reinstated by the department of planning and development services if the circumstances leading to  
30 the revocation are corrected.

31 E. *Extension of permit.* At the request of the applicant and for good cause shown, the board may, at a  
32 public hearing, extend the time of the permit's expiration, if no acts of reliance have occurred. The  
33 extension may only be granted if all the concurrency management requirements of this chapter can  
34 be met and if the extension would not be in conflict with any other ordinance of the city.

35

36 **DIVISION 7. WELLFIELD PROTECTION SPECIAL USE PERMIT**

37 **Section 30-3.39. Purpose.**

38 A. This division is established for the purpose of protecting the immediate and long-term supply of  
39 potable water in the community by creating a permit procedure for uses and developments within

1 the Murphree Wellfield Protection Zones (a/k/a Murphree Wellfield Management Zones) as  
2 delineated in the Alachua County Code of Ordinances, as may be amended from time to time, and to  
3 provide the standards by which the applications for permits for uses and development shall be  
4 evaluated.

- 5 B. It is further intended that wellfield protection permits or wellfield protection special use permits be  
6 required for developments that require special care in the control of their location, design and  
7 methods of operation in order to ensure conformance with the city's Comprehensive Plan and  
8 Alachua County Murphree Wellfield Management Code (a/k/a Murphree Wellfield Protection Code),  
9 as may be amended from time to time.

10 **Section 30-3.40. Permit required.**

11 Within the primary, secondary and tertiary wellfield protection (management) zones of Alachua County,  
12 all new development and existing development that will intensify, expand or modify a use directly  
13 associated with the storage of hazardous materials, except for uses allowed within the residential zoning  
14 districts, as defined in **Article II**, and uses exempted under **Section 30-3.41** (hereinafter "exempt use"),  
15 shall be required to obtain a wellfield protection permit, or a wellfield protection special use permit,  
16 whichever is applicable, as issued by the City Commission or City Manager or designee, as provided  
17 herein. In addition, all existing development that requires any level of development plan review for  
18 expansion or changes at a site shall be required to obtain a wellfield protection permit, or a wellfield  
19 protection special use permit, unless the development is an exempt use.

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

27 **Section 30-3.41. Exemptions.**

- 28 A. Any proposed uses or development associated with the Murphree Water Treatment Plant, or  
29 electric transmission and distribution systems or generally the provision of utility service by a  
30 government-owned utility shall be exempt from the wellfield protection permit and wellfield  
31 protection special use permit requirements.
- 32 B. Exemptions from the permit requirements shall be allowed for uses and developments that meet  
33 the following criteria, except for specially regulated industrial uses allowed by special use permit :
- 34 1. There is no manufacture, storage, use, or sale of hazardous materials at the site or development  
35 as defined and regulated in the Alachua County Hazardous Materials Management Code, other  
36 than hazardous materials excluded from the provisions of the Hazardous Materials Management  
37 Code, as may be amended from time to time.
  - 38 2. The project is part of an environmental cleanup or facility upgrade that is required by a local,  
39 state or federal environmental agency, and the project is in compliance with the Alachua County  
40 Hazardous Management Materials Code and all other applicable state and federal regulations.
  - 41 3. Redevelopment of an existing site that may manufacture, store, use, or sell hazardous materials  
42 at the site or development as defined and regulated in the Alachua County Hazardous Materials  
43 Management Code, but where the actual development project will not involve hazardous

1 materials other than those associated with similar construction projects, and the project is in  
2 compliance with the Alachua County Hazardous Materials Management Code and all other  
3 applicable state and federal regulations.

- 4 C. "Hazardous material" shall be as defined in the Alachua County Hazardous Materials Management  
5 Code.

6 **Section 30-3.42. Procedures for approval.**

- 7 A. *Preliminary conference with applicant.* The applicant for a wellfield protection special use permit  
8 shall meet with staff to discuss the procedures and requirements and to consider the elements of  
9 the proposed use and site, and the proposed site plan.

- 10 B. *Application submittal.* Applications will be filed with the City Manager or designee on the form  
11 prescribed. Any incomplete applications will be returned to the applicant.

12 Applications shall include a preliminary development plan. However, if any of the items required for  
13 the preliminary development plan are inapplicable or irrelevant to a proposed development, such  
14 item may be omitted upon approval of the appropriate staff, provided the applicant identifies in  
15 writing any missing item and includes a brief explanation of why it is inapplicable or irrelevant. The  
16 City Commission may, at the public hearing, approve the omission of items from the preliminary  
17 development plan if the City Commission finds they are not relevant to a determination that the  
18 proposed use or development meets the requirements of **Section 30-3.44**.

- 19 C. *Staff review.* The staff shall review the request and submit to the City Plan Board a written analysis  
20 of the application and a recommendation based on the findings required in **Section 30-3.44** and  
21 development plan review process. The City Plan Board shall forward a recommendation on the  
22 special use permit to the City Commission.

- 23 D. *City Plan Board review.*

24 1. In considering whether to recommend approval of an application for a wellfield protection  
25 special use permit, the City Plan Board will consider the evidence presented in the public  
26 hearing and the city staff report and shall make a recommendation to the City Commission on  
27 the application based on the findings required in **sections 30-4.59 and 30-4.62** and the  
28 development plan review process. The recommendation of the plan board is advisory only;  
29 however, the decision should be based on evidence presented at the hearing or otherwise in the  
30 record.

31 2. Burden of presenting evidence. The burden of presenting a complete application and evidence  
32 to support the findings necessary to obtain a wellfield protection special use permit shall be  
33 upon the applicant.

34 3. The City Plan Board shall send a recommendation to the City Commission for approval, approval  
35 subject to conditions, or denial stating the reasons for denial.

- 36 E. *City Commission review.*

37 1. In considering whether to approve of an application for a wellfield protection special use permit,  
38 the City Commission will consider the City Plan Board recommendation, evidence presented in  
39 the public hearing and the city staff report and shall act on the application based on the findings  
40 required in **Section 30-3.41 , Section 30-3.44 and 0**. The hearing shall be held and the order  
41 granting or denying the permit shall be issued pursuant to City Commission rules for a quasi-  
42 judicial hearing. All findings shall be based on competent, substantial evidence.

- 1           2. The City Commission shall approve, approve subject to conditions, or deny the application. If  
2           the application is denied, the City Commission shall issue a statement with the reasons for  
3           denial.
- 4       F. *Notice of decision.* The decision of the City Commission shall be sent to the applicant by certified  
5           mail. If a wellfield protection special use permit is approved or approved with conditions, the permit  
6           will be filed in the department of planning and development services.
- 7       G. *Final development plan approval.* Prior to the issuance of any development order or building permit,  
8           final development plan approval will be required in accordance with applicable provisions of this  
9           article.

10   **Section 30-3.43. Limit on petitions for the same property.**

11   No application for a wellfield protection special use permit shall be entertained within two years after  
12   the denial or withdrawal of a request for the same use for the same property. The City Commission may  
13   waive this time limitation by the affirmative vote of a super-majority of the members provided 30  
14   calendar days have elapsed since the action of the City Commission to deny the original request, and the  
15   City Commission deems such action necessary to prevent an injustice.

16   **Section 30-3.44. Criteria for issuance.**

- 17   A. *Wellfield protection permit.* After an assessment by appropriate Gainesville Regional Utilities,  
18           Alachua County Environmental, public works and planning and development services staff, the City  
19           Manager or designee may approve and issue a wellfield protection permit in the tertiary and  
20           secondary zones in accordance with this article, based on the review criteria contained in **Section**  
21           **30-3.33** for all special use permits.
- 22   B. *Wellfield protection special use permit.*
- 23           1. Development in the secondary zone and tertiary zone that cannot be exempt under **Section 30-**  
24           **3.41** or approved by City Manager or designee under **Section 30-3.44.A** shall apply for a wellfield  
25           protection special use permit in accordance with **Section 30-3.42**. The development or use shall  
26           be reviewed using the following criteria:
- 27                   a. Whether criteria listed in **subsection 30-4.62**, have been complied with; and
- 28                   b. Whether the development properly addresses environmental features such as wetlands,  
29                   creeks, lakes, sinkholes and soils to ensure that hazardous materials will not endanger the  
30                   potable water supply and the environmental features.
- 31           2. *Development in the primary zone.* No use involving hazardous materials shall be allowed in this  
32           zone, except for uses or development associated with the Murphree Water Treatment Plant, or  
33           electric transmission and distribution systems or generally the provision of utility service by a  
34           government-owned utility. All other uses shall obtain a wellfield protection special use permit.

35   **Section 30-3.45. Amendments to and modification of permits.**

- 36   A. *Amended application.* Amendment of a petition by the applicant may be permitted at any time prior  
37           to or during the public hearings, provided that no such amendment shall be such as to make the  
38           development different from its description in the notice of public hearings. If the amendment is  
39           requested by the petitioner after public notice of the hearings has been given, and such amendment  
40           is at variance with the information set forth in the public notice, the petitioner shall pay an  
41           additional fee, in the same amount as the original fee provided for in this article, to cover amended  
42           public notice. If the amended notice can be mailed and published 10 calendar days prior to the

1 hearing originally scheduled, the hearings on the amended petition may be held on that date,  
2 otherwise the chairperson shall announce that the hearing originally scheduled on the petition will  
3 be continued to a future meeting, before which appropriate public notice will be given, and will  
4 state the reasons for the continuance.

5 B. Minor changes in the development plans associated with wellfield protection special use permits  
6 may be permitted in accordance with the rapid review process as provided in **Section 30-3.60**

7 C. Regardless of the above, any change or amendment that modifies one of the following criteria shall  
8 constitute a modification of the wellfield protection special use permit and will be processed as a  
9 new application:

- 10 1. A change in the boundaries of the approved site, except for minor boundary adjustments;
- 11 2. A change from the approved use to a new use regulated under this section;
- 12 3. An increase in the storage capacity or type of any hazardous materials used, manufactured, sold  
13 or stored at the site, including new hazardous materials not previously listed in the original  
14 wellfield protection special use permit. This criterion shall not apply to hazardous materials  
15 excluded from the provisions of the Alachua County Hazardous Materials Management Code, as  
16 may be amended from time to time.

17 **Section 30-3.46. Expiration, abandonment, revocation/suspension, transfer and extension of permits.**

18 A. *Expiration.* Permits issued under this article will expire within 12 months, or an additional time  
19 period should the City Commission deem necessary, unless the petitioner has been issued a building  
20 permit. After the petitioner receives a building permit, if the building permit expires, the wellfield  
21 protection special use permit shall also automatically expire.

22 B. *Abandonment of permits.* On request of the permit holder, the City Manager or designee may  
23 approve the abandonment of a special use permit provided no construction has begun.

24 C. *Cessation of use.* If a use granted by a wellfield protection special use permit pursuant to this article  
25 ceases for a continuous period of 12 months, the permit becomes void and of no further force and  
26 effect.

27 D. *Revocation or suspension of permit.* If any conditions of the wellfield protection special use permit  
28 are violated, the City Commission may issue an order to show cause why the permit should not be  
29 suspended or revoked. If the permit holder does not request a hearing on the suspension or  
30 revocation, or does not produce evidence that the conditions of the permit are not being violated,  
31 the City Commission may revoke or suspend the permit. The City Commission may reinstate the  
32 permit if the circumstances leading to the revocation or suspension are corrected and the permit  
33 holder provides evidence of the correction at a hearing before the City Commission.

34 E. *Transfer of permit.* If there is a change of ownership or operator at the development site, the new  
35 owner or operator shall inform the city of its identity and registered agent for service of notice  
36 within 30 calendar days. Failure to do so shall be considered a violation of a condition of the permit.

37 F. *Extension of permit.* At the request of the applicant and for good cause shown, the City Commission  
38 may, at a public hearing, extend the time of the permit's expiration, if unforeseen delays have  
39 occurred that are not attributable to the action or inaction of the applicant. The extension may only  
40 be granted if all the concurrency management requirements of this chapter can be met and if the  
41 extension would not be in conflict with any other ordinance of the city.

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**DIVISION 8. SUBDIVISIONS AND STREET VACATION**

**Section 30-3.47. Purpose.**

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

**Section 30-3.48. Single lot replatting.**

- A. *Purpose and intent.* The purpose of this section is to establish an abbreviated process by which existing (improved) subdivision lots may be replatted without going through the standard process of platting or replatting subdivisions.
- B. *When a lot may be replatted.* Individual lots shown on recorded plats that depict easements or front, side, or rear building setback lines may be replatted under this section. The lot shall be improved (building or structure) and there shall be an encroachment upon one or more of the building setback lines or easements indicated on the recorded plat.
- C. *Application.* An application form provided by the department of community development shall be completed and filed with the department, accompanied with the following:
  - 1. Six paper copies of the proposed (final) plat of the lot. The record plat should be signed by all lot owner(s) of record and mortgagee(s), if any;
  - 2. Six copies of a survey of the lot and improvements certified by a professional land surveyor registered in the state as to meeting minimum technical standards set forth pursuant to F.S. § 472.027. The survey should be drawn and submitted on a drawing no less than 11 inches by 17 inches in size;
  - 3. Six copies of the existing recorded subdivision;
  - 4. Title evidence that conforms to the requirements of F.S. § 171.041;
  - 5. Taxes paid receipt;
  - 6. Formal consent of the requisite number of owners of properties within the subdivision or from the authorized representative of the homeowners association of the subdivision or other authorized entity or individual affixed to or attached to the linen or film that will be recorded in the public records;
  - 7. In the event there is an encroachment over, under, upon or through an easement, the release or extinguishment of the easement from appropriate utility(ies).

