

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) is hereby created and shall have
17 the following duties:

- 18 1. *Meetings.* The TRC shall meet at least monthly to review development proposals as prescribed
19 in this article.
- 20 2. *Decisions.* As prescribed in this article, the committee shall either make the final decision on
21 development proposals or make recommendations to the reviewing board with decision-making
22 authority.

23 B. *Membership.* The TRC shall be composed of an employee appointed from each of the following city
24 departments:

- 25 1. Planning and development services.
- 26 2. Public works department.
- 27 3. Fire/rescue department.
- 28 4. Representatives of other departments as deemed appropriate.

29 **Section 30-3.3. City Plan Board.**

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

- 33 1. Plan for the proper growth and development of the city, meaning the scientific, aesthetic, and
34 orderly disposition of land, resources, facilities, and services with the goal of securing an

1 environment for present and future generations that is environmentally sustainable, socially
2 just and desirable, and economically sound. The board shall keep constantly informed of and in
3 touch with the physical changes of the city and its surrounding environs and is authorized to
4 gather information and make recommendations to the City Commission with regard to such
5 growth and development.

- 6 2. Prepare the City of Gainesville Comprehensive Plan and amendments thereto, and make
7 recommendations to the City Commission regarding the adoption or amendment of such plan.
- 8 3. Monitor and oversee the effectiveness and status of the Comprehensive Plan, and
9 recommend to the City Commission such changes in the Comprehensive Plan as may from
10 time to time be required, including the periodic evaluation and appraisal of the
11 Comprehensive Plan required by Section 163.3191, Florida Statutes.
- 12 4. Review proposed land development regulations, the Land Development Code, or amendments
13 thereto, and make recommendations to the City Commission as to the consistency of each
14 proposal with the adopted Comprehensive Plan.
- 15 5. Perform all other functions, duties, and responsibilities designated by the Land Development
16 Code or otherwise assigned by the City Commission.

17 B. *Membership.*

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

- 24 B. *Membership.*

- 25 1. The Development Review Board shall have seven regular members appointed by the City
26 Commission. Members of the Development Review Board shall be and remain bona fide
27 residents of the city. If at any time a member of the Development Review Board fails to remain a
28 resident of the city, such person shall no longer serve on the board. When appointing residents
29 to the Development Review Board, the City Commission shall give special consideration to those
30 with the following experience:
- 31 a. An architect or landscape architect.
- 32 b. A civil engineer.
- 33 c. A person engaged in real estate sales or development.
- 34 d. A professional with experience in natural or environmental sciences.
- 35 e. An urban planner; and
- 36 f. A citizen at large.
- 37 2. Each member shall be appointed to a three-year term commencing on November 1 of the year
38 appointed. Members may be reappointed for consecutive terms and may hold office after
39 expiration of their term until a successor has been appointed and qualified.

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

- 1 5. The board shall keep minutes of its proceedings, indicating the attendance of each member, and
2 the decision on every question.
- 3 F. *Implementation of board's decision.* Any permit, authorization, or other development order issued,
4 based on the board's decision, prior to the end of the period for filing an appeal for any available
5 administrative or judicial remedies is considered conditional. Any action taken during the appeal
6 period is taken at the sole risk of the property owner or representative, who may be required to
7 undo any work done if the decision of the board is overturned either by a rehearing of the board, an
8 appeal for an administrative remedy, or an appeal to a court of competent jurisdiction.

9 **Section 30-3.5. Historic Preservation Board.**

- 10 A. *Establishment and purpose.* The Historic Preservation Board (HPB) is hereby created and shall have
11 the following duties:
- 12 1. Update the official inventory of cultural resources and submit to the City Commission
13 recommendations and documentation concerning such updating.
- 14 2. Develop programs to stimulate public interest in urban neighborhood conservation and
15 participation in the adaptation of existing codes, ordinances, procedures and programs to reflect
16 urban neighborhood conservation policies and goals.
- 17 3. Explore funding and grant sources and advise property owners concerning which might be
18 available for the identification, protection, enhancement, perpetuation and use of historic,
19 architectural, archaeological and cultural resources.
- 20 4. Cooperate with agencies of city, county, regional, state and federal governments in planning
21 proposed and future projects to reflect the concerns and policies expressed in this article, and
22 assist in the development of proposed and future land use plans.
- 23 5. Advise property owners and local governmental agencies concerning the proper protection,
24 maintenance, enhancement and preservation of cultural resources.
- 25 6. Advise the City Commission concerning the effects of local governmental actions on cultural
26 resources.
- 27 7. Conduct regular public meetings and call special meetings.
- 28 8. Otherwise further the objectives and purposes stated in the historic preservation and
29 conservation regulations of this chapter, which can be found in Article IV, Division 5.
- 30 9. Report to the City Commission concerning the board's activities at least once a year.
- 31 10. Review and recommend sites, buildings, structures, objects, areas and districts, both public and
32 private, for listing on the local register for historic places.
- 33 11. Approve or deny petitions for certificates of appropriateness required under Article IV, Division
34 5.
- 35 12. Notify the City Manager, who shall take appropriate action when it appears that there has not
36 been compliance with the requirements of Article IV, Division 5.
- 37 B. *Membership.*
- 38 1. The Historic Preservation Board shall have nine regular members appointed by the City
39 Commission. Members of the board shall be and remain bona fide residents of the city. If at any
40 time a member of the board fails to remain a resident of the city, such person shall no longer

1 serve on the board. When appointing residents to the Historic Preservation Board, the City
2 Commission shall appoint at least one registered architect and shall, when possible, appoint a
3 representative from each of the following areas of expertise:

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

- 9 2. Each member shall be appointed to a three-year term. Members may be reappointed for
10 consecutive terms and may hold office after the expiration of their term until a successor has
11 been appointed and qualified.
- 12 3. When a member position becomes vacant before the end of a term, the City Commission shall
13 appoint a substitute member to fill the vacancy for the duration of the vacated term.

14 C. *Officers.*

- 15 1. The board shall annually elect a chair and a vice-chair from among the members and may create
16 and fill other offices as the board deems necessary. The chair shall preside over the board and
17 shall have the right to vote. In the absence of the chair, the vice-chair shall perform the duties of
18 the chair.
- 19 2. The City Manager shall appoint a city employee to serve as secretary to the board, recorder and
20 custodian of all board records.

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

- 24 1. The board shall meet at least once each calendar month, unless cancelled by the board or its
25 chair, and more often at the call of the chair or the City Commission.
- 26 2. No business shall be conducted by the board without the presence of a quorum of five voting
27 members.
- 28 3. *Voting on certificates of appropriateness.* Approval or denial of petitions for certificates of
29 appropriateness shall require the affirmative vote of at least four voting members. If insufficient
30 affirmative votes are obtained, a matter shall be tabled and placed on the agenda for the
31 following meeting. However, petitions for certificates of appropriateness shall be deemed
32 automatically granted if not approved or denied within 45 calendar days after the first meeting
33 at which they were considered.
- 34 4. The board shall conduct hearings in accordance with this article and state law.
- 35 5. The board shall keep minutes of its proceedings, indicating the attendance of each member, and
36 the decision on every question.

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

- 38 A. *Establishment and purpose.* The Heritage Overlay District Board is hereby created and shall have the
39 following duties:

1 1. Review regulated work items submitted for its review pursuant to the provisions of Section 30-
2 4.27.

3 B. *Membership.*

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

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

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

15 C. *Officers.*

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

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

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

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

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

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

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

36 5. The board can approve, approve with conditions, deny or continue to a date certain a petition
37 for a regulated work item. The board may continue a petition only once. At the second hearing
38 on a continued petition, the board shall render a decision or the petition shall be deemed
39 approved.

40 6. The decision of the board on a petition shall be the final decision of the city.

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

3 **Section 30-3.7. Neighborhood Workshop.**

4 A. *Purpose and intent.* Neighborhood workshops are intended to encourage applicants to be good
5 neighbors and to allow for informed decision making, although not necessarily to produce complete
6 consensus on all applications, by:

- 7 1. Ensuring that applicants pursue early and effective citizen participation in conjunction with their
8 applications, giving the applicants the opportunity to understand and try to mitigate any real or
9 perceived impacts their applications may have on the community;
- 10 2. Ensuring that citizens and property owners have an adequate opportunity to learn about
11 applications that may affect them and to work with the applicant to resolve concerns at an early
12 stage of the process; and
- 13 3. Facilitating ongoing communication among the applicant, interested citizens and property
14 owners, and city staff throughout the application review process.

15 B. *Applicability.* Every application that requires board approval, including future land use map changes,
16 rezonings, Special Use Permits, subdivisions, or development plans shall first hold a neighborhood
17 workshop and shall include in the application a written record of such meeting. Development plans
18 located within a transect zone that meet or exceed the thresholds for intermediate or major
19 development review shall also conduct a neighborhood workshop. The following development
20 applications are exempt from the requirements of this section:

- 21 1. Text changes to the Comprehensive Plan or Land Development Code.
- 22 2. City-initiated amendments to the future land use map of the Comprehensive Plan that change
23 the future land use from Alachua County to City of Gainesville categories.
- 24 3. City-initiated amendments to the zoning map that change the zoning from Alachua County to
25 City of Gainesville districts.
- 26 4. Development plan applications for nonresidential projects of 10,000 square feet or less of floor
27 area when not abutting or adjacent to property zoned for single-family residential use.
- 28 5. Development plan applications for residential projects of 10 units or less.
- 29 6. Environmental remediation or safety improvements required by local, state, and federal
30 agencies.

31 C. *Workshop requirements.*

- 32 1. The applicant shall provide the opportunity for a workshop to inform neighboring property
33 owners of the proposed application. The workshop shall be held in a location generally near the
34 subject property and shall be held in a facility that is ADA compliant. The applicant shall provide
35 notification by mail to all owners of property located within 400 feet of the subject property and
36 to all neighborhood associations registered with the city and located within ½-mile of the
37 property. The City Manager or designee shall provide mailing labels to the applicant. The
38 applicant shall mail these notices with proper postage at least 15 calendar days before the
39 workshop. The applicant shall also advertise the workshop in a newspaper of general circulation
40 at least 15 calendar days before the date of the workshop.

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

Section 30-3.8. Public Notice.

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

Table III - 1: Public Notice.

APPLICATION TYPE	NEWSPAPER AD	MAILED NOTICE	POSTED NOTICE
COMPREHENSIVE PLAN AMENDMENTS/LAND USE CHANGES			
Text changes not including amendments to the list of permitted/prohibited uses.	As required by law.	Not required.	Not required.
Text changes amending the list of permitted/prohibited uses involving less than 5% of the total land	As required by law.	Required.	Not required.

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

APPLICATION TYPE	NEWSPAPER AD	MAILED NOTICE	POSTED NOTICE
Special Use Permits	As required by law.	Required.	Required.
Development Review Board	As required by law.	Required.	Required.
Variances	As required by law.	Required.	Required.
Historic Preservation Board (COA)	As required by law.	Not required.	Required.
Heritage Overlay District Board	As required by law.	Not required.	Required.
Right-of-Way Vacations	As required by law.	Required.	Not required.

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3 **DIVISION 2. ZONING VERIFICATION LETTERS**

4 **Section 30-3.9. Required.**

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

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

15 **Section 30-3.10. Review Procedures.**

- 16 A. *Applications.* Applications for a ZVL shall be submitted on a form provided by the city. The request
- 17 shall provide sufficient information to identify the property and the information the requestor seeks
- 18 to verify. The requestor is solely responsible for the accuracy of the information provided in the
- 19 application.
- 20 B. *Staff review.* Upon receipt of a completed application, the City Manager or designee shall review the
- 21 application and issue a ZVL that may only address the following information:

- 1 1. The future land use designation of the property.
- 2 2. The zoning district of the property.
- 3 3. A list of permitted uses in the property's zoning district.
- 4 4. Verification that a particular use is permitted within the property's zoning district.
- 5 5. The development regulations applicable to the property.
- 6 6. Zoning action needed to permit a particular use.
- 7 7. Identification of any outstanding Notice of Violations issued for code enforcement violations of
- 8 the property.

