

AN ORDINANCE

No. 2019-35

AN ORDINANCE TO AMEND TABLE 9-6-1 ENTITLED “PERMITTED AND SPECIAL USES FOR NONRESIDENTIAL ZONING DISTRICTS” OF THE UNIFIED LAND DEVELOPMENT CODE OF THE CITY OF GAINESVILLE, GEORGIA (THE UNIFIED LAND DEVELOPMENT CODE OF THE CITY OF GAINESVILLE, GEORGIA HEREINAFTER REFERRED TO AS “THE ULDC”) AS SET FORTH BELOW; TO AMEND TABLE 9-6-2 ENTITLED “DIMENSIONAL REQUIREMENTS FOR NONRESIDENTIAL ZONING DISTRICTS” OF THE ULDC BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW; TO AMEND SECTION 9-8-7-6 ENTITLED “PROHIBITED AND PERMITTED USES” OF THE ULDC BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW; TO AMEND CHAPTER 9-10-6 ENTITLED “PRINCIPAL NONRESIDENTIAL USES” OF THE ULDC BY ADDING SECTION 9-10-6-12 ENTITLED “HOOKAH, E-CIGARETTE LOUNGE, AND/OR VAPOR LOUNGE/BAR,” SECTION 9-10-6-13 ENTITLED “SPECIAL EVENT FACILITY,” SECTION 9-10-6-14 ENTITLED “FOOD PROCESSING PLANT,” SECTION 9-10-6-15 ENTITLED “LODGING SERVICES,” AND SECTION 9-10-6-16 ENTITLED “EXTENDED STAY LODGING SERVICES” AS SET FORTH BELOW; TO AMEND SUBSECTIONS (a), (b), AND (c) OF SECTION 9-10-1-2 ENTITLED “FENCES AND WALLS” OF THE ULDC BY ELIMINATING THEM IN THEIR ENTIRETY AND SUBSTITUTING IN THEIR PLACE THE LANGUAGE SET FORTH BELOW; TO AMEND SECTION 9-20-14-15 ENTITLED “SUSPENSION OF PERMITS AND CERTIFICATES” OF THE ULDC BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW; TO AMEND SECTION 9-9-1-4 ENTITLED “GENERAL REQUIREMENTS” OF THE ULDC BY ADDING SUBSECTIONS (f), (g), AND (h) AS SET FORTH BELOW; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:

SECTION I.

Table 9-6-1 of the ULDC is hereby amended by eliminating the uses entitled “Lodging services,” “Lodging services, extended stay,” “Special event facility,” and “Food processing plant, including poultry and fish” in their entirety and substituting in their places the language set forth below, as well as by adding the uses entitled “Hookah, E-Cigarette and/or Vapor Lounge/Bar” and “Retail Sales of all Alternative Nicotine Products” as set forth below:

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Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
OFFICE AND COMMERCIAL USES									
Hookah, E-Cigarette and/or Vapor Lounge/Bar	An establishment where patrons use a communal hookah or pipe to smoke, or where patrons vape, or where patrons use e-cigarettes to smoke or smoke other alternative nicotine products.	9-10-6-12	X	X	X	X	X	○	○
Retail Sales of all Alternative Nicotine Products	Retail sales of all alternative nicotine products and non-traditional tobacco paraphernalia including but not limited to hookah, vapes, vape pens, e-liquids, e-cigarettes, and bongos, excluding retail sales in convenience stores.		X	X	X	○	○	○	○
Lodging Services	Lodging services: A facility offering shelter accommodations, or place for such shelter, to the public for a fee for 15 days or less in one or more rooms within the same facility, with provisions for living, sanitation, and sleeping. Includes hotels and motels.	9-10-6-15	X	X	●	●	●	●	●
Lodging Services, Extended Stay (also referred to as Extended Stay Lodging Services)	Lodging services, extended stay (also referred to as Extended Stay Lodging Services): A facility offering shelter accommodations, or place for such shelter, to the public for a fee for more than 15 days but not to exceed 30 days in one or more rooms within the same facility, with provisions for living, sanitation, sleeping and fixed cooking appliances. Includes hotels and motels.	9-10-6-16	X	X	X	X	○	X	X
Special Event Facility	Special event facility: An independent facility, assembly hall, or restaurant event space capable of accommodating 100 patrons or more leased for the purpose of holding private parties or special events including but not limited to weddings. This term excludes an accessory special event facility that is part of a religious institution, educational facility, hotel, community recreation facility, and/or nonprofit club or lodge.	9-10-6-13	○	○	○	○	○	○	○
Use	Definition	Specific Regulations	O-I	N-B	C-B	R-B	G-B	L-I	H-I
INDUSTRIAL USES									

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Food Processing Plant	Food processing plant: A manufacturing establishment producing or processing foods for human or animal consumption and certain related products or by-products, including but not limited to the following products: sugar, dairy, fruit and vegetable (including canning, preserving and processing), grain mill products and by-products, meat, poultry and seafood (including by-product processing but not including the slaughtering of animals), and miscellaneous food preparation from raw products.	9-10-6-14	X	X	X	X	X	X	●
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SECTION II.

