

LEGISLATIVE #

120146B



PLANNING DEPARTMENT
PO BOX 490, STATION 11
GAINESVILLE, FL 32602-0490

306 N.E. 6TH AVENUE
P: (352) 334-5022
P: (352) 334-5023
F: (352) 334-2648

TO: City Plan Board **Item Number: 3**

FROM: Planning and Development Services Staff **DATE: June 28, 2012**

SUBJECT: **Petition PB-12-60TCH.** City of Gainesville. Amend the Land Development Code to prohibit the issuance of special event permits and temporary game day permits involving alcoholic beverage sales for establishments in violation of the underage prohibition order in Chapter 4, Article III, and City Code of Ordinances.

Recommendation:

Staff recommends approval of the petition.

Discussion/Background:

This is a request to amend the land development code to prohibit businesses that are in violation of the underage drinking laws from getting special event permits to extend their business boundaries. This issue was raised during a discussion with the Public Safety Committee regarding alcohol sales and consumption outdoors in downtown. The Public Safety Committee includes Commissioners Chase, Mastrodicasa (former), and Wells. Based on a request from the Police Department (Captain Ed Posey) regarding bars getting permits to extend their external boundaries for special events after receiving a violation of the underage drinking ordinance, the committee agreed to forward the request to the City Commission.

On May 3, 2012 the City Manager issued an administrative moratorium (Exhibit 1) on issuing permits under Section 30-67 of the Land Development Code, due to the City Commission actively considering amending this section of the code. The administrative moratorium specifically states that "the City will not accept, or take any action on any application for a special permit being sought pursuant to Section 30-67.

The attached draft ordinance (Exhibit 2) amends Section 30-67 as follows:

- (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. Any and all permits issued pursuant to this Section for the sale of alcoholic beverages are conditional in that if the establishment comes under a final underage prohibition order after obtaining a permit for the sale of alcoholic beverages pursuant to this section, the permit shall be voided for any event occurring 14 or more days after the effective date of the

Petition PB-11-60TCH
June 28, 2012

prohibition order. When not so specifically provided, outdoor storage or display of goods and commodities not contained within completely enclosed buildings is prohibited.....

And add new subsection 4 under (g) to read:

(4) Prohibition. Any business establishment against which an underage prohibition order is final and in effect, whether by default, consent or adjudication by the parties, a hearing officer or court, or any successor establishment subject to such final prohibition order, shall be prohibited from applying for or obtaining a permit pursuant to this Section for the sale of alcoholic beverages for the duration of the underage prohibition order. Any establishment which becomes subject to a final prohibition order subsequent to obtaining a permit pursuant to this Section for the sale of alcoholic beverages, but prior to the scheduled permitted event or events, shall have the permit voided for any event occurring 14 or more days after the effective date of the prohibition order.

Summary

Staff recommends approval of the petition consistent with the Public Safety Committee and GPD recommendation.

Respectfully submitted

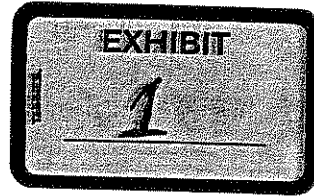


Ralph Hilliard,
Planning Manager

Attachments:

Exhibit 1- Administrative Moratorium

Exhibit 2- Draft Ordinance 05152



Office of the City Manager
 PO Box 490, Station 6
 Gainesville, FL 32602-0490
 (352) 334-5010
 (352) 334-3119 (fax)
 www.cityofgainesville.org

ADMINISTRATIVE MORATORIUM

Due to the City Commission actively considering amending Ordinance 30-67 pertaining to the Temporary outdoor alcoholic beverage sales for University of Florida home football game day events in the University Context area, I am enacting an administrative moratorium on the acceptance of applications for, and the granting of any applications for special permits pursuant to Ordinance 30-67 until further directive of this office or by the City Commission. The City will not accept, or take any action on any application for a special permit being sought pursuant to section 30-67. This administrative Moratorium is enacted to allow the City Commission sufficient time to review, study, hold public hearings and to prepare and adopt an amendment or amendments to the City of Gainesville Ordinance 30-67.

This administrative Moratorium is not intended to create a hardship on any person or business because of the football game day events do not occur until September 1, 2012. If any person or establishment believes they will experience a hardship as a result of this administrative Moratorium, they may file a petition for relief with my Office stating the specific hardship that will occur as a result of this temporary Moratorium. It is intended that the City Commission will reach a final decision on or before August 2, 2012 and this temporary Moratorium will be terminated.

