

Legislative #

130695

1 **WHEREAS**, continued requests for the issuance of special events permits for the
2 outdoor sale and consumption of alcoholic beverages by organizations which normally do not
3 sell alcoholic beverages have been received and discussed by City staff, the Committee and the
4 City Commission; and

5 **WHEREAS**, City staff and the Public Safety Committee recommended the City
6 Commission amend the ordinances pertaining to the issuance of special permits for the outdoor
7 sale and consumption of alcoholic beverages within the City of Gainesville, to address many of
8 the issues raised; and

9 **WHEREAS**, on March 21, 2013 and December 5, 2013, the City Commission
10 directed the Office of City Attorney to draft an ordinance addressing the issuance of special
11 event permits for the outdoor sale and consumption of alcohol on city and private property; and

12 **WHEREAS**, staff from the City Attorney’s Office, City Manager’s Office,
13 Community Redevelopment Agency, Fire Department, Police Department, Parks, Recreation
14 and Cultural Affairs Department, and Planning and Development Departments met to draft and
15 discuss code revisions; and

16 **WHEREAS**, the draft ordinance was provided to and input was received from
17 interested community stakeholders; and

18 **WHEREAS**, at least ten (10) days notice has been given once by publication in a
19 newspaper of general circulation notifying the public of this proposed ordinance and of a public
20 hearing in the City Hall Auditorium, First Floor, City Hall, in the City of Gainesville; and

21 **WHEREAS**, public hearings were held pursuant to the notice described at which
22 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. A portion of Section 2-339 related to civil citation penalties of the City Code of Ordinances is amended to read as stated below. Except as amended herein the remainder of Section 2-339 remains in full force and effect.

Sec. 2-339. Applicable codes and ordinances.

The following ordinances are enforceable by the procedures described in this division:

<i>Section</i>	<i>Description</i>	<i>Class</i>	<i>Penalty</i>
4-4(b),(e)	Open consumption of and/or possession of an open container of alcoholic beverage	IV	\$200.00

Section 2. The definitions contained in Section 4-1 of the City Code of Ordinances are amended as stated below.

Sec. 4-1 Definitions.

(a) The definitions contained in the beverage law of the state, as defined in ~~F.S. § 561.01~~ Chapters 561, 563 and 564, Florida Statutes, and interpreted by the courts of this state and the state director of the division of alcoholic beverages and tobacco of the department of business and professional regulation, shall apply to the terms in this chapter.

(b) *Open container* shall mean any bottle, can, glass, cup or other vessel, other than the original unbroken sealed container or a bottle of wine resealed pursuant to F.S. § 564.09, containing an alcoholic beverage; provided however, that if a bottle of wine resealed pursuant to F.S. § 564.09 is transported in a motor vehicle, the resealed bottle shall be considered an open container unless it is placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

1
2 (c) Alcohol event permit means a permit issued pursuant to Section 4-4 of this Code that
3 allows the temporary sale of beer, wine or other alcoholic beverages.
4

5 (d) Not-for-profit entity means an entity qualified under section 501(c)(3) of the Internal
6 Revenue Code and registered pursuant to Chapter 496, Florida Statutes.

7 Section 3. The existing Section 4-4 of the City Code of Ordinances is deleted in its
8 entirety.

9 **Sec. 4 4. Consumption, sale and possession generally; special events.**

10 ~~(a) Parks, similar areas. It shall be unlawful for any person to consume or to have in~~
11 ~~his/her possession any alcoholic beverages in a publicly owned park or recreation area,~~
12 ~~or on any public school property, or at any municipally owned and operated recreation~~
13 ~~centers or swimming pools, or at the stadium located near Waldo Road, commonly~~
14 ~~known as Citizens Field. The foregoing prohibitions shall not apply in the following~~
15 ~~areas on the occasions stated as to any type of alcoholic beverage:~~

16 (1) ~~The airport terminal facility when being dispensed by a person duly licensed~~
17 ~~under the ordinances of the city and the statutes of the state;~~

18 (2) ~~The Thomas Center, the Thelma Bolton Center and Boulware Springs, upon~~
19 ~~approval of the city manager or designee for consumption, not sale, of alcoholic~~
20 ~~beverages;~~

21 (3) ~~The Thomas Center and the Thelma Bolton Center, upon approval of the city~~
22 ~~manager or designee, for consumption only of alcoholic beverages on the~~
23 ~~premises associated with a fundraising event sponsored by a governmental or~~
24 ~~not for profit entity that charges admission for entry to the event. The approval~~
25 ~~pursuant to this subsection is subject to the following conditions:~~

26 a. ~~Sponsor obtains a facility use agreement from the city.~~

27 b. ~~Sponsor must obtain a temporary liquor license and otherwise comply~~
28 ~~with Florida's alcoholic beverage law.~~

