

ORDINANCE NO. 0-07-45

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**An ordinance of the City of Gainesville, Florida, amending the Land Development Code; amending Section 30-346(d) providing that the Standard Industrial Classification Manual categories are not used in residential districts for classification purposes; and providing that a non-conforming membership organization in a residential district may be changed to a place of religious assembly; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

**WHEREAS**, publication of notice of a public hearing was given that the text of the Land Development Code of the City of Gainesville, Florida, be amended and a public hearing was then held by the City Plan Board on May 17, 2007; and

**WHEREAS**, noticed were given and publications made of public hearings which were then held by the City Commission on June 11, 2007 and June 18, 2007; and

**WHEREAS**, pursuant to law, an advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of this proposed ordinance and of a public hearing in the City Commission meeting room, City Hall, City of Gainesville to be held at least 10 days after the day this first advertisement was published; and

**WHEREAS**, a second advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of the second public hearing to be held at the adoption stage at least 5 days after the day this second advertisement was published; and

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

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

6           **Section 1.** Subsection (d) of Section 30-346 of the Land Development Code is amended  
7 to read as follows:

8 **Sec. 30-346. Nonconforming lots, uses or structures.**

9           (d) *Nonconforming uses of buildings, structures and premises.* If a lawful use of a structure,  
10 or of a structure and premises in combination, exists in a district other than a residential district on  
11 the date this chapter was adopted or amended, that would not be allowed in the district under the  
12 terms of this chapter as a result of the adoption or amendment, the lawful use may be continued  
13 or changed to another use of the same major group, as identified in the Standard Industrial  
14 Classification Manual (SIC), as long as it remains otherwise lawful. However, consistent with  
15 Section 30-22, which provides that the SIC Manual is not used in residential districts for  
16 classification purposes, if a lawful use of a structure, or of a structure and premises in  
17 combination, exists in a residential district on the date this chapter was adopted or amended, that  
18 would not be allowed in that district under the terms of this chapter as a result of the adoption or  
19 amendment, the lawful use may be continued as long as it remains otherwise lawful, except that in  
20 accordance with the Religious Land Use and Institutionalized Persons Act, as codified in 42  
21 U.S.C.A. §2000cc et. seq., a membership organization may be changed to a place of religious  
22 assembly and, for the purpose of the Act, shall be considered the same use. All nonconforming  
23 uses shall be subject to the following provisions:

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25           (1) No existing structure devoted to a use not permitted by this chapter in the district in which  
26 it is located shall be enlarged, extended, constructed, reconstructed, remodeled, moved or  
27 structurally altered except in changing the use of the structure to a use permitted in the  
28 district in which it is located. The city plan board may allow, by special use permit, minor  
29 decorative, functional or safety improvements to existing structures devoted to legal  
30 nonconforming uses. Such improvements may not include:

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32           a. An increase in floor area; or  
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34           b. Enclosures of previously unenclosed areas.

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36           Improvements involving the installation of marquees, canopies or awnings must  
37 additionally meet the requirements of Article IX, pertaining to signs, and subsection 30-

1 338(3), relating to overhanging and protruding projections. Signs on marquees, canopies  
2 or awnings are prohibited in residential districts pursuant to section 30-318.

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4 ~~(2) If the use of a structure devoted to a use not permitted by this chapter in the district in-~~  
5 ~~which it is located is changed, the use must be changed to one permitted in such district or~~  
6 ~~to another use of the same major group, as identified by the Standard Industrial~~  
7 ~~Classification Manual.~~

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9 ~~(3)~~(2) When nonconforming use status applies to a structure and premises in combination,  
10 removal or destruction of the structure shall eliminate the nonconforming status of the  
11 land.

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13 ~~(4)~~(3) There may be a change of tenant, ownership or management of a nonconforming use  
14 provided there is no change in the nature or character of such nonconforming use.

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16 ~~(5)~~(4) Whenever a nonconforming use of land or of a building or other structure or any portion  
17 thereof is abandoned or the use is discontinued for a continuous period of nine months or  
18 more, such abandonment or discontinuance shall be presumed to constitute an intention to  
19 abandon or discontinue such use, and such use shall no longer be permitted. Any  
20 subsequent use of such building or structure or land shall be in conformity with the  
21 provisions of this chapter.

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

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

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