9 **Section 30-3.11. Duration, Limitations, Effect.**

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

22 **DIVISION 3. TEXT AMENDMENTS, LAND USE AND ZONING CHANGES**

23 **Section 30-3.12. Review Procedures.**

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

- 26 A. *Pre-application meeting.* It is recommended that applicants meet with the planning and
- 27 development services department prior to submitting an application, in order to discuss the
- 28 application process. No person may rely upon any comment made by any participant at the pre-
- 29 application conference as a representation or implication that the application will be ultimately
- 30 approved or rejected in any form.
- 31 B. *Application submittal.*
 - 32 1. An application for a text amendment to the Comprehensive Plan or Land Development Code
 - 33 may be submitted by any citizen or owner of land in the city.
 - 34 2. Applications for a land use change or rezoning may be submitted by the property owner. If there
 - 35 are multiple owners, each shall include authorization on the application. The property owners
 - 36 may authorize an agent to represent the owners by submitting an affidavit with the application.
- 37 C. *Staff review.* Staff shall submit to the City Plan Board a written report that includes analysis of the
- 38 application and a recommendation based on the applicable criteria required by this division.

- 1 D. *Neighborhood workshop.* Applicants for a land use change or rezoning shall hold a neighborhood
2 workshop as required by this article.
- 3 E. *City Plan Board review.* The City Plan Board shall review the application at a public hearing. When
4 reviewing the application, the City Plan Board may receive and consider the comments and concerns
5 of other relevant boards serving the City Commission, such as the Development Review Board and
6 the Historic Preservation Board. This City Plan Board shall make a recommendation to the City
7 Commission regarding the application, and such recommendation shall be processed as follows:
- 8 1. If both staff and the City Plan Board recommend approval of the application as submitted or
9 with amendments voluntarily agreed upon by the applicant, then the application may be
10 forwarded to the City Attorney’s Office to prepare the appropriate ordinance in accordance with
11 law.
- 12 2. If either staff or the City Plan Board recommends denial of the application, then the application
13 shall be forwarded to the City Commission for approval, denial, approval with amendment, or
14 remand to the board for further consideration. If the City Commission approves the application
15 as submitted or with amendments, then the City Attorney’s Office shall prepare the appropriate
16 ordinance in accordance with law.
- 17 F. *City Commission review.*
- 18 1. The City Commission shall consider the application at public hearings as required by law.
- 19 2. If the matter is quasi-judicial as determined by the City Attorney’s Office, the City Commission
20 shall conduct the quasi-judicial hearing at first reading of the ordinance, as applicable. The
21 recommendations of city staff or other regulatory agencies and the appropriate reviewing
22 boards shall be included and become a part of the record before the City Commission.
- 23 3. The City Commission may act on any application without a recommendation from the City Plan
24 Board if the board has not acted on the matter within 45 calendar days of the date of the first
25 regular meeting of the City Plan Board after an application has been submitted.
- 26 4. If an application is not acted upon finally by the City Commission within six months of the date
27 upon which the City Plan Board made a recommendation to the City Commission, the
28 application shall be deemed denied without prejudice. However, no application shall be deemed
29 denied if the City Commission has continued its consideration to a date certain, or has stayed
30 action on the application by enactment of a moratorium ordinance.
- 31 G. *Withdrawal of applications.* An application for any action provided by this chapter may be
32 withdrawn by the applicant. However, if notice has been given, the application shall be withdrawn
33 by the applicant at a public hearing, and for purposes of refileing a land use change or rezoning
34 application, a withdrawn application shall be limited as if it were denied. Fees paid shall not be
35 refundable if any expense has been incurred by the city for public notice.
- 36 H. *Limits on applications relating to same property.*
- 37 1. If the City Commission has denied an application for a land use change or rezoning, the City Plan
38 Board shall not consider any land use change or rezoning applications for any part of the same
39 property for a period of 12 months from the date of the denial.
- 40 2. Whenever the City Commission has adopted an ordinance to change the land use or zoning for a
41 property, the City Plan Board shall not consider any land use change or rezoning applications for

1 any part of the same property for a period of 12 months from the date of the ordinance
2 adoption.

3 3. The City Commission may waive the above time limitations by the affirmative vote of five
4 commissioners, provided 30 calendar days have elapsed since the action of the commission, and
5 if the City Commission deems such action necessary to prevent an injustice or facilitate the
6 proper development of the city.

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

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

- 10 A. The goals, objectives, and policies of the Comprehensive Plan.
- 11 B. The need for additional land in the proposed land use category based on the projected population of
12 the city and the relative availability of the current and proposed land use categories.
- 13 C. The proposed land use category of the property in relation to surrounding properties and other
14 similar properties.
- 15 D. The potential impact of the land use change on adopted level of service standards.

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

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

- 18 A. Compatibility of permitted uses and allowed intensity and density with surrounding existing
19 development.
- 20 B. The character of the district and its suitability for particular uses.
- 21 C. The proposed zoning district of the property in relation to surrounding properties and other similar
22 properties.
- 23 D. Conservation of the value of buildings and encouraging the most appropriate use of land throughout
24 the city.
- 25 E. The applicable portions of any current city plans and programs such as land use, traffic ways,
26 recreation, schools, neighborhoods, stormwater management and housing.
- 27 F. The needs of the city for land areas for specific purposes to serve population and economic
28 activities.
- 29 G. Whether there have been substantial changes in the character or development of areas in or near
30 an area under consideration for rezoning.
- 31 H. The goals, objectives, and policies of the Comprehensive Plan.
- 32 I. The facts, testimony, and reports presented at public hearings.
- 33 J. Applications to rezone to a transect zone shall meet the following additional criteria:
 - 34 1. The proposed T-Zone shall provide a logical extension of an existing zone, or an adequate
35 transition between zones.
 - 36 2. The area shall have had a change in growth and development pattern to warrant the rezoning to
37 a more or less urban T-Zone.

- 1 3. The request shall be consistent with the overall City of Gainesville vision for growth and
2 development as expressed in the City of Gainesville Comprehensive Plan.
- 3 4. If not adjacent to an existing T-Zone, the rezoning site shall comprise a minimum of 10 acres.
- 4

5 **DIVISION 4. PLANNED DEVELOPMENTS**

6 **Section 30-3.15. Purpose.**

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

31 **Section 30-3.16. Applicability of Other Regulations.**

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

34 **Section 30-3.17. Review Criteria.**

- 35 In addition to the general review criteria for rezonings provided by this article, the City Plan Board and
36 the City Commission shall evaluate PD applications according to the following additional criteria:
- 37 A. *Consistent with Comprehensive Plan.* A PD application may only be approved if it is consistent with
38 the Comprehensive Plan.
 - 39 B. *Conformance to PD purpose.* A PD application may only be approved if it is in conformance with the
40 purpose of PDs as articulated in Section 30-3.15.

- 1 C. *Internal compatibility.* All uses proposed within a PD shall be compatible with other proposed uses;
2 that is, no use may have any undue adverse impact on any neighboring use, based on the
3 streetscape, treatment of pedestrian ways and circulation, motor vehicle circulation, and the
4 separation and buffering of parking areas and sections of parking areas; the existence or absence of,
5 and the location of, focal points and vistas, open spaces, plazas, recreational areas and common
6 areas, and use of existing and proposed landscaping; use of the topography, physical environment
7 and other natural features; use and variety of building setback or build-to lines, separations and
8 buffering; use and variety of building groupings, building sizes, architectural styles, and materials;
9 variety and design of dwelling types; particular land uses proposed, and conditions and limitations
10 thereon; and any other factor deemed relevant to the privacy, safety, preservation, protection or
11 welfare of any proposed use within the PD.
- 12 D. *External compatibility.* All uses proposed within a PD shall be compatible with existing and planned
13 uses of properties surrounding the PD; that is, no internal use may have any avoidable or undue
14 adverse impact on any existing or planned surrounding use, nor shall any internal use be subject to
15 undue adverse impact from existing or planned surrounding uses. An evaluation of the external
16 compatibility of a PD should be based on the following factors: adjacent existing and proposed uses,
17 design of the development, traffic circulation, and density and intensity.
- 18 E. *Intensity of development.* The residential density and intensity of use of a PD shall be compatible
19 with and shall have no undue adverse impact upon the physical and environmental characteristics of
20 the site and surrounding lands, and shall comply with the policies and density limitations set forth in
21 the Comprehensive Plan. Within the maximum limitation of the Comprehensive Plan, the permitted
22 residential density and intensity of use in a PD may be adjusted upward or downward in
23 consideration of the following factors: the availability and location of public and utility services and
24 facilities; the trip capture rate of development; and the degree of internal and external
25 connectedness of streets.
- 26 F. *Usable open spaces, plazas and recreation areas.* Usable open spaces, plazas and recreation areas
27 provided within a PD shall be evaluated based on conformance with the policies of the
28 Comprehensive Plan and the sufficiency of such areas to provide appropriate recreational
29 opportunities, protect sensitive environmental areas, conserve areas of unique beauty or historical
30 significance, enhance neighborhood design, and encourage compatible and cooperative
31 relationships between adjoining land uses.
- 32 G. *Environmental constraints.* The site of the PD shall be suitable for use in the manner proposed
33 without hazards to persons either on or offsite from the likelihood of increased flooding, erosion or
34 other dangers, annoyances or inconveniences. Condition of soil, groundwater level, drainage and
35 topography shall all be appropriate to the type, pattern and intensity of development intended. The
36 conditions and requirements of the protection of resources article shall be met.
- 37 H. *External transportation access.* A PD shall be located on, and provide access to, a major street
38 (arterial or collector) unless, due to the size of the PD and the type of uses proposed, it will not
39 adversely affect the type or amount of traffic on adjoining local streets. Access shall meet the
40 standards set in Chapter 23 and Chapter 30, Article VI. Connection to existing or planned adjacent
41 streets is encouraged. The trip generation report shall be signed by a professional engineer
42 registered in the state when there is a difference between the traffic report provided by the
43 petitioner and the concurrency test.
- 44 I. *Internal transportation access.* Every dwelling unit or other use permitted in a PD shall have access
45 to a public street directly or by way of a private road, pedestrian way, court or other area that is

1 either dedicated to public use or is a common area guaranteeing access. Permitted uses are not
2 required to front on a dedicated public road. Private roads and other accessways shall be required
3 to be constructed so as to ensure that they are safe and maintainable.

- 4 J. *Provision for the range of transportation choices.* Sufficient off-street and on-street parking for
5 bicycles and other vehicles, as well as cars, shall be provided. Parking areas shall be constructed in
6 accordance with such standards as are approved by the City Commission to ensure that they are
7 safe and maintainable and that they allow for sufficient privacy for adjoining uses. When there is
8 discretion as to the location of parking in the project, it is strongly encouraged that all motor vehicle
9 parking be located at the rear or interior side of buildings, or both. The design of a PD should,
10 whenever feasible, incorporate appropriate pedestrian and bicycle accessways so as to provide for a
11 variety of mobility opportunities. Connection to all sidewalks, greenways, trails, bikeways, and
12 transit stops along the perimeter of the PD is required. Where existing perimeter sidewalks do not
13 exist, sidewalks shall be provided by the development.

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

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

- 1 2. If the City Commission approves an application with conditions, then the applicant shall revise
2 the application to clearly incorporate such conditions and file with the City Manager or designee
3 within 60 calendar days of such approval. Failure to file the revised application within the time
4 prescribed shall render any approval of the City Commission null and void unless the applicant
5 files with the City Commission a written request for an extension of time within such 60-day
6 period. The City Commission may grant an extension for good cause shown.

7 **Section 30-3.19. Phasing.**

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

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

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

20 **Section 30-3.21. Amendments.**

- 21 A. Except as otherwise provided in this section, an amendment to an approved PD (except for an
22 extension of a time limit) shall be accomplished only by a new PD rezoning application.
- 23 B. The following types of amendments to the requirements of an approved PD may be authorized by
24 the appropriate reviewing board during development plan review, provided such amendments meet
25 the criteria set forth in this article for the development review process:
- 26 1. Minor adjustments or shifts in the location and siting of buildings, structures, parking bays, and
27 parking spaces.
 - 28 2. Changes in the location of utility tie-ins and solid waste, recycling, and yard trash containers.
 - 29 3. Reductions in the overall density or intensity of structural ground coverage of the development.
 - 30 4. Changes in the location and types of landscape materials, excluding changes in location of
31 buffers.
 - 32 5. Minor changes in the walkway and bikeway systems.
 - 33 6. The addition of accessory structures or utility buildings of less than 1,000 square feet where
34 there are no major changes to the perimeter features of the development.
 - 35 7. The addition of up to 10 new parking spaces.
 - 36 8. Any expansion of gross floor area or enlargement of the building envelope that does not require
37 the addition of required parking spaces or alter standards of the PD ordinance.
 - 38 9. Modifications that do not entail amendments to specific language included within the PD
39 ordinance.

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DIVISION 5. SPECIAL USE PERMITS

Section 30-3.22. Purpose.

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

Section 30-3.23. Required.

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

Section 30-3.24. Review Criteria.

