

Legislative #

191242

**ORDINANCE NO. 191242**

**An ordinance of the City of Gainesville, Florida, relating to penalties for violations of declarations of emergency; by amending Sec. 2-67 titled “Mayor may declare state of emergency, water emergency” within Article II of Chapter 2 of the City Code of Ordinances; by amending Sec. 2-339 titled “Applicable codes and ordinances” within Division 6 of Article V of Chapter 2 of the City Code of Ordinances; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.**

**WHEREAS**, the measures set forth in this ordinance are intended to recognize that Alachua County, the State of Florida Government and/or the Federal Government may declare a state of emergency pursuant to their respective authority granted by County, State and/or Federal law; and to allow the City to enforce emergency declarations by civil citation, if the declaration specifies a civil penalty;

**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 by the City Commission in the City of Gainesville; and

**WHEREAS**, the public hearings were held pursuant to the published notice described above and at which hearings the parties in interest and all others had an opportunity to be and were, in fact heard.

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

**Section 1.** Sec. 2-67 of the Code of Ordinances of Gainesville, Florida is hereby amended to read as follows:

**Sec. 2-67.**

1 (a) *State of emergency.* The mayor, or mayor pro-tem if the mayor is unavailable, may declare  
2 a state of emergency within the City of Gainesville pursuant to authority granted in section  
3 2.08 of the Charter Laws of the City of Gainesville, F.S. §870.042 and F.S. §252.38, and  
4 exercise the powers granted therein. In addition, it is recognized that the Federal  
5 Government and State of Florida Government may declare a state of emergency pursuant to  
6 their authority granted by Federal and/or State law and Alachua County Government may  
7 declare a state of emergency within the entire geographical area of the County pursuant to  
8 the authority granted in Sections 27.04 and 27.07 of the Alachua County Code of  
9 Ordinances and F.S. §252.38(1).

10 (b) *Water emergency.*

11 (1) *Declaration of water emergency.* Upon the recommendation of the general manager for  
12 utilities or his/her designee, the mayor may declare a water emergency, and in  
13 consultation with the general manager, impose water use restrictions up to and  
14 including water rationing by the city’s water utility and the prohibition of any and all  
15 uses as may be nonessential and make such other orders relating to the potable water  
16 supply as may be necessary to protect the public health, safety and welfare.

17 (2) *Definitions of nonessential water use.* For purposes of this section, nonessential water  
18 uses include those uses that are deemed by the mayor as not essential for the  
19 preservation of public health and safety. The term “nonessential uses” may include but  
20 is not limited to water used for the irrigation of vegetation.

21 (3) *Special relief.* Any order issued under authority of this section shall include a provision  
22 whereunder consumers who believe they will suffer undue hardship or believe their  
23 health and/or safety is jeopardized under the provisions of the order may request that

1 the general manager for utilities or his/her designee grant special, administrative relief  
2 from the water use restrictions and be afforded an opportunity to be heard on such  
3 request.

4 (4) *Enforcement.* Enforcement of the provisions of orders issued under the authority of this  
5 section shall be as provided under sections 2-336 through 2-339 of this Code. In  
6 addition to the foregoing, the general manager for utilities or his/her designee is  
7 authorized to discontinue water service to any consumer as necessary to enforce such  
8 orders. The general manager shall adopt rules regarding such discontinuance to afford  
9 the consumer notice and an opportunity to be heard.

10 (5) *Penalties.* Penalties for violation of orders issued under the authority of this section  
11 shall be as provided under chapter 2, article V, division 6 of the Code.

12 (c) *Penalties.* Except as provided in subsection (b)(5) above:

13 (1) Any violation of a provision of any emergency measure established pursuant to F.S.  
14 §870.043 shall be misdemeanor of the first degree, punishable as provided in F.S.  
15 §775.082 or §775.083.

16 (2) Any violation of a provision of any emergency measure established pursuant to F.S.  
17 §252.38 by the City or Alachua County may be enforced by civil citation if allowed by  
18 the emergency declaration, order, or other measure, or by criminal penalties pursuant to  
19 F.S. §252.50. Any violation of a provision of any emergency measure established  
20 pursuant to Federal and/or State law by the Federal Government or State of Florida  
21 Government may be enforced as provided in the Federal or State emergency declaration,  
22 order or other measure. Each violation shall be considered a separate offense, which can

1 be prosecuted separately. ~~shall be a misdemeanor of the second degree, punishable as~~  
 2 ~~provided in F.S. §775.082 or §775.083.~~

3 **Section 2.** Sec. 2-339 of the Code of Ordinances of Gainesville, Florida is hereby amended  
 4 to add a violation to be enforceable by civil citation as set forth below. Except as amended  
 5 herein, the remainder of Sec. 2-339 remains in full force and effect.

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

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

Section	Description	Class	Penalty
<u>2-67(a)</u>	<u>Declaration of State of Emergency by State, Federal County or City Government</u>	<u>As set forth in the emergency declaration, order or other measure</u>	<u>As set forth in the emergency declaration, order or other measure</u>

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 9 **Section 3.** It is the intention of the City Commission that the provisions of Section 1 and  
 10 Section 2 of this ordinance will become and be made a part of the Code of Ordinances of the  
 11 City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be  
 12 renumbered or relettered in order to accomplish such intentions.

13 **Section 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance  
 14 or the application hereof to any person or circumstance is held invalid or unconstitutional, such  
 15 finding will not affect the other provisions or application of the ordinance which can be given  
 16 effect without the invalid or unconstitutional provisions or application, and to this end the  
 17 provisions of this ordinance are declared severable.

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

20 **Section 6.** This ordinance will become effective immediately upon final adoption.

1 **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

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LAUREN POE, MAYOR

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Attest:

Approved as to form and legality:

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OMICHELE D. GAINEY,  
CLERK OF COMMISSION

NICOLLE M. SHALLEY  
CITY ATTORNEY

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This ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2020.

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This ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2020.

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