

Registrar No.

CITY OF GAINESVILLE
Office of the City Attorney

Memorandum

334-5011/Fax 334-2229

Box No. 46

September 28, 1998

DATE: ~~September 14, 1998~~ XXXXFIRST READING
XXXXXXXXXXXXXXXXXXXX

SECOND READING

TO: Mayor and City Commission

FROM: Marion J. Radson, City Attorney

SUBJECT: Ordinance No. 0-98-98
An ordinance of the City of Gainesville, Florida, amending subsection 15-4(2)d. of the Code of Ordinances relating to hours for special noise permits, extending the hours for events held 0.5 mile or more from any private residence, hospital or nursing home; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

At its meeting on August 24, 1998, the City Commission, in response to the request of Mr. Barry Sides under Citizen Comment, authorized the City Attorney to draft and the Clerk to advertise an ordinance exempting the Alachua County Fair Grounds from the noise ordinance.

All ordinances adopted by the City Commission must have a "rational basis." This means, among other things, that there must be a rational, non-arbitrary reason for any exemption from an ordinance, such as the one being considered here. The absence of a rational basis leaves the ordinance open to legal challenge.


The reason must relate to the basis for the ordinance. The basis for the restriction on hours and level of noise is to protect the tranquillity of nearby residents, especially in the late night and early morning hours. This exemption, therefore, should state what the characteristics are of the fairgrounds that make it unnecessary to limit the hours and level of noise. In addition, any other property that has similar characteristics may also be exempted.

According to GPD report (attached), there has been one noise complaint since 1994 about the Alachua Music Harvest Festival, at 2:39 a.m. on October 11, 1997. Additionally, there has been one noise complaint since 1994 about the Alachua County Fair, at 7:34 p.m. on November 3, 1996. The Department of Community Development collected data about the area surrounding the fairgrounds, and has determined that there are no residences within a 1/2 mile radius (see attached map). It therefore appears that it would be reasonable to allow noise permits for events

to extend later into the morning hours where there are no residences, hospitals or nursing homes within 1/2 mile of the event. There may be places other than the fairgrounds that meet this criteria. A full analysis would require hand gathering of data, including some from the County, and would be both costly and time-consuming, and could be more easily performed as requests come in for events located in remote areas of the city.

It is therefore recommended that the ordinance be changed to allow noise permits to be granted to extend until 2:00 a.m. if the property where the event will be is more than 1/2 mile from any private residence, hospital or nursing home.

Prepared by:


Patricia M. Carter
Assistant City Attorney

Approved and
Submitted by:


Marion J. Radson
City Attorney

MJR:PC:sw

PASSED ON FIRST READING BY A VOTE OF 5-0.

Gainesville Police Department

Inter-Office Communication

Chief Donald L. Shinnamon, Sr.

To: Holly K. Peterson **Date: September 3, 1998**
Events Coordinator

From: Priscilla Prince
Records Supervisor

Subject: Fairgrounds Noise Complaint Summary

Summary of noise complaints from the Gainesville Police Department:

ALACHUA MUSIC HARVEST FESTIVAL

Jan 15th & 16, 1994 - No complaints

Jan 13th, 14th & 15th, 1995 - No complaints

Oct 6th, 7th, & 8th, 1995 - No complaints

Oct 4th, 5th & 6th, 1996 - No complaints

Oct 10th, 11th & 12th, 1997 - One complaint on 10-11-97 at 2:39am

ALACHUA COUNTY FAIR

Nov 4th--Nov 13th, 1994 - No complaints

Nov 3rd--Nov 12th 1995 - No complaints

Nov 1st--Nov 10th 1996 - One complaint on 11-03-96 at 19:34pm

Oct 31st--Nov 9th, 1997 - No complaints

If I could be of further assistance, please don't hesitate to contact me at 334-2454.

Sep-98

BLOCK SUMMARIES
FOR THE GAINESVILLE POLICE DEPARTMENT
FOR 1997

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[Selected Grouping: NOISEPH1 - ALACHUA COUNTY FAIRGROUNDS]

3 51 - NOISE COMPLAINT

Addr: 3220 NE 39 AV

Call#: 97206102 Date: 101197 Unit= Id= Time= 02:39 CR#: 00000
Nbr-People: 000 Call Time: 00002.55 People Time: 00000

	SUN	MON	TUE	WED	THU	FRI	SAT	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
I	1	.	.	.	1	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
I	1	.	.	.	1	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.