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

- A. The proposed use or development is consistent with the Comprehensive Plan and the Land Development Code.
- B. The proposed use or development is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan. Factors by which compatibility of the proposed use or development shall be reviewed include scale, height, mass and bulk, design, intensity, and character of activity.
- C. The proposed use will not adversely affect the health, safety, and welfare of the public.
- D. Ingress and egress to the property, proposed structures, and parking/loading/service areas is provided and allows for safe and convenient automobile, bicycle, and pedestrian mobility at the site and surrounding properties.
- E. Off-street parking, service, and loading areas, where required, will not adversely impact adjacent properties zoned for single-family residential use.
- F. Noise, glare, exterior lighting, or odor effects will not negatively impact surrounding properties.
- G. There is adequate provision for refuse and service/loading areas, and these areas shall be reviewed for access, screening, location on the site, and pedestrian/bicycle mobility and safety. Outdoor storage or display areas, if included, will not adversely impact surrounding properties and shall be reviewed for screening and location on the site.
- H. Necessary public utilities are available to the proposed site and have adequate capacity to service the proposed use or development.
- I. Screening and buffers are proposed of such type, dimension, and character to improve compatibility and harmony of the proposed use and structure with the uses and structures of adjacent and nearby properties.

- 1 J. The hours of operation will not adversely impact adjacent properties zoned for single-family
2 residential use.
- 3 K. Any special requirements set forth in the Land Development Code for the particular use involved are
4 met.

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

- 6 A. *Pre-application meeting.* A pre-application meeting is not required; however, the applicant is
7 encouraged to attend a meeting with staff to review applicable procedural and regulatory
8 requirements.
- 9 B. *Applications.* Each application shall be filed with the City Manager or designee on the form
10 prescribed. Any incomplete applications will be returned to the applicant. The application shall
11 include proof of having met the requirements of a neighborhood workshop as provided in this
12 article.
- 13 C. *Staff meeting.* The applicant for a Special Use Permit shall meet with city staff to discuss the
14 procedures and requirements and to consider the elements of the proposed use and site and the
15 proposed site layout.
- 16 D. *Staff report.* The City Manager or designee shall submit to the City Plan Board a written report that
17 includes analysis of the application and a recommendation based on the review criteria provided in
18 this division.
- 19 E. *City Plan Board hearing.*
 - 20 1. The City Plan Board shall consider the evidence presented in the public hearing and the written
21 report submitted by the City Manager or designee and shall act on the application based on the
22 review criteria provided in this division.
 - 23 2. Action on the application shall be one of the following:
 - 24 a. Approval;
 - 25 b. Approval subject to conditions; or
 - 26 c. Denial, with a statement of the reasons for denial.
- 27 F. *Effect of denial or withdrawal.* No application for a Special Use Permit may be submitted within two
28 years after the date of denial or withdrawal of a request for the same use for the same property.
29 The City Plan Board may waive this time limitation by the affirmative vote of five members, provided
30 30 calendar days have elapsed and provided the City Plan Board deems such action necessary to
31 prevent an injustice.
- 32 G. *Amended application.* Amendment of an application may be allowed at any time prior to or during
33 the public hearing, provided that no such amendment shall be such as to make the case different
34 from its description in the notice of public hearing. If the amendment is requested by the applicant
35 after notice of the hearing has been given and such amendment is at variance with the information
36 set forth in the notice, then the applicant shall pay an additional fee in the same amount as the
37 original fee for amended public notice. If the amended notice can be mailed at least 10 calendar
38 days prior to the hearing originally scheduled, the hearing on the amended petition may be held on
39 that date; otherwise, the chairperson shall announce at the public hearing that the hearing will be
40 continued to a future meeting with proper public notice.

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

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

30 **DIVISION 6. WELLFIELD PROTECTION SPECIAL USE PERMIT**

31 **Section 30-3.27. Purpose.**

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

1 methods of operation in order to ensure conformance with the city's Comprehensive Plan and
2 Alachua County Murphree Wellfield Management Code (also known as Murphree Wellfield
3 Protection Code), as may be amended from time to time.

4 **Section 30-3.28. Required.**

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

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

16 **Section 30-3.29. Exemptions.**

- 17 A. Uses allowed within residential zoning districts.
- 18 B. Any proposed uses or development associated with the Murphree Water Treatment Plant, or
19 electric transmission and distribution systems or generally the provision of utility service by a
20 government-owned utility shall be exempt from the provisions of this division.
- 21 C. Exemptions from the permit requirements shall be allowed for uses and developments that meet
22 the following criteria, except for specially regulated industrial uses allowed by Special Use Permit :
 - 23 1. There is no manufacture, storage, use, or sale of hazardous materials at the site or development
24 as defined and regulated in the Alachua County Hazardous Materials Management Code, other
25 than hazardous materials excluded from the provisions of the Hazardous Materials Management
26 Code, as may be amended from time to time.
 - 27 2. The project is part of an environmental cleanup or facility upgrade that is required by a local,
28 state or federal environmental agency, and the project is in compliance with the Alachua County
29 Hazardous Management Materials Code and all other applicable state and federal regulations.
 - 30 3. Redevelopment of an existing site that may manufacture, store, use, or sell hazardous materials
31 at the site or development as defined and regulated in the Alachua County Hazardous Materials
32 Management Code, but where the actual development project will not involve hazardous
33 materials other than those associated with similar construction projects, and the project is in
34 compliance with the Alachua County Hazardous Materials Management Code and all other
35 applicable state and federal regulations.

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

- 37 A. *Primary zone.* No use involving hazardous materials shall be allowed in this zone, except for uses or
38 development associated with the Murphree Water Treatment Plant, or electric transmission and
39 distribution systems or generally the provision of utility service by a government-owned utility. All
40 other uses shall obtain a WPSUP.
- 41 B. *Secondary and tertiary zone.* The development or use shall be reviewed using the following criteria:

- 1 1. The criteria for Special Use Permits provided in Section 30-3.24 have been met.
- 2 2. The proposed use or development will not endanger the city's potable water supply.
- 3 3. The necessary public utilities are available to the proposed site and have adequate capacity to
- 4 service the proposed use and development. The development must be connected to the potable
- 5 water and wastewater system.
- 6 4. There has been proper abandonment, as regulated by the applicable water management district
- 7 or state agency, of any unused wells or existing septic tanks at the site. An existing septic tank
- 8 may remain if it is used solely for domestic waste and if it meets all applicable state and local
- 9 regulations.
- 10 5. There is no current or proposed underground storage of petroleum products or hazardous
- 11 materials at the development site.
- 12 6. The applicant is in compliance with the requirements of the Alachua County Hazardous
- 13 Materials Management Code, and all applicable state and federal regulations.
- 14 7. The development property addresses environmental features such as wetlands, creeks, lakes,
- 15 sinkholes, and soils to ensure that hazardous materials will not endanger the potable water
- 16 supply and the environmental features.

Section 30-3.31. Review Procedures.

- 18 A. *Pre-application meeting.* The applicant for a WPSUP shall meet with staff to discuss the procedures
- 19 and requirements and to consider the elements of the proposed use and site, and the proposed site
- 20 plan.
- 21 B. *Applications.* Applications shall be filed with the City Manager or designee on the form prescribed.
- 22 Any incomplete applications will be returned to the applicant.
- 23 Applications shall include a development plan. However, if any of the items required for the
- 24 development plan are inapplicable or irrelevant to a proposed development, such item may be
- 25 omitted upon approval of the appropriate staff, provided the applicant identifies in writing any
- 26 missing item and includes a brief explanation of why it is inapplicable or irrelevant. The City Plan
- 27 Board may, at the public hearing, approve the omission of items from the development plan if it
- 28 finds they are not relevant to a determination that the proposed use or development meets the
- 29 requirements of this division.
- 30 C. *Staff review.* Staff from Gainesville Regional Utilities, Alachua County Environmental Protection
- 31 Department, and the city shall review the request and submit to the City Plan Board a written
- 32 analysis of the application and a recommendation based on the criteria provided in this division.
- 33 D. *City Plan Board hearing.*
 - 34 1. The City Plan Board shall consider the evidence presented in the public hearing and the written
 - 35 report submitted by staff and shall act on the application based on the review criteria provided
 - 36 in this division.
 - 37 2. Action on the application shall be one of the following:
 - 38 a. Approval;
 - 39 b. Approval subject to conditions; or
 - 40 c. Denial, with a statement of the reasons for denial.

- 1 E. *Effect of denial or withdrawal.* No application for a WPSUP may be submitted within two years after
2 the date of denial or withdrawal of a request for the same use for the same property. The City Plan
3 Board may waive this time limitation by the affirmative vote of five members, provided 30 calendar
4 days have elapsed and provided the City Plan Board deems such action necessary to prevent an
5 injustice.
- 6 F. *Amended application.* Amendment of an application may be allowed at any time prior to or during
7 the public hearing, provided that no such amendment shall be such as to make the case different
8 from its description in the notice of public hearing. If the amendment is requested by the applicant
9 after notice of the hearing has been given and such amendment is at variance with the information
10 set forth in the notice, then the applicant shall pay an additional fee in the same amount as the
11 original fee for amended public notice. If the amended notice can be mailed at least 10 calendar
12 days prior to the hearing originally scheduled, the hearing on the amended petition may be held on
13 that date; otherwise, the chairperson shall announce at the public hearing that the hearing will be
14 continued to a future meeting with proper public notice.

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

- 16 A. *Effect.* WPSUPs, including any permit conditions, shall run with the land and shall be binding on the
17 original applicant as well as any successors or assigns. If there is a change of ownership or operator
18 at the development site, the new owner or operator shall inform the city of its identity and
19 registered agent for service of notice within 30 calendar days. Failure to do so shall be considered a
20 violation of a condition of the permit.
- 21 B. *Modifications.* After approval and issuance of a WPSUP, the following situations are allowed only
22 with the review and issuance of a new Special Use Permit:
 - 23 1. A change in the boundaries of the approved site.
 - 24 2. A change from the approved use.
 - 25 3. An increase in the storage capacity or type of any hazardous materials used, manufactured, sold
26 or stored at the site, including new hazardous materials not previously listed in the original
27 WPSUP. This criterion shall not apply to hazardous materials excluded from the provisions of the
28 Alachua County Hazardous Materials Management Code, as may be amended from time to
29 time.
- 30 C. *Expiration.* WPSUPs shall expire 12 months after the date of approval unless, at that time, the
31 authorized use has commenced or development at the site is continuing in good faith with an active
32 building permit. At the request of the applicant and for good cause shown, the City Plan Board may
33 extend the time of the permit's expiration for good cause shown and if not in conflict with any other
34 provision of this chapter.
- 35 D. *Abandonment.* On request of the permit holder, the City Manager or designee may approve the
36 abandonment of a WPSUP provided no construction has begun. In addition, if the use allowed by a
37 WPSUP has been abandoned for a continuous period of 12 months, the permit shall be void. The
38 process to determine whether a use has been abandoned shall be the same as that provided for
39 nonconforming uses in Article X.
- 40 E. *Revocation.* If any conditions of an issued WPSUP are violated, the City Plan Board may, after giving
41 proper notice to the permit holder, revoke the permit at a public hearing. The permit may be
42 reinstated by the City Manager or designee if the circumstances leading to the revocation are
43 corrected.

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DIVISION 7. SUBDIVISIONS

Section 30-3.33. Purpose.

This division is intended to provide 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 Comprehensive Plan.

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

- A. *Lot splits.* Lot splits shall be processed as follows:
 - 1. *Lot split restrictions.*
 - a. Lot splits are not permitted in minor subdivisions approved in accordance with the provisions of this chapter.
 - b. No further division of an approved lot split is permitted, unless a minor subdivision or record plat is prepared and submitted in accordance with this chapter.
 - c. Only those lot splits that do not require any street, sidewalk, bikeway, bridge, drainage facility, screening wall or any other improvement required under this chapter may be processed under this section.
 - 2. *Lot split standards.*
 - a. Each proposed lot shall conform to the provisions of this chapter.
 - b. Each lot shall front a public street or approved private street for the required minimum lot width for the zoning district where the lots are located, except as provided in Section 30-6.8.
 - c. If any lot abuts a public right-of-way that does not conform to the design specifications provided in Section 30-6.6 B, as further specified in the Design Manual, the owner may be required to dedicate, at no cost to the city, one-half of the right-of-way width necessary to meet the minimum design requirements.
 - d. A lot split shall be allowed only where water, sewer, fire and solid waste services are available to service the proposed lots. Alternatively, in the event city water or sewer is not available at any lot line, the lot may be served by a well or septic tank; provided the lot is a minimum size of one acre and the well or septic tank is permitted and approved by the governmental agencies with jurisdiction. Based on the review by the governmental permitting agencies, a well or septic tank may not be allowed within the wellfield districts, special environmental concern areas or areas with the presence of hazardous materials or known environmental contamination, due to health and safety concerns. Further, at the

1 time city water or sewer become available at the lot line, the property owner shall, at its
2 sole expense, connect to city water or sewer. This connection requirement shall run with
3 the land and shall be evidenced in a written document executed by the property owner and
4 recorded in the public records of Alachua County, Florida, at the time of approval of the lot
5 split. In the case of a vacant lot, the connection shall be required at the time of application
6 for development. In the case of existing development (other than single-family or two-
7 family), the connection shall be required at the time of application for development plan
8 review at the rapid review level or higher. In the case of single-family or two-family
9 development, the connection shall be required at the time of application for a permit for an
10 additional bathroom or for any structure equal to or greater than 25% of the square footage
11 of the existing principal structure.