29 (4) ~~The municipal golf course facility when being dispensed by a person duly~~
30 ~~licensed under applicable ordinances and state statutes;~~

31 (5) ~~The Downtown Plaza, upon approval of the city manager or designee for~~
32 ~~consumption on the premises, or sale and consumption on the premises, of~~
33 ~~alcoholic beverages associated with a special event. Sale and consumption of~~
34 ~~alcoholic beverages shall be limited to beer and wine, and permitted by the city~~
35 ~~manager or designee only under the following conditions:~~

36 a. ~~The special event shall be produced by the city. The city manager or~~
37 ~~designee shall select an organization qualified under section 501(c)(3) of~~
38 ~~the Internal Revenue Code and registered pursuant to F.S. Ch. 496 to sell~~

1 alcoholic beverages at a designated location or locations on the Plaza.
2 Selection of the nonprofit organization and sales of beer and wine shall be
3 pursuant to policy developed by the city manager.

4 b. ~~The nonprofit organization and persons responsible for the sale or~~
5 ~~dispensing of the alcoholic beverages shall comply with all local, state and~~
6 ~~federal laws related to the sale, dispensing and consumption of alcoholic~~
7 ~~beverages, including, but not limited to, procuring a license to sell~~
8 ~~alcoholic beverages from the state.~~

9 e. ~~All sales of alcohol shall take place during the event as specified by the~~
10 ~~city manager or designee, and only between the hours of 9:00 a.m. and~~
11 ~~11:00 p.m. on Friday and Saturday, 1:00 p.m. and 10:00 p.m. on Sunday,~~
12 ~~9:00 a.m. New Year's Eve and 1:00 a.m. New Year's Day, and 9:00 a.m.~~
13 ~~and 10:00 p.m. on any other day.~~

14 d. ~~The organization and persons responsible for the sale or dispensing of the~~
15 ~~alcoholic beverages shall stop such sale or dispensing upon determination~~
16 ~~of the city manager or designee that continued sale and consumption of~~
17 ~~alcohol creates a clear and present danger of a riot or other general public~~
18 ~~disorder, and substantial injury to persons or to property.~~

19 e. ~~The organization shall indemnify the city, its elected and appointed~~
20 ~~officers, employees, agents, and attorneys from any claim for personal~~
21 ~~injury, including death, or property damage, including destruction,~~
22 ~~associated with the special event. This indemnification shall be in the~~
23 ~~form of an insurance policy that names the city as an additional insured~~
24 ~~and is endorsed to provide a separate aggregate of \$1,000,000.00 for the~~
25 ~~event for which the person or organization is making application.~~

26 f. ~~The organization shall present an accounting of the revenues and cost of~~
27 ~~sales of alcohol to the city manager or designee within ten days after the~~
28 ~~event. The city shall charge the organization for the cost of the event in~~
29 ~~excess of the cost the city would have incurred if no alcohol was sold (for~~
30 ~~example, the cost of extra police or signs).~~

31 (6) ~~The Bethel Station leased premises within the Downtown Plaza, upon written~~
32 ~~approval by the city manager or designee. Such approval shall be limited to the~~
33 ~~sale of beer and wine by the tenant of the Bethel Station leased premises solely~~
34 ~~for purchase, possession and consumption on the premises by the tenant's~~
35 ~~customers within the leased premises; conditioned upon the tenant being~~
36 ~~properly licensed by and in compliance with all applicable local, state and~~
37 ~~federal laws relating to the sale, dispensing and consumption of beer and wine;~~
38 ~~and subject to such further terms and conditions as may be required by the city~~
39 ~~in its sole discretion as owner of the Bethel Station leased premises.~~