1 8. An opinion from an attorney addressed to the City of Gainesville that the homeowners  
2 association, entity or owner(s) of property have the authority to amend the restrictions,  
3 platlines, easements, etc., as applicable, and that the consent has been properly executed by  
4 the appropriate parties.

5 D. *Process.*

6 1. Application plus all supporting documents shall be submitted to the department of community  
7 development.

8 2. The department of community development shall then transmit a copy of the replat materials to  
9 the several departments of the city for review and comment.

10 3. Upon the adoption of a resolution approving the replat of the single lot, the original linen or  
11 stable base film drawing of the replat shall be recorded with the clerk of the circuit court. It shall  
12 be recorded by the property owner requesting replat with all fees paid by that owner. Upon  
13 recording the replat, three signed and sealed linens and three signed and sealed paper print  
14 copies shall be submitted to the department of community development for its records.

15 **Section 30-3.49. Lot splits and lot line adjustments.**

16 A. *Lot splits.* Every lot split shall be processed in the following manner:

17 1. Prior to filing an application for a lot split the applicant shall schedule a pre-application  
18 conference with staff. After the pre-application conference, an application form provided by the  
19 planning and development services department shall be completed and filed with the  
20 department, accompanied with the following:

21 a. Six paper copies of a boundary survey and lot split for the proposed division prepared by a  
22 professional land surveyor registered in the state meeting minimum technical standards set  
23 forth pursuant to F.S. § 472.027; the proposed lot split should show the intended division,  
24 legal descriptions and acreage for the parent parcel and proposed lots; and

25 b. A statement indicating the location where water and/or sanitary sewer service is available  
26 to the property, and a statement indicating that all utility service shall be installed beneath  
27 the surface of the ground in accordance with **section 30-7.1.**

28 2. The lot split shall conform to the following standards:

29 a. Each proposed lot shall conform to the provisions of this chapter.

30 b. Each lot shall front a public street or approved private street for the required minimum lot  
31 width for the zoning district/category where the lots are located, except as provided in  
32 **section 30-7.1.**

33 c. If any lot abuts a street right-of-way that does not conform to the design specifications  
34 provided in **section 30-7.16.C**, as further specified in the public works design manual, the  
35 owner may be required to dedicate one-half the right-of-way width necessary to meet the  
36 minimum design requirements. This dedication shall be accomplished in the manner  
37 provided in **subsection (a)(2)d.**

38 d. A lot split shall be allowed only where water, sewer, fire and solid waste services are  
39 available to service the proposed lots. Alternatively, in the event city water or sewer is not  
40 available at any lot line, the lot may be served by a well or septic tank; provided the lot is a  
41 minimum size of one acre and the well or septic tank is permitted and approved by the

1 governmental agencies with jurisdiction. Based on the review by the governmental  
2 permitting agencies, a well or septic tank may not be allowed within the wellfield districts,  
3 special environmental concern areas or areas with the presence of hazardous materials or  
4 known environmental contamination, due to health and safety concerns. Further, at the  
5 time city water or sewer become available at the lot line, the property owner shall, at its  
6 sole expense, connect to city water or sewer. This connection requirement shall run with  
7 the land and shall be evidenced in a written document executed by the property owner and  
8 recorded in the public records of Alachua County, Florida, at the time of approval of the lot  
9 split. In the case of a vacant lot, the connection shall be required at the time of application  
10 for development. In the case of existing development (other than single-family or two-  
11 family), the connection shall be required at the time of application for development plan  
12 review at the minor review level or higher. In the case of single-family or two-family  
13 development, the connection shall be required at the time of application for a permit for an  
14 additional bathroom or for any structure equal to or greater than 25% of the square footage  
15 of the existing principal structure.

- 16 3. Upon receipt of a complete application, the planning and development services department  
17 shall then transmit a copy of the proposed lot split to the several departments of the city for  
18 review and comments. The planning and development services department shall process only  
19 those lot splits that do not require any street, sidewalk, bikeway, bridge, drainage facility,  
20 screening wall or any other improvement required under this chapter.
- 21 4. If the proposed lot split meets the conditions of this section and otherwise complies with all  
22 applicable laws and ordinances, the City Manager or designee shall approve the lot split by  
23 affixing his/her signature to the application form.
- 24 5. Upon approval of the lot split, the planning and development services department shall record  
25 the split on the appropriate maps and documents in the department. In addition, lot splits shall  
26 be filed with the Alachua County Property Appraiser's office and in the public records of Alachua  
27 County.
- 28 6. *Restrictions.*
- 29 a. Lot splits are not permitted in minor subdivisions approved in accordance with the  
30 provisions of this chapter.
- 31 b. No further division of an approved lot split is permitted, unless a minor subdivision or record  
32 plat is prepared and submitted in accordance with this chapter.
- 33 B. *Lot line adjustment.* The lot lines of lots within an existing minor subdivision or existing lot split may  
34 be altered in accordance with the following requirements:
- 35 1. An application for a lot line adjustment, signed by the owners of all lots that will be adjusted,  
36 shall be filed with the planning and development services department, and shall include a  
37 surveyor's affidavit prepared by a professional land surveyor registered in the state that  
38 describes and depicts the adjustment in the lot line(s) and references the filing or recording  
39 information for the minor subdivision or lot split.
- 40 2. The applicant shall pay the same fee as for a lot split as specified in Appendix A to this Code.
- 41 3. The application shall be reviewed by city staff to verify that the requested adjustment, if  
42 approved, will not create any nonconformity or violations of this code. If same are created, the  
43 application shall be denied.



- 1 4. The lot line adjustment, if approved by city staff, shall not be effective until the applicant  
2 records the surveyors affidavit in the public records of Alachua County.
- 3 5. A lot line adjustment shall only be used to adjust the lot line(s) of existing lots that were created  
4 by minor subdivision or lot split and shall not be used to further subdivide existing lots or create  
5 new lots.

6 **Section 30-3.50. Minor subdivision.**

7 A. *Minor subdivisions.* Every minor subdivision shall be processed in the following manner:

- 8 1. Prior to filing an application for a minor subdivision the applicant shall schedule a pre-  
9 application conference meeting with the city's Technical Review Committee. After the pre-  
10 application conference, an application form provided by the planning and development services  
11 department shall be completed and filed with the department accompanied with the following:
- 12 a. Six paper copies of a map of boundary survey and minor subdivision certified by a  
13 professional land surveyor registered in the state as to meeting minimum technical  
14 standards set forth pursuant to F.S. § 472.027. The survey shall be drawn on a 24-inch by 36-  
15 inch linen or stable base film with a three-inch margin on the left for binding, and a one-  
16 half-inch margin on the other three sides. Additional information to be shown on the survey  
17 shall include but not be limited to:
- 18 i. The lot lines, dimensions, legal descriptions and acreages for each lot being created.  
19 ii. The acreage of the total tract.  
20 iii. A vicinity map showing the location of the survey in relationship to major thoroughfares.  
21 iv. A note stating, "THIS IS NOT A RECORD PLAT."  
22 v. A municipal approval statement, to be signed by the director of planning and  
23 development services, director of public works and general manager for Gainesville  
24 Regional Utilities or their designee, certifying that the minor subdivision conforms to all  
25 applicable ordinances and regulations of the city.  
26 vi. A statement to be signed by the clerk of the court, stating, "Received and filed as an  
27 unrecorded map in accordance with Section 177.132, Florida Statutes."  
28 vii. The minor subdivision book and page where the survey is to be filed.  
29 viii. The exact location of all existing principal and accessory structures on each lot. If the  
30 existing structures obscure the alignment of the proposed lots they may be left off the  
31 map of minor subdivision and be submitted separately on a boundary survey of the  
32 parent parcel. Any shared use of said structures shall be clearly stated and shown as  
33 easements on the minor subdivision.
- 34 b. A statement indicating the location where water and/or sanitary sewer service is available  
35 to the property, and a statement indicating that all utility service shall be installed beneath  
36 the surface of the ground in accordance with **section 30-9.34**, and a statement indicating  
37 where stormwater management facilities are available to accommodate stormwater runoff  
38 of the proposed development; and
- 39 c. If located on an approved private street, a signed consent (in the form provided by the city)  
40 from the owners of each approved private street that serves the minor subdivision.

- 1 d. Payment of fees as required by Appendix A to this Code.
- 2 2. The minor subdivision shall also conform to the following standards:
- 3 a. Each proposed lot shall conform to the provisions of this chapter.
- 4 b. All existing principal and accessory structures on each lot shall conform to the use and
- 5 development standards of this Code.
- 6 c. All lots have city water and sewer services available and constructed to the lot line of at
- 7 least one lot, with appropriate easements granted to allow future water and sewer
- 8 connections to each of the lots at the time each lot is developed.
- 9 d. If the proposed minor subdivision abuts a public right-of-way that does not conform to the
- 10 provisions of **section 30-7.16.C**, as further specified in the public works design manual, the
- 11 owner(s) may be required to dedicate to the city, at no cost to the city, one-half of the right-
- 12 of-way width necessary to meet minimum design requirements for street rights-of-way, as
- 13 specified in **section 30-7.16.C**. If the proposed minor subdivision abuts both sides of a
- 14 substandard street, one-half of the right-of-way width necessary to meet those minimum
- 15 design requirements may be required from each side. The dedication of this right-of-way or
- 16 any easements necessary shall be accomplished by a separate document. The subdivider
- 17 shall provide the city with legal descriptions of all easements or rights-of-way to be
- 18 dedicated, and the city shall prepare and record the necessary documents as part of the
- 19 approval process.
- 20 e. Each lot in the minor subdivision shall front for the entire required minimum lot width on a
- 21 public street or an approved private street. Where there is no minimum lot width
- 22 requirement, each lot shall abut a public street or approved private street for a width
- 23 equivalent to the maximum driveway width required in **section 30-7.14.H** plus any required
- 24 turning radii area. Notwithstanding the above, the length of street frontage may be
- 25 modified during minor subdivision review by the public works and planning and
- 26 development services departments, based on the need to achieve the most efficient lot
- 27 layout, access to and from the minor subdivision, operational needs of service vehicles,
- 28 vehicular circulation and the health, welfare and safety of the public.
- 29 f. The minor subdivision shall create vehicular and pedestrian access to serve the minor
- 30 subdivision and improve gridded connectivity by connecting to surrounding existing streets
- 31 and by including new streets within the minor subdivision so that the resulting block(s) will
- 32 not exceed a maximum block perimeter of 2,000 feet. Modifications to this requirement
- 33 may be granted by the Technical Review Committee where the construction of a street is
- 34 limited by existing conditions such as, but not limited to:
- 35 i. Access management standards;
- 36 ii. Regulated environmental features; or
- 37 iii. Public facilities, such as, but not limited to, stormwater facilities, parks, or schools.

38 Alternatively, where the Technical Review Committee determines that it is not possible to

39 construct the streets that would be required to meet the block perimeter standard, the

40 block perimeter shall be completed with the provision of pedestrian and bicycle paths or

41 multi-use paths. The required streets or paths shall be constructed at the expense of the

42 owner/subdivider according to the appropriate city standards as determined through the

43 minor subdivision review process, but may be sited and configured in a manner so that the

1 streets provide the most appropriate access to the minor subdivision and connectivity to the  
2 surrounding street network. Where a street or path is planned to provide a future  
3 connection to a street or path beyond the extent of the minor subdivision, the  
4 owner/subdivider shall provide for the connection of the street by stubbing out the road  
5 improvements as close as practicable to the boundary of the minor subdivision.