Russ Blackburn, City Manager

Date

Exhibit 2

DRAFT 051512Added Deleted

- 1 **Sec. 30-67. - General provisions for business and mixed use districts.**
- 2 (a) *Development plan approval.* Prior to the issuance of a building permit within any
3 business or mixed use district, development plan approval, in accordance with article
4 VII, is required.
- 5 (b) *Parking.* In order to receive and maintain a valid certificate of occupancy within all
6 business or mixed use districts, the parking requirements shall be complied with as
7 set forth in article IX.
- 8 (c) *Landscaping.* In order to receive and maintain a valid certificate of occupancy within
9 all business or mixed use districts, the landscaping requirements shall be complied
10 with as set forth in article VIII.
- 11 (d) *Signs.* In order to receive and maintain a valid certificate of occupancy within all
12 business or mixed use districts, the sign requirements shall be complied with as set
13 forth in article IX.
- 14 (e) *Flood control.* Prior to the issuance of a building permit in any business or mixed use
15 district, the provisions of the flood control district, article VIII, shall be complied with
16 where applicable.
- 17 (f) *Access to business uses.* Where a parcel of property used for nonresidential use in
18 any business or mixed use district abuts more than one street, access from either
19 street to such property will be permitted only if no property in an RSF-1, RSF-2, RSF-
20 3, RSF-4 or RC residential district or shown for single-family residential use on the
21 future land use map of the comprehensive plan lies immediately across such street
22 from such business or mixed use zoned property; provided, however, access may be
23 permitted from any collector or arterial as shown in the comprehensive plan; and
24 provided, further, that one point of access shall be permitted in any case,
25 notwithstanding other provisions of this subsection.
- 26 (g) *Outdoor storage and sales.* All principal uses in any business or mixed use district
27 shall be contained within completely enclosed buildings, except as otherwise
28 specifically provided as a permitted use. **Any and all permits issued pursuant to this**
29 **Section for the sale of alcoholic beverages are conditional in that if the establishment**
30 **comes under a final underage prohibition order after obtaining a permit for the sale of**
31 **alcoholic beverages pursuant to this section, the permit shall be voided for any event**
32 **occurring 14 or more days after the effective date of the prohibition order.** When not
33 so specifically provided, outdoor storage or display of goods and commodities not
34 contained within completely enclosed buildings is prohibited, except the following
35 uses under the conditions prescribed herein:
36

Exhibit 2

DRAFT 051512Added ~~Deleted~~

- 1 (1) *Outdoor promotional sales, special event sales and the sale of seasonal or*
2 *temporary goods and commodities other than farmers markets.* The city
3 manager may issue a permit for the sale of certain goods and commodities
4 which are strictly of a temporary nature, other than for farmers markets,
5 provided the following conditions and requirements are met:
- 6 a. Such sales shall not be permitted on public rights-of-way; provided,
7 however, that in areas zoned CCD such sales and displays may be permitted
8 on sidewalks only; and provided, further, that parades and art shows may be
9 permitted on public rights-of-way under such conditions as are otherwise
10 provided by ordinances and policies of the city commission.
- 11 b. The sales period for seasonal or temporary goods, such as Christmas
12 trees, shall not exceed 30 days; promotional sales such as characterized by
13 the so-called "midnight madness," "truck sale," "tent sale" or "sidewalk sale"
14 shall not exceed 72 hours; and special event sales such as may be permitted
15 in conjunction with a parade, festival or other such event shall not exceed the
16 specified period approved for such event. No more than one permit per
17 applicant per location shall be issued in any given six-month period for
18 seasonal type sales, and no more than one special use permit per applicant
19 per location shall be issued in any given 60-day period of time for
20 promotional type sales.
- 21 c. Application for a permit under the provisions herein shall be
22 examined and approved by the appropriate departments of the city to ensure
23 protection of the public health, safety and general welfare. In addition to
24 normal concerns of each such department, particular attention shall be given
25 to traffic flow and control, auto and pedestrian safety, and the effect which
26 such use and activity will have on surrounding uses, particularly where the
27 adjoining use is residential.
- 28 d. When, in the opinion of the city manager, it is deemed necessary, the
29 applicant may be required to post a bond or otherwise provide adequate
30 assurance that the site of the selling activity will be returned to its original or
31 an improved state when the selling activity has ceased.
- 32 (2) *Outside accessory display and storage.*
33 a.