40 (b) ~~Unlawful consumption and possession; authorized special events.~~

- 1 ~~(1) Except as otherwise provided in this section, it shall be unlawful for any person~~
2 ~~to consume or have in his/her possession any alcoholic beverage in any open~~
3 ~~container within or on any public street, thoroughfare, highway, sidewalk or~~
4 ~~right of way.~~
- 5 ~~(2) Except as otherwise provided in this section, it shall be unlawful for any person~~
6 ~~to have in his/her possession any alcoholic beverage in any open container~~
7 ~~while in or on any motor vehicle on any public or semi public parking facility in~~
8 ~~the city. The term "semi public parking facility" shall include any privately~~
9 ~~owned area wherein motor vehicles may be parked by the public in conjunction~~
10 ~~with any business, enterprise, commercial establishment, office building or~~
11 ~~multiple family residential building.~~
- 12 ~~(3) No person shall consume or have in his/her possession any alcoholic beverage~~
13 ~~in an open container on any privately owned property, except as a lawful guest~~
14 ~~and with the consent of the owner or person in control of such privately owned~~
15 ~~property.~~
- 16 ~~(4) Exception: Special event in Central City District for home football games.~~
17 ~~a. The temporary on street sale of beer as defined in F.S. § 563.01, is~~
18 ~~authorized by a special event permit issued by the city manager or~~
19 ~~designee on a public street, sidewalk, right of way or thoroughfare, in the~~
20 ~~Central City District incidentally associated with an event suitable for a~~
21 ~~broad range of ages held on the Friday immediately preceding a regularly~~
22 ~~scheduled University of Florida Home Football Game ("CCD HFG~~
23 ~~event") under the following conditions:~~
- 24 ~~1. The CCD HFG event must be sponsored by an active 501(3)(c)~~
25 ~~charitable organization and co-sponsored by the city, with the~~
26 ~~requirement that the event include activities suitable for a broad~~
27 ~~range of ages as the principle event and that a sufficient number of~~
28 ~~off duty law enforcement officers, as shall be determined by the~~
29 ~~city, be employed by the charitable organization sponsor to provide~~
30 ~~security and crowd control for the CCD HFG event.~~
- 31 ~~2. The charitable organization and any person responsible for the sale~~
32 ~~or dispensing of beer shall stop such sale or dispensing at any time~~
33 ~~upon determination of the city manager or designee that continued~~
34 ~~sale and consumption of beer creates a clear and present danger of~~
35 ~~a riot or other general public disorder, and substantial injury to~~
36 ~~persons or to property.~~
- 37 ~~3. The charitable organization shall indemnify the city, its elected and~~
38 ~~appointed officers, employees, and agents from any claim for~~
39 ~~personal injury, including death, or property damage, including~~
40 ~~destruction, associated with the CCD HFG event. This~~
41 ~~indemnification shall be in the form of an insurance policy~~

1 acceptable to the city's risk manager, that names the city as an
2 additional insured and is endorsed to provide a separate aggregate
3 of a minimum of \$1,000,000.00 for the event for which the
4 charitable organization is making application. In addition, the
5 organization shall procure a liquor liability policy with not less
6 than \$1,000,000.00 of coverage that also names the city as an
7 additional insured.

8 4. ~~Subject to approval of the city manager or designee and provided~~
9 ~~sufficient law enforcement officers and barricades as determined~~
10 ~~by the city are provided, the CCD HFG event may be held on SE~~
11 ~~1st Street between University Avenue and SE 2nd Place, SE 1st~~
12 ~~and 2nd Avenues between Main Street and SE 3rd Street, and on~~
13 ~~the Downtown Plaza (excluding the Bethel Station leased~~
14 ~~premises).~~

15 5. ~~Except for the Friday before the University of Florida annual~~
16 ~~homecoming football game, the CCD HFG event shall not begin~~
17 ~~before 5:30 p.m. on the Friday immediately preceding a regularly~~
18 ~~scheduled University of Florida home football game, and shall end~~
19 ~~no later than 10:00 p.m. that same day. On the Friday before the~~
20 ~~homecoming game, the CCD HFG event shall not begin before~~
21 ~~1:30 p.m. and shall end no later than 5:30 p.m. that same day.~~

22 6. ~~Any person responsible for the sale and dispensing of beer shall~~
23 ~~comply with all local, state and federal laws related to the sale,~~
24 ~~dispensing and consumption of beer.~~

25 7. ~~Alcoholic beverages, including beer, sold outside of the CCD HFG~~
26 ~~event shall not be brought into or consumed inside the CCD HFG~~
27 ~~event area, and beer sold inside the permitted area of the CCD~~
28 ~~HFG event shall not be carried or taken out of the CCD HFG event~~
29 ~~area.~~

30 8. ~~Only one special event permit may be issued to encompass the~~
31 ~~entire regular football game season.~~

32 9. ~~The special event permit application shall include a site plan sketch~~
33 ~~showing the location, access, barriers delineating the event site~~
34 ~~from other public areas and all other pertinent details of the site.~~
35 ~~All permit applications must be submitted to the city manager or~~
36 ~~designee, along with the fee as set out in Appendix A of this Code~~
37 ~~at least 30 days prior to the event.~~

38 10. ~~The special event permit application shall include a report detailing~~
39 ~~the estimated number of people expected to attend, the capacity of~~
40 ~~any proposed temporary structures, whether there will be outdoor~~
41 ~~entertainment, the installation of temporary sanitary facilities, a~~

plan for the storage and pickup of garbage during and after the CCD HFG event, and a public safety plan detailing how the permittee will maintain crowd control and public safety, and comply with the city's noise ordinance.

11. The special permit application shall be reviewed by the appropriate departments of the city to ensure protection of the public health, safety and general welfare. In addition to normal concerns of each such department, particular attention will be given to traffic flow and control, auto and pedestrian safety, and the effect that the use and activity will have on surrounding uses, particularly where the adjoining use is residential

12. The permit may be approved, approved with conditions or denied by the city manager or designee based on the factors referenced in this subsection.