Table 9-6-2 of the ULDC is hereby amended by eliminating it in its entirety and substituting in its place the language set forth below:

**TABLE 9-6-2
DIMENSIONAL REQUIREMENTS FOR
NONRESIDENTIAL ZONING DISTRICTS**

BUILDING AND SITE REQUIREMENTS	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Minimum site area to rezone to this district (square feet except as shown)	15,000	15,000	None	4 acres	15,000	15,000	15,000
Maximum building coverage (percent of lot area)	50%	50%**	None	50%	60%	70%	70%
Maximum impervious surface coverage (percent of lot area)	75%	75%	None	80%	80%	85%	85%
Minimum landscaped open space for non-single-family residential use (percent of lot area)	20%	20%	None	15%	10%	5%	5%
Minimum road frontage (feet)	40	40	40	40	40	40	40
Minimum lot width, all uses (feet)	75	75	None	100	100	100	100
Minimum lot size, detached single-family dwelling (square feet)	15,000	15,000	None	NP	NP	NP	NP
Minimum lot size, two-family dwelling (square feet)	30,000	30,000	NP	NP	NP	NP	NP
Minimum lot size, all other permitted uses (square feet)	15,000	15,000	None	15,000	15,000	15,000	15,000
Maximum residential density for residential uses	12.0 dwelling units per acre	12.0 dwelling units per acre	2.0 floor-area ratio	NP	NP	NP	NP
HEIGHT REQUIREMENTS	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Maximum height (feet)	60	60	120	75	75	75	120

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Maximum height (number of stories)	4	4	8	5	5	5	5
PRINCIPAL BUILDING SETBACKS AND BUFFERS	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Front setback, all streets, minimum (feet)	30	40	None	40	40	30	40
Side setback, minimum (unless otherwise specified) (feet)	None	None	None	None	None	None	None
Rear setback, minimum (unless otherwise specified) (feet)	None	None	None	None	None	None	None
Side or rear setback abutting RR r/w or alley, minimum (feet)	25	15	None	15	None	None	None
	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Side or rear vegetative/structural buffer* and building setback when abutting R-I-A, R-I, N-C, R-II or R-O districts	25	25	10	25	35	50	100
Side or rear vegetative/structural buffer* and setback when abutting O-I, N-B, R-B, C-B, G-B districts	None	None	None	None	None	10	10
Corps of Engineers property line (unless otherwise specified) (feet)	-	-	-	-	-	-	-
ACCESSORY BUILDING SETBACKS AND BUFFERS	O-I	N-B	C-B	R-B	G-B	L-I	H-I
	Shall meet the principal building setback and buffer standards unless otherwise specified within Chapter 9-10-7 of this Unified Land Development Code.						
Corps of Engineers property line (unless otherwise specified) (feet)	-	-	-	-	-	-	-
LANDSCAPE STRIPS	O-I	N-B	C-B	R-B	G-B	L-I	H-I
Minimum landscape strip required along right-of-ways for any non-single-family residential use (width in feet)	10	10	None	10	10	10	10
Minimum landscape strip required alongside property lines for any non-single-family residential use (width in feet)	10	10	None	None	None	None	None
Minimum landscape strip required along right-of-way of existing street for any residential subdivision involving a new street with more than five lots (along that part of the frontage not used for the new street). Plantings within landscape strips shall not obstruct sight visibility triangle easements.	20	20	N/A	N/A	N/A	N/A	N/A

NP = Not Permitted

* Required zoning buffers may be reduced in width with installation of a structural buffer as provided in Chapter 9-16-2-6 of this Unified Land Development Code.

** Within the N-B zoning district, no individual establishment shall exceed 50,000 square feet of gross floor area total or 18,000 square feet of gross floor area on the ground level floor.

SECTION III.

Section 9-8-7-6 of the ULDC is hereby amended by eliminating it in its entirety and substituting in its place the language set forth below:

Section 9-8-7-6. Prohibited and permitted uses.

