



## Legislation Text

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**File #:** 070089, **Version:** 2

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### LAND DEVELOPMENT CODE AMENDMENT - NONCONFORMING USES (B)

Ordinance No. 0-07-45, Petition No. 51TCH-07PB

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.

The City Commission adopt the proposed ordinance.

### STAFF REPORT

The text changes to the nonconforming section of the code are proposed to make sure that the City is in accordance with the Religious Land Use and Institutionalized Persons Act, as codified in 42 U.S.C.A. §2000cc. The Act requires that no government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person or institution is in furtherance of a compelling governmental interest and is the least restrictive means of furthering the compelling government interest. Additionally, the Act specifies that "no government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution."

The proposed change would allow nonconforming membership organizations such as civic and social clubs and meeting halls to be changed to a place of religious assembly without a Special Use Permit in residential districts. This amendment further clarifies that the Standard Industrial Classification Manual (SIC) categories are not used in residential districts for classification purposes.

The City Plan Board heard the petition and recommended that it be denied. (NOTE: The Plan Board denied the petition because a city attorney was not present to explain the petition.) It is City staff's position that the petition be approved.

Public notice was published in the Gainesville Sun on May 1, 2007. The Plan Board held a public hearing May 17, 2007.

### CITY ATTORNEY MEMORANDUM

The City Commission, at its meeting of June 18, 2007, approved the Petition and authorized the City Attorney's Office to prepare the necessary ordinance amending Section 30-346(d) of the Land Development Code of the City of Gainesville.