(5) Exception: Special event in a semi public parking facility.

a. The temporary outdoor sale of beer, as defined in F.S. § 563.01, and/or wine, as defined in F.S. § 564.01, within a semi public parking facility is authorized by a special event permit issued by the city manager or designee under the following conditions:

1. The special event shall be jointly sponsored by the city, with the requirement that a sufficient number of off-duty law enforcement officers, as shall be determined by the city, be employed by the noncity sponsoring agency to provide security and crowd control for the special event.

2. The special event shall occur on a semi public parking facility of an establishment which is not ordinarily licensed for the sale and/or consumption of beer and wine or other alcoholic beverage either by state statute or city ordinance.

3. The special event permit shall have a duration of no longer than two days (48 hours); however, the number and schedule of hours during which the sale, dispensing and consumption of beer and wine may occur each day shall be determined by the city manager or designee.

4. The persons responsible for dispensing the beer and wine shall comply with all local, state and federal laws related to the sale, dispensing and consumption of the beer and wine.

5. Only one special event permit may be used within any calendar year (12 month period) to any person, corporation, company, association, organization or group of any type for the same location.

(6) Exception: Santa Fe College Spring Arts Festival.

- 1 a. ~~The City Manager, or designee, is authorized to issue a special permit for~~
2 ~~the temporary sale of beer (as defined in Section 563.01, Florida Statutes)~~
3 ~~and wine (as defined in Section 564.01, Florida Statutes) on a public~~
4 ~~street, sidewalk, right of way or thoroughfare, incidentally associated with~~
5 ~~the Santa Fe College Spring Arts Festival subject to the provisions of this~~
6 ~~subsection.~~
- 7 b. ~~A permit application must be submitted by Santa Fe College to the City~~
8 ~~Manager or designee, on the form provided by the City, along with~~
9 ~~payment of the fee as set forth in Appendix A of this Code at least 30 days~~
10 ~~prior to the first date of the event.~~
- 11 1. ~~The special event permit application shall include a site plan sketch~~
12 ~~showing the location, access, barriers delineating the event site~~
13 ~~from other public areas and all other pertinent details of the site.~~
- 14 2. ~~The special event permit application shall include a report detailing~~
15 ~~the dates and times during which the event will be conducted, the~~
16 ~~estimated number of people expected to attend, the capacity of any~~
17 ~~proposed temporary structures, whether there will be outdoor~~
18 ~~entertainment, the installation of temporary sanitary facilities, a~~
19 ~~plan for the storage and pickup of garbage during and after the~~
20 ~~Santa Fe College Spring Arts Festival event, and a public safety~~
21 ~~plan detailing how the applicant will maintain crowd control and~~
22 ~~public safety, and comply with the City's noise ordinance.~~
- 23 3. ~~The special event permit application shall be reviewed by the~~
24 ~~appropriate departments of the City with respect to protection of~~
25 ~~the public health, safety and general welfare. In addition to normal~~
26 ~~concerns of each such department, particular attention will be~~
27 ~~given to traffic flow and control, auto and pedestrian safety, and~~
28 ~~the impact that the use and activity will have on surrounding uses,~~
29 ~~particularly where the adjoining uses include residential.~~
- 30 4. ~~The permit may be approved or denied by the City Manager or~~
31 ~~designee based on compliance with this subsection. The City~~
32 ~~Manager or designee may impose additional special conditions as~~
33 ~~deemed necessary to protect the public health, safety and general~~
34 ~~welfare.~~
- 35 5. ~~Only one special event permit may be issued per calendar year.~~
- 36 e. ~~Each permit issued shall be subject to the following conditions,~~
37 ~~requirements and limitations, as well as any other special conditions~~
38 ~~stated in the permit.~~
- 39 1. ~~The Santa Fe College Springs Art Festival event must be~~
40 ~~sponsored by Santa Fe College and co-sponsored by the City.~~
- 41 2. ~~The event shall include activities suitable for a broad range of ages.~~
- 42 3. ~~A sufficient number of off duty law enforcement officers, as~~
43 ~~determined by the City, shall be employed by Santa Fe College to~~
44 ~~provide security and crowd control for the Santa Fe College~~
45 ~~Springs Art Festival event.~~