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All uses permitted by right or as Special Uses within the underlying zoning district shall be similarly permitted within the Midtown overlay zone, except the following uses shall not be permitted on any property within the Midtown overlay zone:

Automated or non-automated car washes.
Coin-laundry facilities.
Dollar-type stores or thrift stores.
Community donation boxes.
Gas stations (located on lots less than 2 acres in size).
Group homes, homeless shelters, rooming house or crisis centers.
Hookah, E-cigarette, and/or Vapor lounge/bars.
Industrial uses causing the emission of noise, vibration, smoke, dust, gas, fumes and odors.
Industrial uses with outdoor storage.
Jail/correctional facility.
Kennels.
Liquor stores.
Marine sales or repair stores.
Massage parlors.
Mini-warehouses including climate-controlled self-service storage facilities.
Motels or extended stay lodging.
Motor vehicle sales or service.
Pawn shops.
Psychics, fortune tellers, clairvoyants and the like.
Retail sales of alternative nicotine products.
Salvage yard.
Sanitation uses including the storage of trash cans, dumpsters and porta potties.
Sawmill.
Sexually-oriented adult uses.
Tattoo parlors.
Taxi-cab or limousine services.
Tobacco or vaping stores.
Truck stops.
Vehicle emission testing facility.
Veterinarian or animal hospitals with outdoor kennels.
Wireless telecommunication facility or cell towers excluding co-location.
Wrecked motor vehicle compound.

In addition, loft dwellings, single-family homes, condominiums and townhouses shall be permitted by right in any non-residential district in the overlay zone, and shall not exceed a density of 12 dwelling units per acre unless approved as part of a Planned Unit Development.

SECTION IV.

Chapter 9-10-6 of the ULDC is hereby amended by adding Section 9-10-6-12 entitled "Hookah, E-Cigarette, and/or Vapor Lounge/Bar" to read as follows:

Section 9-10-6-12. - Hookah, E-Cigarette, and/or Vapor Lounge/Bar.

(a) Purpose and Findings.

- (1) The governing body finds that the use of hookah pipes, electronic cigarettes, vape pens, and other similar devices in hookah, e-cigarette, and/or vapor lounges/bars and

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the activities associated with such businesses (including loud music, large numbers of customers congregating for long periods, etc.) have been associated with increases in odors, noise, vapors, second-hand smoke, parking impacts, loitering, and disturbances in the peace. The purpose of this section is to prevent the overconcentration of this land use and to mitigate the negative impacts associated with this land use.

- (2) The governing body also finds that smoking and vaping land uses expose minors to dangerous secondhand-smoke by-products and increase the potential for minors to associate smoking of hookah pipes, electronic tobacco devices, and vaping devices with a normative or healthy lifestyle.
- (3) The U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found them to contain carcinogens and toxic chemicals to which users and bystanders could potentially be exposed, suggesting that the same health and public nuisance concerns present with conventional cigarettes exist with electronic cigarettes.
- (4) The U.S. Centers for Disease Control and Prevention reports that smoking a hookah has many of the same health risks as cigarette smoking; that hookah use by youth is increasing; that the charcoal used to heat hookah tobacco can have negative health risks because it produces high levels of carbon monoxide, metals, and carcinogens; that hookah smokers may absorb more of the toxic substances also found in cigarette smoke than cigarette smokers do; that secondhand smoke from hookahs can be a health risk for nonsmokers; and that new forms of electronic hookah smoking are now on the market and very little information is available on the health risks of electronic tobacco products.
- (5) Chapter 3-7 the Code of the City of Gainesville, Georgia entitled "Smokefree Air" bans smoking in all enclosed public places, subject to certain exceptions. In addition, the State of Georgia further regulates smoking in public areas under the Georgia Smokefree Air Act of 2005.

(b) Applicability.

- (1) The provisions of this section shall apply in addition to other regulations of the City's Code of Ordinances and Unified Land Development Code. In the event of a conflict between other sections and this section, this section shall control.
- (2) The provisions of this section which apply to "nonconforming use," as defined in Section 9-11-3-1 of the City's Unified Land Development Code shall apply to new facilities established following the effective date of the ordinance codified in this section. All legal, code-compliant hookah, e-cigarette, and vapor lounges/bars currently located in the City shall become legal, nonconforming uses, and as such must comply with the regulations set forth in Chapter 9-11-3 of the City's Unified Land Development Code.

(c) Definitions.

A hookah lounge or bar is an establishment where patrons use a communal hookah or pipe to smoke.

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An e-cigarette lounge or bar is an establishment where patrons use e-cigarettes to smoke or smoke other alternative nicotine or tobacco products.

A vapor lounge or bar is an establishment where patrons vape or smoke other alternative nicotine or tobacco products.

(d) Location.

Any hookah, e-cigarette, and/or vapor lounge/bar shall require special use approval by the governing body within the Light Industrial (L-I) and Heavy Industrial (H-I) zoning districts.

(e) Operational and Development Standards.

