

LEGISLATIVE #
190988A

ORDINANCE NO. 190988

An ordinance of the City of Gainesville, Florida, amending the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) by amending accessory dwellings as a permitted use in certain zoning districts with associated regulations; by amending Section 30-2.1 *Definitions*; by amending Section 30-4.12 *Permitted Uses in Transects*; by amending Section 30-4.16 *Permitted Uses in Residential Districts*; by amending Section 30-4.19 *Permitted Uses in Mixed-Use and Nonresidential Districts*; by amending Section 30-4.23 *Permitted Uses in Special Districts*; by amending Section 30-5.35 *Accessory dwellings*; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, secures for municipalities the broad exercise of home rule powers granted by Article VIII, Section 2 of the Florida Constitution, including the exercise of any power for municipal purposes not expressly prohibited by law; and

WHEREAS, Sections 163.3167 and 163.3177(1), Florida Statutes, requires the City of Gainesville to maintain a Comprehensive Plan to guide the future development and growth of the city by providing the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental and fiscal development of the city; and

WHEREAS, the City of Gainesville is required by Section 163.3202, Florida Statutes, to adopt or amend and enforce land development regulations that are consistent with and implement the Comprehensive Plan, and that are combined and compiled into a single land development code for the city (the City of Gainesville's Land Development Code is Chapter 30 of the Code of Ordinances); and

WHEREAS, this ordinance, which was noticed as required by law, will amend the text of the Land Development Code as described herein; and

1 **WHEREAS**, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of the
2 Charter Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant to
3 Section 163.3174, Florida Statutes, held a public hearing on February 27, 2020, and voted to
4 recommend that the City Commission approve this text amendment to the Land Development Code;
5 and

6 **WHEREAS**, an advertisement no less than two columns wide by ten inches long was placed in a
7 newspaper of general circulation and provided the public with at least seven days' advance notice of
8 this ordinance's first public hearing to be held by the City Commission; and

9 **WHEREAS**, a second advertisement no less than two columns wide by ten inches long was placed in
10 the aforesaid newspaper and provided the public with at least five days' advance notice of this
11 ordinance's second public hearing to be held by the City Commission; and

12 **WHEREAS**, public hearings were held pursuant to the notice described above at which hearings the
13 parties in interest and all others had an opportunity to be and were, in fact, heard; and

14 **WHEREAS**, the City Commission finds that the Land Development Code text amendment described
15 herein is consistent with the City of Gainesville Comprehensive Plan.

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

18 **SECTION 1.** Section 30-2.1 of the Land Development Code is amended as follows. Except as
19 amended herein, the remainder of Section 30-2.1 remains in full force and effect.

20 **Section 30-2.1. Definitions.**

21
22 ***Accessory dwelling unit*** ~~means a subordinate living unit added to, created within, or detached from a~~
23 ~~single family dwelling (but within the same lot) that provides basic requirements for independent~~

1 ~~living, sleeping, eating, cooking and sanitation.~~ **(ADU)** means an independent self-contained dwelling
 2 unit with kitchen and bathroom facilities, on the same lot as an associated primary use or structure.
 3 An ADU may be within, attached to, or detached from a primary structure.

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6 **SECTION 2.** Section 30-4.12 of the Land Development Code is amended as follows. Except as
 7 amended herein, the remainder of Section 30-4.12 remains in full force and effect.

8 **Section 30-4.12. Permitted Uses.**

9 The following table contains the list of uses allowed, and specifies whether the uses are allowed by right (P),
 10 accessory to a principal use (A), or by special use permit approval (S). Blank cells indicate that the use is not
 11 allowed. No variances from the requirements of this section are allowed.

12 **Table V-1: Permitted Uses within Transects.**

	Use Standards	U1	U2	U3	U4	U5	U6	U7	U8	U9	DT
RESIDENTIAL											
Accessory dwelling unit	30-5.35	<u>A</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>AP</u>	<u>A</u>	<u>A</u>

- 13 **LEGEND:**
- 14 P = Permitted by right; S = Special Use Permit; A = Accessory; Blank = Use not allowed.
 - 15 1 = When located along a Principal Street.
 - 16 2 = Prohibited where adjacent to single-family zoned property.
 - 17 3 = Office uses as a home occupation.
 - 18 4 = Office uses up to 20 percent of the building square footage and shall be secondary to a principal residential
 - 19 use. No outdoor storage allowed.
 - 20 5 = Special use permit required for any proposed food truck park with six or more food truck pads when the
 - 21 food truck park’s boundaries would be less than 300 feet from the boundary of any single-family zoned
 - 22 property or property that is developed with a single-family dwelling; otherwise, such food truck park is
 - 23 allowed by right.