- 1 4. ~~Santa Fe College and any person authorized by Santa Fe College~~
 2 ~~as responsible for the sale or dispensing of beer and/or wine shall~~
 3 ~~stop such sale or dispensing at any time upon determination of the~~
 4 ~~City Manager or designee that continued sale and consumption of~~
 5 ~~beer and/or wine creates a clear and present danger of a riot or~~
 6 ~~other general public disorder, and/or substantial injury to persons~~
 7 ~~or to property.~~
- 8 5. ~~Santa Fe College shall indemnify the City, its elected and~~
 9 ~~appointed officers, employees, and agents from any claim for~~
 10 ~~personal injury, including death, or property damage, including~~
 11 ~~destruction, associated with the Santa Fe College Spring Arts~~
 12 ~~Festival event. This indemnification shall be in the form of an~~
 13 ~~insurance policy acceptable to the City's Risk Manager, that names~~
 14 ~~the City as an additional insured and is endorsed to provide a~~
 15 ~~separate aggregate of a minimum of \$1,000,000.00 for the event.~~
 16 ~~In addition, Santa Fe College shall procure a liquor liability policy~~
 17 ~~with not less than \$1,000,000.00 of coverage that also names the~~
 18 ~~City as an additional insured.~~
- 19 6. ~~The Santa Fe College Springs Arts Festival event shall be held on~~
 20 ~~NE 1st Street between University Avenue and NE 8th Avenue.~~
- 21 7. ~~The Santa Fe College Spring Arts Festival event shall not begin~~
 22 ~~before 9:00 a.m. on each day and shall end no later than 8:30 p.m.~~
 23 ~~each night of the festival weekend.~~
- 24 8. ~~Santa Fe College or any person authorized by Santa Fe College as~~
 25 ~~responsible for the sale or dispensing of beer and/or wine shall~~
 26 ~~comply with all local, state and federal laws related to the sale,~~
 27 ~~dispensing and consumption of beer and/or wine.~~
- 28 9. ~~Santa Fe College shall not allow alcoholic beverages, including~~
 29 ~~beer or wine, purchased outside of the Santa Fe College Spring~~
 30 ~~Arts Festival event to be brought into or consumed inside the~~
 31 ~~permitted event area. Nor shall Santa Fe College allow beer or~~
 32 ~~wine sold inside the permitted event area to be taken out of, or~~
 33 ~~consumed outside of the permitted event area.~~
- 34 (e) ~~Florida Field, sidewalk cafes, and city garage.~~
- 35 (1) ~~Florida Field.~~ Except in the section commonly known as the executive suite
 36 boxes with special limited access, it shall be unlawful for any person to
 37 consume or to have in his/her possession any alcoholic beverage within the
 38 stands, stadium or grounds of Florida Field, which is the stadium located on the
 39 campus of the University of Florida. This prohibition shall apply at any place
 40 within the gates of the stadium whether the same be in the stands, under the
 41 stands, on the grounds, in the aisles, or at any other place in the stadium.
- 42 (2) ~~Sidewalk cafe.~~ The sale, dispensing and consumption of alcoholic beverages is
 43 permitted within a licensed sidewalk cafe, or within the defined area of a
 44 properly issued boundary extension permit issued by the city
 45 manager/designee. No more than six boundary extension permits shall be

issued by the city manager during any calendar year and operated in strict accordance with the regulations established therefor.

~~(3) Retail space in public parking garage. The sale, dispensing and consumption of alcoholic beverages is permitted within the properly licensed enclosed facility located in the retail space of the city parking garage located at 105 SW 3rd Street, Gainesville, Florida, provided the alcoholic beverage is dispensed by a person duly licensed under the laws of the state and otherwise conflicts with all local, state, and federal laws.~~

~~(d) Penalties. The provisions of this section for 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 4. A new Section 4-4 is created and added to the City Code of Ordinances to read as follows:

Sec. 4-4. Sale, dispensing, consumption and possession generally.

(a) Generally. Except as specifically allowed by this section, it shall be unlawful for any person to sell, distribute, consume or possess any alcoholic beverage in any open container on any property owned by the city or on any public right-of-way, including without limitation, streets, thoroughfares, highways or sidewalks. Any person or legal entity that is allowed to sell or dispense alcoholic beverages pursuant to this section shall comply with all applicable federal, state and local laws related to the sale or dispensing of alcoholic beverages. The city manager is authorized to promulgate written administrative procedures to implement this section and any alcohol event permits authorized herein.

(b) City-owned property. It shall be unlawful for any person to sell, dispense, possess or consume any alcoholic beverages on any property owned by the city, except as follows:

- 1 (1) At the airport terminal facility and the municipal golf course facility when being
2 sold or dispensed by the facility owner or by a natural person or legal entity that
3 is under contract with the facility owner;
- 4 (2) Within the rental event space at the Thomas Center, the Thelma Bolton Center,
5 Boulware Springs, the Senior Recreation Center and the Depot Building,
6 dispensing, but not sale, for consumption during an event for which the space is
7 rented. A fundraising event sponsored by a governmental or other public entity
8 or a not-for-profit entity that charges admission for the event, but does not
9 charge for the purchase of the alcoholic beverages, is not considered the sale of
10 alcoholic beverages. The rental agreement may specify such terms and
11 conditions as may be required by the city in its sole discretion as owner of the
12 property.
- 13 (3) During a special event produced by the city, pursuant to written policy of the
14 city. The city manager is authorized to promulgate a written policy to govern
15 the process and contract terms and conditions under which the city may select
16 not-for-profit entities to sell or dispense alcoholic beverages during a city
17 produced special event.
- 18 (4) On other property that the City makes available for special events produced by
19 private parties, pursuant to written policy of the city. The city manager is
20 authorized to promulgate a written policy to govern the process and terms and
21 conditions under which the city may issue an alcohol event permit for the sale,
22 dispensing, consumption or possession of alcoholic beverages on particular

1 parcels of city-owned property. The city commission shall determine which
2 particular parcels, if any, are made available for such events.