12 3. *Review.*

- 13 a. *Application.* After a mandatory pre-application conference with staff, an application shall be
14 completed on a form prescribed by the city and submitted together with the following:
- 15 i. A boundary survey and lot split for the proposed division prepared by a professional land
16 surveyor registered in the state according to Chapter 472, Florida Statutes. The proposed
17 lot split shall show the intended division, legal descriptions, and acreage for the parent
18 parcel and proposed lots.
- 19 ii. A statement indicating the location where water or sanitary sewer service is available to
20 the property, and a statement indicating that all utility service shall be installed beneath
21 the surface of the ground in accordance with Section 30-8.2.
- 22 b. Upon receipt of a completed application, the several departments of the city shall review
23 and provide comment.
- 24 c. If the proposed lot split meets the conditions of this section and otherwise complies with all
25 applicable laws and ordinances, the City Manager or designee shall approve the lot split by
26 affixing his or her signature to the application form.
- 27 d. Upon approval of the lot split, the city shall record the split on the appropriate maps and
28 documents in the city. In addition, the applicant shall file lot splits with the Alachua County
29 Property Appraiser's office and in the public records of Alachua County.

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

- 34 1. An application for a lot line adjustment, signed by the owners of all lots that will be adjusted,
35 shall be completed on a form prescribed by the city and submitted together with a surveyor's
36 affidavit prepared by a professional land surveyor registered in the state that describes and
37 depicts the adjustment in the lot lines and references the filing or recording information for the
38 minor subdivision or lot split.
- 39 2. The applicant shall pay the same fee as for a lot split as specified in Appendix A.
- 40 3. The application shall be reviewed by city staff to verify that the requested adjustment, if
41 approved, will not create any nonconformity or violations of this chapter. If same are created,
42 the application shall be denied.

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

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

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

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

11 C. *Review.*

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

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

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

19 c. Copies of the existing recorded subdivision.

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

21 e. Taxes paid receipt.

22 f. Formal consent of the requisite number of owners of properties within the subdivision or
23 from the authorized representative of the homeowners association of the subdivision or
24 other authorized entity or individual affixed to or attached to the linen or film that will be
25 recorded in the public records.

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

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

- 32 2. Upon receipt of a completed application, the several departments of the city shall review and
33 provide comment.

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

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

39 A. *Minor subdivision standards.*

- 1 1. Each proposed lot shall conform to the provisions of this chapter.
- 2 2. All existing principal and accessory structures on each lot shall conform to the use and
3 development standards of this chapter.
- 4 3. All lots have city water and sewer services available and constructed to the lot line of at least
5 one lot, with appropriate easements granted to allow future water and sewer connections to
6 each of the lots at the time each lot is developed.
- 7 4. If the proposed minor subdivision abuts a public right-of-way that does not conform to the
8 provisions of Section 30-6.6 B, as further specified in the Design Manual, the owner may be
9 required to dedicate, at no cost to the city, one-half of the right-of-way width necessary to meet
10 the minimum design requirements. If the proposed minor subdivision abuts both sides of a
11 substandard street, one-half of the right-of-way width necessary to meet those minimum design
12 requirements may be required from each side. The dedication of this right-of-way or any
13 easements necessary shall be accomplished by a separate document. The applicant shall provide
14 the city with legal descriptions of all easements or rights-of-way to be dedicated, and the city
15 shall prepare and record the necessary documents as part of the approval process.
- 16 5. Each lot in the minor subdivision shall front for the entire required minimum lot width on a
17 public street or an approved private street. Where there is no minimum lot width requirement,
18 each lot shall abut a public street or approved private street for a width equivalent to the
19 maximum driveway width required in Section 30-6.20, plus any required turning radii area.
20 Notwithstanding the above, the length of street frontage may be modified during minor
21 subdivision review by the City Manager or designee, based on the need to achieve the most
22 efficient lot layout, access to and from the minor subdivision, operational needs of service
23 vehicles, vehicular circulation and the health, welfare, and safety of the public.
- 24 6. The minor subdivision shall create vehicular and pedestrian access to serve the minor
25 subdivision and improve gridded connectivity by connecting to surrounding existing streets and
26 by including new streets within the minor subdivision so that the resulting blocks will not exceed
27 a maximum block perimeter of 2,000 feet. Modifications to this requirement may be granted by
28 the City Manager or designee where the construction of a street is limited by existing conditions
29 such as, but not limited to:
 - 30 a. Access management standards;
 - 31 b. Regulated environmental features; or
 - 32 c. Public facilities, such as, but not limited to, stormwater facilities, parks, or schools.
- 33 Alternatively, where the Technical Review Committee determines that it is not possible to
34 construct the streets that would be required to meet the block perimeter standard, the block
35 perimeter shall be completed with the provision of pedestrian and bicycle paths or multi-use
36 paths. The required streets or paths shall be constructed at the expense of the applicant
37 according to the appropriate city standards as determined through the minor subdivision review
38 process, but may be sited and configured in a manner so that the streets provide the most
39 appropriate access to the minor subdivision and connectivity to the surrounding street network.
40 Where a street or path is planned to provide a future connection to a street or path beyond the
41 extent of the minor subdivision, the applicant shall provide for the connection of the street by
42 stubbing out the road improvements as close as practicable to the boundary of the minor
43 subdivision.

- 1 7. Each approved private street shall meet the following requirements in addition to the
2 requirements in Section 30-6.8:
- 3 a. An approved private street shall be paved to a minimum width of 12 feet wide for one-
4 directional traffic flow and 18 feet wide for two-directional traffic flow. Alternatively, a
5 determination shall be made by the city public works department, the city fire rescue
6 department, and city solid waste department that the approved private street is adequate
7 to support service vehicles as necessary to provide municipal services.
- 8 b. The structure and sub-base of the approved private street shall meet the standards set forth
9 in the Design Manual.
- 10 c. Each approved private street shall be connected directly to a public street or to another
11 approved private street. The method and type of connection shall be subject to approval by
12 the city public works department in accordance with the standards set forth in the Design
13 Manual. The private street serving the minor subdivision shall have a maximum length of
14 1,000 feet (measured by traversing the length of the approved private street from its
15 farthest extent to the nearest public street). At the point the private street reaches 1,000
16 feet in length, the applicant shall provide one of the following, as determined by the city fire
17 rescue department: appropriate emergency connection to the nearest public road, if such a
18 connection can be made on property within the minor subdivision; or a turnaround sized to
19 accommodate fire and rescue vehicles.
- 20 d. The owners of each approved private street shall provide necessary easements to the city
21 for the purpose of providing municipal services. Alternatively, if the city finds the street
22 serves a valid public purpose, the owners may gratuitously dedicate an approved private
23 street for purposes of public right-of-way.
- 24 e. Lots created on an approved private street shall be designed to minimize the number of
25 curb cuts onto the street. Shared driveway access shall be required of adjoining lots, except
26 where an odd number of lots are created, in which case, one lot, as determined by the city
27 public works department, may be allowed to have a separate driveway.
- 28 8. All proposed minor subdivisions shall meet the level of service standards in the Comprehensive
29 Plan. Proof of meeting these standards shall exist in the form of a certificate of concurrency
30 exemption, certificate of preliminary concurrency or certificate of conditional concurrency
31 reservation. The approval of a nonresidential minor subdivision in no way reserves capacity for
32 the purposes of concurrency.
- 33 B. *Review.*
- 34 1. *Application.* After a mandatory pre-application conference with staff, an application shall be
35 completed on a form prescribed by the city and submitted together with the following:
- 36 a. A map of boundary survey and minor subdivision certified by a professional land surveyor
37 registered in the state according to Chapter 472, Florida Statutes. The survey shall be drawn
38 on a 24-inch by 36-inch linen or stable base film with a three-inch margin on the left for
39 binding, and a one-half-inch margin on the other three sides. Additional information to be
40 shown on the survey shall include but not be limited to:
- 41 i. The lot lines, dimensions, legal descriptions and acreages for each lot being created.
42 ii. The acreage of the total tract.

- 1 iii. A vicinity map showing the location of the survey in relationship to major thoroughfares.
- 2 iv. A note stating, "THIS IS NOT A RECORD PLAT."
- 3 v. A municipal approval statement, to be signed by the director of planning and
- 4 development services, director of public works and general manager for Gainesville
- 5 Regional Utilities or their designee, certifying that the minor subdivision conforms to all
- 6 applicable ordinances and regulations of the city.
- 7 vi. A statement to be signed by the clerk of the court, stating, "Received and filed as an
- 8 unrecorded map in accordance with Section 177.132, Florida Statutes."
- 9 vii. The minor subdivision book and page where the survey is to be filed.
- 10 viii. The exact location of all existing principal and accessory structures on each lot. If the
- 11 existing structures obscure the alignment of the proposed lots they may be left off the
- 12 map of minor subdivision and be submitted separately on a boundary survey of the
- 13 parent parcel. Any shared use of said structures shall be clearly stated and shown as
- 14 easements on the minor subdivision.
- 15 b. A statement indicating the location where water or sanitary sewer service is available to the
- 16 property, and a statement indicating that all utility service shall be installed beneath the
- 17 surface of the ground in accordance with Section 30-8.2, and a statement indicating where
- 18 stormwater management facilities are available to accommodate stormwater runoff of the
- 19 proposed development.
- 20 c. If located on an approved private street, a signed consent (on the form provided by the city)
- 21 from the owners of each approved private street that serves the minor subdivision.
- 22 d. Payment of fees as required by Appendix A.
- 23 2. Upon receipt of a completed application, the several departments of the city shall review and
- 24 provide comment.
- 25 3. Minor subdivisions that require any street, sidewalk, bikeway, bridge, drainage facility,
- 26 screening wall or any other improvement required under this chapter may receive conditional
- 27 approval but will not receive final approval or be filed with the clerk of the circuit court until all
- 28 required improvements are fully constructed and approved by the city. No building permits may
- 29 be issued for any of the lots until final approval is granted and the minor subdivision is filed.
- 30 4. If the proposed minor subdivision meets the conditions of this section and otherwise complies
- 31 with all applicable laws and ordinances, the Technical Review Committee shall approve the
- 32 minor subdivision by affixing their signatures to the original document.
- 33 5. Upon approval of the minor subdivision, the original linen or stable base film drawing of the
- 34 survey and any covenants, deed restrictions or other required documents shall be filed with the
- 35 clerk of the circuit court as an unrecorded map, in accordance with Section 177.132, Florida
- 36 Statutes. It shall be filed by the subdivider with all fees paid by the subdivider. Upon filing of the
- 37 approved minor subdivision, copies of the filed minor subdivision and any required documents
- 38 shall be submitted to the city, in the form prescribed by the city.

Section 30-3.37. Subdivisions.

- 40 A. *Requirements.* To effectuate the purpose of this article, every subdivision of land within the city
- 41 shall be made in accordance with the requirements specified in this article. Such requirements

1 include a pre-application conference; obtaining design plat approval; obtaining construction plan
2 approval; obtaining final plat approval; constructing required public improvements; and supplying
3 security for the construction and maintenance of such improvements. Proposed residential
4 subdivisions shall meet the level of service standards adopted in the Comprehensive Plan. Proof of
5 meeting these standards shall exist in the form of a certificate of concurrency exemption, certificate
6 of preliminary or final concurrency (as applicable at the particular review stage), or certificate of
7 conditional concurrency reservation.