- 6 g. Each approved private street shall meet the following requirements in addition to the  
7 requirements in **section 30-7.1.A:**
- 8 i. An approved private street shall be paved to a minimum width of 12 feet wide for one-  
9 directional traffic flow and 18 feet wide for two-directional traffic flow. Alternatively, a  
10 determination shall be made by the city public works department, the city fire rescue  
11 department, and city solid waste department that the approved private street is  
12 adequate to support service vehicles as necessary to provide municipal services.
  - 13 ii. The structure and sub-base of the approved private street shall meet the standards set  
14 forth in the public works design manual.
  - 15 iii. Each approved private street shall be connected directly to a public street or to another  
16 approved private street. The method and type of connection shall be subject to  
17 approval by the city public works department in accordance with the standards set forth  
18 in the public works design manual. The private street serving the minor subdivision shall  
19 have a maximum length of 1,000 feet (measured by traversing the length of the  
20 approved private street from its farthest extent to the nearest public street). At the  
21 point the private street reaches 1,000 feet in length, the shall provide one of the  
22 following, as determined by the city fire rescue department, appropriate emergency  
23 connection to the nearest public road, if such a connection can be made on property  
24 within the minor subdivision; or a turnaround sized to accommodate fire and rescue  
25 vehicles.
  - 26 iv. The owners of each approved private street shall provide necessary easements to the  
27 city for the purpose of providing municipal services. Alternatively, if the city finds the  
28 street serves a valid public purpose, the owners may gratuitously dedicate an approved  
29 private street for purposes of public right-of-way.
  - 30 v. Lots created on an approved private street shall be designed to minimize the number of  
31 curb cuts onto the street. Shared driveway access shall be required of adjoining lots,  
32 except where an odd number of lots are created, in which case, one lot, as determined  
33 by the city public works department, may be allowed to have a separate driveway.
  - 34 vi. Approved private streets shall provide a sidewalk having a minimum width of five feet.  
35 The sidewalk shall be provided on one side of the street in accordance with standards of  
36 the public works design manual. Where five feet of pavement is not possible due to a  
37 natural or permanent man-made obstruction, the pavement width may be decreased to  
38 a minimum of three feet as necessary to avoid the obstruction. If paving is not possible  
39 due to natural conditions, a minimum three-foot wide stabilized pedestrian trail shall be  
40 constructed.
  - 41 h. All proposed minor subdivisions shall meet the level of service standards in the  
42 Comprehensive Plan. Proof of meeting these standards shall exist in the form of a certificate  
43 of concurrency exemption, certificate of preliminary concurrency or certificate of

1 conditional concurrency reservation. The approval of a nonresidential minor subdivision in  
2 no way reserves capacity for the purposes of concurrency.

- 3 3. Upon receipt of a complete application, the planning and development services department  
4 shall then transmit a copy of the proposed minor subdivision to the several departments of the  
5 city for review and comment. Minor subdivisions that require any street, sidewalk, bikeway,  
6 bridge, drainage facility, screening wall or any other improvement required under this chapter  
7 may receive conditional approval but will not receive final approval or be filed with the clerk of  
8 the circuit court until all required improvements are fully constructed and approved by the city.  
9 No building permits may be issued for any of the lots until final approval is granted and the  
10 minor subdivision is filed.
- 11 4. If the proposed minor subdivision meets the conditions of this section and otherwise complies  
12 with all applicable laws and ordinances, the Technical Review Committee shall approve the  
13 minor subdivision by affixing their signatures to the original document.
- 14 5. Upon approval of the minor subdivision, the original linen or stable base film drawing of the  
15 survey and any covenants, deed restrictions or other required documents shall be filed with the  
16 clerk of the circuit court as an unrecorded map, in accordance with F.S. § 177.132. It shall be  
17 filed by the subdivider with all fees paid by the subdivider. Upon filing of the approved minor  
18 subdivision, a copy of any required documents, two linen or mylar copies, and four paper copies  
19 of the filed minor subdivisions shall be submitted to the planning and development services  
20 department for its records.

21 **Section 30-3.51. Subdivision review procedures.**

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

34 B. *Requirements of subdivision.* To effectuate the purpose and intent of this article, every subdivision of  
35 land or lot split within the city shall be made in accordance with the requirements specified in this  
36 article. Except for a minor subdivision or lot split, as provided for in **section 30-4.40 and 30-4.41**, and  
37 single lot replatting, as provided in **section 30-4.39**, such requirements include a pre-application  
38 conference, as provided in **section 30-4.42.C**; obtaining design plat approval, as provided in **section**  
39 **30-4.42.D**; obtaining construction plan approval, as provided in **section 30-4.42.J**; obtaining final  
40 plat approval, as provided in **section 30-4.42.K**; constructing required public improvements, as  
41 provided in **section 30-4.43**; and supplying bonds or other security for the construction and  
42 maintenance of such improvements, as provided in **section 30-4.44**. Proposed residential  
43 subdivisions shall meet the level of service standards adopted in the Comprehensive Plan. Proof of  
44 meeting these standards shall exist in the form of a certificate of concurrency exemption, certificate

1 of preliminary or final concurrency (as applicable at the particular review stage), or certificate of  
2 conditional concurrency reservation.

3 *C. Pre-application conference.*

4 1. *Required.* Prior to the preparation of a design plat, the subdivider shall seek the advice of the city  
5 staff to become familiar with the subdivision requirements, city policies and provisions of the  
6 Comprehensive Plan. The subdivider is encouraged to bring plans and data specified in  
7 **subsection (c)** so as to clearly show existing conditions of the site and its vicinity and the  
8 proposed layout of the subdivision. It is intended that the procedure will assist the subdivider in  
9 preparing a plat that will meet the requirements of this article. This procedure does not require  
10 a formal application or fee.

11 2. *Prohibited or discouraged designs or improvements.* As indicated in this article and further  
12 referenced in the design manual, certain practices, designs or improvements are discouraged or  
13 prohibited. If prohibited, a modification will be required pursuant to **subsection 30-4.45.B** in  
14 order for the same to be allowed. If discouraged, the same may be allowed by the City  
15 Commission depending on a proper showing of necessity (less than that required for a  
16 modification) and the infeasibility of requiring the preferred practices, designs or improvements  
17 when applied to the particular circumstances involved.

18 *D. Concept review (Sketch drawing).*

19 1. The applicant may submit an application for the optional concept subdivision review. The  
20 concept review for subdivision of land shall be done by city staff. A sketch shall be submitted by  
21 the subdivider for the concept review.

22 2. The sketch shall contain the following data:

23 a. Approximate tract boundaries;

24 b. Approximate location with respect to section lines;

25 c. Streets on and adjacent to the tract;

26 d. Proposed general street layout;

27 e. Environmental features including but not limited to significant topographical and physical  
28 features including regulated surface waters and wetlands, regulated natural and  
29 archaeological resources, creeks, uplands, lakes and wetlands FEMA and community  
30 determined flood plains, and heritage trees;

31 f. Generalized existing vegetation; including areas of native forest where the land shows no  
32 evidence of prior use for agriculture;

33 g. Proposed general lot layout and the total number of lots;

34 h. Existing buildings on the property;

35 i. Land use and zoning designation of the subject property; and

36 j. Generalized stormwater management plan.

37 3. The review schedule for concept subdivision plans shall follow the same submittal and review  
38 schedule for development plans. As far as may be practicable on the basis of a sketch, the  
39 reviewer will, without prejudice to the city, advise the subdivider of the extent to which the  
40 proposed subdivision conforms to the standards of this chapter and other applicable ordinances

1 or statutes, and will discuss possible plat modifications necessary to secure compliance and  
2 whether a traffic study will be required.

3 E. *Design plat requirements and approval.*

4 1. *Generally.* Following the pre-application conference, the public notice process, and prior to any  
5 subdivision of lands, the subdivider shall first obtain approval of a design plat from the  
6 Development Review Board and City Commission, pursuant to the procedures and specifications  
7 provided in this article. Prior to the recording of an approved final plat, or prior to the  
8 conditional approval of a final plat, clearing and grubbing of land, tree removal and the  
9 construction of improvements is expressly prohibited. Following a pre-application conference on  
10 a parcel, the requirements of this **subsection (a)** become applicable and supersede any other  
11 regulation on tree removal.

12 2. *Application.* To obtain design plat approval, the subdivider shall submit an application and the  
13 appropriate filing fee to the planning and development services department, on such form as  
14 provided by the department. Each application shall include multiple copies of the design plat as  
15 necessary to facilitate the review process, prepared in accordance with the standards specified  
16 in this chapter and including all of the items required by **subsection 30-4.42.D**. Proposed  
17 residential subdivisions shall meet the level of service standards adopted in the Comprehensive  
18 Plan. Proof of meeting these standards shall exist in the form of a certificate of concurrency  
19 exemption, certificate of preliminary concurrency or certificate of conditional concurrency  
20 reservation.

21 4. *Fees.* The fee required with an application for design plat approval shall be in accordance with  
22 the schedule set out in Appendix A of the City Code. Such fees are required to defray the cost of  
23 filing the application, notifying interested parties, conducting investigations, and holding  
24 hearings on the design plat and final plat.

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

29 6. *Specifications.*

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

36 i. Proposed name of the subdivision;

37 ii. Name and registration number of surveyor;

38 iii. Date of survey approval, north point with bearing or azimuth reference clearly stated in  
39 the notes or legend, graphic and written scale, and space for revision dates;

40 iv. Vicinity map showing location with respect to major roads and acreage of the  
41 subdivision;

42 v. Boundary line of the tract by bearings and distances;

- 1 vi. Legal description of the tract to be subdivided;
- 2 vii. Preliminary layout including streets, alleys and easements with dimensions and  
3 proposed street names, lot lines with approximate dimensions, land to be reserved or  
4 dedicated for public uses, and designation of any land to be used for purposes other  
5 than single-family dwellings;
- 6 viii. Total number of lots;
- 7 ix. The front building setback line for each lot; and
- 8 x. An inscription stating "NOT FOR FINAL RECORDING."
- 9 xi. Sidewalks, on all streets, on both sides, and at least five feet wide. Sidewalks not  
10 required on cul-de-sac or dead end or loop less than 100 feet long. Sidewalk required on  
11 at least one side of street on cul-de-sac or dead end or loop from 100 to 250 feet long,  
12 and for a project in which the closest lots to a connecting street on a cul-de-sac or dead  
13 end are at least 1,000 feet from the street it stems from. Sidewalks on both sides on cul-  
14 de-sac or dead end or loop greater than 250 feet long.
- 15 b. The design plat shall also contain or be accompanied by:
- 16 i. The name, address and telephone number of the property owner and of any agent of  
17 the property owner involved in the subdivision of the property;
- 18 ii. The exact locations, names and widths of all existing streets, alleys and recorded  
19 easements within and immediately adjoining the subdivided lands;
- 20 iii. The location and a general description of any utilities facility on the subdivision tract;
- 21 iv. The invert elevation of existing and proposed sewers;
- 22 v. The location and size of existing improvements on the subdivision tract;
- 23 vi. The zoning and land use plan designations of lands within the subdivision tract and of  
24 abutting property;
- 25 vii. Natural and manmade features on the subdivision tract, including creeks, ponds, lakes,  
26 sinkholes, wetlands, watercourses, municipal and community wellfield management  
27 zones, major aquifer recharge areas, and lands within the floodplain and flood channel  
28 as shown on the community determined flood control maps and FEMA;
- 29 viii. The location of all major tree groupings and identification of all heritage trees by genus  
30 and species on the subdivision tract, a designation of which tree groupings and heritage  
31 trees are proposed to be removed, and identification by genus and species of all  
32 regulated trees located in or within 15 feet of any proposed right-of-way or utility  
33 improvement. A generalized landscaping plan that shows the locations of the required  
34 shade trees with the appropriate space allocations to meet code requirements for street  
35 trees, buffers, retention basins and stormwater management facilities. The design plat  
36 and the final plat shall include a statement that all champion and high quality heritage  
37 trees shall be preserved or mitigated in accordance with the requirements of this code.
- 38 ix. Stormwater management plan in accordance with **section 30-7.6** and the public works  
39 design manual;
- 40 x. A soil survey map;

- 1 xi. A generalized statement outlining, as far as is known, the subsurface conditions of the  
2 subdivision tract, including subsurface soil, rock and groundwater conditions, the  
3 location and results of any soil permeability tests, the location of any underground  
4 storage tanks, and the location and extent of any muck pockets;
- 5 xii. A topographic map of the subdivision tract and a minimum of 100 feet or more of the  
6 surrounding area as required to determine the offsite drainage and any impacts caused  
7 by or related to the offsite drainage. The map shall be prepared by a land surveyor, with  
8 maximum intervals of one foot where overall slopes are no more than 2%, two feet  
9 where slopes are between two and 10%, and five feet where slopes are 10% or greater  
10 based on North American Vertical Datum, 1988; and
- 11 A general location map showing the relationship of the subdivision tract to such external  
12 facilities as streets, residential area, commercial facilities and recreation/open space  
13 areas, and greenways, within one mile of the tract.
- 14 xiii. A plan for the elimination and future control of invasive non-native plant species from  
15 the site. The non-native removal shall be completed as specified in the management  
16 plan prior to the issuance of the first certificate of occupancy and yearly inspections for  
17 three years to assure that infested areas have remained at less than 10% of the initial  
18 population.
- 19 c. If the proposed subdivision contains land located within the floodplain as shown on the  
20 community determined flood control maps and FEMA maps, the subdivider shall be  
21 required to submit topographic information for areas adjoining sides of the channel, cross  
22 sections for land to be occupied by the proposed development, high water information,  
23 boundaries of the land within the floodplain and other pertinent information.
- 24 d. If the proposed subdivision includes regulated surface waters or wetlands, or regulated  
25 natural and archaeological resources, the subdivider shall be required to submit the  
26 following additional information for those areas designated:
- 27 i. A design plat showing buffer distances between the areas to be developed and  
28 regulated surface waters and wetlands, and regulated natural and archaeological  
29 resources.
- 30 ii. Square footage and percent of total subdivision tract to consist of impervious surface.
- 31 iii. A description of strategies to protect or restore environmental features on the  
32 subdivision tract.
- 33 iv. Projected on-site and off-site water quality impacts to Outstanding Florida Waters,  
34 OFW, which may result from the proposed subdivision.
- 35 v. Any required set-aside, conservation management area, or mitigation area.