3 (5) On property that is leased to a private party pursuant to the City's real estate
4 policy, if the sale, dispensing, possession and consumption of alcoholic
5 beverages is expressly allowed under the terms of the lease agreement. The
6 lease may specify such terms and conditions as may be required by the city in
7 its sole discretion as owner of the property.

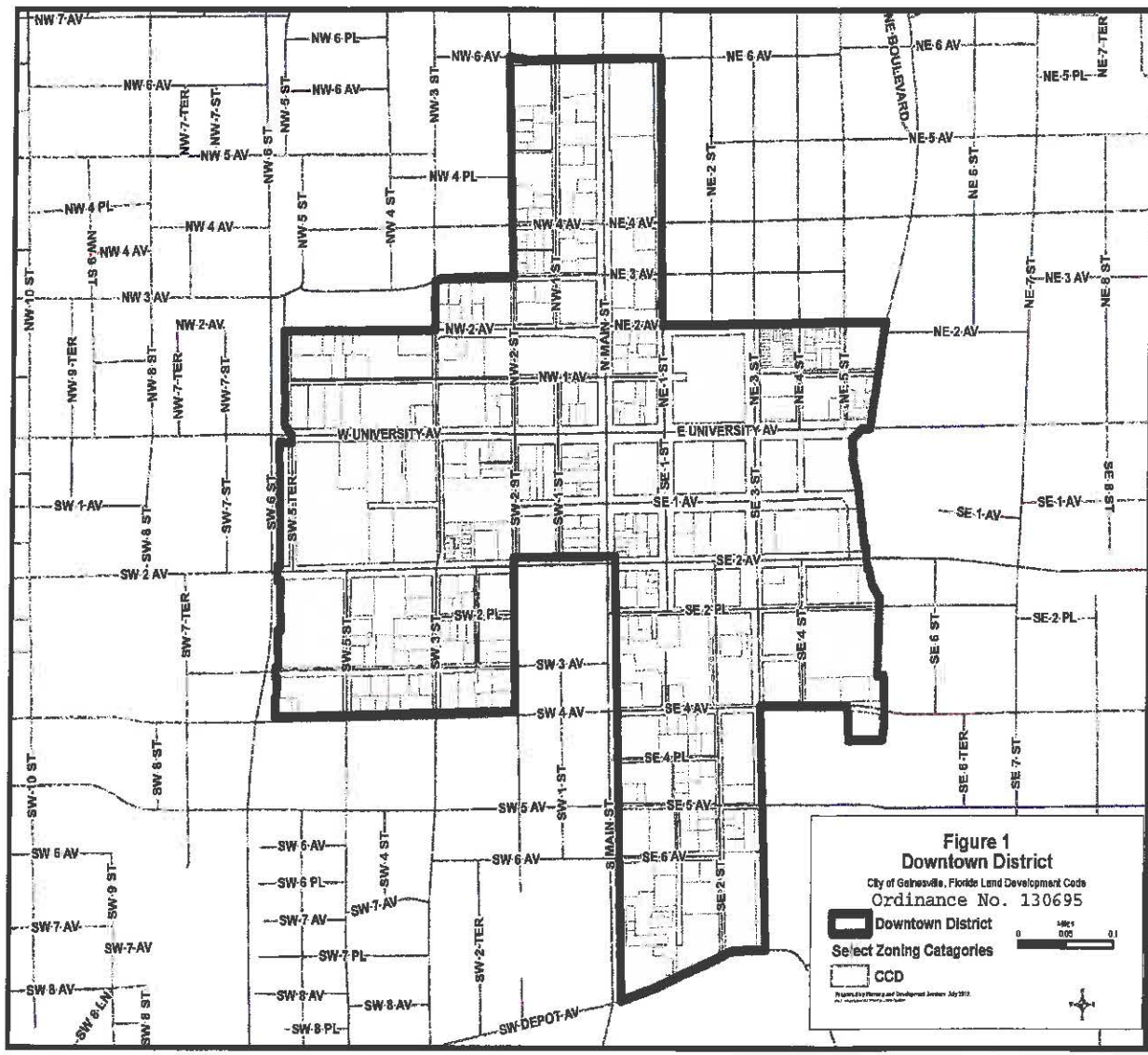
8 (c) Public right-of-way. It shall be unlawful for any person to sell, distribute, consume or
9 possess any alcoholic beverage in any open container on any city or other public right-
10 of-way, including without limitation, streets, thoroughfares, highways or sidewalks,
11 except as follows:

12 (1) Within a sidewalk café that is licensed in accordance with the City's Land
13 Development Code.

