



City of Gainesville
Department of Sustainable Development
Planning Division

PO Box 490, Station 11
Gainesville, FL 32627-0490
306 NE 6th Avenue
P: (352) 334-5022
F: (352) 334-2648

CITY PLAN BOARD STAFF REPORT

PUBLIC HEARING DATE: September 28, 2023

PROJECT NAME / FILE NUMBER/ PETITION NUMBER: Deleting Occupancy Limit and Amending Definitions / 2023-905 / LD23-000121 TCH

APPLICATION TYPE: Text Amendment (**Legislative**)

RECOMMENDATION: Approve

APPLICATION INFORMATION

Applicant: City of Gainesville (See Exhibit "A-1".)

Property Owner(s): N/A

Related Petition(s): None

Legislative History: On July 1, 2023, House Bill 1417 (Chapter 2023-314), which created Section 83.425, *Florida Statutes*, became effective preempting local governments from regulating residential tenancies, the landlord-tenant relationship, and all other matters covered under Florida's Landlord Tenant Act.

Neighborhood Workshop: N/A

PURPOSE AND DESCRIPTION

This is a City-initiated petition to amend the City of Gainesville Land Development Code in order to make it consistent with Section 83.425, *Florida Statutes*. The petition entails amending Section 30-2.1 – *Definitions* and deleting Section 30-4.10 – *Occupancy Limitation* to remove regulations relating to residential tenancies or the landlord-tenant relationship, as preempted by Section 83.425, *Florida Statutes*. Included with this petition is a draft copy of a proposed ordinance containing amended Code language, as prepared by the Office of the City Attorney, which is labelled Exhibit "A-2".

STAFF ANALYSIS AND RECOMMENDATION

ANALYSIS

Petition LD23-000121 TCH will allow the City of Gainesville to implement the Comprehensive Plan with land development regulations that are consistent with Section 83.425, *Florida Statutes*.

RECOMMENDATION

Staff recommends amending Section 30-2.1 – *Definitions* and deleting Section 30-4.10 – *Occupancy Limitation* to remove regulations relating to residential tenancies or the landlord-tenant relationship, as preempted by Section 83.425, *Florida Statutes*.

DRAFT MOTION FOR CONSIDERATION

I move to recommend approval of Petition LD23-000121 TCH by amending Section 30-2.1 – *Definitions* and deleting Section 30-4.10 – *Occupancy Limitation* to remove regulations relating to residential tenancies or the landlord-tenant relationship, as preempted by Section 83.425, *Florida Statutes*.

APPENDICES

Appendix A. – Supplemental Documents

Exhibit A-1: Application

Exhibit A-2: Draft Ordinance

Appendix A

Supplemental Documents



Planning Division
 PO Box 490, Station 11
 Gainesville, FL 32627
 Ph: 352-334-5023
 Email: planning@gainesvillefl.gov

Text Amendment Application

Applicant/Agent	
Name:	Company:
Mailing Address:	
City, State, Zip:	
Phone:	E-mail:
<p>Note: It is recommended that anyone intending to file a petition for a text amendment to Chapter 30 of the City of Gainesville Code of Ordinances (Land Development Code) or to the Comprehensive Plan, meet with staff prior to filing the petition, in order to discuss the proposed amendment and petition process. The request will be evaluated as applicable to the particular zoning district or land use category on a citywide basis.</p>	

Text Amendment		
Check applicable request below:		
Land Development Code	Comprehensive Plan Text	Other
Section/Appendix No:	Element & Goal, Objective or Policy No:	Specify:

Proposed text language and/or explanation of reason for request (use additional sheets, if necessary)

No person submitting an application may rely upon any comment concerning a proposed amendment, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

Certification:
 The undersigned has read the above application and is familiar with the information submitted herewith.

Applicant Signature: _____ **Date:** _____

ORDINANCE NO.

An ordinance of the City of Gainesville, Florida, amending Section 30-2.1 – Definitions and deleting Section 30-4.10 – Occupancy Limitation of the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) to remove regulations relating to residential tenancies or the landlord-tenant relationship as preempted by Section 83.425, Florida Statutes; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, the City of Gainesville, Florida (“City”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and the Municipal Home Rule Powers Act; and

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, during the 2023 session, the Florida Legislature adopted HB 1417 (Chapter 2023-314), which created Section 83.425, Florida Statutes, effective July 1, 2023, preempting local governments from regulating residential tenancies, the landlord-tenant relationship, and all other matters covered under Florida’s Landlord Tenant Act; 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

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

31 **WHEREAS**, this ordinance, which was noticed as required by law, will amend the text of the Land
32 Development Code as described herein in response to the newly-adopted Section 83.425, *Florida*
33 *Statutes*; and

34 **WHEREAS**, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of
35 the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant
36 to Section 163.3174, Florida Statutes, held a public hearing on May 25, 2023, and voted to make
37 a recommendation to the City Commission regarding the subject of this ordinance; and

38 **WHEREAS**, at least ten days' notice has been given once by publication in a newspaper of general
39 circulation notifying the public of this proposed ordinance and of public hearings in the City Hall
40 Auditorium located on the first floor of City Hall in the City of Gainesville; and

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

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

45 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**
46 **FLORIDA:**

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

49 **Section 30-2.1. Definitions.**

50 **Dwelling** means any building used primarily for human habitation. The term "dwelling" shall
 51 not include a hotel, motel, tourist court or other building for transients, but shall include
 52 group housing.