36 F. *Officials' examination.*

- 37 1. Prints of the design plat shall be referred by the planning and development services department  
38 to the Technical Review Committee and other applicable departments and agencies for review  
39 and findings. The officials involved shall report their findings and recommendations to the  
40 planning and development services department.



- 1        2. The director of public works or designee shall examine and check the design plat to determine if  
2        the application conforms to criteria for general engineering, traffic stormwater management,  
3        flood plains and maintenance easement requirements.
- 4        3. The general manager for utilities or designee shall examine and check the design plat for needed  
5        utility easements.
- 6        4. The planning and development services department shall, at the Development Review Board  
7        and City Commission hearings on the design plat, report the recommendations of the several  
8        agencies above-mentioned and county, state and federal agencies, together with an analysis of  
9        the conformance and nonconformance of the design plat to the provisions of this chapter and  
10       other applicable requirements.
- 11    G. *Review of design plat.* The Development Review Board review shall include consideration of staff  
12    findings and evidence and testimony from the general public. The board shall determine if the  
13    proposed subdivision is in conformity with the general goals and objectives of the city with respect  
14    to the officially adopted Comprehensive Plan; the city's official roadway map; existing zoning  
15    requirements, including amendments thereto; policies and plans established by the city with respect  
16    to neighborhoods, lake levels, water supply, maintenance of the tree canopy levels identified in the  
17    Comprehensive Plan, control of invasive non-native plant species, protecting environmental  
18    features, provision for emergency access, consideration of pedestrian, bicycle and transit access and  
19    greenway connections, waste disposal and other essential utilities; the overall stormwater  
20    management plan including landscaping of stormwater management basins; and policies for  
21    development in any special improvement and redevelopment districts. Particular attention shall be  
22    given to the arrangement, location and width of streets, the provision of high quality shade trees  
23    along the streets, their relation to the topography of the land, water supply, sewage disposal,  
24    stormwater management, lot sizes and arrangement and the present or future development of  
25    abutting property.
- 26    H. *Development Review Board approval.*
  - 27       1. At a scheduled public meeting, the Development Review Board will receive reports on and  
28       review the design plat to determine its conformance with all applicable requirements.
  - 29       2. The board may approve the design plat as presented if found to be in compliance, require  
30       modifications, or disapprove the plat. Approval of the design plat, subject to conditions,  
31       revisions and modifications as stipulated by the board, shall constitute conditional board  
32       approval of the subdivision as to the character and intensity of development and the general  
33       layout and approximate dimensions of streets, lots and other proposed features. If the design  
34       plat is disapproved, the Development Review Board shall indicate the reasons therefor.
- 35    I. *City Commission review.*
  - 36       1. Within 60 calendar days after Development Review Board approval, the subdivider shall file with  
37       the planning and development services department at least three copies of the approved design  
38       plat, including the modifications, if any, imposed by the Development Review Board. Should the  
39       plat not be so filed within that period, no preliminary development order shall be issued unless  
40       an extension of time is requested in writing prior to the expiration of that period and is granted  
41       by the City Commission. In granting an extension, the City Commission may attach such other  
42       restrictions or conditions as the commission deems appropriate to serve the public interest. In  
43       the case of residential subdivisions, the City Commission may vote to grant extensions for design  
44       plat review of up to six months only and only if the subdivider possesses a valid, unexpired

1 certificate of concurrency exemption, certificate of preliminary concurrency or certificate of  
2 conditional concurrency reservation, as appropriate. Further extensions for City Commission  
3 review of design plats for residential subdivisions shall require a new concurrency review.

- 4 2. The City Commission shall review the recommended design plat and consider findings made by  
5 the Development Review Board and/or staff. The City Commission shall determine if the  
6 proposed subdivision is in conformity with the general goals and objectives of the city with  
7 respect to the officially adopted Comprehensive Plan; existing zoning requirements, including all  
8 amendments thereto; policies and plans established by the city with respect to neighborhoods,  
9 lake levels, water supply, sustaining the urban forest, protecting environmental features,  
10 provision for emergency access, consideration of pedestrian, bicycle, vehicle and transit access  
11 and greenway connections, waste disposal and other essential utilities; the overall stormwater  
12 management plan; and policies for development in any special improvement and  
13 redevelopment districts. Particular attention shall be given to the arrangement, location,  
14 function and width of streets, their consistency with the goal of developing a multimodal  
15 transportation network and providing sufficient space for street trees both above and below  
16 ground, their interaction with the overall transportation system and relation to the topography  
17 of the land, water supply, sewage disposal, stormwater management, lot sizes and arrangement  
18 and the present or future development of abutting property.

19 J. *City Commission approval.*

- 20 1. The commission may approve the design plat as presented if found to be in compliance, require  
21 modifications, or disapprove the design plat if it is not in compliance. If disapproved, the design  
22 plat shall be redesigned before resubmission for approval.
- 23 2. Effect of approval. Approval of the design plat by the City Commission is a preliminary  
24 development order. It shall not constitute acceptance of a final plat but shall be deemed an  
25 expression of approval of the layout submitted as a guide to the preparation of the final plat.  
26 The preliminary development order shall expire and be of no further effect 12 months from the  
27 date of approval unless a final plat is filed for approval or the time is extended with appropriate  
28 conditions by the City Commission prior to expiration; otherwise, the subdivider shall reapply  
29 for design plat approval in accordance with the provisions of this chapter. In the case of  
30 residential subdivisions, the City Commission may vote to grant extensions of up to six months  
31 only, and only if all the concurrency management requirements of this chapter can be met and if  
32 the extension would not be in conflict with any other ordinance of the city. The approval of  
33 nonresidential subdivisions in no way reserves capacity for the purposes of concurrency.

34 K. *Preparation, submission and review of construction plans.*

- 35 1. *Preparation.* Following the City Commission approval of the design plat, the subdivider shall  
36 submit construction plans and specifications for all subdivision improvements required, in  
37 accordance with this article. The construction plans shall be prepared, by an engineer registered  
38 in the state, in conformance with **section 30-4.44** of this article, the design manual on file in the  
39 public works department, and other applicable local, state and federal regulations.
- 40 2. *Submission and review.* The subdivider shall submit multiple sets of plans as necessary to  
41 facilitate review by the city. The plans shall be submitted to the planning division during a  
42 regular review cycle for development review. Following their reviews, if the construction plans  
43 are consistent with the approved design plat and comply with all standards and specifications,  
44 public works department and Gainesville Regional Utilities shall notify the subdivider and the

1 planning division within the planning and development services department of construction  
2 plan approval. If the construction plans are not consistent with the design plat as approved by  
3 the City Commission or do not comply with all standards and specifications, the public works  
4 department and Gainesville Regional Utilities shall notify the subdivider of:

- 5 a. Conditional construction plan approval, subject to any necessary modifications that shall be  
6 indicated on the plans or attached to them in writing; or
- 7 b. Disapproval of the construction plans or any portion thereof, indicating in writing the  
8 reasons for the disapproval. The subdivider shall be responsible for timely resubmittal of  
9 acceptable plans within 12 months from the date of approval of the preliminary  
10 development order.

11 L. *Required maps and drawings.* Plans for the proposed improvements and a boundary survey shall be  
12 required to be approved by the planning and development services department, parks, recreation  
13 and cultural affairs department, public works department and Gainesville Regional Utilities prior to  
14 approval of the final plat by the City Commission. The final plat shall be recorded in the public  
15 records unless the subdivider has complied in all respects with **subsection 30-4.43.E**. The  
16 improvement plans shall show the proposed locations, sizes, types, grades and general design  
17 features of each facility, and shall be based upon reliable field data. These drawings shall include, at  
18 a minimum, a topographic map, stormwater management plan, a landscape plan, an invasive exotic  
19 plant control plan, and construction drawings showing street profiles, street cross sections and  
20 water supply, sewer and stormwater management as specified by the public works department and  
21 Gainesville Regional Utilities and all champion and heritage trees identified for preservation or  
22 removal, with protective barricades drawn to scale. The landscape plan shall show all buffers and  
23 stormwater management areas as well as the locations and specifications for street trees.

24 M. *Procedure for approval of final plat.*

25 1. Following approval of the construction plans, approval of a final plat shall be obtained in  
26 accordance with the following procedures:

27 a. *Conformance to design plat.* The final plat shall conform to the design plat as approved by  
28 the City Commission and shall incorporate all modifications and revisions specified in the  
29 approval, except shifts in stormwater and roadway facilities that do not change lot layout  
30 may deviate from the design plat with City Manager, or designee, approval. The final plat  
31 may constitute only a portion of the approved design plat.

32 b. *Application for approval.* After the design plat of a proposed subdivision has been approved  
33 by the City Commission, the subdivider has 12 months or such additional time as may be  
34 granted by the City Commission to submit a final plat subject to the provisions and  
35 requirements of **subsection 30-4.42.D.2**. Additionally, the final plat and other information  
36 required below shall be submitted in correct form to the planning and development services  
37 department at least 25 calendar days (to allow for advertising) prior to the meeting of the  
38 City Commission at which the plat will be considered. The following shall be submitted for  
39 the final plat review:

- 40 i. The original stable base film tracing of the final plat prepared in accordance with the  
41 requirements of this article, F.S. Ch. 177, and any other applicable statutes and  
42 ordinances.

- 1           ii. A title opinion of an attorney at law licensed in Florida or a certification by an abstractor  
2           or title company as required by F.S. Ch. 177.
- 3           iii. Any other required documents, such as those required by **subsection 30-4.43**.
- 4           iv. An additional fee in accordance with the schedule set out in appendix A to defray the  
5           expense of investigating, holding hearings and acting upon the final plat.
- 6           v. An additional fee in accordance with the schedule set out in appendix A to defray the  
7           expenses of inspection of roadway and drainage facilities by the City Manager or  
8           designee.
- 9           c. *Failure to submit plat.* Failure to submit the final plat as provided above to the City  
10           Commission within the time limit prescribed shall void design plat approval and require a  
11           new hearing on the design plat.
- 12          2. *Specifications for final plat.* The final plat shall be legibly drawn at a scale of at least one inch  
13           equals 100 feet using a sheet size of 24 inches by 36 inches, reserving a three-inch binding  
14           margin on the left-hand side and a one-inch margin on the other three sides. If more than one  
15           sheet is required, an index map relating each sheet to the entire subdivision shall be shown on  
16           the first sheet. The final plat shall be prepared by a land surveyor in accordance with and include  
17           all of the information required by F.S. Ch. 177. The final plat shall also contain:
- 18           a. The exact boundary line of the tract;
- 19           b. A vicinity map showing the location and acreage of the lands subdivided;
- 20           c. The location of all creeks, ponds, lakes, sinkholes, wetlands and watercourses within the  
21           subdivided lands and any part of the lands within the flood channel or floodplain as shown  
22           on the city's flood control maps adopted pursuant to **article VIII** as of the date of final plat  
23           submission;
- 24           d. The front building setback line for each lot; and
- 25           e. Any subdivision boundary that is within a half-mile radius of any horizontal geodetic control  
26           monument established by the county control densification survey or National Geodetic  
27           Survey Horizontal or Vertical Control Network bearing confirmed coordinate values related  
28           to the 1983 and the 1990 North American Datum Adjustment shall conform to the following  
29           requirements:
- 30           f. All final plats shall identify all horizontal and vertical geodetic control monuments as  
31           described above located within 500 feet of the proposed plat boundary;
- 32           g. All plats shall have a minimum of three permanent reference monuments per 40 acres of  
33           platted subdivision, which shall have state plane coordinates established from the 1983 and  
34           the 1990 North American Datum Adjustment delineated on the plat and shall be tied  
35           directly to the plat boundaries;
- 36           h. All plats shall have a minimum of two benchmarks located and described with the plat that  
37           shall be projected from North American Vertical Datum, 1988, or later.
- 38           i. The basis of bearings for all plats shall be grid north as established from the county control  
39           densification survey and state plane coordinate system and/or National Geodetic Survey  
40           Horizontal Control Network;

- 1 j. The state plane coordinates and bearing basis shall be established by conducting a self-  
2 closing traverse(s) between two horizontal geodetic control monuments. Each traverse shall  
3 meet or exceed third order class one standards of accuracy as described in the most recent  
4 version of the Standards and Specification for Geodetic Control Network (SSGCN), as set  
5 forth by the Federal Geodetic Control Committee. When a development contains multiple  
6 units, a major control traverse tied to two horizontal geodetic control monuments may be  
7 submitted with the first phase, with subsequent units being tied to this control traverse.
- 8 k. A traverse sheet identifying the field angles, permanent reference points, distances and the  
9 adjustments shall be submitted on 8½-inch by 11-inch paper with the plat submitted for  
10 final development review. Copies of the field notes shall also be submitted. All documents  
11 shall be signed and sealed by a surveyor.
- 12 l. All geodetic monuments, including traverse stations set for the county control densification  
13 survey, that fall within the limits of a development shall be shown on the development plan  
14 and construction plans. All geodetic monuments that are in danger of being disturbed or  
15 destroyed shall be referenced by a surveyor prior to the start of construction and reset by a  
16 surveyor after the construction is complete. If it is not practical to reset the geodetic  
17 monument in its original position, an off-set monument may, with the approval of the City  
18 Manager or designee, be set. The referencing and resetting of a geodetic monument shall  
19 be in accordance with the specifications set forth in article 2.1 of the SSGCN. Traverse  
20 stations shall require an accuracy of third order class one and primary stations and their  
21 Azimuth marks shall require second order class one accuracy standards. The surveyor who  
22 resets the geodetic monument shall be responsible for the preparation and submittal of all  
23 documents necessary for the notification of the state department of environmental  
24 protection, city engineer, the county property appraiser's office and any other appropriate  
25 government agency. Notification shall include, but not be limited to, a complete description  
26 of the geodetic monument with all its accessories, an accurate how-to-reach description,  
27 the date of last station recovery, the name of the person recovering monumentation, and  
28 the address of the recovery party. This work shall be performed prior to the final inspection  
29 and/or acceptance of the development.
- 30 m. Any person who disturbs or destroys a geodetic monument shall be fully responsible for the  
31 expense of having the monument reset by a surveyor. The city may, at the expense of the  
32 person responsible for disturbing or destroying the monument, have a surveyor reset the  
33 geodetic monument in accordance with the specifications set forth in article 2.1.
- 34 n. For purposes of this section, a surveyor means a person who is registered to engage in the  
35 practice of surveying and mapping under F.S. Ch. 472.