The following operational and development standards shall apply to all hookah, e-cigarette, and/or vapor lounges/bars in the City and shall be included as conditions imposed upon any license, permit, or other entitlement granted for such a business:

- (1) Distance Requirements. Any hookah, e-cigarette, and/or vapor lounge/bar shall be located at least 500 feet from any other hookah, e-cigarette, and/or vapor lounge/bar, or from any smokers' lounge, smoke shop, tobacco shop, and/or alternative nicotine product shop. Any hookah, e-cigarette, and/or vapor lounge/bar shall be located at least 1,000 feet from any public or private K-12 school or daycare, library, church, community and/or recreation center, liquor store, sexually oriented business, tattoo parlor, pawnshop, bar or nightclub, card room, check cashing business, park, and/or residential zoning district.
- (2) Any hookah, e-cigarette, and/or vapor lounge/bar shall operate in compliance with all federal, state, county, and local laws and regulations.
- (3) Minors Prohibited. No persons under 18 years of age shall be permitted within a hookah, e-cigarette, and/or vapor lounge/bar, including as employees. All employees must be at least 18 years of age. Business owners or operators shall require proof of identification to verify the age of customers, visitors, and employees.
- (4) Indoor Operation Only. All business-related activity, including smoking, shall be conducted entirely within a building. Outdoor seating, operating outdoor barbecues, and/or lighting coals outdoors shall not be permitted.
- (5) Admission Charges Prohibited. No admission charges, including a cover charge or minimum purchase requirement, shall be permitted.
- (6) Food and beverages, including alcoholic beverages and prepackaged food and beverages, shall not be sold, served, or consumed on the premises of the lounge/bar.
- (7) Visibility and Illumination. No window coverings or signage shall prevent visibility of the interior of the establishment from the outside during operating hours. The interior of the establishment shall have lighting adequate to make the conduct of patrons within the establishment readily discernible from the outside of the establishment to people of normal visual capabilities.

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- (8) Ventilation. Adequate ventilation must be provided in accordance with all standards imposed by the building official and fire department, and any other requirements applicable to the establishment by state or federal laws. The requirements imposed by the building official or fire department may be more comprehensive than current building codes to prevent negative health and nuisance impacts on neighboring properties, including a requirement for a separate system to prevent smoke and vapors from migrating to adjoining suites or buildings and to outdoor public areas.

SECTION V.

Chapter 9-10-6 of the ULDC is hereby amended by adding Section 9-10-6-13 entitled "Special Event Facility" to read as follows:

Section 9-10-6-13. - Special Event Facility.

- (a) Definition. Special event facility means an independent facility, assembly hall, or restaurant event space capable of accommodating 100 patrons or more leased for the purpose of holding private parties or special events including but not limited to weddings. This term excludes an accessory special event facility that is part of a religious institution, educational facility, hotel, community recreation facility, and/or nonprofit club or lodge.
- (b) Codes. A special event facility must meet all applicable building, occupancy, life safety, fire, parking, health and food service codes, rules and regulations.
- (c) Applicability.
- (1) The provisions of this section shall apply in addition to other regulations of the City's Code of Ordinances and Unified Land Development Code. In the event of a conflict between other sections and this section, this section shall control.
- (2) The provisions of this section which apply to "nonconforming use," as defined in Section 9-11-3-1 of the City's Unified Land Development Code shall apply to new special event facilities established following the effective date of the ordinance codified in this section. All legal, code-compliant special event facilities currently located in the City shall become legal, nonconforming uses, and as such must comply with the regulations set forth in Chapter 9-11-3 of the City's Unified Land Development Code.
- (d) Location. A special event facility shall be located on an Arterial Street or Collector Street, as those terms are defined in Section 9-13-2-1. A special event facility shall require special use approval by the governing body.
- (e) Noise. Any amplified noise shall be subject to the regulations established in the City's Code of Ordinances and Unified Land Development Code, as may be amended from time to time.
- (f) Security. Uniformed security guard(s) shall be provided in such a level so as to ensure the safety of the public and all attendees within a special event facility.
- (g) Site Inspection. A site inspection by the building official shall be required prior to the issuance of a Certificate of Occupancy for any special event facility.

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SECTION VI.

Chapter 9-10-6 of the ULDC is hereby amended by adding Section 9-10-6-14 entitled "Food Processing Plant" to read as follows:

Section 9-10-6-14. - Food Processing Plant.

- (a) Definition. Food processing plant means a manufacturing establishment producing or processing foods for human or animal consumption, and certain related products or by-products, including but not limited to the following products: sugar, dairy, fruit and vegetable (including canning, preserving and processing), grain mill products and by-products, meat, poultry and seafood (including by-product processing but not including the slaughtering of animals), and miscellaneous food preparation from raw products.
- (b) Minimum Lot Size. The minimum lot size for a food processing plant shall be 5 acres.
- (c) Parking. A minimum of 0.75 spaces per employee for the number of employees present during the largest shift must be provided within defined parking areas that meet the parking standards outlined in Chapter 9-17-5 of the City's Unified Land Development Code.
- (d) Loading Zones. Loading zones and areas for truck turnarounds and truck queuing must be designated separate from employee parking and must be provided on-site. No public right-of-way shall be used for these purposes.
- (e) Location. Access shall be from an Arterial Street or Collector Street, as that term is defined in Section 9-13-2-1.
- (f) Noise, Dust and Odors. Any noise, dust or odors shall be subject to the regulations established in the City's Code of Ordinances and the Unified Land Development Code, as may be amended from time to time.
- (g) Site Inspection. A site inspection by the building official shall be required prior to the issuance of a Certificate of Occupancy for any food processing plant.
- (h) Applicability.
 - (1) The provisions of this section shall apply in addition to other regulations of the City's Code of Ordinances and Unified Land Development Code. In the event of a conflict between other sections and this section, this section shall control.
 - (2) The provisions of this section which apply to "nonconforming use," as defined in Section 9-11-3-1 of the City's Unified Land Development Code shall apply to new food processing plants established following the effective date of the ordinance codified in this section. All legal, code-compliant food processing plants currently located in the City shall become legal, nonconforming uses, and as such must comply with the regulations set forth in Chapter 9-11-3 of the City's Unified Land Development Code.