53 **Dwelling unit** means a room or rooms in a dwelling, other than a dormitory, comprising the
 54 essential elements of a single housekeeping unit. Each area with one address for billing, one
 55 electric meter, and/or one full kitchen shall be considered a separate dwelling unit.

56 **Family** means one or more natural persons who are living together as a single housekeeping
 57 unit and interrelated as spouse, domestic partner, child, stepchild, foster child, parent,
 58 stepparent, foster parent, brother, sister, grandparent, niece, nephew, father-in-law, mother-
 59 in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, or legal guardian, as
 60 evidenced by written documentation of such relationship, plus no more than two additional
 61 unrelated natural persons occupying either the whole or part of a dwelling unit as a separate
 62 housekeeping unit. A family also includes a community residential home, as defined in this
 63 chapter, with six or fewer residents. The persons constituting a family may also include
 64 domestic servants and temporary gratuitous guests. "Temporary gratuitous guests" as used
 65 herein shall refer to natural persons occasionally visiting such housekeeping unit for a short
 66 period of time not to exceed 30 calendar days within a 90-day period.

67 **Multiple-family dwelling** means a building containing two or more ~~dwelling~~ dwelling units.

68 **Single-family dwelling** means a single detached residential building consisting of one dwelling
 69 unit ~~that is arranged, intended or designed for one family.~~ A residential building with more
 70 than one kitchen, one meter for any utility (unless multiple meters are needed and billing is
 71 combined to one address); more than one address to the property; or more than two of the
 72 same major appliance (refrigerator, range, oven, kitchen sink, dishwasher, washer or dryer),
 73 even if consolidated in one kitchen or area, shall be considered a multifamily dwelling.

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75 **SECTION 2.** Section 30-4.10 of the Land Development Code is deleted in its entirety as follows.

76 The numbering of Section 30-4.10 will be reserved.

77 **~~Section 30-4.10. Occupancy limitation.~~**

78 ~~In certain districts, an increase in the number of persons occupying a dwelling beyond one~~
 79 ~~family, as defined in this chapter, is detrimental to the health, welfare, safety, and morals of the~~
 80 ~~citizens of this community, and is a public nuisance that causes deterioration of the surrounding~~
 81 ~~property values.~~

82 ~~A. *Applicable districts.* The following zoning districts shall be subject to this section: RSF-1; RSF-~~
 83 ~~2; RSF-3; RSF-4; RC; all PDs designed for residential use at a density of no more than eight~~
 84 ~~dwelling units per acre; and all other PDs as may be specified in the rezoning ordinance.~~

85 ~~B. *Unlawful acts.* No owner or landlord shall enter into any agreement, contract, lease, or~~
 86 ~~sublease that allows the occupancy of any dwelling unit in a designated district by more~~
 87 ~~than one family, as defined in this chapter. Any agreement, contract, lease, or sublease that~~
 88 ~~allows such occupancy by more than one family is unlawful and is hereby declared to be~~
 89 ~~contrary to public policy.~~

90 ~~C. *Enforcement.* In addition to any other remedy provided for herein, the city manager or~~
 91 ~~designee, upon reasonable cause to believe that this section is being violated, may request~~
 92 ~~the city attorney to take any appropriate action to correct the violation.~~

93 ~~D. *Public nuisance.* Any person who violates this section shall be deemed guilty of maintaining~~
 94 ~~a nuisance, and may result in abatement or enjoinder as provided in F.S. §§ 60.05(1) and~~
 95 ~~60.06.~~

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97 **SECTION 3.** It is the intent of the City Commission that the provisions of Sections 1 and 2 of
 98 this ordinance become and be made a part of the Code of Ordinances of the City of Gainesville,
 99 Florida, and that the sections and paragraphs of the Code of Ordinances may be renumbered or
 100 relettered in order to accomplish such intent.

101 **SECTION 4.** If any word, phrase, clause, paragraph, section, or provision of this ordinance or
 102 the application hereof to any person or circumstance is held invalid or unconstitutional, such
 103 finding will not affect the other provisions or applications of this ordinance that can be given
 104 effect without the invalid or unconstitutional provision or application, and to this end the
 105 provisions of this ordinance are declared severable.

106 **SECTION 5.** All ordinances or parts of ordinances in conflict herewith are to the extent of such
 107 conflict hereby repealed.

108 **SECTION 6.** This ordinance will become effective immediately upon adoption.

109 **PASSED AND ADOPTED** this ____ day of _____, 2023.

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HARVEY L. WARD, JR.
MAYOR

Attest:

Approved as to form and legality:

KRISTEN J. BRYANT
INTERIM CITY CLERK

DANIEL M. NEE
CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2023.

This ordinance passed on second reading this ____ day of _____, 2023.