



MEMORANDUM

Office of the City Attorney

Legistar No. 000048

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

TO: Mayor and City Commission

DATE: August 14, 2000
~~July 24, 2000~~

~~FIRST READING~~

SECOND READING

FROM: City Attorney

SUBJECT: Ordinance No. 0-00-71

An ordinance of the City of Gainesville, Florida, amending section 15-4 of the Code of Ordinances relating to special noise permits; correcting a scrivener's error regarding certain events for which permits may be granted; adding provisions concerning processing of the application for permit and appeal of denial of permit; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

The City Commission at its meeting of June 10, 2000, authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance amending the special noise permit provisions. There are three changes: (1) Provide that permits must be applied for 10 days prior to the event and that a decision to grant or deny the permit must be made at least 3 days prior to the event; (2) Provide for appeal of denial of a permit to the circuit court; and (3) officially correct an error made in the previous noise ordinance amendment regarding hours for special permits for New Years-Eve events and events taking place one-half mile from residences, hospitals, or nursing homes.

Prepared by:

Patricia M. Carter,
Sr. Assistant City Attorney

Approved and
Submitted by:

Marion J. Radson,
City Attorney

MJR:PMC:sw

PASSED ON FIRST READING BY A VOTE OF 4-0.

Ordinance No. 0-00-72

An ordinance of the City of Gainesville, Florida, amending section 15-4 of the Code of Ordinances relating to special noise permits; correcting a scrivener's error regarding certain events for which permits may be granted; adding provisions concerning processing of the application for permit and appeal of denial of permit; providing directions to the codifier; providing a severability clause; 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 in the Auditorium of City Hall in the City of Gainesville; and

WHEREAS, a Public Hearing was held pursuant to the published notice described at which hearing 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. Section 15-4 of the Code of Ordinances is amended to read as follows:

Sec. 15-4. Special permits.

(1) . Permit process.

a. Applications for a special permit for relief from the maximum sound level limits designated in this chapter, except from Table I and Table I-A, for the events or activities described below, may be made in writing to the city manager or designee, ~~or his/her duly authorized representative.~~

b. The permit application shall include the name, address and telephone number of the permit applicant; the date, hours and location for which the permit

1 is requested; and the nature of the event or activity. The application must be
2 submitted at least 10 days in advance of the event, not including holidays and
3 weekends.

4 c. Upon receipt of the permit application, the city manager or designee will
5 review the application and issue a decision promptly, but in no event less than 3
6 days prior to the date of the event. If no decision is issued by the time specified,
7 the permit will be considered to be issued. The permit shall be issued provided
8 the proposed activity meets the requirements of this section.

9 d. Any permit granted must be in writing and shall contain all conditions
10 upon which the permit shall be effective. The city manager or designee, or his/her
11 duly authorized representative, is authorized to grant the relief as applied for
12 under the following conditions:

13 e. ~~Authority to prescribe special requirements.~~ The city manager or designee
14 may prescribe any reasonable conditions or requirements he/she deems necessary
15 to minimize noise disturbances upon the community or the surrounding
16 neighborhood, including use of mufflers, screens or other sound-attenuating
17 devices.

18 f. Any final decision of the city manager or designee pursuant to this section
19 may be immediately reviewed as a matter of right by the circuit court upon the
20 filing of an appropriate pleading by the applicant.

21 (2) *Permits for entertainment.* Permits may be granted for the purpose of
22 entertainment under the following conditions:

23 a. The function must be open to the general public (admission may be

1 charged).

2 b. The function must take place on public property, or public space, provided
3 only 6 functions requiring a special permit may be held on any particular public
4 space per calendar year.

5 c. The permit will be granted for only four hours in one twenty-four-hour day
6 or any reasonable extension thereof as authorized by the city manager or designee.

7 d. The permit will only be granted for hours between 9:00 a.m. and 12:00
8 midnight on all days other than Friday and Saturday; and, on Friday and Saturday,
9 between the hours of 9:00 a.m. and 1:00 a.m. of the following-day, except in the
10 following circumstances:

11 1. A permit will be granted for hours between 9:00 a.m. on New
12 Year's Eve and 1:00 a.m. the following day (New Year's Day).