Exhibit 2

DRAFT 051512Added Deleted

1 The development review board or city plan board at development
 2 plan review may authorize accessory display and storage outside of
 3 enclosed buildings if specifically requested and designated on a
 4 development plan. The proposal must be in accordance with the
 5 overall design and conditions of the development plan. If such use is
 6 located within 20 feet of a public right-of-way, it shall be enclosed by
 7 a screening wall, fence or hedge that is not less in height than two-
 8 thirds the height of any equipment or fixtures used or any material
 9 stored or offered for sale, and such wall, fence or hedge shall be at
 10 least 50 percent opaque. The outdoor storage and display must be
 11 clearly incidental or accessory to the principal use of the property and
 12 shall be limited to not more than 25 percent of the total stock of the
 13 principal use.

b.

14 An independent request (not in connection with an existing request
 15 for development plan review) to allow outside accessory display and
 16 storage may be permitted by the development review board through
 17 the same terms as stated in subsection (g)(2)a. of this section.
 18

(3)

19 *Temporary outdoor alcoholic beverage sales for University of Florida Home*
 20 *Football Game Day events, in the University Context Area.* The city manager
 21 or designee may issue a permit for outdoor alcoholic beverage sales in the
 22 University Context Area provided the following conditions and requirements
 23 are met:
 24

a.

25 The business conducting the sale must be an existing business in a
 26 permanently fixed location operating with an alcoholic beverage
 27 license issued by the State of Florida.
 28

b.

29 The temporary sale event must be conducted on the site where the
 30 business is located. The site of the temporary sale event must be
 31 owned or leased by the business as part of the normal daily
 32 operations of the business. Businesses located in a development
 33 consisting of several stores sharing the area to be used by the
 34 temporary sale event must have the permission of the owner of the
 35 development and the consent of the tenants that share the space.
 36

c.

Exhibit 2

DRAFT 051512Added Deleted

1 The area used for the temporary sales event can not be more than
 2 1.5 times the square footage of the on-site business conducting the
 3 sale. Permits for the use of the area will be issued for the period of
 4 the day before the football game and the day of the football game.

5 d.

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

11 e.

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

19 f.

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

29 **(4) Prohibition. Any business establishment against which an underage**
 30 **prohibition order is final and in effect, whether by default, consent or adjudication by**
 31 **the parties, a hearing officer or court, or any successor establishment subject to**
 32 **such final prohibition order, shall be prohibited from applying for or obtaining a**
 33 **permit pursuant to this Section for the sale of alcoholic beverages for the duration of**
 34 **the underage prohibition order. Any establishment which becomes subject to a final**
 35 **prohibition order subsequent to obtaining a permit pursuant to this Section for the**
 36 **sale of alcoholic beverages, but prior to the scheduled permitted event or events,**

Exhibit 2

DRAFT 051512Added ~~Deleted~~

1 shall have the permit voided for any event occurring 14 or more days after the
 2 effective date of the prohibition order.

3 (h)

4 *Shopping centers in business zones.* Any nonresidential development within any
 5 district, except CCD and MU-2, which consists of 50,000 square feet or more of
 6 gross floor area, shall comply with the additional requirements for neighborhood
 7 shopping centers as detailed in subsection 30-64(d)(3). Minimum parking
 8 requirements for such developments shall be based on either the required parking for
 9 the particular use(s) or the requirements as set forth for the shopping centers,
 10 whichever is the lesser.

11 (i)

12 *Temporary emergency shelters.* Use of buildings in the business and mixed use
 13 districts for temporary emergency shelters may be permitted by the city manager or
 14 designee, provided the following conditions and requirements are met:

15 (1)

16 The city manager or designee finds that a temporary emergency exists due
 17 to manmade or natural causes which warrant the temporary use of buildings
 18 for shelter.

19 (2)

20 Emergency shelter operation shall be limited to 14 consecutive days and a
 21 total of 90 days in a calendar year.

22 (3)

23 Emergency shelters shall not allow more than one person per 30 square feet
 24 of net floorspace.

25 (4)

26 Pursuant to city codes and ordinances and approval of the appropriate
 27 departments, emergency shelters shall have adequate and safe wiring,
 28 running water, restrooms, emergency lighting, smoke detectors and
 29 emergency exits.

30 (5)

31 Second and third floors of buildings shall not be used for emergency shelter
 32 purposes unless a protected means of egress is provided.

33 (6)

34 If electric power is not initially provided to a building to be used for
 35 emergency shelter purposes, such power may be provided to the building

Exhibit 2

DRAFT 051512

Added Deleted

1 pursuant to city codes and ordinances and approval of the appropriate
2 department(s).
3