

LEGISLATIVE #

120146A

ORDINANCE NO. 120146

An ordinance of the City of Gainesville, Florida, amending the Land Development Code; by amending Section 30-67 *General provisions for business and mixed use districts* to prohibit the issuance of special event permits and temporary game day permits to establishments that are subject to an underage prohibition order relating to underage drinking incidents; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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 a public hearing was then held by the City Plan Board on June 28, 2012 and by the City Commission at its July 19, 2012 meeting which was recessed until July 24, 2012; and

WHEREAS, at least ten (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 in the City Hall Auditorium, First Floor, City Hall, in the City of Gainesville; and

WHEREAS, public hearings were held pursuant to the 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) of the Land Development Code is amended as follows. Except as amended herein, the remainder of Section 30-67 remains in full force and effect.

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

(g) *Outdoor storage and sales.* All principal uses in any business or mixed use district shall be contained within completely enclosed buildings, except as otherwise specifically provided as a permitted use. When not so specifically provided, outdoor storage or

1 display of goods and commodities not contained within completely enclosed buildings is
2 prohibited, except the following uses under the conditions prescribed herein: Permits
3 issued pursuant to this section for the sale of alcoholic beverages are conditional in that if
4 an establishment becomes subject to a final underage prohibition order relating to
5 underage drinking incidents, the permit shall be voided for any event occurring 14 or
6 more days after the effective date of the prohibition order.

7 (1) *Outdoor promotional sales, special event sales and the sale of seasonal or*
8 *temporary goods and commodities other than farmers markets.* The city manager
9 may issue a permit for the sale of certain goods and commodities which are
10 strictly of a temporary nature, other than for farmers markets, provided the
11 following conditions and requirements are met:

12 a. Such sales shall not be permitted on public rights-of-way; provided,
13 however, that in areas zoned CCD such sales and displays may be
14 permitted on sidewalks only; and provided, further, that parades and art
15 shows may be permitted on public rights-of-way under such conditions as
16 are otherwise provided by ordinances and policies of the city commission.

17 b. The sales period for seasonal or temporary goods, such as Christmas trees,
18 shall not exceed 30 days; promotional sales such as characterized by the
19 so-called "midnight madness," "truck sale," "tent sale" or "sidewalk sale"
20 shall not exceed 72 hours; and special event sales such as may be
21 permitted in conjunction with a parade, festival or other such event shall
22 not exceed the specified period approved for such event. No more than

1 one permit per applicant per location shall be issued in any given six-
2 month period for seasonal type sales, and no more than one special use
3 permit per applicant per location shall be issued in any given 60-day
4 period of time for promotional type sales.

5 c. Application for a permit under the provisions herein shall be examined
6 and approved by the appropriate departments of the city to ensure
7 protection of the public health, safety and general welfare. In addition to
8 normal concerns of each such department, particular attention shall be
9 given to traffic flow and control, auto and pedestrian safety, and the effect
10 which such use and activity will have on surrounding uses, particularly
11 where the adjoining use is residential.

12 d. When, in the opinion of the city manager, it is deemed necessary, the
13 applicant may be required to post a bond or otherwise provide adequate
14 assurance that the site of the selling activity will be returned to its original
15 or an improved state when the selling activity has ceased.

16 (2) *Outside accessory display and storage.*

17 a. The development review board or city plan board at development plan
18 review may authorize accessory display and storage outside of enclosed
19 buildings if specifically requested and designated on a development plan.
20 The proposal must be in accordance with the overall design and conditions
21 of the development plan. If such use is located within 20 feet of a public
22 right-of-way, it shall be enclosed by a screening wall, fence or hedge that

1 is not less in height than two-thirds the height of any equipment or fixtures
2 used or any material stored or offered for sale, and such wall, fence or
3 hedge shall be at least 50 percent opaque. The outdoor storage and display
4 must be clearly incidental or accessory to the principal use of the property
5 and shall be limited to not more than 25 percent of the total stock of the
6 principal use.

7 b. An independent request (not in connection with an existing request for
8 development plan review) to allow outside accessory display and storage
9 may be permitted by the development review board through the same
10 terms as stated in subsection (g)(2)a. of this section.

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

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

18 b. The temporary sale event must be conducted on the site where the
19 business is located. The site of the temporary sale event must be owned or
20 leased by the business as part of the normal daily operations of the
21 business. Businesses located in a development consisting of several stores
22 sharing the area to be used by the temporary sale event must have the

1 permission of the owner of the development and the consent of the tenants
2 that share the space.

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

7 d. All permit applications must include a site plan sketch showing the
8 location, access, barriers delineating the event site from other public areas
9 and all other details of the site. All permit applications must be submitted
10 to the city manager or designee, along with the fee as set out in Appendix
11 A of this Code at least ten days prior to the event.

12 e. All permit applications must include a report detailing how many people
13 are expected to attend, the capacity of any proposed temporary structures,
14 whether there will be outdoor entertainment, a plan for the storage and
15 pickup of garbage during and after the sale event, and a public safety plan
16 detailing how the permittee will maintain crowd control and public safety,
17 and comply with the city's noise ordinance.

18 f. Permit applications shall be examined by the appropriate departments of
19 the city to ensure protection of the public health, safety and general
20 welfare. In addition to normal concerns of each such department,
21 particular attention will be given to traffic flow and control, auto and
22 pedestrian safety, and the effect that the use and activity will have on

1 surrounding uses, particularly where the adjoining use is residential. The
2 permit may be approved with conditions or denied by the city manager or
3 designee based on these factors.

4 (4) Prohibition. Any business establishment or successor establishment subject to a
5 final underage prohibition order, whether by default, consent, or adjudication by
6 the parties, a hearing officer, or court, shall not be issued a permit pursuant to this
7 section for the sale of alcoholic beverages for the duration of the underage
8 prohibition order. Any establishment that becomes subject to a final prohibition
9 order subsequent to obtaining a permit pursuant to this section for the sale of
10 alcoholic beverages, but prior to the scheduled permitted event or events, shall
11 have the permit voided for any event occurring 14 or more days after the effective
12 date of the prohibition order.

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

17 **Section 3.** If any word, phrase, clause, paragraph, section or provision of this ordinance
18 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
19 finding shall not affect the other provisions or applications of this ordinance that can be given
20 effect without the invalid or unconstitutional provisions or application, and to this end the
21 provisions of this ordinance are declared severable.

1 **Section 4.** All ordinances or parts of ordinances in conflict herewith are to the extent of
2 such conflict hereby repealed.

3 **Section 5.** This ordinance shall become effective immediately upon final adoption.

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5 **PASSED AND ADOPTED** this ____ day of August, 2012.

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CRAIG LOWE
MAYOR

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12 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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18 This ordinance passed on first reading this _____ day of August, 2012.

19 This ordinance passed on second reading this _____ day of September, 2012.

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