13 2. A permit will be granted for hours between 9:00 a.m. and 2:00 a.m.
14 the following day if there are no private residences, hospitals or nursing
15 homes within a 0.5 mile radius of the property where the function is taking
16 place.

17 e. Functions for which the permits are issued shall be limited to a continuous
18 airborne sound level not to exceed 70 dB(A), as measured 200 feet from the real
19 property boundary of the source property. When one or more streets are closed
20 adjacent to the source of the sound, the measurement shall be taken 200 feet from
21 the boundary of the closed area.

22 (3) *Other permits.* Special permits for nonentertainment special purposes, other than
23 for emergency work that is exempt pursuant to section 15-3(e)(3), may be issued under

1 the following conditions:

2 a. *Nonrecurring.*

3 1. ~~If the special purpose relates to the operation of a trade or business,~~
4 the special purpose shall not be in the ordinary course of that trade or
5 business; or

6 2. If the special purpose does not relate to the operation of a trade or
7 business, the special purpose shall not be an ordinary event in the affairs of
8 the applicant;

9 b. *Recurring.* If the special purpose is a recurring purpose, it shall not recur
10 more often than four times each calendar year; and:

11 1. The special purpose shall be essential to the operation of the
12 applicant's trade or business; or

13 2. If the special purpose is not essential to the operation of a trade or
14 business, the special purpose shall be compatible with the ordinary
15 activities of the surrounding neighborhood;

16 c. *Hours.* The special permit may be issued only for hours between 7: 00
17 a.m. and 11:00 p.m. the same day on weekdays; and

18 d. *Duration.* Special permits may be issued for no longer than one week,
19 renewable by further application to the city manager or designee provided the
20 applicant otherwise meets the provisions of this chapter.

21 (4) *Use of loudspeakers on exterior of building.* No permit may be issued to permit
22 the use of any loudspeaker or sound device on the exterior of any building which at any
23 time exceeds the sound level limits in Table II, except those used for emergency systems

1 or devices as allowed by section 15-3(d)(6) above.

2 (5) *Fraternity or sorority events.* Special permits shall be issued for off-campus
3 fraternity/sorority events as follows:

4 a. Sound level permits may be obtained to allow an increased residential
5 sound level of 65 dB(A) between 9:00 p.m. and 1:00 a.m. the following day on
6 designated dates, which permits will be valid only at the fraternity/sorority
7 residence and only when all sources of music are located in a completely enclosed
8 building as defined in section 30-23 of the land development code. Each
9 fraternity/sorority is responsible for obtaining its sound level permit on the
10 appropriate date.

11 b. All fraternities/sororities will receive sound level permits on five dates
12 each year, three of which shall be the last Saturday of fall and spring rush and the
13 Saturday of the University of Florida Homecoming.

14 c. The off-campus fraternities/sororities, collectively, shall choose the two
15 optional dates on which they may receive additional sound level permits, which
16 dates shall be submitted to the city manager or designee on or before September
17 thirtieth of each year. After the submission of dates, the city manager or designee
18 will approve and designate the optional dates hereinabove described.

19 d. Other student organizations officially registered with the University of
20 Florida may file an application with the city manager or designee for issuance of a
21 special permit for comparable events.

22 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of
23 this ordinance shall become and be made a part of the Code of Ordinances of the City of

D R A F T

7-11-00

1 Gainesville, Florida, and that the Sections and Paragraphs of this ordinance may be
2 renumbered or relettered in order to accomplish such intentions.

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

6 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
7 such conflict hereby repealed.

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

9
10 **PASSED AND ADOPTED** this _____ day of _____, 2000.

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PAULA M. DeLANEY
MAYOR

16 ATTEST:

Approved as to form and legality

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18

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

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20
21 This Ordinance passed on first reading this _____ day of _____, 2000.

22 This Ordinance passed on second reading this _____ day of _____,
23 2000.