8 B. *Pre-application conference.*

- 9 1. *Required.* Prior to the preparation of a design plat, the subdivider shall seek the advice of city
10 staff to become familiar with the subdivision requirements, city policies and provisions of the
11 Comprehensive Plan. The subdivider is encouraged to bring plans and data specified in this
12 section so as to clearly show existing conditions of the site and its vicinity and the proposed
13 layout of the subdivision. It is intended that the procedure will assist the subdivider in preparing
14 a plat that will meet the requirements of this article. This procedure does not require a formal
15 application or fee.
- 16 2. *Prohibited or discouraged designs or improvements.* As indicated in this article and further
17 referenced in the Design Manual, certain practices, designs or improvements are discouraged or
18 prohibited. If prohibited, a modification will be required in order for the same to be allowed. If
19 discouraged, the same may be allowed by the City Commission depending on a proper showing
20 of necessity and the infeasibility of requiring the preferred practices, designs or improvements
21 when applied to the particular circumstances involved.
- 22 3. *Concept review (Sketch drawing).* The applicant may submit an application for the optional
23 concept subdivision review by city staff, with a sketch that contains the following:
 - 24 a. Approximate tract boundaries.
 - 25 b. Approximate location with respect to section lines.
 - 26 c. Streets on and adjacent to the tract.
 - 27 d. Proposed general street layout.
 - 28 e. Environmental features including but not limited to significant topographical and physical
29 features, regulated surface waters and wetlands, regulated natural and archaeological
30 resources, creeks, uplands, lakes, wetlands, FEMA and community determined flood plains,
31 and heritage trees.
 - 32 f. Generalized existing vegetation, including areas of native forest where the land shows no
33 evidence of prior use for agriculture.
 - 34 g. Proposed general lot layout and the total number of lots.
 - 35 h. Existing buildings on the property.
 - 36 i. Land use and zoning designation of the subject property.
 - 37 j. Generalized stormwater management plan.

38 The review schedule for concept subdivision plans shall follow the same submittal and review
39 schedule for development plans. As far as may be practicable on the basis of a sketch, the
40 reviewer will, without prejudice to the city, advise the subdivider of the extent to which the
41 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 C. *Design plat.*

- 4 1. *Generally.* Prior to the recording of an approved final plat, or prior to the conditional approval
5 of a final plat, clearing and grubbing of land, tree removal, and the construction of
6 improvements is expressly prohibited. Following a pre-application conference, the requirements
7 of this section become applicable and supersede any other regulation on tree removal.
- 8 2. *Application.* After a mandatory pre-application conference with staff, an application shall be
9 completed on a form prescribed by the city and submitted together with the applicable fee.
10 Each application shall include multiple copies of the design plat as necessary to facilitate the
11 review process, prepared in accordance with the standards specified in this chapter and
12 including all of the specifications set forth in this section. Proposed residential subdivisions shall
13 meet the level of service standards adopted in the Comprehensive Plan. Proof of meeting these
14 standards shall exist in the form of a certificate of concurrency exemption, certificate of
15 preliminary concurrency or certificate of conditional concurrency reservation.
- 16 3. *Fees.* The fee required with an application for design plat approval shall be as set forth in
17 Appendix A. Such fees are required to defray the cost of filing the application, notifying
18 interested parties, conducting investigations, and holding hearings on the design plat and final
19 plat.
- 20 4. *Developments of regional impact.* For any subdivision that is presumed to be a development of
21 regional impact as provided in Chapter 380, Florida Statutes and Chapter 27F, Florida
22 Administrative Code, additional copies of the design plat and a completed application for
23 development approval shall be submitted for filing with the regional planning agency and the
24 state land planning agency.
- 25 5. *Specifications.*
 - 26 a. The design plat shall be drawn clearly and legibly at a scale of at least one inch equals 100
27 feet on linen or stable base film, using a sheet size of 24 inches by 36 inches, reserving a
28 three-inch binding margin on the left side and a one-inch margin on the other three sides. If
29 more than one sheet is required, an index map relating each sheet to the entire subdivision
30 shall be shown on the first sheet. The design plat shall be prepared by a land surveyor,
31 signed and sealed before review, and shall contain the following information:
 - 32 i. Proposed name of the subdivision.
 - 33 ii. Name and registration number of surveyor.
 - 34 iii. Date of survey approval, north point with bearing or azimuth reference clearly stated in
35 the notes or legend, graphic and written scale, and space for revision dates.
 - 36 iv. Vicinity map showing location with respect to major roads and acreage of the
37 subdivision.
 - 38 v. Boundary line of the tract by bearings and distances.
 - 39 vi. Legal description of the tract to be subdivided.
 - 40 vii. Preliminary layout including streets, alleys and easements with dimensions and
41 proposed street names, lot lines with approximate dimensions, land to be reserved or

- 1 dedicated for public uses, and designation of any land to be used for purposes other
2 than single-family dwellings.
- 3 viii. Total number of lots.
- 4 ix. The front building setback line for each lot.
- 5 x. An inscription stating "NOT FOR FINAL RECORDING."
- 6 xi. Sidewalks, on all streets, on both sides, and at least five feet wide.
- 7 b. The design plat shall also contain or be accompanied by:
- 8 i. The name, address, and telephone number of the property owner and of any agent of
9 the property owner involved in the subdivision of the property.
- 10 ii. The exact locations, names, and widths of all existing streets, alleys, and recorded
11 easements within and immediately adjoining the subdivided lands.
- 12 iii. The location and a general description of any utilities facility on the subdivision tract.
- 13 iv. The invert elevation of existing and proposed sewers.
- 14 v. The location and size of existing improvements on the subdivision tract.
- 15 vi. The zoning and land use plan designations of lands within the subdivision tract and of
16 abutting property.
- 17 vii. Natural and manmade features on the subdivision tract, including creeks, ponds, lakes,
18 sinkholes, wetlands, watercourses, municipal, and community wellfield management
19 zones, major aquifer recharge areas, and lands within the floodplain and flood channel
20 as shown on the community determined flood control maps and FEMA.
- 21 viii. The location of all major tree groupings and identification of all heritage trees by genus
22 and species on the subdivision tract, a designation of which tree groupings and heritage
23 trees are proposed to be removed, and identification by genus and species of all
24 regulated trees located in or within 15 feet of any proposed right-of-way or utility
25 improvement. A generalized landscaping plan that shows the locations of the required
26 shade trees with the appropriate space allocations to meet code requirements for street
27 trees, buffers, retention basins, and stormwater management facilities. The design plat
28 and the final plat shall include a statement that all champion and high quality heritage
29 trees shall be preserved or mitigated in accordance with the requirements of this code.
- 30 ix. Stormwater management plan in accordance with this chapter and the Design Manual.
- 31 x. A soil survey map.
- 32 xi. A generalized statement outlining, as far as is known, the subsurface conditions of the
33 subdivision tract, including subsurface soil, rock, and groundwater conditions, the
34 location and results of any soil permeability tests, the location of any underground
35 storage tanks, and the location and extent of any muck pockets.
- 36 xii. A topographic map of the subdivision tract and a minimum of 100 feet or more of the
37 surrounding area as required to determine the offsite drainage and any impacts caused
38 by or related to the offsite drainage. The map shall be prepared by a land surveyor, with
39 maximum intervals of one foot where overall slopes are no more than 2%, two feet

- 1 where slopes are between two and 10%, and five feet where slopes are 10% or greater
2 based on North American Vertical Datum, 1988.
- 3 xiii. A general location map showing the relationship of the subdivision tract to such external
4 facilities as streets, residential area, commercial facilities, and recreation or open space
5 areas, and greenways, within one mile of the tract.
- 6 xiv. A plan for the elimination and future control of invasive non-native plant species from
7 the site. The non-native removal shall be completed as specified in the management
8 plan prior to the issuance of the first certificate of occupancy and yearly inspections for
9 three years to assure that infested areas have remained at less than 10% of the initial
10 population.
- 11 c. If the proposed subdivision contains land located within the floodplain as shown on the
12 community determined flood control maps and FEMA maps, the subdivider shall be
13 required to submit topographic information for areas adjoining sides of the channel, cross
14 sections for land to be occupied by the proposed development, high water information,
15 boundaries of the land within the floodplain and other pertinent information.
- 16 d. If the proposed subdivision includes regulated surface waters or wetlands, or regulated
17 natural and archaeological resources, the subdivider shall be required to submit the
18 following additional information for those areas designated:
- 19 i. A design plat showing buffer distances between the areas to be developed and
20 regulated surface waters and wetlands, and regulated natural and archaeological
21 resources.
- 22 ii. Square footage and percent of total subdivision tract to consist of impervious surface.
- 23 iii. A description of strategies to protect or restore environmental features on the
24 subdivision tract.
- 25 iv. Projected on-site and off-site water quality impacts to Outstanding Florida Waters
26 (OFW) that may result from the proposed subdivision.
- 27 v. Any required set-aside, conservation management area, or mitigation area.
- 28 6. *Officials' examination.*
- 29 a. The design plat shall be reviewed and commented on by the Technical Review Committee
30 and other applicable departments and agencies.
- 31 b. The Public Works Director or designee shall examine the design plat to determine if the
32 application conforms to criteria for general engineering, traffic stormwater management,
33 flood plains and maintenance easement requirements.
- 34 c. The General Manager for Utilities or designee shall examine and check the design plat for
35 needed utility easements.
- 36 d. The Planning and Development Services Department shall, at the Development Review
37 Board and City Commission hearings on the design plat, report the findings and
38 recommendations of the reviewing officials and county, state, and federal agencies,
39 together with an analysis of the conformance and nonconformance of the design plat to the
40 provisions of this chapter and other applicable requirements.
- 41 7. *Development Review Board review.*

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

1 access and greenway connections, waste disposal and other essential utilities; the overall
2 stormwater management plan; and policies for development in any special improvement
3 and redevelopment districts. Particular attention shall be given to the arrangement,
4 location, function, and width of streets, their consistency with the goal of developing a
5 multimodal transportation network and providing sufficient space for street trees both
6 above and below ground, their interaction with the overall transportation system and
7 relation to the topography of the land, water supply, sewage disposal, stormwater
8 management, lot sizes and arrangement, and the present or future development of abutting
9 property.

10 c. The commission may approve the design plat as presented if found to be in compliance,
11 require modifications, or disapprove the design plat if it is not in compliance. If disapproved,
12 the design plat shall be redesigned before resubmission for approval.

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

27 D. *Construction plans.*

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

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

43 2. *Review.* The subdivider shall submit multiple sets of plans as necessary to facilitate review by
44 the city in accordance with development review. The construction plans shall be approved if
45 they are consistent with the approved design plat and comply with all standards and

1 specifications. If the construction plans are not consistent with the design plat as approved by
2 the City Commission or do not comply with all standards and specifications, the city shall issue
3 either:

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

10 E. *Final plat.*

- 11 1. *Generally.* The final plat shall conform to the design plat as approved by the City Commission
12 and shall incorporate all modifications and revisions specified in the approval, except shifts in
13 stormwater and roadway facilities that do not change lot layout may deviate from the design
14 plat with approval from the City Manager or designee.
- 15 2. *Application.* After approval of the design plat and construction plans, the final plat and other
16 information required in this section shall be submitted in the correct form as prescribed by the
17 city. The following shall be submitted for the final plat review:
 - 18 a. The original stable base film tracing of the final plat prepared in accordance with the
19 requirements of this article, Chapter 177, Florida Statutes, and any other applicable statutes
20 and ordinances.
 - 21 b. A title opinion of an attorney at law licensed in Florida or a certification by an abstractor or
22 title company as required by Chapter 177, Florida Statutes.
 - 23 c. Applicable public improvement security documents.
 - 24 d. An additional fee as set forth in Appendix A to defray the expense of investigating, holding
25 hearings and acting upon the final plat.
 - 26 e. An additional fee as set forth in Appendix A to defray the expenses of inspection of roadway
27 and drainage facilities by the City Manager or designee.
- 28 3. *Specifications.* The final plat shall be legibly drawn at a scale of at least one inch equals 100 feet
29 using a sheet size of 24 inches by 36 inches, reserving a three-inch binding margin on the left-
30 hand side and a one-inch margin on the other three sides. If more than one sheet is required, an
31 index map relating each sheet to the entire subdivision shall be shown on the first sheet. The
32 final plat shall be prepared by a land surveyor in accordance with and include all of the
33 information required by Chapter 177, Florida Statutes. The final plat shall also contain:
 - 34 a. The exact boundary line of the tract.
 - 35 b. A vicinity map showing the location and acreage of the lands subdivided.
 - 36 c. The location of all creeks, ponds, lakes, sinkholes, wetlands, and watercourses within the
37 subdivided lands and any part of the lands within the flood channel or floodplain as shown
38 on the city's flood control maps adopted pursuant to this chapter as of the date of final plat
39 submission.
 - 40 d. The front building setback line for each lot.

