

## **ORDINANCE O-0609-025**

AN ORDINANCE AMENDING THE ORDINANCE PASSED AND ADOPTED ON THE 10TH DAY OF DECEMBER, 2002, KNOWN AS "THE LAND DEVELOPMENT CODE OF THE CITY OF MILLEDGEVILLE, GEORGIA."

WHEREAS, the City has assessed conditions concerning the number of unrelated persons living in single-family housing; and

WHEREAS, the City seeks to maintain single-family zones as places "where family values, youth values and the blessings of quiet seclusion and clean air make a sanctuary for people," as expressed by the Supreme Court of the United States in *Village of Belle Terre v. Borass*, 416 U.S. 1 (1974); and

WHEREAS, the City finds that excessive numbers of unrelated persons dwelling in single-family housing creates noise, traffic, and gatherings that often conflict with family life; and

WHEREAS, the City seeks to protect the health, safety and welfare of its residents and families;

NOW THEREFORE BE IT ORDAINED by the Mayor and Aldermen of the City of Milledgeville, and it is ordained by authority thereof:

### **SECTION I.**

That the Land Development Code passed and adopted on the 10<sup>th</sup> day of December, 2002, known as the "Land Development Code of the City of Milledgeville, Georgia", be and the same is hereby amended by adding to Article 4, entitled "RESTRICTIONS REGARDING PARTICULAR USES", a new section, to be designated as Section 4.4, to read as follows:

#### **Section 4.4. LIMITATION ON NUMBER OF UNRELATED OCCUPANTS IN SINGLE-FAMILY DISTRICTS**

##### **4.4.1. DEFINITIONS**

For the purposes of this Section 4.4 the following definitions shall apply:

a. *Family*: An individual; or two or more persons residing in a single dwelling unit where all members are related by blood, marriage, or adoption up to the third degree of consanguinity or within the second degree of affinity, or by foster care. For the purposes of this definition, "consanguinity" means only the following persons are related within the third degree of consanguinity: Husbands and wives, parents and children, grandparents and grandchildren, great-grandparents and great-grandchildren, brothers and sisters, aunts and uncles, nephews and nieces. Two individuals are related to each other by affinity if they are married to each other as defined by O.C.G.A. § 19-3-3.1 or the

spouse of one of the individual is related by consanguinity to the other individual. A husband and wife are related to each other in the first degree of affinity. For other relationships of affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity.

b. *Minor child*: A person under the age of 19 living with a parent or other legal guardian or in foster care.

#### **4.4.2. MORE THAN THREE UNRELATED OCCUPANTS PROHIBITED**

It shall be unlawful for the occupants residing in or for the owner of any single dwelling unit located in the SFR, SFR1, SFR2, and SFD zoning districts to have more than three unrelated individuals residing therein, nor shall any family as defined in Section 4.4.1 have, additionally, more than two unrelated individuals residing with such family. For the purposes of this Section, one unrelated individual residing with a family shall include the minor child or children of such unrelated individual residing with him or her.

#### **4.4.3. ILLEGAL USE; PENALTY**

For purposes of the prohibitions set forth in Section 4.4.2, any nonconforming use created by the definition of "family" as set forth in Sub-section 4.4.1.a, adopted on November 14, 2006, and the regulations related thereto, which was a legal use at the time of such adoption shall be permitted to continue through two years from the date of the adoption of this Amendment to The Milledgeville Development Code. After which date, the use of such dwelling shall be in compliance herewith. Any use established prior to or subsequent to the adoption of this definition of "family," which use did violate and continues to violate the standards of Section 4.4, is illegal, not nonconforming, and shall be handled in accordance with Section 10.6.2 of The Milledgeville Development Code.

#### **4.4.4. PRIMA FACIE PROOF**

Prima Facie proof of occupancy of a dwelling unit by more than three unrelated persons is established in any prosecution for violation of this Section if it is shown that the same four or more vehicles with registration to persons having different surnames and addresses were parked overnight at the dwelling unit a majority of nights in any twenty-one day (21-day) period. This establishment of a prima facie level of proof in this Section does not preclude a showing of occupancy of a dwelling unit by a person in any other manner.

#### **4.4.5. VIOLATION BY PROPERTY OWNERS AND AGENTS**

The property owner and any agent of the property owner shall be legally responsible for directly or indirectly allowing, permitting, causing or failing to

prohibit the occupancy by more than three unrelated persons of a single family dwelling unit located in the SFR, SFR1, SFR2, and SFD zoning districts.

**SECTION II.**

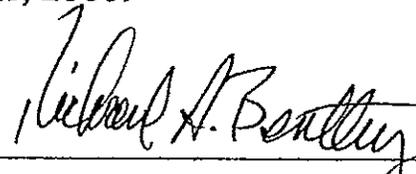
That the Land Development Code passed and adopted on the 10<sup>th</sup> day of December, 2002, known as the "Land Development Code of the City of Milledgeville, Georgia", be and the same is hereby amended by changing the definition of *Unrelated* as set forth in Article 11 of The Milledgeville Development Code, entitled "GLOSSARY OF DEFINITIONS", and Section 3.16 of The Milledgeville Development Code, entitled "DEFINITIONS", to read as follows:

*Unrelated*: When referring to persons, two or more people not related by blood, marriage, or adoption up to the third degree of consanguinity or within the second degree of affinity as defined in the term *family* in Sub-section 4.4.1.a.

**SECTION III.**

A determination of the invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, subsection or part of this ordinance shall not affect the validity of the remaining parts of this ordinance.

PASSED AND ADOPTED this 14<sup>th</sup> day of November, 2006.



Richard A. Bentley, Mayor

ATTEST:



Bo Danuser, Acting Clerk