Total Calls = [1]

Sep-98

BLOCK SUMMARIES
FOR THE GAINESVILLE POLICE DEPARTMENT
FOR 1996

[Selected Grouping: NOISEPMT - ALACHUA COUNTY FAIRGROUNDS]

51 - NOISE COMPLAINT

Addr: 3220 NW 39 AV

Call#: 96224820

Date: 11/03/96 Unit#

Id=

Time= 19:34 Ck#:

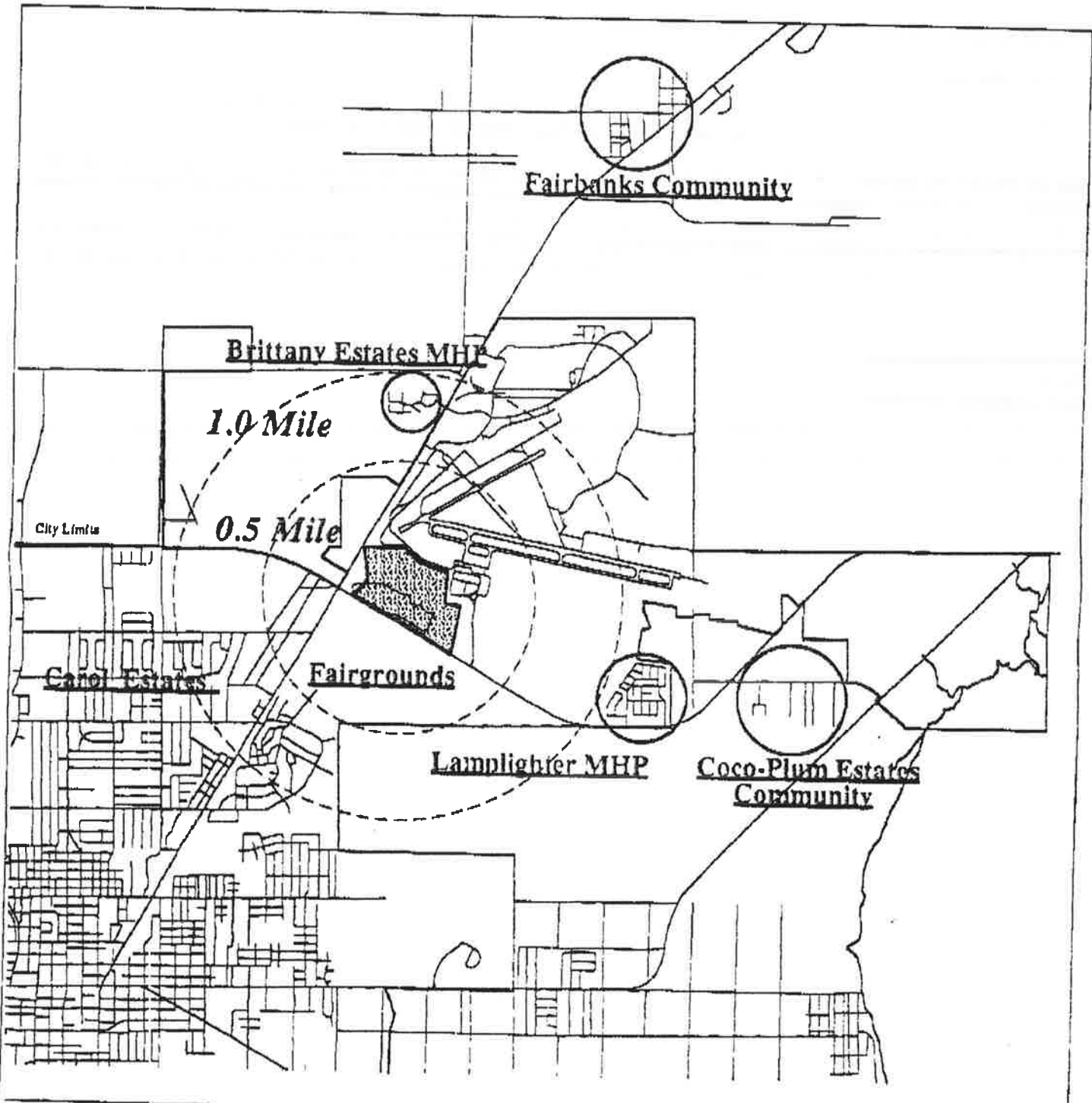
Nbr-People: 000

Call time: 00002.23

People time: 00000

	SUN	MON	TUE	WED	THU	FRI	SAT	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
V	1	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
T	1	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.

Total Calls = [1]



Alachua County Fairgrounds (shaded)

Nearby Residential Neighborhoods

Prepared by: Dept. of Community Development

City of Gainesville 9/2/98



Scale: 1" = 3,845'

Ordinance No. 0-98-98

An ordinance of the City of Gainesville, Florida, amending subsection 15-4(2)d. of the Code of Ordinances relating to hours for special noise permits, extending the hours for events held 0.5 mile or more from any private residence, hospital or nursing home; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

WHEREAS, a Public Hearing was held pursuant to the published notice described at which hearing the parties in interest and all others had an opportunity to be and were, in fact, heard;

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

Section 1. Subsection 15-4(2)d. of the Code of Ordinances is amended to read as follows:

Sec. 15-4. Special permits.

(2) *Permits for entertainment.* Permits may be granted for the purpose of entertainment under the following conditions:

d. The function must be held between the hours of 9:00 a.m. and 10:00 p.m. the same day on all days other than Friday and Saturday; and, on Friday and Saturday, between the hours of 9:00 a.m. and 11:00 p.m. of the same day, except in the following circumstances: ~~that a~~

1. A function may be held between the hours of 9:00 a.m. on New Year's Eve and 1:00 a.m. the following day (New Year's Day).