14 (2) At an outdoor event, within the downtown district as shown in Figure 1, pursuant
15 to an alcohol event permit.

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4 The city manager, or designee, is authorized to issue an alcohol event permit for the sale of beer
 5 and wine associated with an outdoor event organized, produced and managed by a governmental
 6 or other public entity or a not-for-profit entity, subject to the following:

1 or designee may impose additional special conditions as deemed necessary
2 to protect the public health, safety and general welfare.

3 e. Only two alcohol event permits may be issued per calendar year per
4 applicant. However, one alcohol event permit may include all of the
5 University of Florida home football games for the school year.

6 f. Each alcohol event permit issued shall be subject to the following
7 conditions, requirements and limitations, as well as any other special
8 conditions stated in the permit.

9 1. A sufficient number of off-duty law enforcement officers and EMS
10 personnel, as determined by the city, shall be employed by the
11 permittee to provide security, crowd control and emergency
12 medical services for the event.

13 2. The permittee shall indemnify the city, its elected and appointed
14 officers, employees, and agents from any claim for personal injury,
15 including death, or property damage, including destruction,
16 associated with the event. This indemnification shall be in the
17 form of an insurance policy acceptable to the city's risk manager,
18 that names the city as an additional insured and is endorsed to
19 provide a separate aggregate of a minimum of \$1,000,000.00 for
20 the event. In addition, the permittee shall procure a liquor liability
21 policy with not less than \$1,000,000.00 of coverage that also
22 names the City as an additional insured.

1 3. The event may only be held on such streets, sidewalks and rights-
2 of-way as the city deems appropriate for temporary closure in its
3 sole discretion.

4 4. The event may be open to the public only during such hours as the
5 city deems appropriate in its sole discretion. Each event shall be
6 limited to 48 consecutive hours, inclusive of time for set-up and
7 clean-up.

8 5. The sale, dispensing and consumption of beer and wine shall occur
9 only within an area secured by fencing or barricades that are a
10 minimum of four feet in height and with limited points of entry and
11 exit. The permittee shall not allow alcoholic beverages purchased
12 outside of the event to be brought into or consumed inside the
13 permitted event area. Nor shall the event organizer allow beer or
14 wine sold inside the secured area to be taken out of, or consumed
15 outside of, the secured area.

16 (d) Outdoors on property owned by parties other than the city. It shall be unlawful for any
17 person to sell any alcoholic beverage in an open container outdoors on any property
18 owned by a party other than the city, except as follows:

19 (1) Within a patio or porch that is part of the permanent building on property zoned,
20 permitted and operated: a) as an alcoholic beverage establishment within the
21 central city district; or b) as an eating place; or c) for the manufacturing of
22 alcoholic beverages.

1 (2) On property owned and managed/operated by the University of Florida or
2 Alachua County, provided the University or the County (as applicable) ensures
3 the protection of the public health, safety and general welfare. In particular,
4 attention should be given to traffic flow and control, auto and pedestrian safety,
5 noise and the effect that the use and activity will have on surrounding uses,
6 particularly where the adjoining or nearby use is residential.

7 (3) At a temporary outdoor event on property that is located in a business, mixed-
8 use or industrial zoning district as classified in the city's land development
9 code; or at a temporary outdoor event on property that is zoned planned
10 development (provided the planned development ordinance allows commercial
11 or mixed-uses and not solely residential uses); or in connection with a
12 temporary sale for fundraising by a non-profit agency that is permitted under
13 section 30-107 of the city's land development code. Any such events shall
14 require an alcohol event permit issued by the city manager or designee as
15 follows:

16 a. All alcohol event permit applications shall be submitted by the event
17 organizer to the city, on the form provided by the city, along with
18 payment of the fee set forth in Appendix A of this Code. If the event is
19 conducted within common area, the applicant must obtain the written
20 consent of the owner(s) or manager (if the owners utilize a manager for
21 such purposes) of the common area on the permit application.

22 b. All alcohol event permit applications must include a site plan sketch
23 showing the location, access, barriers delineating the temporary sale

1 from other public areas and all other details of the site; a report
2 detailing the dates and times during which the event will be conducted,
3 the estimated number of people expected to attend, the capacity of any
4 proposed temporary structures, the capacity of the event site, whether
5 there will be outdoor entertainment, a plan for the installation of
6 temporary sanitary facilities, a plan for the storage and pickup of solid
7 waste during and after the event; and a public safety plan detailing how
8 the applicant will maintain crowd control and public safety, and comply
9 with the city's noise ordinance

10 c. Alcohol event permit applications shall be examined by the appropriate
11 departments of the city to ensure protection of the public health, safety
12 and general welfare. In addition to normal concerns of each such
13 department, particular attention will be given to traffic flow and
14 control, auto and pedestrian safety, noise and the effect that the use and
15 activity will have on surrounding uses, particularly where the adjoining
16 use is residential.