- 1 e. Any subdivision boundary that is within a half-mile radius of any horizontal geodetic control
2 monument established by the county control densification survey or National Geodetic
3 Survey Horizontal or Vertical Control Network bearing confirmed coordinate values related
4 to the 1983 and the 1990 North American Datum Adjustment shall conform to the following
5 requirements:
- 6 i. All final plats shall identify all horizontal and vertical geodetic control monuments as
7 described above located within 500 feet of the proposed plat boundary.
- 8 ii. All plats shall have a minimum of three permanent reference monuments per 40 acres
9 of platted subdivision, which shall have state plane coordinates established from the
10 1983 and the 1990 North American Datum Adjustment delineated on the plat and shall
11 be tied directly to the plat boundaries.
- 12 iii. All plats shall have a minimum of two benchmarks located and described with the plat
13 that shall be projected from North American Vertical Datum, 1988, or later.
- 14 iv. The basis of bearings for all plats shall be grid north as established from the county
15 control densification survey and state plane coordinate system or National Geodetic
16 Survey Horizontal Control Network.
- 17 v. The state plane coordinates and bearing basis shall be established by conducting a self-
18 closing traverse between two horizontal geodetic control monuments. Each traverse
19 shall meet or exceed third order class one standards of accuracy as described in the
20 most recent version of the Standards and Specification for Geodetic Control Network
21 (SSGCN), as set forth by the Federal Geodetic Control Committee. When a development
22 contains multiple units, a major control traverse tied to two horizontal geodetic control
23 monuments may be submitted with the first phase, with subsequent units being tied to
24 this control traverse.
- 25 vi. A traverse sheet identifying the field angles, permanent reference points, distances and
26 the adjustments shall be submitted on 8½-inch by 11-inch paper with the plat submitted
27 for final development review. Copies of the field notes shall also be submitted. All
28 documents shall be signed and sealed by a surveyor.
- 29 vii. All geodetic monuments, including traverse stations set for the county control
30 densification survey, that fall within the limits of a development shall be shown on the
31 development plan and construction plans. All geodetic monuments that are in danger of
32 being disturbed or destroyed shall be referenced by a surveyor prior to the start of
33 construction and reset by a surveyor after the construction is complete. If it is not
34 practical to reset the geodetic monument in its original position, an off-set monument
35 may, with the approval of the City Manager or designee, be set. The referencing and
36 resetting of a geodetic monument shall be in accordance with the specifications set
37 forth in Article 2.1 of the SSGCN. Traverse stations shall require an accuracy of third
38 order class one and primary stations and their Azimuth marks shall require second order
39 class one accuracy standards. The surveyor who resets the geodetic monument shall be
40 responsible for the preparation and submittal of all documents necessary for the
41 notification of the state department of environmental protection, city engineer, the
42 county property appraiser's office and any other appropriate government agency.
43 Notification shall include, but not be limited to, a complete description of the geodetic
44 monument with all its accessories, an accurate how-to-reach description, the date of
45 last station recovery, the name of the person recovering monumentation, and the

1 address of the recovery party. This work shall be performed prior to the final inspection
2 and/or acceptance of the development.

3 viii. Any person who disturbs or destroys a geodetic monument shall be fully responsible for
4 the expense of having the monument reset by a surveyor. The city may, at the expense
5 of the person responsible for disturbing or destroying the monument, have a surveyor
6 reset the geodetic monument in accordance with the specifications set forth in Article
7 2.1 of the SSGCN.

8 ix. For purposes of this section, a surveyor means a person who is registered to engage in
9 the practice of surveying and mapping under Chapter 472, Florida Statutes.

10 4. *Review.*

11 a. *Staff review.* Prior to final plat approval, city staff and the City Attorney's office shall review
12 the proposed plat and supporting documents. If the proposed plat and supporting
13 documents meet the technical requirements of this chapter and other applicable laws and
14 ordinances, the departments shall approve the plat as to the requirements within their
15 areas of responsibility.

16 b. *City Commission review.* If the final plat is consistent with the design plat as approved by the
17 City Commission, meets all requirements of this chapter, and otherwise complies with all
18 applicable laws and ordinances, it shall be forwarded to the City Commission for final
19 consideration. Upon approval, the final plat shall bear certification of the approval by the
20 Clerk of the City Commission.

21 5. *Recording.* Upon approval of the final plat by the City Commission, the original linen or stable
22 base film tracing of the final plat, any required covenants or deed restrictions, and the
23 declaration of condominium if the subdivision is a condominium development, shall be recorded
24 with the clerk of the circuit court by the subdivider with all recording fees paid by the subdivider
25 within 15 calendar days from the date the final plat has been returned to the subdivider by city
26 staff. Recording the approved final plat shall constitute a final development order. Within 15
27 calendar days from the date of recording, three Mylar copies of the recorded plat and three
28 paper copies of the recorded plat signed and sealed by the clerk of the circuit court shall be
29 submitted to the city.

30 **Section 30-3.38. Subdivision Improvements.**

31 A. *Generally.*

32 1. Within 12 months after final plat approval, the subdivider shall construct the subdivision
33 improvements required by this section, other applicable ordinances and statutes, and such
34 additional standards and specifications as may be adopted from time to time by the City
35 Commission.

36 2. An engineer shall design the installation of all streets, sidewalks, bikeways, drainage structures,
37 bridges, bulkheads, and water and sewer facilities.

38 B. *Monuments.*

39 1. Permanent reference monuments (PRM's) and permanent control points (PCP's), as defined in
40 Chapter 177, Florida Statutes, shall be placed as required by Chapter 177. Florida Statutes.
41 PRM's shall be set in the ground so that the upper tip is flush with or no more than one foot
42 below the finish grade.

- 1 2. All lot corners shall be designated with a permanent marker such as an iron rod, iron pipe or
2 concrete monument.
- 3 3. The land surveyor shall, within one year after City Commission approval of the final plat,
4 including conditional approval if applicable, certify that the above-required monuments have
5 been set and the dates they were set.

6 C. *Inspection of improvements.*

- 7 1. The Directors of Public Works and Gainesville Regional Utilities shall be authorized to inspect
8 required subdivision improvements during construction to ensure that the work is in accordance
9 with the approved plans and specifications. If any substantial changes are required in the
10 approved plans or specifications during construction, the changes shall be submitted for
11 approval of the Directors of Public Works and Gainesville Regional Utilities as applicable.
- 12 2. The subdivider shall retain a reputable recognized commercial laboratory that shall certify all
13 materials and perform and certify all required density, LBR, concrete or other tests as may be
14 required by the city when reasonably necessary to ensure that all improvements are
15 constructed as per approved plans and specifications.

16 D. *Acceptance for maintenance.*

- 17 1. Prior to acceptance for maintenance by the city, the subdivider shall notify the Gainesville
18 Regional Utilities in writing that all required subdivision improvements have been completed.
19 Upon receipt of notice from the subdivider, the Directors of Public Works and Gainesville
20 Regional Utilities will make an inspection of the construction work. If work is found to be
21 satisfactorily completed, the city will accept the improvements for maintenance.
- 22 2. Acceptance for maintenance is intended to mean normal maintenance functions as routinely
23 performed by the city. It shall not include removal of soil accumulations on streets caused by
24 excessive erosion from adjacent lots, either prior to or during building construction within the
25 subdivision. It shall not include damage to any improvements caused by private construction or
26 private utility vehicles within the one-year maintenance period. All decisions regarding
27 abnormal damage or maintenance shall be made by the Public Works Department or Gainesville
28 Regional Utilities.

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

- 30 A. *Construction security.* Except as otherwise provided in this section, no final plat of any subdivision
31 shall be approved by the city unless security is filed with the city to secure the construction and
32 completion of the required subdivision improvements in a satisfactory manner within 12 months
33 from the date of final plat approval. If the subdivider fails to construct and complete the required
34 subdivision improvements within the required time frame, the city shall use the security to
35 complete the required subdivision improvements. In determining the cost of the improvements for
36 which security is required, improvements otherwise covered by a separate bond or security
37 arrangement between the subdivider and the city and those improvements already constructed and
38 approved by the Director of Public Works shall not be included. The form of security shall be one of
39 the following:
 - 40 1. *Surety bond.* A surety bond executed by a surety company authorized to do business in the
41 state with a rating of not lower or less than A-XII as rated by A.M. Best Company, Inc., an
42 independent national rating service for surety companies. The surety bond shall be enforceable
43 by and payable to the city in a sum at least equal to 120% of the total cost of the required

1 subdivision improvements provided in the subdivision as estimated by the subdivider's engineer
2 and verified and approved by the Directors of Public Works and Gainesville Regional Utilities.
3 The surety bond shall be first approved by the City Attorney as to form and legality prior to its
4 submission with the proposed final plat to the City Commission for approval and shall be
5 executed by both the subdivider and the party or parties with whom the subdivider has
6 contracted to perform the work and construct the improvements.

7 2. *Cash deposit.* A cash deposit with the city in the same amount that would be required for the
8 surety bond, which cash shall be deposited with the Director of Management and Budget of the
9 city and held under the same conditions as are required in a surety bond. Such deposit will be
10 held for the developer and, in the event of any nonperformance by the developer as required by
11 the ordinances of the city, will be used by the city to complete the required subdivision
12 improvements. During construction, upon the request of the subdivider, and upon inspection
13 and approval of construction and costs thereof by the city, the city shall refund to the subdivider
14 an amount equal to the approved costs for such improvements; provided, at no time shall the
15 balance of the cash deposit with the city be reduced to less than 30% of the estimated costs of
16 the subdivision improvements until all the subdivision improvements are completed and so
17 certified to by the city. Interest earned on all such cash deposits with the city shall be for the
18 account and to the credit of the person or persons making such deposit.

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

26 4. *Construction loan agreement.*

27 a. Deposit with the city a construction loan agreement in the amount of at least 120% of the
28 estimated cost of the required subdivision improvements, which agreement shall be
29 entered into by a recognized lending institution with the subdivider for the benefit of and
30 satisfactory to the city, providing that:

31 i. The lending institution will make payments on the proceeds of the loan to the city if the
32 subdivision improvements are not completed and approved by the city within the time
33 required;

34 ii. No payments of proceeds of the portion of the loan reserved for improvements shall be
35 made to anyone until the city has approved the payment, which approval will be given if
36 work is accomplished in accordance with approved plans and specifications and
37 ordinances of the city; and

38 iii. At no time will the loan proceeds be expended by that lending institution in excess of
39 90% of the estimated costs of the required subdivision improvements until all the
40 improvements are completed and so certified to by the city.

41 b. Deposit with the city a construction loan agreement in the amount of at least 100% of the
42 estimated cost of the required subdivision improvements, which agreement otherwise
43 meets the requirements of Subsection a. above, and an unconditional guaranty from the

1 subdivider in the amount of at least 20% of the estimated cost of the required subdivision
2 improvements that meets the following requirements:

- 3 i. Absolutely and unconditionally, jointly and severally, guarantees to the city the full and
4 prompt payment of the amount set forth in the guaranty that will be used by the city to
5 complete the required subdivision improvements, and the complete performance of the
6 subdividers of all conditions and requirements to be performed by the subdivider under
7 the City Code;
- 8 ii. Unconditionally, jointly and severally, agrees to pay all reasonable expenses and
9 charges, legal fees and other fees (including attorney's fees and costs, including court
10 costs at trial, appeal or bankruptcy proceeding) paid or incurred by the city in enforcing
11 the unconditional guaranty;
- 12 iii. Jointly and severally agrees to indemnify and hold harmless the city, its elected and
13 appointed officers, employees, and agents from any loss suffered or occasioned by the
14 failure of the subdivider to satisfy its obligations to third parties arising out of the
15 subdivision of the land;
- 16 iv. Binds the guarantors and their successors and assigns, and inures to the benefit of the
17 city; and
- 18 v. Makes such other representations and warranties requested by the City Manager or
19 designee to protect the interests of the city.

20 5. *Combination.* Use a combination of the allowable security types as provided for in this section
21 in order to reach the total of 120% of estimated costs of required subdivision improvements.

