

**Legislative #
130058 A**

ORDINANCE NO. 130058

An ordinance of the City of Gainesville, Florida, amending the Land Development Code related to temporary outdoor alcoholic beverage sales and event permits; by deleting portions of 30-67(g); providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, publication of notice of a public hearing was given that the text of the Land Development Code and the Code of Ordinances of the City of Gainesville, Florida, be amended; and

WHEREAS, notice was given and publication made as required by law and a public hearing was then held by the City Plan Board on May 23, 2013; 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 published notices described above 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. Section 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.

(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 display of goods and commodities not contained within completely enclosed buildings is

1 prohibited, except the following uses under the conditions prescribed herein. Permits
2 ~~issued pursuant to this section for the sale of alcoholic beverages are conditional in that if~~
3 ~~an establishment becomes subject to a final underage prohibition order relating to~~
4 ~~underage drinking incidents, the permit shall be voided for any event occurring 14 or~~
5 ~~more days after the effective date of the prohibition order.~~

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

- 11 a. Such sales shall not be permitted on public rights-of-way;
12 provided, however, that in areas zoned CCD such sales and
13 displays may be permitted on sidewalks only; and provided,
14 further, that parades and art shows may be permitted on public
15 rights-of-way under such conditions as are otherwise provided by
16 ordinances and policies of the city commission.
- 17
- 18 b. The sales period for seasonal or temporary goods, such as
19 Christmas trees, shall not exceed 30 days; promotional sales such
20 as characterized by the so-called "midnight madness," "truck sale,"
21 "tent sale" or "sidewalk sale" shall not exceed 72 hours; and
22 special event sales such as may be permitted in conjunction with a
23 parade, festival or other such event shall not exceed the specified
24 period approved for such event. No more than one permit per
25 applicant per location shall be issued in any given six-month
26 period for seasonal type sales, and no more than one special use
27 permit per applicant per location shall be issued in any given 60-
28 day period of time for promotional type sales.
- 29
- 30 c. Application for a permit under the provisions herein shall be
31 examined and approved by the appropriate departments of the city
32 to ensure protection of the public health, safety and general
33 welfare. In addition to normal concerns of each such department,
34 particular attention shall be given to traffic flow and control, auto
35 and pedestrian safety, and the effect which such use and activity
36 will have on surrounding uses, particularly where the adjoining use
37 is residential.
- 38

- 1 d. When, in the opinion of the city manager, it is deemed necessary,
 2 the applicant may be required to post a bond or otherwise provide
 3 adequate assurance that the site of the selling activity will be
 4 returned to its original or an improved state when the selling
 5 activity has ceased.
 6

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

- 8 a. The development review board or city plan board at development
 9 plan review may authorize accessory display and storage outside of
 10 enclosed buildings if specifically requested and designated on a
 11 development plan. The proposal must be in accordance with the
 12 overall design and conditions of the development plan. If such use
 13 is located within 20 feet of a public right-of-way, it shall be
 14 enclosed by a screening wall, fence or hedge that is not less in
 15 height than two-thirds the height of any equipment or fixtures used
 16 or any material stored or offered for sale, and such wall, fence or
 17 hedge shall be at least 50 percent opaque. The outdoor storage and
 18 display must be clearly incidental or accessory to the principal use
 19 of the property and shall be limited to not more than 25 percent of
 20 the total stock of the principal use.
 21
- 22 b. An independent request (not in connection with an existing request
 23 for development plan review) to allow outside accessory display
 24 and storage may be permitted by the development review board
 25 through the same terms as stated in subsection (g)(2)a. of this
 26 section.
 27

28 ~~(3) Temporary outdoor alcoholic beverage sales for University of Florida Home~~
 29 ~~Football Game Day events, in the University Context Area. The city manager~~
 30 ~~or designee may issue a permit for outdoor alcoholic beverage sales in the~~
 31 ~~University Context Area provided the following conditions and requirements~~
 32 ~~are met:~~

- 33 a. ~~The business conducting the sale must be an existing business in a~~
 34 ~~permanently fixed location operating with an alcoholic beverage~~
 35 ~~license issued by the State of Florida.~~
- 36
- 37 b. ~~The temporary sale event must be conducted on the site where the~~
 38 ~~business is located. The site of the temporary sale event must be~~
 39 ~~owned or leased by the business as part of the normal daily~~

1 operations of the business. Businesses located in a development
2 consisting of several stores sharing the area to be used by the
3 temporary sale event must have the permission of the owner of the
4 development and the consent of the tenants that share the space.
5

6 ~~e. The area used for the temporary sales event can not be more than~~
7 ~~1.5 times the square footage of the on-site business conducting the~~
8 ~~sale. Permits for the use of the area will be issued for the period of~~
9 ~~the day before the football game and the day of the football game.~~

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

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

25
26 ~~f. Permit applications shall be examined by the appropriate~~
27 ~~departments of the city to ensure protection of the public health,~~
28 ~~safety and general welfare. In addition to normal concerns of each~~
29 ~~such department, particular attention will be given to traffic flow~~
30 ~~and control, auto and pedestrian safety, and the effect that the use~~
31 ~~and activity will have on surrounding uses, particularly where the~~
32 ~~adjoining use is residential. The permit may be approved with~~
33 ~~conditions or denied by the city manager or designee based on~~
34 ~~these factors.~~

35
36 ~~(4) Prohibition. Any business establishment or successor~~
37 ~~establishment subject to a final underage prohibition order,~~
38 ~~whether by default, consent, or adjudication by the parties, a~~
39 ~~hearing officer, or court, shall not be issued a permit pursuant to~~

1 ~~this section for the sale of alcoholic beverages for the duration of~~
2 ~~the underage prohibition order. Any establishment that becomes~~
3 ~~subject to a final prohibition order subsequent to obtaining a permit~~
4 ~~pursuant to this section for the sale of alcoholic beverages, but~~
5 ~~prior to the scheduled permitted event or events, shall have the~~
6 ~~permit voided for any event occurring 14 or more days after the~~
7 ~~effective date of the prohibition order.~~

8
9 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of
10 this ordinance shall become and be made a part of the Code of Ordinances of the City of
11 Gainesville, Florida, and that the sections and paragraphs of this ordinance may be renumbered
12 or relettered in order to accomplish such intentions.

13 **Section 3.** 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 shall not affect the other provisions or applications 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 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
19 such conflict hereby repealed.

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

2 **PASSED AND ADOPTED** this _____ day of _____, 2014

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EDWARD B. BRADDY
MAYOR

Attest:

Approved as to form and legality:

By: _____
KURT LANNON
CLERK OF THE COMMISSION

By: _____
NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this _____ day of _____, 2014.

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