24

25 **SECTION 3.** Section 30-4.16 of the Land Development Code is amended as follows. Except as
 26 amended herein, the remainder of Section 30-4.16 remains in full force and effect.

27 **Section 30-4.16. Permitted Uses.**

1 The following table contains the list of uses allowed, and specifies whether the uses are allowed by right (P),
 2 accessory to a principal use (A), or by special use permit approval (S). Blank cells indicate that the use is not
 3 allowed. No variances from the requirements of this section are allowed.

4 **Table V-4: Permitted Uses in Residential Districts.**

USES	Use Standards	RSF-1 to 4	RC	MH	RMF-5	RMF-6 to 8
Accessory dwelling unit	30-5.35	<u>A</u>	A	A	A	A

5 **LEGEND:**

6 P = Permitted by right; S = Special use permit; A = Accessory; Blank = Use not allowed.

7 1 = No more than two dwellings units per building are permitted in the RC district.

8
 9 **SECTION 4.** Section 30-4.19 of the Land Development Code is amended as follows. Except as
 10 amended herein, the remainder of Section 30-4.19 remains in full force and effect.

11 **Section 30-4.19. Permitted Uses.**

12 The following table contains the list of uses allowed, and specifies whether the uses are allowed by right (P),
 13 accessory to a principal use (A), or by special use permit approval (S). Blank cells indicate that the use is not
 14 allowed. No variances from the requirements of this section are allowed.

15 **Table V-7: Permitted Uses in Mixed-Use and Nonresidential Districts.**

	Use Standards	MU-1	MU-2	OR	OF	CP	BUS	BA	BT	BI	W	I-1	I-2
RESIDENTIAL													
Accessory dwelling unit	30-5.35	A	A	A	A	<u>A</u>	<u>A</u>	-	-	<u>A</u>	<u>AP</u>	-	-

16 **LEGEND:**

17 P = Permitted by right; S = Special Use Permit; A = Accessory; Blank = Use not allowed.

18 1 = Only when accessory to and in the same building as health services or offices of physicians, dentists, and
 19 other health practitioners.

20 2 = Accessory to and in the same building as health services and comprising less than 25 percent of the gross
 21 floor area of the building.

22 3 = Prohibited where adjacent to single-family zoned property.

23 4 = Special use permit required for any proposed food truck park with six or more food truck pads when the
 24 food truck park's boundaries would be less than 300 feet from the boundary of any single-family zoned
 25 property or property that is developed with a single-family dwelling; otherwise, such food truck park is
 26 allowed by right.

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2 **SECTION 5.** Section 30-4.23 of the Land Development Code is amended as follows. Except as
 3 amended herein, the remainder of Section 30-4.23 remains in full force and effect.

4 **Section 30-4.23. Permitted Uses.**

5 The following table contains the list of uses allowed, and specifies whether the uses are allowed by right (P),
 6 accessory to a principal use (A), or by special use permit approval (S). Blank cells indicate that the use is not
 7 allowed. No variances from the requirements of this section are allowed.

8 **Table V-9: Permitted Uses in Special Districts.**

USES	Use Standards	AGR	AF	CON	ED	MD	PS*
Accessory dwelling unit	<u>30-5.35</u>	<u>A</u>	-	-	-	<u>A</u>	-

9 **LEGEND:**

10 P = Permitted by right; S = Special use permit; A = Accessory; Blank = Use not allowed.

11 * = Other uses may be allowed as designated by the ordinance rezoning a property to PS.

12 1 = Special use permit required for any proposed food truck park with six or more food truck pads when the
 13 food truck park’s boundaries would be less than 300 feet from the boundary of any single-family zoned
 14 property or property that is developed with a single-family dwelling; otherwise, such food truck park is
 15 allowed by right.

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18 **SECTION 6.** Section 30-5.35 of the Land Development Code is amended as follows.

19 **Section 30-5.35. Accessory ~~dwellings~~ dwelling units (ADUs).**

20 ~~Accessory dwelling units are allowed in certain districts as specified in article IV and only in~~
 21 ~~conjunction with a primary single-family dwelling unit. Only one accessory dwelling unit may be~~
 22 ~~permitted per lot or parcel.~~

23 ~~A. *Location.* An accessory dwelling unit may be attached or detached from the principal building.~~

24 ~~B. *Style.* The accessory dwelling unit shall be designed as a subordinate structure to the primary~~
 25 ~~structure on the lot in terms of its mass, size and architectural character. The architectural~~
 26 ~~design, character, style and appearance of the accessory unit shall be consistent and compatible~~
 27 ~~with the primary structure.~~