SECTION VII.

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Chapter 9-10-6 of the ULDC is hereby amended by adding Section 9-10-6-15 entitled "Lodging Services" to read as follows:

Section 9-10-6-15. - Lodging Services.

(a) Purpose.

- (1) The purpose of this section is to ensure the continued availability of quality transient lodging within the City and proper maintenance of lodging services and to protect the health, safety and welfare of users of lodging services.
- (2) This section is essential to the public's interest, safety, health, and welfare and shall be liberally construed to effectuate its purposes.

(b) Applicability.

- (1) The provisions of this section shall apply in addition to other regulations of the City's Code of Ordinances and Unified Land Development Code. In the event of a conflict between other sections and this section, this section shall control.
- (2) The provisions of this section which apply to "nonconforming use," as defined in Section 9-11-3-1 of the City's Unified Land Development Code shall apply to new lodging services established following the effective date of the ordinance codified in this section. All legal, code-compliant lodging services currently located in the City shall become legal, nonconforming uses, and as such must comply with the regulations set forth in Chapter 9-11-3 of the City's Unified Land Development Code.

(c) Definitions.

Bona fide employee shall mean a person who works in the business of lodging services or extended stay lodging services under a contract of hire, whether express or implied, where the employer has the power or right to control or direct the details of what work is to be performed and the manner in which that work is to be performed.

Extended stay lodging services shall mean any facility consisting of one or more buildings, offering shelter accommodations, or a place for shelter, to the public for a fee for more than 15 days but not more than 30 days in one or more rooms within the same facility, with provisions for living, sanitation, sleeping, fixed cooking appliances, and/or kitchen facilities.

Fixed cooking appliances shall mean a stove top burner; a hotplate that does not serve as an integral part of an appliance designed solely to produce coffee; a conventional oven; a convection oven; or any oven producing heat using resistance heating elements, induction heating, or infrared heating sources.

Guest shall mean a person who is not a Patron but is present on the premises of lodging services to accompany a Patron and with the express permission of the owner, operator, keeper or proprietor of the lodging services. Guests are required to register with the supporting Patron.

Lodging services shall mean any facility consisting of one or more buildings, offering shelter accommodations, or a place for shelter, to the public for a fee for 15 days or less in one or more rooms in the same facility, with provisions for living, sanitation, and sleeping.

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Kitchen facilities shall mean kitchen amenities including, but not limited to, refrigerators, stoves, ovens, and kitchen-type sink. Amenities limited to a microwave, mini-refrigerator, and/or an appliance designed to produce coffee or tea do not constitute “kitchen facilities” for purposes of this definition.

Patron shall mean a person who pays a fee to the owner, operator, keeper or proprietor of the lodging services for the right to occupy one or more rooms.

(d) Provisions applicable to lodging services.

- (1) No more than five percent (5%) of rooms in lodging services shall have fixed cooking appliances and/or kitchen facilities located therein. If more than five percent (5%) of the rooms contain fixed cooking appliances and/or kitchen facilities, such lodging services shall be deemed extended stay lodging services, and subject to the regulations for extended stay lodging services.
- (2) No lodging services may be converted to and operated as extended stay lodging services unless the lodging services is in full compliance with each of the provisions applicable to extended stay lodging services, including but not limited to having the appropriate zoning for the property upon which the lodging services is located.
- (3) All lodging services must staff the lobby with a bona fide employee or manager twenty-four (24) hours a day.
- (4) No owner, operator, keeper, proprietor or employee of lodging services shall provide lodging at an hourly rate.
- (5) No owner, operator, keeper or proprietor of lodging services shall designate more than three (3) rooms for the purpose of allowing bona-fide employees and their family to reside on the premises.
- (6) Maximum length of occupancy.
 - i. No lodging services located within the City shall allow any person to stay at such lodging services for more than fifteen (15) consecutive days, nor more than thirty (30) days during a one hundred eighty (180) day period unless one of the following criteria apply.
 - (a) Where there is a written agreement between lodging services and a business entity or governmental agency to house employees/contractors and family of employees/contractors of such business entity or governmental agency during times that said employees/contractors are performing services for such business entity or governmental agency; or
 - (b) Where there is documentation, consistent with HIPAA privacy rules, that a Patron and/or Guest(s) are family of or providing care for a patient who is admitted at a local hospital or other medical care facility; or
 - (c) Where an insurance company or governmental agency has provided documentation that a Patron and/or Guest has been displaced from the Patron and/or Guest's home by a natural disaster or fire.

