

**LEGISLATIVE #**

**120152A**

ORDINANCE NO. 120152

An ordinance of the City of Gainesville, Florida, amending the Land Development Code and the Code of Ordinances by establishing a permitting procedure, regulations and permit fee to allow patrons' dogs within outdoor portions of eating places; by creating Section 30-122 *Patrons' dogs within outdoor portions of eating places*; by creating a permit fee within Appendix A-Schedule of Fees, Rates and Charges; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, Section 509.233, Florida Statutes, permits local governments to establish a local exemption to certain provisions of the Food and Drug Administration Food Code in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments; and

WHEREAS, notice was given as required by law that the text of the Land Development Code of the City of Gainesville, Florida, be amended and public hearings were then held by the City Plan Board on May 24, 2012 and by the City Commission on August 2, 2012; and

WHEREAS, pursuant to law, an advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation and provided the public with at least seven (7) days advance notice of the first public hearing to be held in the City Hall Auditorium, First Floor, City Hall, City of Gainesville; and

WHEREAS, a second advertisement no less than two columns wide by 10 inches long was placed in the aforesaid newspaper and provided the public with at least five (5) days advance notice of the second public hearing; and

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

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

3 Section 1. A new Section 30-122 is created and added to the Land Development  
4 Code to read as follows:

5 **Sec. 30-122 – Patrons’ dogs within outdoor portions of eating places.**  
6

7 (1) Purpose; intent; preemption. The purpose of this section is to provide a  
8 local exemption to certain provisions of the Food and Drug Administration  
9 Food Code, as authorized by Section 509.233, Florida Statutes, in order to  
10 allow patrons’ dogs within certain designated outdoor portions of eating  
11 places. Nothing in this section is intended to conflict with, be inconsistent  
12 with, or preempt state or federal law. To the extent of any such conflict,  
13 inconsistency or preemption, the state or federal law shall prevail.  
14

15 (2) Permit. In order to protect the health, safety and welfare of the general  
16 public, each eating place shall obtain a permit from the city planning and  
17 development services department prior to allowing patrons’ dogs within  
18 outdoor portions of the eating place. Applicants shall submit a completed  
19 permit application on the form provided by the city along with the permit  
20 fee set forth in Appendix A. The application shall be signed by the  
21 property owner and by the tenant or operator of the eating place (if  
22 different from the property owner) and shall include such information  
23 deemed reasonably necessary to enforce the provisions of this section, but  
24 shall include, at a minimum, the following information:  
25

26 a. The name, location and mailing address of the eating place.

27  
28 b. The name, mailing address, telephone number and email  
29 address of the permit applicant.

30  
31 c. A diagram and description of the outdoor area to be  
32 designated as available to patrons’ dogs, including  
33 dimensions of the designated area; a depiction of the  
34 number and placement of tables, chairs and restaurant  
35 equipment, if any; the entryways and exits to the designated  
36 outdoor area; the boundaries of the designated area and of  
37 other areas of outdoor dining not available for patrons’  
38 dogs; any fences or other barriers; surrounding property  
39 lines and public rights-of-way, including sidewalks and

1 common pathways; and such other information reasonably  
 2 required by the city. The diagram or plan shall be accurate  
 3 and to scale but need not be prepared by a licensed design  
 4 professional.

5  
 6 d. A description of the days of the week and hours of  
 7 operation that patrons' dogs will be permitted in the  
 8 designated outdoor area.

9  
 10 e. The license number for the eating place issued by the  
 11 Florida Division of Hotels and Restaurants.

12  
 13 A permit issued pursuant to this section shall not be transferred to a  
 14 subsequent property owner, tenant or operator upon the sale, lease, or  
 15 other transfer of the eating place, but shall expire automatically upon the  
 16 sale, lease or other transfer of the eating place. The city shall provide the  
 17 Florida Division of Hotels and Restaurants with a copy of all approved  
 18 applications and permits issued.

19  
 20 (3) Permit conditions. Each eating place receiving a permit under this section  
 21 shall be subject to and shall enforce the following requirements:

22  
 23 a. Dogs shall not be permitted to travel through indoor or non-  
 24 designated outdoor portions of the eating place. Ingress  
 25 and egress to the designated outdoor portions of the eating  
 26 place must not require entrance into or passage through any  
 27 indoor area.

28  
 29 b. Patrons shall keep their dogs on a leash at all times and  
 30 under reasonable control.

31  
 32 c. Dogs shall not be allowed on chairs, tables or other  
 33 furnishings.

34  
 35 d. The eating place shall instruct employees and patrons that  
 36 dogs shall not be allowed to come into contact with serving  
 37 dishes, utensils, tableware, linens, paper products or any  
 38 other items involved in food service operations.

39  
 40 e. All table and chair surfaces shall be cleaned and sanitized  
 41 with an approved product between seating of patrons.  
 42 Spilled food and drink shall be removed from the floor or

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

ground of the designated outdoor area between seating of patrons.

f. Accidents involving dog waste shall be cleaned immediately and the area sanitized. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.

g. Employees shall wash their hands promptly after touching, petting or otherwise handling dogs. Employees shall be prohibited from touching, petting or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the eating place.

h. The eating place shall advise patrons in the designated outdoor area that they should wash their hands before eating.

i. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.

j. A sign or signs shall be posted on the premises notifying the public that the designated outdoor area is available for the use of patrons and patrons' dogs. In addition, a sign or signs shall be posted on the premises informing patrons and employees of the requirements set forth in this section.

(4) Complaints; enforcement.

a. Complaints regarding lack of compliance with this section may be made in writing to the city code enforcement division, which shall accept, document, and respond to all written complaints and shall report to the Florida Division of Hotels and Restaurants all complaints and the response to such complaints.

b. The city shall revoke a permit if, after providing notice and a reasonable period of time for correction as specified in the notice, an eating place is found to be in violation of any provision of this section. The revocation shall be issued in the form of a final administrative order signed by the city manager or designee.

c. If a permit is revoked, no new permit may be approved for the eating place until the expiration of 180 days following the date of revocation.

**Section 2.** Appendix A. – Scheduled of Fees, Rates and Charges of the Code of Ordinances is amended to read as stated below. Except as amended herein, the remainder of Appendix A. – Schedule of Fees, Rates and Charges remains in full force and effect.

LAND DEVELOPMENT CODE:

(4) *Zoning.*

i. Permit for patrons’ dogs within outdoor portions of eating places (Sec. 30-122) .... 250.00

**Section 3.** It is the intention of the City Commission that the provisions of Sections 1 and 2 of this ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be renumbered or relettered in order to accomplish such intentions.

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

**Section 5.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

**Section 6.** This ordinance shall become effective immediately upon final adoption.

1 PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

2

3

4

5

6

7

\_\_\_\_\_  
EDWARD B. BRADDY  
MAYOR

8 ATTEST:

Approved as to form and legality

9

10

11

12 \_\_\_\_\_  
KURT M. LANNON  
13 CLERK OF THE COMMISSION

\_\_\_\_\_  
NICOLLE M. SHALLEY  
CITY ATTORNEY

14

15 This ordinance passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

16

17 This ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2013.