22 B. *Conditional final plat.*

- 23 1. In lieu of the security requirements of this section, the City Commission may approve a
24 conditional final plat, where approval of the plat is conditioned on the subdivider proceeding
25 with installation of the required subdivision improvements and fully completing the
26 improvements, in full accordance with approved plans and specifications and the ordinances of
27 the city, within two years of the date of conditional final plat approval. The plat shall not be
28 recorded, but shall be retained by the Clerk of the Commission until the City Manager shall have
29 certified that all required subdivision improvements have been completed in accordance with
30 approved plans and specifications and ordinances of the city and the same has been approved
31 by the City Commission. Upon certification by the City Manager and upon proof by title
32 insurance or other similar assurance to the satisfaction of the city that there are no liens or
33 possibilities of liens on the subdivision improvements or on the property to be dedicated to the
34 public, and that the dedicator has clear fee title thereto, the city shall approve the final plat and
35 accept the dedication of the public right-of-way easements, and other dedicated portions as
36 previously shown on the prior approved plat as set out in this chapter, and the subdivider shall
37 record the plat and provide copies as specified in Section 30-3.37.
- 38 2. No building permits shall be issued on property within the boundaries of the subdivision plat
39 until the plat shall have been approved and accepted by the City Commission and placed on
40 record in the public records of the county.
- 41 3. During construction the subdivider may, upon the posting of a bond or other such security for
42 the cost of the uncompleted improvements, have a prior conditional approval converted to final

1 approval and acceptance provided that all other requirements and conditions of this chapter
2 applicable to final plat acceptance have been met.

3 C. *Maintenance security.*

- 4 1. Under any arrangement for subdivision development within the city, the subdivider is obligated
5 to the city for any necessary repair of all required subdivision improvements under the
6 ordinances of the city for the period of one year following the date the city accepted the
7 improvements for maintenance. During the one-year period, the subdivider shall provide the
8 city with security in a form set forth in this section in an amount equal to 15% of the costs of the
9 required subdivision improvements, which may be used by the city to pay the costs of any
10 necessary repairs and maintenance on the subdivision improvements during the one-year
11 period.
- 12 2. In those developments where lands and improvements remain under private common
13 ownership, instruments relating to the use and maintenance of such areas and improvements
14 shall be required. The city may require the establishment of an appropriate entity and the
15 execution and recording of any appropriate legal instrument necessary to ensure the
16 maintenance, protection, and preservation of common areas designated on the plat. The title to
17 all land and improvements that are shown on the plat as common areas, private roads, etc.,
18 shall be held and continue to be held so as to ensure their proper maintenance and care and to
19 permit and ensure their continued use as intended in the approved plat. The instruments shall
20 include means legally enforceable by the city, the subdivider and his/her successors to
21 guarantee payment of such sums of money as are necessary for the maintenance; and all
22 conveyances or transfers of any interest in any of the property of the development shall be
23 legally encumbered of record so as to guarantee the continued use of the common areas and
24 roads as contemplated by the plat and the guarantee of the payment of the cost of the
25 maintenance.

26 **Section 30-3.40. Enforcement.**

- 27 A. *Generally.* No subdivision shall be made, platted or recorded, nor any building permit issued on
28 subdivided lands, unless the subdivision meets all the requirements of this chapter and has been
29 approved in accordance with the requirements provided in this chapter. The city or any aggrieved
30 person may have recourse to such remedies in law and equity as may be necessary to ensure
31 compliance with the provisions of this chapter, including injunctive relief to enjoin and restrain any
32 person from violating the provisions of this chapter, and any rules and regulations adopted under
33 this chapter.
- 34 B. *Building permits and certificates of occupancy.* No building permit or certificate of occupancy shall
35 be issued for any lot or parcel of land subject to the provisions of this chapter, except as follows:
- 36 1. If the lot or parcel is within a subdivision for which a final plat has been approved by the City
37 Commission and recorded and the required subdivision improvements have been installed and
38 accepted for maintenance by the city, both a building permit and a certificate of occupancy may
39 be issued.
- 40 2. If the lot or parcel is within a subdivision for which a final plat has been approved by the City
41 Commission and recorded and security for the required subdivision improvements has been
42 provided by the developer in accordance with this division, a building permit may be issued, but
43 no certificate of occupancy may be issued unless the City Manager determines that all required
44 subdivision improvements serving such lot or parcel have been satisfactorily completed and that

1 reasonable ingress and egress can be provided to the lot or parcel and the remaining portions of
2 the subdivision until all improvements are complete and the required maintenance security is
3 received and approved.

4 3. If the lot or parcel is within a minor subdivision that has been approved by the director of
5 planning and development services, city engineer, city traffic engineer and deputy manager for
6 utilities (or their designees) in accordance with the provisions of this chapter.

7 4. If the lot or parcel is part of a legal lot split that has been approved by the City Manager or
8 designee in accordance with the provisions of this chapter.

9 5. If the lot or parcel is a nonconforming lot, then as provided in Article X.

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

18 **DIVISION 8. RIGHT-OF-WAY VACATIONS**

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

20 A. *Review procedures.*

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

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

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

31 1. The public right-of-way no longer serves a public purpose and the vacation of the public right-of-
32 way is in the public interest, which shall be based on a consideration of the following:

33 a. Whether the public benefits from the use of the subject right-of-way as part of the city
34 street system;

35 b. Whether the proposed action is consistent with the Comprehensive Plan;

36 c. Whether the proposed vacation is consistent with the minimum block size requirements and
37 other applicable street connectivity standards;

38 d. Whether the proposed action would deny access to private property;

39 e. The effect of the proposed action upon public safety;

- 1 f. The effect of the proposed action upon the safety of pedestrians and vehicular traffic;
- 2 g. The effect of the proposed action upon the provision of municipal services including, but not
- 3 limited to, emergency service and waste removal;
- 4 h. The necessity to relocate utilities both public and private; and
- 5 i. The effect of the proposed action on the design and character of the area.
- 6 2. If the public right-of-way is a street, the city shall not vacate the right-of-way except if the
- 7 following additional criteria are met:
- 8 a. The loss of the street will not foreclose reasonably foreseeable future bicycle/pedestrian
- 9 use;
- 10 b. The loss of the street will not foreclose non-motorized access to adjacent land uses or
- 11 transit stops;
- 12 c. The loss of the street is necessary for the construction of a high density, mixed-use project
- 13 containing both residential and non-residential uses or creating close proximity of
- 14 residential and non-residential uses; and
- 15 d. There is no reasonably foreseeable need for any type of transportation corridor for the area.
- 16

17 **DIVISION 9. DEVELOPMENT PLAN REVIEW**

18 **Section 30-3.42. Purpose.**

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

24 **Section 30-3.43. Generally.**

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

37 **Section 30-3.44. Exemptions.**

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

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

Section 30-3.45. Levels of Development Review.

6 All development shall require rapid, intermediate, or major development review in accordance with the
 7 thresholds set forth in the table below. Any development activity below the thresholds identified for
 8 rapid review shall be reviewed in conjunction with a building permit application. Development that
 9 includes components within different thresholds shall be reviewed as one submittal in accordance with
 10 the highest threshold that is triggered by the development.

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

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

12 **Notes to Table:**

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

15

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

	RAPID	INTERMEDIATE AND MAJOR	MASTER PLAN
First-Step Meeting	Required.	Required.	Required.
Neighborhood Workshop	Not required.	Required.	Required.
Technical Review	Required.	Required.	Required.

	RAPID	INTERMEDIATE AND MAJOR	MASTER PLAN
Committee (TRC)			
Board Review	Required if requesting a variance.	Required if requesting a variance.	Required if requesting a variance.
Final TRC Review	Required if either TRC or board, as applicable, issued applicant a preliminary development order.	Required if either TRC or board, as applicable, issued applicant a preliminary development order.	Required if either TRC or board, as applicable, issued applicant a preliminary development order.

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Section 30-3.46. Review Criteria.

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

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

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Section 30-3.47. Review Procedures.

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- 10 A. *First-Step meeting.* Prior to filing an application for development plan review, the applicant shall
11 attend a first-step meeting to discuss the development review process, code requirements, and to
12 confer with staff about the development process. Comments made by staff at a first-step meeting
13 are made solely for preliminary informational purposes and shall not be construed as an approval or
14 denial or agreement to approve or deny any development order.
- 15 B. *Application.* A completed application, on the form provided by the city, shall be signed and notarized
16 by all owners of the property and by any agents of the owners. Applicable fees, attachments, and
17 other information as deemed necessary by the city shall be submitted as part of the application. The
18 City Manager or designee shall determine completeness based on level of review required, the
19 nature of the proposed development and other requirements as set forth in this chapter, the
20 Comprehensive Plan, and other city requirements deemed necessary to provide a professional and
21 complete review and evaluation of the application.
- 22 C. *Review.* If the application is determined to be complete, the application and associated materials
23 shall be reviewed according to this section.
 - 24 1. *Board review not required.* The Technical Review Committee shall review the application in
25 accordance with the review criteria provided in this division and provide comments, findings,
26 and conclusions supporting the committee’s final decision, which may include one of the
27 following:
 - 28 a. Find that all requirements of the review criteria provided in this division have been met and
29 issue a final development order;

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- 1 b. Find that all requirements of the review criteria provided in this division can be met with
2 conditions specified in writing and issue a preliminary development order, which requires
3 final Technical Review Committee review as provided in this section; or
- 4 c. Deny the application based upon a determination that the proposed development, even
5 with reasonable modifications and conditions, does not meet the review criteria set forth in
6 this division.
- 7 2. *Board review required.* If board review is required, the Technical Review Committee shall
8 prepare a recommendation to the board to: 1) approve; 2) approve with specified conditions; or
9 3) deny based upon a determination that the proposed development, even with reasonable
10 modifications and conditions, does not meet the review criteria set forth in this division. The
11 reviewing board shall consider the recommendation of the Technical Review Committee and
12 other relevant information pertaining to the application and, using the review criteria provided
13 in this division, shall decide one of the following:
- 14 a. Find that all requirements of the review criteria provided in this division have been met and
15 issue a final development order;
- 16 b. Find that all requirements of the review criteria provided in this division can be met with
17 conditions specified in writing and issue a preliminary development order, which requires
18 final Technical Review Committee review as provided in this section; or
- 19 c. Deny the application based upon a determination that the proposed development, even
20 with reasonable modifications and conditions, does not meet the review criteria set forth in
21 this division.
- 22 3. *Final review by Technical Review Committee.* If the applicant was issued a preliminary
23 development order, as opposed to a final development order, the applicant shall timely submit
24 all materials and information as deemed necessary by the city for final review. Upon receipt of a
25 complete application, as determined by the City Manager or designee, the Technical Review
26 Committee shall review the application in accordance with the review criteria provided in this
27 division and:
- 28 a. Find that all requirements of the review criteria and the preliminary development order
29 have been met and issue a final development order;
- 30 b. Inform the applicant in writing of the changes necessary for the development to comply
31 with the requirements of the review criteria and the preliminary development order; or
- 32 c. Find that the plan as submitted fails to meet the requirements of the review criteria or the
33 preliminary development order and not issue a final development order.
- 34 D. *Preliminary development orders.*
- 35 1. A preliminary development order shall contain the following:
- 36 a. An approved development plan, with a listing of conditions and modifications, if required, in
37 order for a final development order to be issued. The modifications shall be described in
38 sufficient detail and exactness to inform the applicant to amend the plan accordingly.
39 However, the failure to list all requirements of this chapter and other regulations of the city
40 shall not relieve the applicant from complying with such requirements and regulations at
41 the time of issuance of a final development order.

- 1 b. Notice that the preliminary development order does not constitute a final development
2 order and that subsequently adopted ordinances, regulations, and laws may require
3 additional amendments to the proposal.
- 4 c. An initial determination of concurrency.
- 5 2. A preliminary development order shall be effective for six months from the date of approval.
6 During this six-month period, the applicant shall seek final development approval. At the
7 request of the applicant and for good cause shown, the reviewing authority may extend the
8 period for obtaining final development order approval for a period of up to 12 months from the
9 date of approval of the preliminary development order.
- 10 E. *Final development orders.*
- 11 1. A final development order shall contain the following:
- 12 a. An approved development plan.
- 13 b. A certificate of final concurrency.
- 14 c. The expiration date for the final development order. A final development order shall remain
15 valid only if development commences and continues pursuant to an active building permit
16 to completion with due diligence and in good faith according to the terms and conditions of
17 approval.
- 18 2. A final development order shall be effective for a period of one year from the date of approval
19 unless otherwise specified in the order.

Section 30-3.48. Amendments to Approved Development Plans.

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

Section 30-3.49. Master Plans.

- 26 A. *Purpose.* Master plan review is an optional step for projects that fall within the intermediate or
27 major level of development review. A master plan is intended to provide for large area planning for
28 phased developments. The intent of the master plan is to identify internal and external
29 connectivity, regulated natural and archeological resources, and developable areas.
- 30 B. *Review and effect.* Master plans are reviewed by the Technical Review Committee in accordance
31 with the process set forth in this division for development plan review, and must demonstrate that
32 the completed development will be consistent with this chapter and with the Comprehensive Plan.
33 Each phase must include a proportionate share of any required recreational and open space, and
34 other site and building amenities of the entire development, except that more than a proportionate
35 share of the total amenities may be included in the earlier phases with corresponding reductions in
36 the later phases. An approved master plan will serve as a basis for review of future development
37 plans in the phased development, and individual phases or portions of the project must be
38 consistent with the approved master plan.
- 39 C. *Expiration of master plan.* A master plan shall be effective for up to 5 years from the date of
40 approval.

