

..title

TEXT CHANGE – AMENDING THE LAND DEVELOPMENT CODE RELATED TO SEXUAL OFFENDER TREATMENT FACILITIES (B)

Ordinance No. 160769

An ordinance of the City of Gainesville, Florida, amending the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) by deleting Social Service Facility and Rehabilitation Center as permitted uses and adding Sexual Offender Treatment Facility and Social Service Treatment Facility as permitted uses in certain zoning districts with associated regulations; by amending Section 30-2.1. Definitions; by amending Section 30-4.12. Permitted Uses within transect zoning districts; by amending Section 30-4.16. Permitted Uses in residential zoning districts; by amending Section 30-4.19. Permitted Uses in mixed-use and nonresidential zoning districts; by amending Section 30-4.23. Permitted Uses in special zoning districts; by amending Article V. Use Standards to provide regulations for Sexual Offender Treatment Facilities and Social Service Treatment Facilities; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

..recommendation

The City Commission adopt the proposed ordinance.

..explanation

STAFF REPORT

On May 19, 2016, the City Commission heard from several citizens from the Oakview Neighborhood regarding concerns about counseling services for sexual offenders locating in their neighborhood near childcare centers. The City Commission referred this issue to the General Policy Committee for discussion and on May 26, 2016, the consensus of the General Policy Committee was to amend the Land Development Code to clarify definitions and to make it clear where sexual offender treatment would be allowed. Subsequent to that, the City Commission held a public hearing on July 6, 2017, and approved the petition associated with this text amendment to the Land Development Code and authorized the drafting of this ordinance.

This ordinance will amend the Land Development Code by clarifying definitions, specifically by deleting Social Service Facilities and Rehabilitation Centers as permitted uses and adding Social Service Treatment Facilities and Sexual Offender Treatment Facilities as permitted uses in certain zoning districts with applicable regulations. This ordinance defines Social Service Treatment Facilities as facilities that provide general out-patient professional therapy, counseling, or similar rehabilitative services to individuals or groups related to social disorders, addictions, or similar issues. Sexual Offender Treatment Facilities are defined as facilities that provide any out-patient sexual behavior therapy, counseling, or similar rehabilitative services to individuals or groups that are either registered sexual offenders or registered sexual predators under state law as a result of an offense in which the victim was less than 16 years of age.

1st Reading: 10/4/18
2nd Reading: 10/18/18

These uses are both assigned the same zoning districts and both include a spacing requirement to prevent a concentration of these uses in one area – cannot be located closer than 1,320 feet from similar uses. In addition, this ordinance has an additional spacing requirement for Sexual Offender Treatment Facilities, requiring them to be located no closer than 1,000 feet from any school, day care center, or park.

CITY ATTORNEY MEMORANDUM

This ordinance requires two hearings and shall become effective immediately upon adoption at second reading.

LEGISLATIVE #

160769A

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

3 **WHEREAS**, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of
4 the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant
5 to Section 163.3174, Florida Statutes, held a public hearing on April 27, 2017, and voted to
6 recommend to the City Commission that this text amendment of the Land Development Code
7 be denied; and

8 **WHEREAS**, the City Commission held a public hearing on July 6, 2017, and approved the
9 petition associated with this text amendment to the Land Development Code and authorized
10 the drafting of this ordinance; and

11 **WHEREAS**, an advertisement no less than two columns wide by ten inches long was placed in a
12 newspaper of general circulation and provided the public with at least seven days' advance
13 notice of this ordinance's first public hearing to be held by the City Commission in the City Hall
14 Auditorium, located on the first floor of City Hall in the City of Gainesville; and

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

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

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

1 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,
2 FLORIDA:

3
4 **SECTION 1. Section 30-2.1. Definitions** of the Land Development Code (Chapter 30 of the City
5 of Gainesville Code of Ordinances) is amended as follows. Except as amended herein, the
6 remainder of Section 30-2.1 remains in full force and effect.