36 N. *Review by department officials and City Commission.*

- 37 1. *Staff review.* Prior to final plat approval, city staff and the City Attorney's office shall review the  
38 proposed plat and supporting documents. If the proposed plat and supporting documents meet  
39 the technical requirements of this chapter and other applicable laws and ordinances, the  
40 departments shall approve the plat as to the requirements within their areas of responsibility.
- 41 2. *City Commission review.* If the final plat is consistent with the design plat as approved by the City  
42 Commission, meets all requirements of this chapter, and otherwise complies with all applicable  
43 laws and ordinances, it shall be forwarded to the City Commission for final consideration. Upon

1 approval, the final plat shall bear certification of the approval by the clerk of the City  
2 Commission.

- 3 O. *Recording.* Upon approval of the final plat by the City Commission the original linen or stable base  
4 film tracing of the final plat, any required covenants or deed restrictions, and the declaration of  
5 condominium if the subdivision is a condominium development, shall be recorded with the clerk of  
6 the circuit court by the subdivider with all recording fees paid by the subdivider within 15 calendar  
7 days after the final plat has been returned to the subdivider by city staff. Recording the approved  
8 final plat shall constitute a final development order. Upon recording the approved final plat, three  
9 Mylar copies of the recorded plat and three paper copies of the recorded plat signed and sealed by  
10 the clerk of the circuit court shall be presented to the planning division of the planning and  
11 development services department within 15 calendar days of recording.

12 **Section 30-3.52. Security for construction and maintenance of public improvements.**

- 13 A. *Bond required.* Except as otherwise provided herein, no final plat of any subdivision shall be  
14 approved by the city unless a surety bond shall be filed with the city executed by a surety company  
15 authorized to do business in the state with a rating of not lower or less than A-XII as rated by A.M.  
16 Best Company, Inc., an independent national rating service for surety companies, which bond shall  
17 be conditioned to secure the construction and completion of the improvements required under the  
18 ordinances of the city in a satisfactory manner within 12 months from final plat approval and any  
19 extension of such period approved by the City Commission. The surety bond shall be enforceable by  
20 and payable to the city in a sum at least equal to 120% of the total cost of the required  
21 improvements provided in the subdivision as estimated by the subdivider's engineer and verified  
22 and approved by the director of public works.
- 23 B. *Form of surety bond.* The surety bond shall be first approved by the City Attorney as to form and  
24 legality prior to its submission with the proposed final plat to the City Commission for approval and  
25 shall be executed by both the subdivider and the party or parties with whom the subdivider has  
26 contracted to perform the work and construct the improvements.
- 27 C. *Alternative to construction bond.* In lieu of the required surety bond, the subdivider may:
- 28 1. Place a cash deposit with the city in the same amount that would be required for the surety  
29 bond, which cash shall be deposited with the director of management and budget of the city  
30 and held by him/her under the same conditions as are provided for in the surety bond. Such  
31 deposit will be held for the developer and, in the event of any nonperformance by the developer  
32 as required by the ordinances of the city, will be used by the city to complete the required  
33 improvements. During construction, upon the request of the subdivider, and upon inspection  
34 and approval of construction and costs thereof by the city, the city shall refund to the subdivider  
35 an amount equal to the approved costs for such improvements, provided, however, at no time  
36 shall the balance of the cash deposit with the city be reduced to less than 30% of the estimated  
37 costs of the subdivision improvements until all the subdivision improvements are completed  
38 and so certified to by the city.
- 39 2. Deposit with the city and place with the City Manager an irrevocable and unconditional letter of  
40 credit by a Florida bank. The letter of credit shall be for an amount equal to 120% of the  
41 estimated costs of the required subdivision improvements. The letter of credit shall remain with  
42 the city as a valid letter of credit until the city is satisfied that all construction of required  
43 subdivision improvements has been completed in accordance with plans and specifications and  
44 that all other provisions of this chapter relating thereto have been fully complied with.

- 1 3. Deposit with the city a construction loan agreement in the amount of at least 120% of the  
2 estimated cost of the required subdivision improvements, which agreement shall be entered  
3 into by a recognized lending institution with the subdivider for the benefit of and satisfactory to  
4 the city, providing that:
- 5 a. The lending institution will make payments on the proceeds of the loan to the city if the  
6 subdivision improvements are not completed and approved by the city within the time  
7 required;
- 8 b. No payments of proceeds of the portion of the loan reserved for improvements shall be  
9 made to anyone until the city has approved the payment, which approval will be given if  
10 work is accomplished in accordance with approved plans and specifications and ordinances  
11 of the city; and
- 12 c. At no time will the loan proceeds be expended by that lending institution in excess of 90% of  
13 the estimated costs of the required subdivision improvements until all the improvements  
14 are completed and so certified to by the city.
- 15 4. Use a combination of such a loan as provided for in **subsection C.3** of this section, a letter of  
16 credit as provided in **subsection C.2** of this section, a cash deposit as provided in **subsection C.1**  
17 of this section, or the surety bond provided for in subsection A in order to reach the total of  
18 120% of estimated costs of required subdivision improvements.
- 19 5. Deposit with the city a construction loan agreement in the amount of at least 100% of the  
20 estimated cost of the required subdivision improvements, which agreement otherwise meets  
21 the requirements of subsection 3 above, and an unconditional guaranty from the subdivider in  
22 the amount of at least 20% of the estimated cost of the required subdivision improvements that  
23 meets the following requirements:
- 24 a. Absolutely and unconditionally, jointly and severally, guarantees to the city the full and  
25 prompt payment of the amount set forth in the guaranty that will be used by the city to  
26 complete the required improvements, and the complete performance of the subdividers of  
27 all conditions and requirements to be performed by the subdivider under the City Code;
- 28 b. Unconditionally, jointly and severally, agrees to pay all reasonable expenses and charges,  
29 legal fee and other fees (including attorney's fees and costs, including court costs at trial,  
30 appeal or bankruptcy proceeding) paid or incurred by the city in enforcing the unconditional  
31 guaranty;
- 32 c. Jointly and severally agrees to indemnify and hold harmless the city, its elected and  
33 appointed officers, employees and agents from any loss suffered or occasioned by the  
34 failure of the subdivider to satisfy its obligations to third parties arising out of the  
35 subdivision of the land;
- 36 d. Binds the guarantors and their successors and assigns, and inures to the benefit of the city;  
37 and
- 38 e. Makes such other representations and warranties requested by the City Manager or  
39 designee to protect the interests of the city.
- 40 D. *Determining cost of improvements.* In determining the cost of the improvements for which a  
41 construction bond or other security is required, improvements otherwise covered by a separate  
42 bond or security arrangement between the subdivider and the city and those improvements already  
43 constructed and approved by the director of public works shall not be included.

1 E. *Construction without bond, conditional approval.*

- 2 1. In lieu of the requirements of the preceding **Section 30-3.52.A and C**, a subdivider may proceed  
3 with installation of subdivision improvement, upon acceptance and approval of a final plat by  
4 the City Commission, which approval shall be conditioned upon the full completion of the  
5 subdivision improvements within two years and in full accordance with approved plans and  
6 specifications and the ordinances of the city. The plats shall not be recorded, but shall be  
7 retained by the Clerk of the Commission until the City Manager shall have certified that all  
8 required improvements have been completed in accordance with approved plans and  
9 specifications and ordinances of the city and the same has been approved by the City  
10 Commission. Upon certification by the City Manager and upon proof by title insurance or other  
11 similar assurance to the satisfaction of the city that there are no liens or possibilities of liens on  
12 the subdivision improvements or on the property to be dedicated to the public, and that the  
13 dedicator has clear fee title thereto, the city shall approve the plat and accept the dedication of  
14 the public right-of-way easements, and other dedicated portions as previously shown on the  
15 prior approved plat as set out in this chapter, and the subdivider shall record the plat and  
16 provide copies as specified in **Section 30-3.51**.Error! Reference source not found..Error!  
17 ference source not found..
- 18 2. No building permits shall be issued on property within the boundaries of the subdivision plat  
19 until the plat shall have been approved and accepted by the City Commission and placed on  
20 record in the public records of the county.
- 21 3. During construction the subdivider may, upon the posting of a bond or other such security for  
22 the cost of the uncompleted improvements, have a prior conditional approval converted to final  
23 approval and acceptance provided that all other requirements and conditions of this chapter  
24 applicable to final plat acceptance have been met.

25 F. *Maintenance.*

- 26 1. Under any arrangement for subdivision development within the city, the subdivider is obligated  
27 to the city for any necessary repair of all required improvements under the ordinances of the  
28 city for the period of one year following acceptance for maintenance. During the one-year  
29 period the subdivider shall provide the city with a surety bond, cash, an unconditional  
30 irrevocable letter of credit from a Florida bank, or a construction loan agreement as referred to  
31 in **Section 30-3.52.A and C**, or a combination thereof, in an amount equal to 15% of the costs of  
32 the required subdivision improvements, which may be used by the city to pay the costs of any  
33 necessary repairs and maintenance on the subdivision improvements during the one-year  
34 period. Interest earned on all such cash deposits with the city shall be for the account and to the  
35 credit of the person or persons making such deposit.
- 36 2. In determining the cost of the improvements for which a maintenance bond or other such  
37 security is required, improvements otherwise covered by a separate bond or security  
38 arrangement between the subdivider and the city and those improvements constructed or  
39 installed by the city shall not be included.
- 40 3. In those developments where lands and improvements remain under private common  
41 ownership, instruments relating to the use and maintenance of such areas and improvements  
42 shall be required. The city may require the establishment of an appropriate entity and the  
43 execution and recording of any appropriate legal instrument necessary to ensure the  
44 maintenance, protection and preservation of common areas designated on the plat. The title to



1 all land and improvements that are shown on the plat as common areas, private roads, etc.,  
2 shall be held and continue to be held so as to ensure their proper maintenance and care and to  
3 permit and ensure their continued use as intended in the approved plat. The instruments shall  
4 include means legally enforceable by the city, the subdivider and his/her successors to  
5 guarantee payment of such sums of money as are necessary for the maintenance; and all  
6 conveyances or transfers of any interest in any of the property of the development shall be  
7 legally encumbered of record so as to guarantee the continued use of the common areas and  
8 roads as contemplated by the plat and the guarantee of the payment of the cost of the  
9 maintenance.

10 **Section 30-3.53. Required improvements.**

11 A. *Generally.*

12 1. Within 12 months after final plat approval, the subdivider shall construct the improvements  
13 enumerated in this section in accordance with the provisions of this chapter, other applicable  
14 ordinances and statutes, and such additional standards and specifications as may be adopted  
15 from time to time by resolution of the City Commission.

16 2. An engineer shall design the installation of all streets, sidewalks, bikeways, drainage structures,  
17 bridges, bulkheads and water and sewer facilities. (Check if correct current language.)

18 B. *Monuments.*

19 1. Permanent reference monuments (PRM's) and permanent control points (PCP's), as defined in  
20 F.S. Ch. 177, shall be placed as required by F.S. Ch. 177. PRM's shall be set in the ground so that  
21 the upper tip is flush with or no more than one foot below the finish grade.

22 2. All lot corners shall be designated with a permanent marker such as an iron rod, iron pipe or  
23 concrete monument.