17 d. The alcohol event permit may be approved or denied by the city
18 manager or designee based on compliance with this subsection. The
19 city manager or designee may impose additional special conditions as
20 deemed necessary to protect the public health, safety and general
21 welfare.

1 e. Only 6 alcohol event permits may be issued per calendar year per
2 applicant per location. However, one alcohol event permit may include
3 all of the University of Florida home football games for the school year.

4 f. Each alcohol event permit issued shall be subject to the following
5 conditions, requirements and limitations, as well as any other special
6 conditions stated in the permit.

7 1. A sufficient number of off-duty law enforcement officers and EMS
8 personnel, as determined by the City, shall be employed by the
9 permittee to provide security, crowd control and emergency medical
10 services for the event.

11 2. The event may be open to the public only during the hours 10am
12 to 2am the following day. Each event shall be limited to 48
13 consecutive hours, inclusive of time for set-up and clean-up.

14 3. The sale, dispensing, consumption and possession of alcoholic
15 beverages shall occur only within an area secured by fencing or
16 barricades a minimum of four feet in height and with limited points of
17 entry and exit. The permittee shall not allow alcoholic beverages
18 purchased outside of the permitted area to be brought into or consumed
19 inside the permitted area. Nor shall the permittee allow alcoholic
20 beverages sold inside the permitted area to be taken out of, or
21 consumed outside of the permitted area.

22 (e) Alcohol Event Permits, generally. An application for an alcohol event permit
23 may not be submitted more than six months prior to the first day of the event. If the

1 city manager or designee determines that an event is creating a clear and present
 2 danger of a riot or other general public disorder, or substantial injury to persons or to
 3 property, the city manager or designee may require the immediate cessation of the
 4 sale, dispensing, consumption and possession of alcoholic beverages or may require
 5 the immediate cessation of the event. In addition, if the city manager or designee
 6 finds that the requirements or conditions of an alcohol event permit have been
 7 violated, and not cured within a reasonable time after reasonable notice to the permit
 8 holder, the city manager or designee may require the immediate cessation of the sale,
 9 dispensing, consumption and possession of alcoholic beverages or may require the
 10 immediate cessation of the event.

11 (f) Penalties. The provisions of this section regarding the unlawful open
 12 consumption of and/or possession of an open container of alcoholic beverage, may be
 13 enforced by civil citation as provided in sections 2-236 through 2-339 of this Code, or
 14 by criminal citation, as provided in section 1-9 of this Code. Any person not in
 15 compliance with any section of this article shall be subject to the penalties designated
 16 in sections 1-9 or 2-339 of this Code. Each violation shall be considered a separate
 17 offense, which can be prosecuted separately.

18 **Section 5.** Appendix A – Schedule of Fees, Rates and Charges is amended as to alcohol
 19 event permits as stated below. Except as amended herein, the remainder of Appendix A remains
 20 in full force and effect.

21 ALCOHOLIC BEVERAGES:

22 Bottle club license (§ 4-36)97.75

23 Alcohol event permit (§ 4-4)382.75

24 LAND DEVELOPMENT CODE:

1 (4) Zoning:

2 g. ~~Permit for temporary outdoor alcoholic beverage, including beer and wine sales (§~~
3 ~~4-4(b); § 30-67382.75~~

4
5 **Section 6.** It is the intention of the City Commission that the provisions of Sections 1
6 through 5 of this ordinance shall become and be made a part of the Code of Ordinances of the
7 City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be
8 renumbered or relettered in order to accomplish such intentions.

9 **Section 7.** If any word, phrase, clause, paragraph, section or provision of this ordinance
10 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
11 finding shall not affect the other provisions or applications of this ordinance that can be given
12 effect without the invalid or unconstitutional provisions or application, and to this end the
13 provisions of this ordinance are declared severable.

14 **Section 8.** All ordinances or parts of ordinances in conflict herewith are to the extent of
15 such conflict hereby repealed.

16 **Section 9.** This ordinance shall become effective immediately upon final adoption.

17 **PASSED AND ADOPTED** this _____ day of _____, 2014.

18 _____
19 EDWARD B. BRADDY, MAYOR

20
21 ATTEST:

APPROVED AS TO FORM AND LEGALITY:

22
23
24 _____
25 KURT LANNON
26 CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

27
28
29 This ordinance passed on first reading this ____ day of _____, 2014.

30
31 This ordinance passed on second reading this ____ day of _____, 2014.