Section 30-3.50. Concept Review.

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

Section 30-3.51. Affordable Housing Concept Review.

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

DIVISION 10. BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY

Section 30-3.52. Building Permit.

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

Section 30-3.53. Certificate of Occupancy.

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

1 **DIVISION 11. MODIFICATIONS AND VARIANCES**

2 **Section 30-3.54. Modifications.**

- 3 A. *Purpose.* In order to provide flexibility for the unique circumstances of individual developments,
 4 certain modifications from the standards provided in this chapter, as provided in this section, may
 5 be requested by an applicant as part of the development review process.
- 6 B. *Review procedures.* All requests for modifications shall be submitted in writing with the application
 7 for development review on forms provided by the city. If an applicant requests multiple
 8 modifications, each modification shall be evaluated independently. The City Manager or designee
 9 shall have the authority to approve the modifications specifically set forth in this section. The
 10 request shall be approved or denied during development plan review and, if approved, shall be
 11 noted on the final development plan. No administrative appeals are available for any decision to
 12 approve or deny a modification.
- 13 C. *Review criteria.* The City Manager or designee may approve a modification if the request meets all
 14 of the following criteria:
- 15 1. The request is consistent with the Comprehensive Plan and meets the intent of this chapter and
 16 the zoning district.
 - 17 2. The applicant is providing a compensating enhancement of the public realm.
 - 18 3. The request will not have a material negative impact on adjacent uses, and is not injurious to
 19 the public health, safety, and welfare.
- 20 D. *Available modifications.*

REQUESTED MODIFICATION	MIN COMPENSATING ENHANCEMENT OF PUBLIC REALM
Variation in required street setback up to 3 feet.	1. 10% increase above required 1 st floor glazing.
Reduction in required glazing percentages up to 10%.	2. Increase of 2 feet above required sidewalk width.
Reduction in required building frontage percentages up to 10%.	3. 10% increase above required building frontage.
Reduction in required landscape zones up to 2 feet; however, in no case shall a landscape area be less than 4 feet in depth.	4. Increase of 4 feet above min 1 st floor height. 5. Increase of 2 feet above min landscape zone.

21

1 **Section 30-3.55. Variances.**

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

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

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

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

13 **DIVISION 12. APPEALS**

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

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

21 B. *Appointment and removal.*

22 1. The City Commission, through a competitive selection process, may appoint by contract one or
23 more Hearing Officers, who will be compensated as determined by the City Commission, for a
24 definite term of office not to exceed four years, and may be reappointed at the conclusion of
25 any term. In addition, the city may elect to use a Hearing Officer appointed by the State of
26 Florida or any agency thereof that meets the qualifications provided in this section.

27 2. During his/her term of service, a Hearing Officer appointed by the City Commission may be
28 removed only for cause by the City Commission. Cause for removal of a Hearing Officer
29 includes, but is not limited to, violations of the standards set forth in the Code of Judicial
30 Conduct adopted by the Florida Supreme Court or the State of Florida Code of Ethics for Public
31 Officers and Employees in Chapter 112, Florida Statutes.

32 C. *Minimum qualifications.* Hearing Officers must meet the following minimum qualifications:

- 33 1. A licensed attorney who is an active member of the Florida Bar in good standing.
34 2. At least three years of professional experience in land use or local government law.
35 3. Not an employee of or office holder with the city.

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

Section 30-3.57. Administrative Decisions.

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

- 1 3. Within 20 calendar days of the filing of a Notice of Appeal pursuant to this section, any person
2 with standing may intervene and become a party to the appeal by filing a Notice of Appeal in
3 accordance with this section.
- 4 4. The matter shall be set for a public hearing within 50 calendar days of the date of the Notice of
5 Appeal. This period may be extended by agreement of the city and all parties appealing the
6 decision.
- 7 5. The hearing shall be limited to the record on appeal and shall consist of oral argument by city
8 staff and parties with standing, each of whom may be represented by legal counsel, and the
9 party challenging the administrative decision shall have the burden of proof. The hearing shall
10 be conducted in accordance with established Florida law for quasi-judicial hearings.
- 11 6. *Record on appeal.*
 - 12 a. The record on appeal shall consist of the following: 1) the application and accompanying
13 information; and 2) the written decision of the administrative official and accompanying
14 information.
 - 15 b. All parties may freely refer to provisions from the following:
 - 16 i. The Comprehensive Plan, Land Development Code, and any other City of Gainesville
17 ordinance, resolution, or rule; and
 - 18 ii. Any federal or state statute, rule, or decision.
 - 19 c. If any party desires to admit any additional evidence, the additional evidence shall be
20 disclosed to the other parties and the Hearing Officer not less than five calendar days before
21 the hearing. At the beginning of the hearing, the Hearing Officer shall rule on whether such
22 additional evidence may be presented and shall freely allow the evidence when such
23 evidence is relevant to the issue on appeal.
- 24 7. The Hearing Officer shall make a decision based on the appeal criteria provided in this section,
25 and may affirm, reverse, or modify the decision or action of the administrative official. In
26 making a decision, the Hearing Officer may take any action that the administrative official was
27 authorized to take.
- 28 8. The decision of the Hearing Officer shall be rendered in writing not later than seven calendar
29 days after the date of the hearing's conclusion, and shall include findings of fact, if any, and
30 conclusions of law.
- 31 9. The decision of the Hearing Officer shall be final, and may be subject to judicial review as
32 provided in law.
- 33 D. *Appeal criteria.* The Hearing Officer shall give deference to the administrative official's final
34 decision, order, requirement, interpretation, determination, or action, and may only reverse or
35 modify such when the Hearing Officer finds that the administrative official's final decision, order,
36 requirement, interpretation, determination, or action:
 - 37 1. Was clearly erroneous or patently unreasonable and will result in a miscarriage of justice;
 - 38 2. Has no foundation in reason, meaning the absence of a situation where reasonable minds could
39 disagree, and is a mere arbitrary or irrational exercise of power having no substantial relation to
40 the public health, morals, safety, or welfare; or

1 3. Was an ultra vires act, meaning the administrative official clearly lacked the authority to take
2 the action under statute or the City of Gainesville Charter Laws or Code of Ordinances.

3 The Hearing Officer shall use binding, and may use persuasive, Florida case law as it relates to this
4 standard of review.

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

6 A. *Authority of Hearing Officer.* The Hearing Officer has authority to hear and decide appeals of the
7 decisions of the boards established by or administering the Land Development Code, including the
8 City Commission and the reviewing boards provided in this article, when all of the following criteria
9 are met:

- 10 1. The board decision was quasi-judicial, meaning the board applied established policy or law to a
11 specific, individualized situation. Quasi-judicial board decisions include but are not limited to
12 rezonings, Special Use Permits, subdivisions, and development plan review. Quasi-judicial board
13 decisions do not include legislative decisions such as land use changes or text amendments to
14 the Comprehensive Plan and Land Development Code.
- 15 2. The board decision was final, and not advisory.
- 16 3. The appeal is not a challenge to a development order controlled by Section 163.3215, Florida
17 Statutes.

18 B. *Standing to appeal.* The following persons shall have standing to appeal a board decision pursuant
19 to this section:

- 20 1. An applicant who is adversely affected by the decision.
- 21 2. A property owner whose property is the subject of the decision.
- 22 3. All owners of real property that lies within 400 feet of the property that is the subject of the
23 decision.
- 24 4. Any resident, landowner, or person having a contractual interest in land in the city who
25 demonstrates a direct adverse impact from the decision that exceeds in degree the general
26 interest in community good shared by all persons.

27 C. *Appeal procedures.*

- 28 1. A Notice of Appeal of a board decision, together with the applicable fee as set forth in Appendix
29 A and any submittal requirements established by the city, shall be filed with the city within 30
30 calendar days of the effective date of the board decision at issue. The Notice of Appeal shall set
31 forth a detailed basis for the appeal.
- 32 2. *Stay during appeal.* The filing of a timely Notice of Appeal shall stay all proceedings in
33 furtherance of the decision being appealed, including the issuance of any building permit or
34 development order, until the appeal has been concluded in accordance with this division. The
35 applicant may file applications, plans, or other information with the city pending the outcome of
36 the review, but the filing of such shall create no rights to any related approval by the city.
- 37 4. Within 20 calendar days of the filing of a Notice of Appeal pursuant to this section, any person
38 with standing may intervene and become a party to the appeal by filing a Notice of Appeal in
39 accordance with this section.

- 1 5. The matter shall be set for a public hearing within 50 calendar days of the date of the Notice of
2 Appeal. This period may be extended by agreement of the city and all parties appealing the
3 decision.
- 4 6. The hearing shall be limited to the record on appeal and shall consist of oral argument by city
5 staff and parties with standing, each of whom may be represented by legal counsel. The hearing
6 shall be conducted in accordance with established Florida law for quasi-judicial hearings.
- 7 7. *Record on appeal.* The record on appeal shall consist of an exact replication of the information
8 that was before the board for the decision being appealed, which may include the following:
 - 9 a. The application and accompanying information.
 - 10 b. Staff reports and recommendations, and any accompanying information.
 - 11 c. All exhibits and documentary evidence.
 - 12 d. The summary, findings, conclusions, and decision of the board that is the subject of the
13 appeal.
 - 14 e. Any audio or video recording of the board hearing that is the subject of the appeal.
 - 15 f. Any verbatim transcript available of the board hearing that is the subject of the appeal.
- 16 8. The Hearing Officer shall make a decision based on the appeal criteria provided in this section,
17 and may either affirm the board decision or remand the decision back to the reviewing board
18 with specific issues for the reviewing board to address.
- 19 9. The decision of the Hearing Officer shall be rendered in writing not later than seven calendar
20 days after the date of the hearing's conclusion, and shall include findings of fact, if any, and
21 conclusions of law.
- 22 10. If the Hearing Officer affirms the board decision at issue, the Hearing Officer's decision shall be
23 final and may be subject to judicial review as provided in law.
- 24 11. If the Hearing Officer remands the board decision at issue, the reviewing board shall reconsider
25 its decision and shall consider the issues specified by the Hearing Officer and may accept, reject,
26 or modify the Hearing Officer's findings and conclusions in making the final decision. After
27 considering the Hearing Officer's findings and conclusions, the reviewing board's decision shall
28 be final and may be subject to judicial review as provided in law.
- 29 D. *Appeal criteria.* The Hearing Officer shall affirm the board decision unless an appealing party with
30 standing demonstrates that any one of the following three requirements was not met. The Hearing
31 Officer shall use established Florida law as it relates to this standard of review.
 - 32 1. The appealing parties were afforded procedural due process, which includes:
 - 33 a. Notice of the board hearing that is the subject of the appeal;
 - 34 b. A fair hearing before an impartial decision-maker;
 - 35 c. An opportunity to be heard and present evidence at the hearing; and
 - 36 d. The opportunity to cross-examine any witnesses.
 - 37 2. The reviewing board observed the essential requirements of law.
 - 38 a. A departure from the essential requirements of law is something more than mere legal
39 error. A decision made according to the form of the applicable law and the rules prescribed

- 1 for rendering it, although it may be erroneous in its conclusion as applied to the facts, is not
2 an act that amounts to a departure from the essential requirements of law.
- 3 b. The Hearing Officer shall examine the seriousness of any error and exercise discretion only
4 when there has been a violation of a clearly established principle of law that results in a
5 miscarriage of justice.
- 6 3. The reviewing board’s decision was supported by competent substantial evidence.
- 7 a. Competent substantial evidence means such evidence that may establish a substantial basis
8 from which the fact at issue can be reasonably inferred, or material and relevant evidence
9 that a reasonable mind could accept as adequate to support a conclusion. The opinions and
10 recommendations of experts, including city staff, are deemed expert testimony and
11 constitute competent substantial evidence. Citizen testimony during any public comment
12 portion of a hearing may constitute competent substantial evidence if it is fact-based and
13 not a mere generalized statement of support or opposition.
- 14 b. The Hearing Officer may not reweigh the evidence or substitute his or her judgment for that
15 of the reviewing board, but rather shall rule upon only whether the reviewing board’s
16 decision was supported by any competent substantial evidence.
- 17