24 3. The land surveyor shall, within one year after City Commission approval of the final plat,  
25 including conditional approval if applicable, certify that the above-required monuments have  
26 been set and the dates they were set.

27 C. *Inspection of improvements.*

28 1. The director of public works and Gainesville Regional Utilities shall be authorized to inspect  
29 required improvements during construction to ensure that the work is in accordance with the  
30 approved plans and specifications. If any substantial changes are required in the approved plans  
31 or specifications during construction, the changes shall be submitted for approval of the director  
32 of public works and Gainesville Regional Utilities as applicable.

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

37 D. *Acceptance for maintenance.*

38 1. Prior to acceptance for maintenance by the city, the subdivider shall notify the Gainesville  
39 Regional Utilities in writing that all required improvements have been completed. Upon receipt  
40 of notice from the subdivider, the director of public works and Gainesville Regional Utilities will  
41 make an inspection of the construction work. If work is found to be satisfactorily completed, the  
42 city will accept the improvements for maintenance. After a period of one year from the time of

1 inspection, the same city departments will make a final inspection, and, if the workmanship and  
2 materials are found satisfactory or if all deficiencies due to faulty workmanship or materials are  
3 repaired or corrected, the city will then release the subdivider from his bond on the project.

- 4 2. Acceptance for maintenance is intended to mean normal maintenance functions as routinely  
5 performed by the city. It shall not include removal of soil accumulations on streets caused by  
6 excessive erosion from adjacent lots, either prior to or during building construction within the  
7 subdivision. It shall not include damage to any improvements caused by private construction or  
8 private utility vehicles within the one-year maintenance period. All decisions regarding  
9 abnormal damage or maintenance shall be made by the public works department or Gainesville  
10 Regional Utilities, with appeals possible to the City Manager.

11  
12 **DIVISION 9. STREET VACATIONS**

13 **Section 30-3.54. Vacating streets.**

14 *A. Street vacation.*

- 15 1. On application to abandon public streets or public places by virtue of a new plat, the owners of  
16 land abutting the street or public place to be abandoned, or owning property within 300 feet  
17 thereof, shall be notified of the proposed abandonment and of the plan board meeting at which  
18 the application, as well as the new plat showing the area after the abandonment, shall be  
19 scheduled for public hearing and review. For this purpose the owners shall be deemed to be  
20 those persons shown as owners upon the city's latest tax rolls. The notice shall be mailed to the  
21 address shown upon the tax rolls at least 10 calendar days before the date of the hearing.
- 22 2. An application to abandon a public street or public place may be initiated by:
- 23 a. The City Commission where it is deemed that the use of the public street or public place no  
24 longer serves a public purpose; or
- 25 b. Upon receipt of an application presented in the form of a petition that is to be signed by all  
26 owners of land abutting the portion of public street or place to be closed.
- 27 3. All applications for the abandonment of a public street or public place shall be considered by the  
28 City Plan Board at a public hearing, notice of which shall be placed in a newspaper of general  
29 circulation in the city at least 10 calendar days before the hearing. Where the City Commission  
30 has initiated consideration of the abandonment, all owners of property abutting the portion to  
31 be abandoned shall be notified by mail 10 calendar days before the hearing. For this purpose  
32 the owners shall be deemed to be those persons shown as owners upon the city's latest tax  
33 rolls. Prior to the public hearing, the petition proposing the abandonment shall be reviewed in  
34 accordance with the development plan review process as stated in **Division 10 of this article**.  
35 Following the public hearing, the plan board shall submit a recommendation to the City  
36 Commission concerning any petition to abandon the public street or public place.
- 37 4. At the public hearing, the plan board and City Commission shall make a determination that:
- 38 a. The public street or public place no longer serves a public purpose; or
- 39 b. The vacation of the public street or public place is in the public interest, which shall be  
40 based on a consideration of the following criteria:

- 1           i. Whether the public benefits from the use of the subject right-of-way as part of the city
- 2           street system;
- 3           ii. Whether the proposed action is consistent with the Comprehensive Plan;
- 4           iii. Whether the proposed street vacation is consistent with the minimum block size
- 5           requirements and other applicable street connectivity standards;
- 6           iv. Whether the proposed action would deny access to private property;
- 7           v. The effect of the proposed action upon public safety;
- 8           vi. The effect of the proposed action upon the safety of pedestrians and vehicular traffic;
- 9           vii. The effect of the proposed action upon the provision of municipal services including, but
- 10          not limited to, emergency service and waste removal;
- 11          viii. The necessity to relocate utilities both public and private; and
- 12          ix. The effect of the proposed action on the design and character of the area.
- 13   B. *Criteria for modification of standards.* The appropriate reviewing board may recommend and the
- 14   City Commission may approve modifications from the terms of this article and the design manual
- 15   when such modifications will promote the intent of this article and not be contrary to the public
- 16   interest and where, owing to special conditions, a literal enforcement of the provisions of this article
- 17   would result in unnecessary hardship. Furthermore, the modifications shall not be recommended
- 18   for approval by the Development Review Board unless and until:
  - 19   1. A written application for modification is submitted along with the design plat demonstrating:
    - 20   a. That special conditions and circumstances exist that are peculiar to the land, structures or
    - 21   required subdivision improvements involved and that are not applicable to other lands,
    - 22   structures or required subdivision improvements; and
    - 23   b. That the special conditions and circumstances do not result from the actions of the
    - 24   subdivider or recent predecessors in title;
  - 25   2. The Development Review Board makes a finding that the requirements of this section have been
  - 26   met;
  - 27   3. The Development Review Board further makes a finding that the reasons set forth in the
  - 28   application justify the granting of the modification that would make possible the reasonable use
  - 29   of the land, buildings and other improvements; and
  - 30   4. The Development Review Board further finds that the granting of the modification would be in
  - 31   harmony with the general purpose and intent of these regulations, will not be injurious to
  - 32   surrounding properties, and would not otherwise be detrimental to the public health and
  - 33   welfare.
- 34   C. *City Commission approval of modification of standards.* The Development Review Board shall submit
- 35   its findings and recommendations to the City Commission for action at or prior to City Commission
- 36   review of the design plat. In granting any modification, the City Commission may prescribe
- 37   appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions
- 38   and safeguards when made a part of the terms under which the modification is granted shall be
- 39   deemed a violation of this chapter.

1 D. *Exceptions for planned developments.* Exceptions may be made to the standards and requirements  
2 set forth in this chapter in the case of a planned development. Such a subdivision shall comply with  
3 the requirements of this chapter except where superseded by planned development criteria as  
4 approved by the City Commission. Furthermore, design and final plat approvals under this chapter  
5 shall be only conditional in those instances where a zoning change is also necessary. In such  
6 circumstances an approved final plat shall not be recorded unless and until the ordinance enacting  
7 the required zoning change is finally adopted and becomes effective. Failure to obtain the change of  
8 zoning upon which design or final plat approval was predicated shall void such prior approval.

9 **Section 30-3.55. Enforcement.**

10 A. *Generally.* Within the city, no subdivision shall be made, platted or recorded, nor any building  
11 permit issued on subdivided lands, unless the subdivision meets all the requirements of this chapter  
12 and has been approved in accordance with the requirements provided in this chapter. The city or  
13 any aggrieved person may have recourse to such remedies in law and equity as may be necessary to  
14 ensure compliance with the provisions of this chapter, including injunctive relief to enjoin and  
15 restrain any person from violating the provisions of this chapter, and any rules and regulations  
16 adopted under this chapter.

17 B. *Building permits and certificates of occupancy.* No building permit or certificate of occupancy shall  
18 be issued for any lot or parcel of land subject to the provisions of this chapter, except as follows:

- 19 1. If the lot or parcel is within a subdivision for which a final plat has been approved by the City  
20 Commission and recorded and the required improvements have been installed and accepted for  
21 maintenance by the city, both a building permit and a certificate of occupancy may be issued.
- 22 2. If the lot or parcel is within a subdivision for which a final plat has been approved by the City  
23 Commission and recorded and security for the required improvements has been provided by the  
24 developer in accordance with **Section 30-3.52**, a building permit may be issued, but no  
25 certificate of occupancy may be issued unless the City Manager determines that all required  
26 subdivision improvements serving such lot or parcel have been satisfactorily completed and that  
27 reasonable ingress and egress can be provided to the lot or parcel and the remaining portions of  
28 the subdivision until all improvements are complete and the required maintenance bond is  
29 received and approved.
- 30 3. If the lot or parcel is within a minor subdivision that has been approved by the director of  
31 planning and development services, city engineer, city traffic engineer and deputy manager for  
32 utilities (or their designees) in accordance with the provisions of this chapter.
- 33 4. If the lot or parcel is part of a legal lot split that has been approved by the City Manager or  
34 designee in accordance with the provisions of this chapter.
- 35 5. If the lot or parcel is a nonconforming lot as provided in **article III**.

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

43

1 **DIVISION 10. DEVELOPMENT PLAN REVIEW**

2 **Section 30-3.56. Purpose.**

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

8 **Section 30-3.57. Administration and enforcement generally.**

9 This division sets forth the application and review procedures required for obtaining development  
10 orders and certain types of permits. The procedures for appeals and enforcement are generally  
11 addressed under **Division 13 of this Article.**

12 Development orders are transferable. However, so long as the land or structure or any portion thereof  
13 covered under the site development order continues to be used for the purposes for which it was  
14 issued, then no person (including successors and assigns of the person who obtained the site  
15 development order) may make use of the land except in accordance with the conditions and  
16 requirements of the site development order. The provisions of the site development order run with and  
17 burden the real property to which it relates until release or amended in accordance with formal action  
18 of the City.

19 **Section 30-3.58. Development order required prior to development activity.**

20 Development activity may be undertaken only when the activity is authorized by a final development  
21 order and any required development permits are issued by the City. A final development order shall be  
22 issued only when all applicable procedures, inspections and reviews have been completed as provided in  
23 this Code.

24 **Section 30-3.59. Exceptions to requirement for development review.**

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

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

30 **Section 30-3.60. Levels of development review and process.**

31 For purposes of the development review process, all development shall require either rapid, minor,  
32 intermediate or major development review in accordance with the thresholds set forth in the table  
33 below. Development that includes components within different thresholds shall be reviewed as one  
34 submittal in accordance with the highest threshold that is triggered by the development.

35 **Table IV - 2. Levels of development review**

	<b>Rapid</b>	<b>Intermediate</b>	<b>Major</b>
<b>Residential</b>	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.
<b>Non-Residential</b>	New construction or	New construction or	New construction or

	Rapid	Intermediate	Major
	expansions of 1,001 and up to 10,000 square feet of building area.	expansions of 10,001 to 50,000 square feet of building area.	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.

1 **Notes to Table:**

2 <sup>1</sup> Development plan review by the appropriate board shall be required when the development:

3 (1) includes one or more requests for a variance per Sec. 30-3.74;

4

5 **Table IV - 3. Summary of development review process**

	Rapid	Intermediate and Major	Master Plan
First Step Meeting	Required, refer to <b>Sec. 30-4.18.</b>	Required, refer to <b>Sec. 30-4.18.</b>	Required, refer to <b>Sec. 30-4.18.</b>
Neighborhood Workshop	Not required	Required, refer to <b>Sec. 30-350.</b>	Required, refer to <b>Sec. 30-350.</b>
Technical Review Committee	Required, refer to <b>Sec. 30-4.21.</b>	Required, refer to <b>Sec. 30-4.21.</b>	Required, refer to <b>Sec. 30-4.21.</b>
Board Review	Required if requesting a variance, refer to <b>Sec. 30-3.74</b> , board issues a preliminary development order, refer to <b>Sec. 30-4.22.</b>	Required if requesting a variance, refer to <b>Sec. 30-3.74</b> , board issues a preliminary development order, refer to <b>Sec. 30-4.22.</b>	Required if requesting a variance, refer to <b>Sec. 30-3.74</b> , board issues a preliminary development order, refer to <b>Sec. 30-4.22.</b>
Final Staff Review	Required, staff issues a final development order, refer to <b>Sec. 30-4.23.</b>	Required, staff issues a final development order, refer to <b>Sec. 30-4.23.</b>	Not required.

6

7 **Section 30-3.61. First step meeting.**

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

1 **Section 30-3.62. Submittal requirements.**

2 A completed application, on the form provided by the city, shall be signed and notarized by all owners of  
3 the property, and by any agents of the owners. The application, together with applicable attachments,  
4 fees, and plan review requirements specified in the "Guide to Developing in Gainesville" shall be  
5 submitted to the city. The City Manager or designee shall determine completeness based on level of  
6 review required, the nature of the proposed development and other requirements as set forth in this  
7 code, the Comprehensive Plan and other city requirements deemed necessary to provide a professional  
8 and complete review and evaluation of the application.

9 **Section 30-3.63. Criteria for review.**

10 Every development plan or amendment to any previously approved development plan shall be  
11 evaluated based upon the competent and substantial evidence presented to the reviewer related to the  
12 following criteria:

- 13 A. Whether the plan is adequate to meet submittal requirements of the Land Development Code,  
14 including payment of fees, and complies with submittal schedules to provide adequate notice and  
15 review; and
- 16 B. Whether the proposed development is consistent with the Comprehensive Plan and complies with  
17 the Comprehensive Plan, adopted manuals and codes, and the Land Development Code and other  
18 applicable regulations.

