

Ordinance No. 100217

An Ordinance of the City of Gainesville, Florida, amending section 4.4 relating to consumption, consumption and sale and possession of alcoholic beverages; providing that the open consumption and/or possession of an open container of any alcoholic beverage on certain designated public places and motor vehicles may be enforced by civil citation; amending section 2-239, adding open consumption and/or possession of an open container of any alcoholic beverage on certain designated public places and motor vehicles to codes that may be enforced by civil citations and designating class of offense and amount of penalty; providing directions to the codifier; providing for severability; 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 to be held in the City Commission Auditorium, City Hall, 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.

Section 1. Section 4-4(b) of the Code of Ordinances of the City of Gainesville, Florida, is amended to read as follows:

Sec. 4-4. Consumption, sale and consumption, possession generally.

(b) *Other areas generally:*

- (1) It shall be unlawful for any person to consume or have in his/her possession any alcoholic beverages in any open container on any public street, thoroughfare, sidewalk (except in a licensed sidewalk cafe, or within the defined area of a properly issued boundary extension permit issued by the city manager/designee [No more than six boundary

1 extension permits shall be issued by the city manager during any calendar
2 year] and operated in strict accordance with the regulations established
3 therefor), or on any public or semi-public parking facility in the city
4 (except in a properly licensed facility located in the retail space of the city
5 parking garage located at 105 SW 3rd Street, Gainesville, Florida,
6 provided the alcoholic beverage is dispensed by a person duly licensed
7 under the ordinances of the city and the laws of the state). It shall be
8 unlawful for any person to have in his/her possession any alcoholic
9 beverages in any open container while in or on any motor vehicle on any
10 public or semi-public parking facility in the city. The term "semi-public
11 parking facility" shall include any privately owned area wherein motor
12 vehicles may be parked by the public in conjunction with any business,
13 enterprise, commercial establishment, office building or multiple-family
14 residential building. Pursuant to a special event permit approved by the
15 city manager, the dispensing and consumption of beer, as defined in F.S. §
16 563.01, and/or wine, as defined in F.S. § 564.01, will be permitted in
17 semi-public parking facilities under the following conditions:
18

- 19 a. The special event permitted shall be jointly sponsored by the city,
20 with the requirement that a sufficient number of off-duty law
21 enforcement officers, as shall be determined by the city, be
22 employed by the noncity sponsoring agency to provide security
23 and crowd control for the special event.
24
- 25 b. The special event shall occur on semi-public parking facilities of
26 an establishment which is not licensed for the sale and/or
27 consumption of alcoholic beverages either by state statute or city
28 ordinance.
29
- 30 c. The special event permit shall have a duration of no longer than two days
31 (48 hours); however, the number and hours during which the dispensing of
32 the alcoholic beverage(s) may occur each day shall be determined by the
33 city manager.
34
- 35 d. The persons responsible for dispensing the alcoholic beverages permitted
36 shall comply with all local, state and federal laws related to the dispensing
37 and consumption of the permitted alcoholic beverages.
38
- 39 e. No more than one permit for any 12-month period will be issued to any
40 corporation, company, association, organization or group of any type.
41
- 42 (2) In addition to the prohibitions contained in subsection (b)(1), no person
43 shall consume or have in his/her possession any alcoholic beverages in an
44 open container on any other privately owned property, except as a lawful

guest and with the consent of the owner or person in charge of such privately owned property.

- (3) ~~No more than six boundary extension permits shall be issued by the city manager during any calendar year.~~

Penalties. The provisions of paragraphs (1) and (2) of subsection (b) above for public consumption of an alcoholic beverage or possession of an open container, may be enforced by civil citation as provided in sections 2-236 through 2-339 of this Code, or by criminal citation, as provided in section 1-9 of this Code. Any person not in compliance with any section of this article shall be subject to the penalties designated in sections 1-9 or 2-339 of this code. Each violation shall be considered a separate offense, which can be prosecuted separately.

Section 2. Section 2-239 of the Code of Ordinances of the City of Gainesville,

Florida, is amended by adding the following: Except as amended herein, the remainder of Sec. 30-239 remains in full force and effect.

Sec. 2-239. Applicable codes and ordinances.

Section	Description	Class	Penalty
<u>4-4(b)(1)</u>	<u>Open consumption of and/or possession of an open container of alcoholic beverage on public street, thoroughfare, sidewalk or in a motor vehicle</u>	<u>IV</u>	<u>\$200.00</u>

Section 3. It is the intention that 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 re-lettered 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 the ordinance which can be given effect without the valid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

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

3 **Section 6.** This ordinance shall become effective immediately on adoption.
4

5 **PASSED AND ADOPTED** this ____ day of February, 2011.
6
7
8

9 _____
10 CRAIG LOWE
11 MAYOR

12
13 ATTEST

APPROVED AS TO FORM AND LEGALITY

14
15
16 _____
17 KURT M. LANNON
18 CLERK OF THE COMMISSION
19

MARION J. RADSON
CITY ATTORNEY

20 This Ordinance passed on first reading this 3rd day of February, 2011.
21 This Ordinance passed on second reading this ____ day of February, 2011.