28 ~~C. *Parking and access.*~~

- 1 ~~1. Off street parking for the accessory dwelling, if provided, shall be located on the lot on~~
2 ~~which the principal building is located.~~
- 3 ~~2. An accessory dwelling unit and any off street parking spaces shall be served by the same~~
4 ~~driveway as the principal building.~~
- 5 ~~D. *Standards.* Each accessory dwelling unit shall comply with all standards applicable within the~~
6 ~~zoning district, including required setbacks and building height limits. Accessory dwelling units~~
7 ~~are exempt from residential density calculations.~~
- 8 ~~E. *Owner occupancy required.* Property owner residency, as shown by an existing homestead~~
9 ~~exemption, in either the primary or accessory dwelling unit shall be a requirement for permitting~~
10 ~~of accessory dwelling units.~~
- 11 ~~F. *Building size.* The living area of the unit shall be a maximum of 50 percent of the principal~~
12 ~~residence or 1,000 square feet, whichever is lesser.~~
- 13 ~~G. *Subdivision.* An accessory unit may not be sold separately unless properly subdivided in~~
14 ~~accordance with this chapter.~~
- 15 A. Purpose.
- 16 1. Provide homeowners with flexibility in establishing separate living quarters within or adjacent
17 to their homes for purposes such as caring for seniors, providing housing for their children, or
18 obtaining rental income.
- 19 2. Increase the range of housing choices and the supply of accessible and affordable housing
20 units within the community.
- 21 3. Ensure that the development of ADUs does not cause negative impacts on the character or
22 stability of single-family neighborhoods.
- 23 B. Standards.
- 24 1. Only one ADU may be permitted per lot or parcel, and ADUs are exempt from residential
25 density calculations.
- 26 2. Each ADU must comply with all standards applicable within the zoning district, including
27 required setbacks and building height limits.
- 28 3. A non-conforming accessory structure converted to an ADU must meet the requirements of
29 Section 30-10.4.
- 30 4. An ADU may not exceed two stories. ADUs must meet accessory structure setbacks. If an ADU
31 exceeds a single story, the applicant shall take measures to ensure the privacy of neighbors,
32 including orienting windows and outdoor balconies to face internally into the lot and away
33 from neighboring residences.
- 34 5. ADUs, either attached or detached, may not exceed 850 square feet or up to 50% of the size
35 of the primary structure (not including the garage and unconditioned space), whichever is

1 less. Structures exceeding 850 square feet that existed on February 27, 2020, may be
 2 converted into ADUs.

3 6. ADUs must be designed as a subordinate structure to the primary structure on the lot in
 4 terms of its mass, size, height, and architectural character. The architectural design,
 5 character, style, and appearance of the ADU must be consistent and compatible with the
 6 primary structure.

7 7. New detached ADUs or ADUs extending from existing structures may not comprise more than
 8 50% of the total visible façade area parallel to the front property line.

9 8. One parking space per ADU must be provided in addition to any required parking for the
 10 primary unit. However, on-street parking where available may be used to meet ADU parking
 11 requirements. If off-street parking is provided, ADUs must be served by the same driveway as
 12 the principal building.

13 9. *Utilities.* ADUs may share existing utility and service infrastructure with the primary unit,
 14 subject to compliance with GRU standards.

15 10. *Subdivision.* An ADU may not be sold separately or as a condominium unless properly
 16 subdivided in accordance with this chapter.

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 19 **SECTION 7.** It is the intent of the City Commission that the provisions of Sections 1 through 6 of this
 20 ordinance become and be made a part of the Code of Ordinances of the City of Gainesville, Florida,
 21 and that the sections and paragraphs of the Code of Ordinances may be renumbered or relettered in
 22 order to accomplish such intent.

23 **SECTION 8.** If any word, phrase, clause, paragraph, section, or provision of this ordinance or the
 24 application hereof to any person or circumstance is held invalid or unconstitutional, such finding will
 25 not affect the other provisions or applications of this ordinance that can be given effect without the
 26 invalid or unconstitutional provision or application, and to this end the provisions of this ordinance
 27 are declared severable.

1 **SECTION 9.** All ordinances or parts of ordinances in conflict herewith are to the extent of such
2 conflict hereby repealed.

3 **SECTION 10.** This ordinance will become effective immediately upon adoption.

4 **PASSED AND ADOPTED** this _____ day of _____, 2020.

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LAUREN POE
MAYOR

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Attest:

Approved as to form and legality:

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OMICHELE D. GAINEY
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

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17 This ordinance passed on first reading this _____ day of _____, 2020.

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19 This ordinance passed on second reading this _____ day of _____, 2020.