19 **Section 30-3.64. Technical Review Committee review.**

20 When an application is received by the city, the City Manager or designee shall review the application  
21 and:

- 22 A. Determine that the application is incomplete and return the application to the applicant with a  
23 general description of the deficiencies; or
- 24 B. Determine that the application is complete.

25 If the application is determined to be complete, the plan and associated materials shall be reviewed by  
26 members of the Technical Review Committee. Each committee member shall provide comments as to  
27 the proposed development's consistency with the Comprehensive Plan and compliance with the city  
28 code and other applicable city requirements. Upon completion of the committee's review, the City  
29 Manager or designee shall provide the committee's comments, findings, and conclusions supporting its  
30 final decision. If board review is required, the City Manager or designee shall prepare a recommendation  
31 to the board either: (1) issue a preliminary development order, or (2) deny a preliminary development  
32 order based upon a determination that the proposed development, even with reasonable modifications  
33 and conditions, does not meet the criteria set forth in **section 30-4.20**.

34 **Section 30-3.65. Board review.**

35 A. *Public hearing.* Upon issuance of the staff report, the development plan shall be scheduled for  
36 public hearing. Notice of the scheduled public hearing shall be given in accordance with the code  
37 and other applicable law. The reviewing board shall conduct a quasi-judicial hearing on the  
38 preliminary development plan to determine whether the plan satisfies the criteria for review set  
39 forth in **section 30-4.20**. At the hearing, the reviewing board shall:

- 40 1. Find that all requirements have been met and issue a preliminary development order;

- 1        2. Find that all requirements can be met with specified modifications and conditions and issue a  
2        preliminary development order;
- 3        3. Deny a preliminary development order because the plan as presented fails to meet the  
4        requirements set forth in **section 30-4.20**; or
- 5        4. With the consent of the applicant, continue the hearing to allow for further information or  
6        analysis to be provided, as deemed necessary by the board.

7    B. *Preliminary development orders.*

- 8        1. Mandatory requirements. A preliminary development order shall contain the following:
  - 9            a. An approved development plan, with a listing of conditions and modifications, if required, in  
10            order for a final development order to be issued. The modifications shall be described in  
11            sufficient detail and exactness to inform the applicant to amend the plan accordingly.  
12            However, the failure to list all requirements of this chapter and other regulations of the city  
13            shall not relieve the applicant from complying with such requirements and regulations at  
14            the time of issuance of a final development order.
  - 15            b. Notice that the preliminary development order does not constitute a final development  
16            order and that subsequently adopted ordinances, regulations and laws may require  
17            additional amendments to the proposal.
  - 18            c. An initial determination of concurrency.
- 19        2. A preliminary development order shall be effective for 6 months from the date of board  
20        approval. During this 6 month period, the applicant shall obtain final development approval. At  
21        the request of the applicant and for good cause shown, the reviewing board, at a public hearing,  
22        may extend the period for obtaining final development plan approval for a period of up to 12  
23        months from the date of the public hearing at which the preliminary development order was  
24        issued.

25    **Section 30-3.66. Final staff review.**

26    A. *Final development order.*

- 27        1. The applicant shall file multiple signed and sealed sets of the development plan as necessary to  
28        facilitate the review process. These plans shall be submitted prior to expiration of the  
29        preliminary development order. Upon receipt of a development plan submitted for final review,  
30        the City Manager or designee shall:
  - 31            a. Determine that the plan is incomplete and return the application to the applicant with a  
32            general description of the deficiencies; or
  - 33            b. Determine that the plan is complete.
- 34        2. Upon being determined complete, a copy of the development plan shall be sent to the  
35        appropriate members of the Technical Review Committee and the plan shall be placed on a  
36        committee agenda. After the committee meeting, the City Manager or designee shall:
  - 37            a. Find that all requirements have been met and issue a final development order;
  - 38            b. Inform the applicant in writing of the changes necessary for the development to comply  
39            with the conditions and requirements imposed by the preliminary development order, the  
40            code and the Comprehensive Plan; or



- 1 c. Find that the plan as submitted fails to meet the requirements and not issue a final  
2 development order.
- 3 3. *Contents of final development orders.* A final development order shall contain the following:
- 4 a. An approved development plan, with a listing of conditions and modifications, if required, in  
5 order for a final development order to be issued. The modifications shall be described in  
6 sufficient detail and exactness to inform the applicant to amend the plan accordingly.  
7 However, the failure to list all requirements of this chapter and regulations of the city shall  
8 not relieve the applicant from complying with such requirements and regulations at the  
9 time of issuance of a final development order.
- 10 b. A certificate of final concurrency.
- 11 c. The expiration date for the final development order. A final development order shall remain  
12 valid only if development commences and continues pursuant to an active building permit  
13 to completion with due diligence and in good faith according to the terms and conditions of  
14 approval.
- 15 4. A final development order shall be effective for a period of one year unless otherwise specified  
16 in the order.

17 **Section 30-3.67. Amendments to approved development plans.**

18 After a final development order has been issued, it shall be unlawful to change, modify, alter or  
19 otherwise deviate from the terms or conditions of the order without first obtaining an amendment to  
20 the approved development order. Amendment of the development plan shall be made in accordance  
21 with the process for development review, based upon the levels of review set forth in **section 30-4.17**.

22 **Section 30-3.68. Master plans.**

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

1 C. *Expiration of master plan.* A master plan shall be effective for up to 5 years from the date of  
2 approval.

3 D. *Criteria for review of master plan.* A master plan shall be reviewed in accordance with the criteria  
4 set forth in **Section 30-4.20** for development plan review.

5 **Section 30-3.69. Concept review process.**

6 Concept review is optional for all intermediate and major development. Concept review is intended for  
7 the applicant to receive public input and city comments on a concept for development prior to the  
8 preparation of detailed plans and data and to alert an applicant to issues with, or objections to, a  
9 particular proposed development. Concept plans should address conformity with the Comprehensive  
10 Plan, zoning standards, site design, environmental concerns, concurrency and transportation issues. The  
11 concept plan is reviewed by the Technical Review Committee and by the appropriate reviewing board.  
12 Comments made by the Technical Review Committee and the reviewing board during concept review  
13 are made solely for informational purposes and shall not be construed as an approval or denial or  
14 agreement to approve or deny a development order. The reviewing board shall issue no order, finding  
15 or other indication of approval or disapproval of the proposal.

16 **Section 30-3.70. Affordable housing concept review.**

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

28

29 **DIVISION 11. BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY**

30 **Section 30-3.71. Building permit.**

31 No building shall be constructed, reconstructed, altered or extended until a building permit has been  
32 issued indicating that the proposed use is in compliance with the provisions and regulations of this  
33 chapter; and there shall be no excavation, cut or fill of earth or debris, no curb shall be cut or access  
34 opened onto a public street, no land shall be used for purposes other than agricultural, no street  
35 graphics shall be erected, and no building shall be moved until any required permit therefor has been  
36 obtained in accordance with the provisions of this Code of Ordinances.

37 **Section 30-3.72. Certificate of occupancy.**

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

41

1 **DIVISION 12. VARIANCES AND MODIFICATION OF STANDARDS**

2 There are two levels of relief from the requirements of this Code: variances and modifications of  
 3 standards.

4 **Section 30-3.73. Modification of Standards.**

5 It is recognized that because of the individual unique characteristics or circumstances of any given  
 6 development, flexibility in the application of development requirements may be warranted in certain  
 7 situations. Modifications from the standards provided in this chapter may be requested by an applicant  
 8 as part of the site review process. If an applicant requests multiple modifications, each modification  
 9 shall be evaluated independently.

10 A. *Application.* All requests for modifications shall be submitted in writing with the application for  
 11 development review on forms provided by the City. The request shall be approved or denied during  
 12 development plan review and, if granted, shall be noted on the final development plan. If denied,  
 13 there is no further administrative appeals process.

14 B. *Administrative modifications.* The City Manager or designee shall have the authority to grant limited  
 15 modifications, as set forth below, where the City Manager or designee determines that the  
 16 proposed development meets the intent of the zoning district, the development is mitigating the  
 17 negative effect of the modification by providing a compensating enhancement of the public realm,  
 18 the requested modification is the minimum necessary to allow reasonable development of the site  
 19 and the requested modification is not injurious to the public health, safety and welfare.  
 20 Administrative modifications are allowed up to the prescribed amounts:

Requested modification	Compensating enhancement of the public realm (min)
Variation in the street setback up to 3 feet	1. 10% increase above required
Reductions in required glazing percentages in Section 30-5.17 up to 10%.	1st floor glazing.
Reductions in the required building frontage percentages in Section 30-5.17 up to 10%	2. Increase of 2 feet above required sidewalk width.
Reductions in landscape zones in Section 30-5.17 up to 2 feet, however in no case shall a landscape area be less than 4 feet in depth	3. 10% increase above required building frontage. 4. Increase of 4 feet above min 1st floor height. 5. Increase of 2 feet above minimum landscape zone.

21 C. *Review criteria.* A modification may be granted by the approving authority if it finds that strict  
 22 application of the requirements of this chapter is not warranted and that granting a modification  
 23 will fulfill the intent of this LDC. The approving authority shall apply all the following criteria, when  
 24 applicable, to determine if the applicant has justified a request for a modification:

- 25 1. The request is consistent with the Comprehensive Plan and generally consistent with the  
 26 purpose of the LDC.
- 27 2. The proposed modification will not have a material negative impact on adjacent uses, and the  
 28 applicant proposes to mitigate the negative impact created by the modification through a  
 29 compensating enhancement of the public realm surrounding the development.

1 **Section 30-3.74. Variances.**

2 The appropriate reviewing board shall have the power and duty to authorize a variance from the terms  
3 of the Land Development Code and building chapters, except as otherwise provided for therein, as will  
4 not be contrary to the public interest where, owing to special conditions, a literal enforcement of the  
5 provisions of the Land Development Code or building chapters would result in unnecessary hardship.

6 A. *Authorized variances.* For the purpose of this chapter, a variance is authorized only for height of  
7 structures; size of yard setbacks; driveway widths; building form standards in transect zones;  
8 building design standards for transect zones (dimensional standards only; landscaping requirements  
9 for vehicular use areas; landscape buffer requirements for buffer strip areas; variations in the street  
10 setbacks; reductions in required glazing percentages; reductions of minimum first floor height;  
11 reductions in landscape zones; and non-dimensional requirements in Section 30-5.18.

12 A variance shall not be granted:

- 13 1. For establishment or expansion of a use otherwise prohibited;
- 14 2. Because of the presence of nonconformities in the zoning district or adjoining districts;
- 15 3. Because of financial loss or business competition; or
- 16 4. Because the property was purchased with the intent to develop or improve the property, and  
17 the intended development or improvement would violate the restrictions of the Land  
18 Development Code or building chapter, whether or not it was known at the time of purchase  
19 that such development would be a violation.

20 B. *Review criteria.* A variance from the terms of this chapter or building chapters shall not be granted  
21 unless the Development Review Board finds that:

- 22 1. Special conditions and circumstances exist that are peculiar to the land, structure or building  
23 involved and that are not applicable to other lands, structures or buildings in the same district.
- 24 2. Literal enforcement of the provisions of the Land Development Code or building chapters would  
25 deprive the applicant of rights commonly enjoyed by other properties in the same district under  
26 the terms of the Land Development Code or building chapters.
- 27 3. The special conditions and circumstances do not result from the action of the applicant.
- 28 4. Granting the variance requested will not confer on the applicant any special privilege that is  
29 denied by this section to other lands, structures or buildings in the same district.

30 C. *Review procedures.*

- 31 1. Pre-application meeting. A pre-application meeting is not required; however, the applicant is  
32 encouraged to attend a meeting with staff to go over procedural and regulatory requirements.
- 33 2. Application submittal. After the pre-application meeting, the applicant shall submit a complete  
34 application on a form provided by the planning and development services department and  
35 accompanied by the applicable fee and plans.
- 36 3. Staff review. The City Manager or designee shall review the application and prepare a staff  
37 report for submittal to the appropriate review board.
- 38 4. Development Review Board hearing. The Development Review Board shall hold a duly  
39 advertised public hearing. At the hearing, the board shall make a finding that application meets  
40 the criteria of **Section 30-3.74.B.**

1 In granting any variance, the board may prescribe appropriate conditions and safeguards in  
2 conformity with the Land Development Code or building chapters. Violation of such conditions and  
3 safeguards, when made a part of the terms under which the variance is granted, shall be deemed a  
4 violation of this chapter and punishable according to applicable law. Under no circumstances shall  
5 the board grant a variance under this chapter to permit a use not permitted generally or by special  
6 use permit in the district involved, or any use expressly or by necessary implication prohibited by the  
7 terms of this chapter in the district.

- 8 D. *Expiration.* Any variance granted shall expire within 1 year after the date of grant, unless a building  
9 permit based upon and incorporating the variance is issued within the aforesaid 1 year period and  
10 construction has begun thereunder.