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- (7) Each room at lodging services shall be accessed through an interior hallway, and no person shall have access to the exterior of the building except through the central lobby or as otherwise determined by fire codes.
 - (8) Each room at lodging services shall have a minimum of three-hundred (300) square feet.
 - (9) Any outdoor recreational areas provided by lodging services shall be located to the rear or side of the building.
 - (10) A fixed cooking appliance in any room at lodging services shall have a maximum sixty (60) minute automatic power-off timer for each such appliance.
 - (11) Inspections of rooms and business records of lodging services may be performed by sworn officers of the City Police Department or the City Code Enforcement and their designated employees for the purpose of verifying compliance with the requirements of this section and state law.
- (e) Recordkeeping and registration requirements for lodging services.
- (1) Every owner, operator, keeper or proprietor of any lodging services shall keep a record of all rental agreements between the lodging services and all Patrons and Guests and make these records available to the City upon request. For purpose of this subsection, the term "record" shall include the electronic registration system of the lodging services which stores Patron and Guest identifying information. In the event the lodging services does not have an electronic registration system, the lodging services shall manually record the Patron and Guest information in a paper record or registration book.
 - (2) The following information, at a minimum, must be recorded at the time of registration and maintained for a period of not less than one hundred and eighty (180) days after the rental agreement's termination:
 - (a) The number of occupants;
 - (b) The full name and phone number of the person responsible for payment;
 - (c) The room number assigned to each Patron and Guest;
 - (d) The day, month, year and time of arrival of each Patron and Guest;
 - (e) The day, month, and year each Patron and Guest are scheduled to depart;
 - (f) Upon departure, record of departure day, month, and year for each Patron and Guest;
 - (g) The rate charge and amount collected for rental of the room.
 - (3) No person shall procure or provide lodging in any lodging services, through misrepresentation or production of false identification, or identification which misrepresents the identity of the person procuring or sharing in such lodging.
 - (4) All information required to be maintained pursuant to this section shall be provided to any federal, state, or local sworn law enforcement officer having the lawful power to arrest, upon demand of the officer and a representation by said officer that a reasonable suspicion exists that such information is relevant to a then-pending inquiry or investigation.

Nothing in this requirement shall be construed as giving any such officer any greater right or license to enter a room or invade privacy that the officer shall otherwise possess as a matter of law, probable cause, constitutional law, statutory right, or warrant.

SECTION VIII.

Chapter 9-10-6 of the ULDC is hereby amended by adding Section 9-10-6-16 entitled "Extended Stay Lodging Services" to read as follows:

Section 9-10-6-16. - Extended Stay Lodging Services.

(a) Purpose.

- (1) The purpose of this section is to ensure the continued availability of quality transient lodging within the City and proper maintenance of extended stay lodging services and to protect the health, safety and welfare of users of extended stay lodging services.
- (2) This section is essential to the public's interest, safety, health, and welfare and shall be liberally construed to effectuate its purposes.

(b) Applicability.

- (1) The provisions of this section shall apply in addition to other regulations of the City's Code of Ordinances and Unified Land Development Code. In the event of a conflict between other sections and this section, this section shall control.
- (2) The provisions of this section which apply to "nonconforming use," as defined in Section 9-11-3-1 of the City's Unified Land Development Code shall apply to new extended stay lodging services established following the effective date of the ordinance codified in this section. All legal, code-compliant extended stay lodging services currently located in the City shall become legal, nonconforming uses, and as such must comply with the regulations set forth in Chapter 9-11-3 of the City's Unified Land Development Code.

(c) Definitions.

Bona fide employee shall mean a person who works in the business of lodging services or extended stay lodging services under a contract of hire, whether express or implied, where the employer has the power or right to control or direct the details of what work is to be performed and the manner in which that work is to be performed.

Extended stay lodging services shall mean any facility consisting of one or more buildings, offering shelter accommodations, or a place for shelter, to the public for a fee for more than 15 days but not more than 30 days in one or more rooms within the same facility, with provisions for living, sanitation, sleeping, fixed cooking appliances, and/or kitchen facilities.

Fixed cooking appliances shall mean a stove top burner; a hotplate that does not serve as an integral part of an appliance designed solely to produce coffee; a conventional oven; a convection oven; or any oven producing heat using resistance heating elements, induction heating, or infrared heating sources.