7 **Section 30-2.1. Definitions.**

8
9 ~~**Rehabilitation center** means a facility providing professional care, nonresident only, for those requiring~~
10 ~~therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse, social~~
11 ~~disorders, physical disabilities, intellectual disabilities or similar problems.~~

12
13 **Sexual offender treatment facility** means a facility that provides any out-patient sexual behavior
14 therapy, counseling, or similar rehabilitative services to individuals or groups that are either registered
15 sexual offenders as defined in Section 943.0435, Florida Statutes, or registered sexual predators as
16 defined in Section 775.21, Florida Statutes, as a result of an offense in which the victim was less than 16
17 years of age.

18
19 ~~**Social service facility home or halfway house** means an establishment providing professional care,~~
20 ~~resident or nonresident, for those requiring therapy, counseling or other rehabilitative services related~~
21 ~~to drug abuse, alcohol abuse, social disorders, physical disabilities, intellectual disabilities or similar~~
22 ~~problems. that provides professional residential care for individuals or groups needing therapy,~~
23 ~~counseling, or similar rehabilitative services related to mental or physical challenges, social disorders,~~
24 ~~addictions, or similar issues.~~

25
26 **Social service treatment facility** means a facility that provides out-patient professional therapy,
27 counseling, or similar rehabilitative services to individuals or groups related to social disorders,
28 addictions, or similar issues, not including sexual offender treatment facilities.

29
30 **SECTION 2. Section 30-4.12. Permitted Uses** of the Land Development Code is amended as
31 follows. Except as amended herein, the remainder of Section 30-4.12 remains in full force and
32 effect.

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

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

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

	Use Standards	U1	U2	U3	U4	U5	U6	U7	U8	U9	DT
RESIDENTIAL											
Accessory dwelling unit	30-5.33 30-5.34	-	P	P	P	P	P	P	P	-	-
NONRESIDENTIAL											
Food truck	30-5.35 30-5.36	-	-	-	A	-	P	P	P	P	P
Sexual offender treatment facility	30-5.23	-	-	-	-	-	-	-	<u>P</u>	<u>P</u>	<u>P</u>
Social service facilities	30-5.25	-	-	-	-	-	-	-	<u>P</u>	<u>P</u>	<u>P</u>
Social service treatment facility	30-5.27	-	-	-	-	-	-	-	<u>P</u>	<u>P</u>	<u>P</u>
Vehicle services	30-5.28 30-5.29	-	-	-	-	-	-	P	P	-	-
Vehicle repair	30-5.28 30-5.29	-	-	-	-	-	-	P	-	-	-
Veterinary services	30-5.29 30-5.30	-	-	-	P	-	P	P	P	P	P
Wireless communication services	See 30-5.30 30-5.31										

5 **LEGEND:**

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

7 1 = When located along a Principal Street.

8 2 = Prohibited where adjacent to single-family zoned property.

9 3 = Office uses as a home occupation.

10 4 = Office uses up to 20% of the building square footage and shall be secondary to a principal residential
 11 use. No outdoor storage allowed.

12

13 **SECTION 3. Section 30-4.16. Permitted Uses** of the Land Development Code is amended as
 14 follows. Except as amended herein, the remainder of Section 30-4.16 remains in full force and
 15 effect.

Section 30-4.16. Permitted Uses.

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

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 units	30-5.33 <u>30-5.34</u>	-	A	A	A	A
Fowl or livestock (as an accessory use)	30-5.36 <u>30-5.37</u>	-	-	-	-	-

LEGEND:

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

1 = No more than 2 dwellings units per building are permitted in the RC district.

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

Section 30-4.19. Permitted Uses.