11 **Section 30-3.75. Limit on petitions relating to same property.**

12 The appropriate review board shall not entertain any petition for a variance within two years after the  
13 denial of a request for the same variance for the same property.

14 **Section 30-3.76. Variances and appeals.**

15 No variance shall be authorized by the review board upon appeal from the terms of this chapter unless a  
16 public hearing on the appeal has been held by the board after notice of the hearing has been given.

17  
18 **DIVISION 13. APPEALS**

19 **Section 30-3.77. Administrative decisions.**

- 20 A. Unless otherwise provided for in this Code of Ordinances, appeals regarding a specific property  
21 where a person has a legal interest (affected person) shall be appealed to the appropriate review  
22 board by the affected person within 20 calendar days from the date of the notice of the final  
23 administrative action by an administrative officer regarding any Land Development Code or building  
24 chapter provision (chapters 6 and 30), which affects a specific property where the affected person  
25 has a legal interest, when that decision is adverse to his/her interest or by the applicant within 20  
26 calendar days from the time the building inspector refuses to issue any permit after application  
27 therefore has been duly made. Each notice of final administrative action shall include an explanation  
28 of the affected person's right to appeal and give the time period (20 calendar days) for filing a  
29 petition for appeal to the board.
- 30 B. All petitions for appeal containing or attaching the requisite information described in this paragraph  
31 shall be filed with the Planning and Development Service Department on forms prescribed by the  
32 City Manager and shall be accompanied by all of the papers constituting the record upon which the  
33 action was taken. In addition, all petitions for appeal shall include:
- 34 1. An explanation of how the petitioner's substantial interest is affected by the administrator's  
35 decision;
  - 36 2. A statement of how and when the petitioner received notice of the administrator's decision;
  - 37 3. A statement of all disputed issues of material fact or a statement that there are no disputed  
38 issues of material fact;
  - 39 4. A concise statement of the ultimate facts alleged, including specific facts that the petitioner  
40 contends would warrant reversal by the board or would warrant modification of the  
41 administrator's decision; and

- 1 5. A statement of relief sought by the petitioner, stating precisely the remedy the petitioner seeks  
2 from the board.
- 3 C. An appeal to the review board shall stay all collateral proceedings related to the action appealed  
4 from, including but not limited to collateral proceedings pending pursuant to **chapter 2, article V,**  
5 **division 8, notice of violation, or division 6, civil citations,** unless the officer from whom the appeal  
6 is taken shall certify to the board after the appeal has been filed that, by reason of facts stated in the  
7 certificate, a stay, in his/her opinion, would cause imminent peril to life or property, in which case  
8 proceedings on the collateral action shall not be stayed other than by order of the board or by a  
9 court of equity after notice to the officer from whom the appeal is taken and on due cause shown.
- 10 D. The board shall hear and determine all appeals promptly after giving to all parties at least 10  
11 calendar days' written notice of the time and place of the hearing, as is stated in this section. Any  
12 party in interest at a hearing may appear in person or be represented by an agent or attorney.
- 13 E. Timely filed petitions stating there are no disputed issues of material fact shall be processed and  
14 heard as follows:
- 15 1. The board secretary shall schedule a quasi-judicial hearing of the matter before the board after  
16 giving all parties at least 10 calendar days' written notice of the time and place of the hearing.
- 17 2. All parties shall submit to the secretary of the board any documentary evidence intended to be  
18 introduced at the hearing on their behalf at least seven calendar days prior to the hearing.
- 19 3. At the hearing, the board shall provide all parties the opportunity to present written or oral  
20 evidence in support of the documentary evidence submitted on their behalf including the  
21 petition.
- 22 4. If during the course of the proceeding a disputed issue of material fact arises then, unless  
23 waived by all parties, the proceeding under this subsection shall be terminated and a proceeding  
24 under **subsection F,** below, shall be conducted.
- 25 F. Timely filed petitions stating there are disputed issues of material fact shall be processed and heard  
26 as follows:
- 27 1. The city, through the City Attorney's office, shall arrange for the services of a hearing officer to  
28 conduct the formal quasi-judicial hearing.
- 29 2. In conducting the hearing to resolve disputed issues of material fact, the hearing officer shall  
30 have the power to administer oaths, issue subpoenas, compel the production of books, paper,  
31 and other documents, and receive evidence. All parties shall have an opportunity to respond, to  
32 present evidence and argument on all issues involved, to conduct cross-examination and submit  
33 rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to the  
34 hearing officer's recommended order, and to be represented by counsel or other qualified  
35 representative. Hearsay evidence may be used for the purpose of supplementing or explaining  
36 other evidence, but it shall not be sufficient in itself to support a finding unless it would be  
37 admissible over objection in civil actions.
- 38 3. The hearing officer shall prepare a recommended order consisting of findings of fact,  
39 conclusions of law and affirmative relief, if applicable. The hearing officer shall transmit the  
40 recommended order to the board and all parties. Each party shall have 15 calendar days from  
41 the date of the hearing officer's order to submit written exceptions to the hearing officer's  
42 recommended order. The order will be set on the next available Development Review Board  
43 agenda following the expiration of time to submit written exceptions and shall only be removed

- 1 from the agenda for good cause shown. The board shall review such order and any written  
2 exceptions and may set forth any deficiencies it finds with respect to the order. Said deficiencies  
3 shall be limited to determinations that the findings were not based upon competent, substantial  
4 evidence, or that the proceedings on which the findings were based did not comply with the  
5 essential requirements of law. In reviewing such recommended order, the board shall not have  
6 the power to receive or consider additional evidence. The board shall have no power to reject or  
7 modify the findings of fact contained in the recommended order unless the board first  
8 determines from a review of the entire record and states with particularity in the order that the  
9 findings of fact were not based upon competent, substantial evidence or upon a showing that  
10 the proceedings on which the findings were based did not comply with the essential  
11 requirements of law. The board may either adopt the recommended order as the final order, or  
12 by a three-fourths majority vote of those present reject the hearing officer's recommendation.
- 13 G. Upon reaching its decision, the board shall make such order as it shall deem to be proper to each  
14 case and to that end shall have all of the powers of the officer from whom the appeal was taken.  
15 Each order shall thereafter be reduced to writing and shall contain a full recital of the board in each  
16 case. A copy thereof shall be filed in the records of the board by its secretary.
- 17 H. In connection with appeals where it is alleged there is error in any order, requirement, decision or  
18 determination made by any administrative official in the enforcement of this chapter, notification  
19 shall be given to all owners of property within 400 feet of the premises that are involved in the  
20 appeal.
- 21 I. In exercising any of the powers now or otherwise given to the Development Review Board, the  
22 board may, so long as such action is in conformity with this section and the requirements of the  
23 Land Development Code and building chapters, reverse or affirm, wholly or partly, or may modify  
24 the order, requirement, decision or determination appealed from and may make such order,  
25 requirement, decision or determination as ought to be made, and to that end shall have the powers  
26 of the administrative official from whom the appeal is taken.
- 27 J. Any person aggrieved by a decision rendered by the board under administrative review may appeal  
28 the decision to the City Commission by writ of certiorari within 30 calendar days from the date the  
29 decision of the board is reduced to writing and sent by U.S. mail to such person. The appeal shall be  
30 made by filing a written notice of appeal within the above-prescribed time period with the clerk of  
31 the City Commission. The notice shall set forth concisely the decision appealed from and the reasons  
32 or grounds for the appeal.
- 33 K. The appeal shall be heard by the City Commission at its next regular meeting, provided at least 21  
34 calendar days have intervened between the time of the filing of the notice of appeal and the date of  
35 such meeting. The City Commission shall consider only evidence and testimony placed in the record  
36 before the board at its hearing and may hear oral argument by each party in support of or in  
37 opposition to the board's finding and decision. The City Commission shall consider only whether due  
38 process was afforded the parties, whether the board applied the correct law, and whether the  
39 board's findings are supported by competent substantial evidence and shall then promptly make its  
40 decision and issue a final order affirming, amending or reversing the board's decision. The decision  
41 of the City Commission shall be reduced to writing and shall constitute final administrative action.  
42 Appeals from decisions of the City Commission may be made to the courts by writ of certiorari.
- 43 L. Unless otherwise provided herein, any affected person aggrieved by any final administrative  
44 decision under this section may appeal the decision to a court of competent jurisdiction within 30  
45 calendar days of the date of the decision.

1 **Section 30-3.78. Development Review Board decisions.**

2 A. *Development plan appeals.* An affected party may appeal a development order on a development  
3 plan acted upon by the Development Review Board to a hearing officer by filing a notice of appeal  
4 with the planning and development services department within 15 calendar days of the final  
5 development order.

6 1. *Application for appeal.* The application for appeal shall contain at minimum the following items,  
7 plus any additional items required in specific sections of this chapter:

8 a. A statement of the decision to be reviewed, and the date of the decision.

9 b. A statement of the interest of the person seeking review.

10 c. The specific error alleged as the grounds of the appeal.

11 2. *Stay during appeal.* An appeal shall stay all proceedings in furtherance of the action appealed  
12 from until the findings of the hearing officer are rendered and any required action is taken by  
13 the original decision-maker.

14 3. *Appellate hearing.* Unless otherwise indicated in this chapter, within 45 calendar days of an  
15 appeal being filed, the hearing officer assigned to hear the appeal shall conduct a hearing open  
16 to the public in compliance with the following procedures as supplemented where necessary:

17 a. *Scope of review.*

18 i. The hearing officer's review shall be limited to the record and applicable law.

19 ii. The hearing officer shall have the authority to review questions of law only, including  
20 interpretations of this chapter, and any rules and regulations implementing this chapter.  
21 For this purpose, an allegation that a decision of the decision-maker is not supported by  
22 competent substantial evidence in the record as a whole is deemed to be a question of  
23 law. The hearing officer may not reweigh the evidence but shall decide only whether  
24 competent substantial evidence supports the decision under review.

25 b. *Authority of hearing officer.* A hearing officer shall have the authority:

26 i. To request briefs to be filed on behalf of any party and prescribe filing and service  
27 requirements.

28 ii. To hear oral argument on behalf of any party.

29 iii. To adjourn, continue or grant extensions of time for compliance with these rules, either  
30 on his/her own motion or upon application of the party, provided no requirement of law  
31 is violated.

32 iv. To dispose of procedural requests or similar matters, including motions to amend and  
33 motions to consolidate.

34 v. To keep a record of all persons requesting notice of the decision in each case.

35 c. *Improper influence.*

36 i. No person who is party, nor a person who is reasonably likely to become a party in the  
37 near future, nor anyone appearing on behalf of a party, shall communicate ex parte, i.e.,  
38 outside a hearing, with a hearing officer concerning any application, pending or



1 proposed; provided, however, a hearing officer may consider requests regarding  
2 scheduling of hearings when made in writing.

3 ii. A person who accepts an appointment as a hearing officer is, for a period of two years  
4 from the date of termination as a hearing officer, hereby expressly prohibited from  
5 acting as agent or attorney in any proceeding, application or other matter before any  
6 commission, board, agent or office of city government, involving property that was the  
7 subject of an application that was pending before that person during the person's term  
8 as a hearing officer.

9 iii. A hearing officer shall neither initiate nor consider ex parte, i.e., outside a hearing,  
10 communications concerning a pending or impending proceeding. A hearing officer,  
11 however, may obtain the advice of a disinterested expert on law, planning or other  
12 subject applicable to a proceeding before him/her if he/she gives notice to the parties of  
13 the person consulted and the substance of the advice, and affords the parties  
14 reasonable opportunity to respond. Costs and expenses of any expert shall be borne by  
15 the party appealing the decision.

16 d. *Decision of hearing officer and final action.*

17 i. The hearing officer shall affirm each contested decision or find it to be an incorrect  
18 interpretation of law or not supported by competent substantial evidence. The hearing  
19 officer shall prepare a written opinion stating the legal basis for each ruling. The hearing  
20 officer shall submit the opinion to the department, which shall distribute it to the  
21 decision-maker and the parties.

22 ii. When the hearing officer affirms a contested decision pertaining to a final action of a  
23 decision-maker, that action shall be deemed to be the final action of the decision-maker  
24 and shall be subjected to no further review under this article.

25 iii. When the hearing officer finds any decision to be an incorrect interpretation of law or  
26 not supported by competent substantial evidence, that decision shall be referred back  
27 to the decision-maker for reconsideration in light of the hearing officer's opinion. The  
28 decision-maker shall reconsider its decision based solely on the record and the opinion  
29 of the hearing officer. If the decision-maker reaffirms the original decision, it shall be  
30 deemed to be the final action of the decision-maker and shall be submitted to no  
31 further review under this article.

32 e. *Custody of books and papers.* The planning and development services department shall be  
33 the custodian of all documents, including the application, the hearing officer's decision, and  
34 the record of the proceedings.

35 B. *Judicial review.* Any final order of the board may be appealed to the appropriate court within 30  
36 calendar days of the order by an action in the nature of a writ of certiorari.

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