



MEMORANDUM

Office of the City Attorney

Legistar No. 000903

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commission

DATE: April 23, 2001
FIRST READING

FROM: City Attorney

SUBJECT: Ordinance No. 0-01-22; Petition No. 14TCH-01 PB

An ordinance of the City of Gainesville, Florida, relating to temporary outdoor alcoholic beverage sales for University of Florida home football game day events; amending section 30-67 to provide regulations for such sales; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission (1) approve Petition 14TCH-01 PB and (2) adopt the proposed ordinance.

STAFF REPORT

During the fall of 1999, the City Commission heard testimony from the Gainesville Police Department that temporary outdoor alcohol sales were creating problems along University Avenue adjacent to the University of Florida Campus. Crowd control, open container violations and traffic problems associated with people spilling over into the street while trying to buy alcohol are examples of the stated problems. The City Commission concluded that the outdoor alcohol sales under the City's special events sales permit process was creating a public safety problem.

On June 12, 2000, the City Commission withdrew a proposed ordinance that would have prohibited temporary alcoholic beverage sales permits in the University Context area. The City Commission, after hearing from citizen and business owners in the area, referred this issue to the Public Safety Committee for review. After several meetings, the Public Safety Committee recommended that the Land Development Code be changed to allow alcohol sales with conditions and to charge a fee of \$300 per permit. It was determined that the \$300 fee is the amount needed to cover costs related to the permit.

Staff recommends that Sec. 30-67., General provision for business and mixed-use districts, be amended, to included additional requirements for getting a permit. The new requirements include a limitation on the size of the outdoor activity, add more site plan requirements, address crowd control and garbage pickup.

Public notice was published in the Gainesville Sun on January 30, 2001. The Plan Board held a public hearing February 15, 2001. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 14TCH-01 PB. Plan Board vote 6-0.

Fiscal note. None

CITY ATTORNEY MEMORANDUM

This ordinance requires two public hearings. If the Commission adopts the ordinance on first reading, the second and final reading will be held on May 14, 2001.

Prepared by: Patricia M. Carter
Patricia M. Carter,
Sr. Assistant City Attorney

Approved and
Submitted by: Marion J. Radson
Marion J. Radson,
City Attorney

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ORDINANCE NO. _____
0-01-22

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An ordinance of the City of Gainesville, Florida, relating to temporary outdoor alcoholic beverage sales for University of Florida home football game day events; amending section 30-67 to provide regulations for such sales; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the Land Development Code of the City of Gainesville, Florida, be amended; and

WHEREAS, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on February 15, 2001; and

WHEREAS, notice was given and publication made of a Public Hearing which was then held by the City Commission on April 23, 2001; and

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

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings 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 30-67(g)(3) is created and added to the Land Development Code of the City of Gainesville to read as follows:

1 **Sec. 30-67. General provisions for business and mixed use districts.**

2 (g) *Outdoor storage and sales.*

3 (3) Temporary outdoor alcoholic beverage sales for University of Florida Home
4 Football Game Day events, in the University Context Area. The city manager or designee
5 may issue a permit for outdoor alcoholic beverage sales in the University Context Area
6 provided the following conditions and requirements are met:

7 a. The business conducting the sale must be an existing business in a
8 permanently fixed location operating with an alcoholic beverage license issued by
9 the State of Florida.

10 b. The temporary sale event must be conducted on the site where the business
11 is located. The site of the temporary sale event must be owned or leased by the
12 business as part of the normal daily operations of the business. Businesses located
13 in a development consisting of several stores sharing the area to be used by the
14 temporary sale event must have the permission of the owner of the development
15 and the consent of the tenants that share the space.

16 c. The area used for the temporary sales event can not be more than 1.5 times
17 the square footage of the on-site business conducting the sale. Permits for the use
18 of the area will be issued for the period of the day before the football game and
19 the day of the football game.

20 d. All permit applications must include a site plan sketch showing the
21 location, access, barriers delineating the event site from other public areas and all
22 other details of the site. All permit applications must be submitted to the city
23 manager or designee, along with the fee as set out in Appendix A of the Code of

1 Ordinances, at least 10 days prior to the event.

2 e. All permit applications must include a report detailing how many people
3 are expected to attend, the capacity of any proposed temporary structures, whether
4 there will be outdoor entertainment, a plan for the storage and pickup of garbage
5 during and after the sale event, and a public safety plan detailing how the
6 permittee will maintain crowd control and public safety, and comply with the
7 City's noise ordinance.

8 f. Permit applications shall be examined by the appropriate departments of
9 the city to ensure protection of the public health, safety and general welfare. In
10 addition to normal concerns of each such department, particular attention will be
11 given to traffic flow and control, auto and pedestrian safety, and the effect that the
12 use and activity will have on surrounding uses, particularly where the adjoining
13 use is residential. The permit may be approved with conditions or denied by the
14 city manager or designee based on these factors.

15 **Section 2.** Appendix A of the Code of Ordinances, titled "Schedule of Fees, Rates and Charges,"
16 is amended to read as follows:

17 **LAND DEVELOPMENT CODE**

18 (4) **Zoning:**

19 g. Permit for temporary outdoor alcoholic beverage sales (\$ 30-67) 300.00

20 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1 and 2 of
21 this ordinance shall become and be made a part of the Code of Ordinances of the City of
22 Gainesville, Florida, and that the Sections and Paragraphs of this ordinance may be renumbered

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1 or relettered in order to accomplish such intentions.

2 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or
3 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect
4 the validity of the remaining portions of this ordinance.

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

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

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9 **PASSED AND ADOPTED** this _____ day of _____, 2001.

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PAULA M. DeLANEY
MAYOR

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18 ATTEST:

Approved as to form and legality

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KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

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24 This Ordinance passed on first reading this _____ day of _____, 2001.

25 This Ordinance passed on second reading this _____ day of _____, 2001.

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27 carter:ordinances:14TCH-01 PB