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

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 units	30-5.33 <u>30-5.34</u>	A	A	A	A	-	-	-	-	-	P	-	-
NONRESIDENTIAL													
Food truck	30-5.35 <u>30-5.36</u>	P	P	A	A	P	P	P	P	P	P	P	P

	Use Standards	MU-1	MU-2	OR	OF	CP	BUS	BA	BT	BI	W	I-1	I-2
Ice manufacturing/vending machines	30-5.38 <u>30-5.39</u>	-	-	-	-	-	S	S	S	A	A	A	A
Rehabilitation centers	30-5.24	S	S	S	S	-	S		-	S	-	S	
<u>Sexual offender treatment facility</u>	<u>30-5.23</u>	<u>P</u>	<u>P</u>	-	<u>P</u>	-	<u>P</u>	-	-	<u>P</u>	-	-	-
Sexually-oriented cabarets	30-5.23 <u>30-5.24</u>	-	-	-	-	-	-	-	P	-	-	-	P
Sexually-oriented motion picture theaters	30-5.23 <u>30-5.24</u>	-	-	-	-	-	-	-	P	-	-	-	P
Sexually-oriented retail store	30-5.23 <u>30-5.24</u>	-	-	-	-	-	P	-	P	-	-	-	P
Social service facility	30-5.25	S	S	S	S	-	-	-	-	-	P	S	S
<u>Social service treatment facility</u>	<u>30-5.27</u>	<u>P</u>	<u>P</u>	-	<u>P</u>	-	<u>P</u>	-	-	<u>P</u>	-	-	-
Solar generation station	30-5.27 <u>30-5.28</u>	-	-	-	-	-	-	-	-	P	-	P	P
Vehicle repair	30-5.28 <u>30-5.29</u>	-	-	-	-	-	-	P	P	P	-	P	P
Vehicle services	30-5.28 <u>30-5.29</u>	S	S	-	-	-	P	P	P	P	S	P	P
Veterinary services	30-5.29 <u>30-5.30</u>	P	P	P	P	P	P	P	P	P	P	P	P
Wireless communication facilities	30-5.30 <u>30-5.31</u>												

1 **LEGEND:**

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

3 1 = Only when accessory to and in the same building as health services or offices of physicians, dentists,
4 and other health practitioners.

5 2 = Accessory to and in the same building as health services and comprising less than 25% of the gross
6 floor area of the building.

7 3 = Prohibited where adjacent to single-family zoned property.

8

9

1 **SECTION 5. Section 30-4.23. Permitted Uses** of the Land Development Code is amended as
 2 follows. Except as amended herein, the remainder of Section 30-4.23 remains in full force and
 3 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
 6 (P), accessory to a principal use (A), or by special use permit approval (S). Blank cells indicate that the
 7 use is not allowed. No variances from the requirements of this section shall be allowed.

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

Use	Use Standards	AGR	AF	CON	ED	MD	PS*
Food trucks	30-5.35 <u>30-5.36</u>	-	P	-	P	P	A
Rehabilitation centers	30-5.24	-	-	-	-	P	P
<u>Sexual offender treatment facility</u>	<u>30-5.23</u>	-	-	-	-	<u>P</u>	-
Shooting ranges, outdoor	30-5.24 <u>30-5.25</u>	S	-	-	-	-	-
Social service facilities (not elsewhere classified)	30-5.25	-	-	-	-	P	-
<u>Social service treatment facility</u>	<u>30-5.27</u>	-	-	-	-	<u>P</u>	-
Solar generation station	30-5.27 <u>30-5.28</u>	P	P	-	-	-	P
Vehicle repair	30-5.28 <u>30-5.29</u>	-	P	-	-	-	P
Veterinary services	30-5.29 <u>30-5.30</u>	P	P	-	-	-	-
Wireless communication facilities	See 30-5.30 <u>30-5.31</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
 13 **SECTION 6. Article V. Use Standards** of the Land Development Code is amended as follows.