Guest shall mean a person who is not a Patron but is present on the premises of lodging services or extended stay lodging services to accompany a Patron and with the express permission of the owner, operator, keeper or proprietor of the lodging services or extended stay lodging services. Guests are required to register with the supporting Patron.

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Lodging services shall mean any facility consisting of one or more buildings, offering shelter accommodations, or a place for shelter, to the public for a fee for 15 days or less in one or more rooms in the same facility, with provisions for living, sanitation, and sleeping.

Kitchen facilities shall mean kitchen amenities including, but not limited to, refrigerators, stoves, ovens, and kitchen-type sink. Amenities limited to a microwave, mini-refrigerator, and/or an appliance designed to produce coffee or tea do not constitute “kitchen facilities” for purposes of this definition.

Patron shall mean a person who pays a fee to the owner, operator, keeper or proprietor of the lodging services or extended stay lodging services for the right to occupy one or more rooms.

(d) Provisions applicable to extended stay lodging services.

- (1) If more than five percent (5%) of the rooms contain fixed cooking appliances and/or kitchen facilities, such lodging services shall be deemed extended stay lodging services, and subject to the regulations for extended stay lodging services.
- (2) No lodging services may be converted to and operated as extended stay lodging services unless the lodging services is in full compliance with each of the provisions applicable to extended stay lodging services.
- (3) Any extended stay lodging services shall require special use approval by the governing body within the General Business (G-B) zoning district.
- (4) All extended stay lodging services must staff the lobby with a bona fide employee or manager twenty-four (24) hours a day
- (5) No owner, operator, keeper, proprietor or employee of extended stay lodging services shall provide lodging at an hourly rate.
- (6) No owner, operator, keeper or proprietor of extended stay lodging services shall designate more than three (3) rooms for the purpose of allowing bona-fide employees and their family to reside on the premises.
- (7) Maximum length of occupancy.
 - i. No extended stay lodging services located within the City shall allow any person to stay at such extended stay lodging services for more than thirty (30) consecutive days, nor more than sixty (60) days during a one hundred eighty (180) day period, unless one of the following criteria apply.
 - (a) Where there is a written agreement between lodging services and a business entity or governmental agency to house employees/contractors and family of employees/contractors of such business entity or governmental agency during times that said employees/contractors are performing services for such business entity or governmental agency; or

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- (b) Where there is documentation, consistent with HIPAA privacy rules, that a Patron and/or Guest(s) are family of or providing care for a patient who is admitted at a local hospital or other medical care facility; or
 - (c) Where an insurance company or governmental agency has provided documentation that a Patron and/or Guest has been displaced from the Patron and/or Guest's home by a natural disaster or fire; or
 - (d) Where there is official documentation from a local non-profit housing agency or shelter that no alternative housing is available for the Patron and/or Guest.
 - (8) The minimum lot size for extended stay lodging services shall be two (2) acres.
 - (9) Each room at extended stay lodging services shall be accessed through an interior hallway, and no person shall have access to the exterior of the building except through the central lobby or as otherwise determined by fire codes.
 - (10) The size of the lobby at extended stay lodging services shall be a minimum of seven-hundred (700) square feet.
 - (11) Each room at extended stay lodging services shall have a minimum of three-hundred (300) square feet.
 - (12) Extended lodging services shall provide an enclosed heated and air-conditioned laundry space with a minimum of three (3) washers and three (3) dryers.
 - (13) Any outdoor recreational areas provided by extended stay lodging services shall be located to the rear or side of the building.
 - (14) Any extended stay lodging services adjacent to residentially zoned property or residential land uses shall provide at least a seventy-five (75) foot natural buffer, enhanced with an at least an additional twenty-five (25) foot landscaped buffer (total at least one-hundred (100) feet).
 - (15) A fixed cooking appliance in any room at extended stay lodging services shall have a maximum sixty (60) minute automatic power-off timer for each such appliance.
 - (16) Inspections of rooms and business records of extended stay lodging services may be performed by sworn officers of the City Police Department or the City Code Enforcement and their designated employees for the purpose of verifying compliance with the requirements of this section and state law.
- (e) Recordkeeping and registration requirements for extended stay lodging services.
- (1) Every owner, operator, keeper or proprietor of any extended stay lodging services shall keep a record of all rental agreements between the extended stay lodging services and all Patrons and Guests and make these records available to the City upon request. For purpose of this subsection, the term "record" shall include the electronic registration system

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of the extended stay lodging services which stores Patron and Guest identifying information. In the event the extended stay lodging services does not have an electronic registration system, the extended stay lodging services shall manually record the Patron and Guest information in a paper record or registration book.

