

ORDINANCE NO. \_\_\_\_\_  
0-09-73

An ordinance of the City of Gainesville, Florida, creating a new Article VII of Chapter 14.5 of the Code of Ordinances, relating to Miscellaneous Business Regulations; requiring minimum security and safety standards for convenience businesses as defined in this ordinance; amending section 2-339 of the Code of Ordinances to permit enforcement by civil citation; providing penalties; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an 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 public hearings 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.

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

Section 1. A new Article VII of Chapter 14.5, Sections 14.5-170 through 14.5-174, is hereby created and added to the Code of Ordinances of the City of Gainesville, to read as follows:

**ARTICLE VII. MISCELLANEOUS BUSINESS REGULATIONS**

**Sec. 14.5-170. Definition**

Convenience business means any place of business that primarily is engaged in the retail sale of groceries, or both groceries and gasoline, and that is open for business at any time

1 between the hours of 11 p.m. and 5 a.m. The term “convenience business” does not  
2 include the following:

3 (1) A business that solely or primarily is a restaurant;

4 (2) A business that always has at least five employees on the premises  
5 between the hours of 11 p.m. and 5 a.m.;

6 (3) A business that has at least 10,000 square feet of retail floor space;

7 (4) A business at which the owner or members of the owner’s family work  
8 between the hours of 11 p.m. and 5 a.m.

9 **Sec. 14.5-171. Minimum Security and Safety Standards for Convenience Businesses**

10 Each convenience business shall be equipped with and meet the following safety  
11 and security devices and standards.

12 (a) (1) A security camera system of the type and quality, and located and  
13 operating, so as to record and retrieve image(s) which will assist in offender  
14 identification and apprehension.

15 (2) A drop safe or cash management device for restricted access to cash  
16 receipts.

17 (3) A lighted parking lot illuminated at an intensity of at least 2 foot-candles  
18 per square foot at 18 inches above the surface.

19 (4) A conspicuous notice at the entrance which states that the cash register  
20 contains \$50 or less.

21 (5) Window signage that allows a clear and unobstructed view from outside of  
22 the building and in a normal line of sight of the cash register and sales  
23 transaction area.

(6) Height markers at the entrance of the convenience business which display height measures.

(7) A cash management policy to limit the cash on hand at all times after 11 p.m.

(b) A convenience business shall not have window tinting that reduces exterior or interior view in a normal line of sight.

(c) Every convenience business shall be equipped with a silent alarm which activates to law enforcement or a private security agency, unless application for an exemption is made to and granted by the Attorney General.

(d) If a murder, robbery, sexual battery, aggravated assault, aggravated battery, or kidnapping or false imprisonment, as those crimes are identified and defined by Florida Statutes, occurs or has occurred at a convenience business since July 1, 1989, and arises out of the operation of the convenience business, that convenience business shall implement at least one of the following security measures:

(1) Provide at least two employees on the premises at all times after 11 p.m. and before 5 a.m.;

(2) Install for use by employees at all times after 11 p.m. and before 5 a.m. a secured safety enclosure of transparent polycarbonate or other material that meets at least one of the following minimum standards:

a. American Society for Testing and Materials Standard D3935 (classification PC110 B 3 0800700) and that has 200 foot pounds; or

b. Underwriters Laboratory Standard UL 752 for medium power small arms (level one), Bullet Resisting Equipment.

1       (3) Provide a security guard on the premises at all times after 11 p.m. and  
2       before 5 a.m.

3       (4) Lock the business premises throughout the hours of 11 p.m. to 5 a.m., and  
4       only transact business through an indirect pass-through trough, trapdoor, or  
5       window; or

6       (5) Close the business at all times 11 p.m. and before 5 a.m.

7       (e) For purposes of this section, any convenience business that by law implemented  
8       any of the security measures set forth in paragraphs (d)(1)-(4) and has maintained said  
9       measures as required by the Florida Department of Legal Affairs, without any occurrence  
10       or incidence of the crimes identified by subsection (d) for a period no less than 24 months  
11       immediately preceding the filing of a notice of exemption, may file with the Florida  
12       Department of Legal Affairs a notice of exemption from these enhanced security  
13       measures in which case the enhanced security measures required under subsections(d)(1)-  
14       (5) such shall not apply, absent any occurrences or incidents as described immediately  
15       below. In no event shall this exemption be interpreted to preclude renewed full  
16       compliance with the security measures set forth in subsection (d) should any occurrence  
17       or incidence of the crimes identified by subsection (d) occur subsequent to the filing of  
18       the notice of exemption. In no event shall the city or any enforcement officer incur any  
19       liability for the regulation and enforcement of this Article.

20       **Sec. 14.5-172. Penalties**

21       The provisions of Article VII may be enforced by civil citation as provided in  
22       Chapter 2, Division 6, of this Code.

**Section 2.** Section 2-339 of the Code of Ordinances of the City of Gainesville is amended by adding 14.5-171 to the table of applicable codes and ordinances.

**Sec. 2-339. Applicable codes and ordinances.**

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

Section	Description	Class	Penalty
<u>14.5-171</u>	<u>Violation of security and safety standards for convenience businesses</u>	<u>II</u>	<u>\$250.00</u>

**Section 3.** It is the intention of the City Commission that the provisions of Sections 1 and 2 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 the ordinance which can be given effect without the invalid or unconstitutional provisions 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 take effect immediately upon adoption.

# DRAFT

December 8, 2009

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**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2010.

ATTEST:

\_\_\_\_\_  
PEGEEN HANRAHAN  
MAYOR

Approved as to form and legality

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

\_\_\_\_\_  
MARION J. RADSON  
CITY ATTORNEY

This Ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2010.

This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2010.