14 Except as amended herein, the remainder of Article V remains in full force and effect.

1 **ARTICLE V. USE STANDARDS**

2 **DIVISION 1. PRINCIPAL USES**

3 **Section 30-5.1. Applicability.**

4
5 **Section 30-5.2. Adult Day Care Homes.**

6
7 **Section 30-5.3. Alcoholic Beverage Establishments.**

8
9 **Section 30-5.4. Bed and Breakfast Establishments.**

10
11 **Section 30-5.5. Carwash, Automated or Self-Service.**

12
13 **Section 30-5.6. Community Residential Homes.**

14
15 **Section 30-5.7. Day Care Centers.**

16
17 **Section 30-5.8. Dormitories, Small and Large.**

18
19 **Section 30-5.9. Drive-Through Facilities.**

20
21 **Section 30-5.10. Family Child Care Homes, Large.**

22
23 **Section 30-5.11. Farmers Markets.**

24
25 **Section 30-5.12. Food Distribution Centers for the Needy.**

26
27 **Section 30-5.13. Gasoline and Alternative Fuel Stations.**

28
29 **Section 30-5.14. Industrial Uses.**

30
31 **Section 30-5.15. Junkyards and Salvage Yards.**

32
33 **Section 30-5.16. Light Assembly, Fabrication and Processing.**

34
35 **Section 30-5.17. Microbreweries/Microwineries/Microdistilleries.**

36
37 **Section 30-5.18. Mini-Warehouses/Self-Storage Facilities.**

38
39 **Section 30-5.19. Outdoor Storage.**

1 **Section 30-5.20. Parking, Surface.**

2
3 **Section 30-5.21. Places of Religious Assembly.**

4
5 **Section 30-5.22. Residences for Destitute People.**

6
7 **Section 30-5.23. Sexual Offender Treatment Facility.**

8 Sexual offender treatment facilities must meet the following requirements:

- 9 A. Spacing and location. Sexual offender treatment facilities may not be located closer than 1,320 feet
10 from any other sexual offender treatment facility or from any social service treatment facility, social
11 service home, halfway house, residence for destitute people, food distribution center for the needy
12 or combination thereof. Sexual offender treatment facilities may not be located closer than 1,000
13 feet from any school, day care center, or park. All measurements are made by extending a straight
14 line from the nearest property line of the above-listed facilities to the nearest property line of the
15 proposed facility. If any such use is located in a multi-tenant building, then property line means the
16 nearest line of the leasehold or other space actually controlled or occupied by the applicable use.

17 ~~Section 30-5.23.~~ **Section 30-5.24. Sexually Oriented Businesses.**

18
19 ~~Section 30-5.24.~~ **Section 30-5.25. Shooting Ranges, Outdoor.**

20
21 ~~Section 30-5.25.~~ **Social Service Facilities.**

22 Individual and family social services are subject to the following standards:

- 23 A. ~~If located in an industrial district, the fee simple owner(s) of the property shall sign the application~~
24 ~~and acknowledge that the use is in an industrial district that may be subject to noise, heavy truck~~
25 ~~traffic, fumes, odors and vibrations that are customary in an industrial district.~~
- 26 B. ~~The use shall not co-locate with another industrial use on the same parcel.~~
- 27 C. ~~The use shall occupy a building that is currently located on the parcel.~~
- 28 D. ~~Residential care is prohibited and no overnight stay or lodging is allowed.~~
- 29 E. ~~The special use permit is limited to a maximum of five years, subject to automatic renewal for the~~
30 ~~same term as the original permit, unless either: 1) the use is discontinued or abandoned for 90~~
31 ~~consecutive days; or 2) the city or owner of the property seeks to terminate the use by providing~~
32 ~~written notice to the City Manager or designee at least 90 calendar days prior to the expiration of~~
33 ~~the special use permit. In the event such notice is given, the special use permit shall expire and~~
34 ~~terminate unless the owner files a new application within 20 calendar days of receipt of said notice~~
35 ~~of termination. The application will then be processed and reviewed in the same manner as a new~~
36 ~~application.~~

37 **Section 30-5.26. Social Service Homes/Halfway Houses.**

1 ~~Section 30.5.27.~~ Section 30.5.27. Social Service Treatment Facility.