- (2) The following information, at a minimum, must be recorded at the time of registration and maintained for a period of not less than one hundred and eighty (180) days after the rental agreement's termination:
 - (a) The number of occupants;
 - (b) The full name and phone number of the person responsible for payment;
 - (c) The room number assigned to each Patron;
 - (d) The day, month, year and time of arrival of each Patron and Guest;
 - (e) The day, month, and year each Patron and Guest are scheduled to depart;
 - (f) Upon departure, record of departure day, month, and year for each Patron and Guest;
 - (g) The rate charge and amount collected for rental of the room.
- (3) No person shall procure or provide lodging in any extended stay lodging services, through misrepresentation or production of false identification, or identification which misrepresents the identity of the person procuring or sharing in such lodging.
- (4) All information required to be maintained pursuant to this section shall be provided to any federal, state, or local sworn law enforcement officer having the lawful power to arrest, upon demand of the officer and a representation by said officer that a reasonable suspicion exists that such information is relevant to a then-pending inquiry or investigation.

Nothing in this requirement shall be construed as giving any such officer any greater right or license to enter a room or invade privacy that the officer shall otherwise possess as a matter of law, probable cause, constitutional law, statutory right, or warrant.

SECTION VIII.

Subsections (a), (b), and (c) of Section 9-10-1-2 of the ULDC are hereby amended by eliminating them in their entirety and substituting in their place the language set forth below:

- (a) *Height.* If a fence or freestanding wall, other than a retaining wall or necessary fencing encompassing a tennis court, is to be placed in a yard, it shall be no more than eight (8) feet in height. Fences or freestanding walls constructed between the build-to-line and the front lot line in a front yard of a residential lot shall not exceed three and one-half (3.5) feet (42 inches) in height; provided, however, that this shall not apply to subdivision or project identification monuments at the entrance to a subdivision or development and wall or fence extensions thereof, where permitted, which shall not exceed eight (8) feet in height and columns shall not exceed ten (10) feet in height. Fences or walls on properties with nonresidential uses shall not exceed eight (8) feet in height and columns shall not exceed ten (10) feet in height in a front, side or rear yard.
- (b) *Location.* Fences and walls should be located along any side or rear common property line. No fence or freestanding wall shall be erected in a manner that obstructs visibility at street intersections (see also Chapter 9-17-4, "Site Visibility Triangle Easements"). Retaining walls and subdivision entrance monuments shall not be placed within the right-of-way of a local street.

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- (c) *Composition.* Walls and fences shall present a finished and attractive surface to the exterior of the property and to the interior of the property where the interior wall or fence is visible from the right-of-way. The entire wall or fence must be consistent in form, shape, style and material and shall not be composed or constructed of exposed concrete block, tires, junk, or other discarded materials. In all residential zoning districts, fences or walls erected within the front yard shall be constructed of brick, stone, wood, stucco, wrought iron, split rail, vinyl plastic or chain-link coated with black in color vinyl. Chain-link fences installed in commercial and industrial zoning districts and visible from the public right-of-way shall be coated with black in color vinyl and the appearance softened with landscaping as approved by the Director. An additional two (2) feet of security wire may be placed on fences in commercial and industrial zoning districts, unless prevented by overlay zone regulations.

SECTION IX.

Section 9-20-14-15 of the ULDC is hereby amended by eliminating it in its entirety and substituting in its place the language set forth below:

The building official may withhold, revoke, or suspend a building permit or certificate of occupancy when violations occur.

The term "Violations" as used in the preceding sentence shall include violations of local, state, and/or federal law, including but not limited to criminal law.

If the certificate of occupancy is revoked for criminal violations, no new certificate of occupancy shall be issued at that location for the same use for 12 months immediately following revocation. Revocation of a certificate of occupancy shall automatically revoke the business/occupation tax (business license).

SECTION X.

Section 9-9-1-4 of the ULDC is hereby amended by adding Subsections (f), (g), and (h) as set forth below:

- (f) The Central Business District exhibits a significant historical, architectural and cultural character for our community. In accordance with the community visioning and Central Core character area delineation completed as part of the City's Comprehensive Planning Process, no demolition of building(s) or structure(s) within property zoned Central Business (C-B) shall commence, and no demolition permit shall be issued by the Community Development Department, prior to the approval of the demolition of said building(s) or structure(s) by the Community and Economic Development Director (see also Chapter 9-9-2, "Site and Architectural Design Review").

- (g) A demolition permit may be denied for the following reasons:

- (1) The proposed new structure or use on the site is not compatible with the Central Core character area and the design guidelines as identified in Chapter 9-9-6.
- (2) The demolition permit allows the demolition of a historically significant building that contributes to the Central Core character area.

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- (h) If the demolition of the building(s) or structure(s) is denied by the Community and Economic Development Director, the applicant shall have the right to appeal to the governing body of the City of Gainesville.

SECTION XI.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION XII.

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid and unconstitutional.

SECTION XIII.

The effective date of this ordinance shall be upon approval by the governing body of the City of Gainesville, Georgia.

C. Danny Dunagan, Jr., Mayor

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

Denise O. Jordan, City Clerk