2 Social service treatment facilities must meet the following requirements:

- 3 A. *Spacing and location.* Social service treatment facilities may not be located closer than 1,320 feet
4 from any other social service treatment facility or from any sexual offender treatment center, social
5 service home, halfway house, residence for destitute people, food distribution center for the needy
6 or combination thereof. All measurements are made by extending a straight line from the nearest
7 property line of the above-listed facilities to the nearest property line of the proposed facility. If any
8 such use is located in a multi-tenant building, then property line means the nearest line of the
9 leasehold or other space actually controlled or occupied by the applicable use.

10 ~~Section 30-5.27.~~ Section 30-5.28. Solar Generation Station.

11
12 ~~Section 30-5.28.~~ Section 30-5.29. Vehicle Services or Repair.

13
14 ~~Section 30-5.29.~~ Section 30-5.30. Veterinary Services.

15
16 ~~Section 30-5.30.~~ Section 30-5.31. Wireless Communication Facilities and Antenna Regulations.

17
18 **DIVISION 2. ACCESSORY USES AND STRUCTURES**

19 ~~Section 30-5.31.~~ Section 30-5.32. Generally.

20
21 ~~Section 30-5.32.~~ Section 30-5.33. Accessory Automotive Detailing.

22
23 ~~Section 30-5.33.~~ Section 30-5.34. Accessory Dwelling Units ~~Dwellings~~.

24
25 ~~Section 30-5.34.~~ Section 30-5.35. Consolidated Apartment Management Offices.

26
27 ~~Section 30-5.35.~~ Section 30-5.36. Food Trucks.

28
29 ~~Section 30-5.36.~~ Section 30-5.37. Fowl or Livestock, Accessory to Residential Uses.

30
31 ~~Section 30-5.37.~~ Section 30-5.38. Home Occupations.

32
33 ~~Section 30-5.38.~~ Section 30-5.39. Ice Manufacturing/Vending Machines.

34
35 ~~Section 30-5.39.~~ Section 30-5.40. Outdoor Accessory Display and Storage.

36
37 ~~Section 30-5.40.~~ Section 30-5.41. Outdoor Cafes.

38
39 ~~Section 30-5.41.~~ Section 30-5.42. Patrons' Dogs within Outdoor Portions of Restaurants.

1
2 ~~Section 30-5.42.~~ Section 30-5.43. Portable Storage Units and Roll-Offs.

3
4 ~~Section 30-5.43.~~ Section 30-5.44. Recreational, Service and Commercial Vehicle Parking and Storage.

5
6 ~~Section 30-5.44.~~ Section 30-5.45. Sidewalk Cafés.

7
8 **DIVISION 3. TEMPORARY USES**

9 ~~Section 30-5.45.~~ Section 30-5.46. Mobile Home Dwellings, Temporary.

10
11 ~~Section 30-5.46.~~ Section 30-5.47. Model Homes.

12
13 ~~Section 30-5.47.~~ Section 30-5.48. Promotional/Temporary Sales.

14
15 ~~Section 30-5.48.~~ Section 30-5.49. Sales and Leasing Offices, Temporary.

16
17 ~~Section 30-5.49.~~ Section 30-5.50. Sales for Fundraising by Nonprofit Agencies.

18
19 **SECTION 7.** It is the intent of the City Commission that the provisions of Sections 1 through 6 of
20 this ordinance shall become and be made a part of the Code of Ordinances of the City of
21 Gainesville, Florida, and that the sections and paragraphs of the Code of Ordinances may be
22 renumbered or relettered in order to accomplish such intent.

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

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

30 **SECTION 10.** This ordinance shall become effective immediately upon adoption.

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PASSED AND ADOPTED this ____ day of _____, 2018.

LAUREN POE
MAYOR

Attest:

Approved as to form and legality:

OMICHELE D. GAINNEY
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2018.

This ordinance passed on second reading this ____ day of _____, 2018.