Legislative # 200250

ORDINANCE NO. 200250

An ordinance of the City of Gainesville, Florida, suspending the enforcement of Sec. 4-4 and Sec. 18-20(16) as it relates to the consumption or possession of any alcoholic beverage in any open container on property owned or operated by the city (including parks) or on any public right-of-way during the declared State of Emergency for the COVID-19 Pandemic; providing for repeal by emergency ordinance; providing for non-codification; providing a severability clause; providing a conflict clause; and providing an effective date and termination date.

WHEREAS, COVID-19, a respiratory illness caused by a virus that spreads rapidly from person to person and may result in serious illness or death, constitutes a clear and present threat to the lives, health, welfare, and safety of the people of the City of the State of Florida, Alachua County and the City of Gainesville; and,

WHEREAS, on March 1, 2020, Governor DeSantis declared a Public Health Emergency because of COVID-19; and, on March 9, 2020, Governor DeSantis issued Executive Order 20-52, declaring a State of Emergency because of COVID-19; and,

WHEREAS, on March 11, 2020, the World Health Organization declared the spread of COVID-19 to be a global pandemic; and, on March 13, 2020, President Trump declared a national emergency concerning COVID-19; and,

WHEREAS, County Emergency Order 2020-01 declared a local state of emergency in Alachua County based on the COVID-19 virus on March 16, 2020; and,

WHEREAS, Subsequent State and County-wide Emergency Orders have been issued extending the state of emergency and restricting the operation and capacity of bars and restaurants that serve alcoholic beverages; and,

WHEREAS, City Management and the City Commission are concerned that with the return of University of Florida students to Gainesville for the Fall 2020 semester, the operating and capacity restrictions placed on bars and restaurants will drive students to congregate and possess and consume alcoholic beverages in large, non-socially distant groups in indoor locations (such as house or fraternity/sorority parties); and

WHEREAS, to address this concern, City Management and the City Commission desire to provide opportunity for all persons to possess and consume alcoholic beverages outdoors on City-owned or operated property (including parks) and public right-of-way throughout the City by temporarily suspending the enforcement (as to personal possession and consumption) of Sec. 4-4 and Sec. 18-20(16) of the City Code of Ordinances; and

WHEREAS, this ordinance is intended to be of limited duration during the declared emergency for the COVID-19 Pandemic; and

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

Section 1. The City Manager is directed to cease enforcement of the provisions of Sec. 4-4 and Sec. 18-20(16) of the City Code of Ordinances that prohibit the personal possession and consumption of alcoholic beverages in open containers on City-owned or operated property (including parks) and public right-of-way during the pendency of the COVID-19 Pandemic Emergency Orders issued by the State of Florida and/or Alachua County This ordinance does not suspend or otherwise affect the enforcement of Sec. 4-4 or Sec. 18-20(16) as relates to the sale or distribution of alcoholic beverages on any City-owned or operated property or public right-of-way.

Section 2. In the event that cessation of enforcement as directed by this ordinance creates an immediate public health, safety or welfare concern, the City Commission may repeal this ordinance by adoption of an emergency ordinance by two-thirds vote of the entire City Commission in accordance with Section 166.041(3)(b), Florida Statutes.

Section 3. Given the temporary duration of this ordinance, it is the intent of the City Commission that this ordinance will not be codified.

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

Section 5. In the event of conflict or conflicts between this ordinance and any other ordinance or provision of law, this ordinance controls to the extent of the conflict, as allowable under the law.

Section 6. This ordinance will become effective immediately and will stay in effect (1) until the expiration or termination of the COVID-19 Pandemic Emergency Orders issued by State of Florida and/or Alachua County, or (2) until adoption of an emergency ordinance per Section 2 that repeals this ordinance, or (3) until adoption of a regular, noticed City ordinance that repeals this ordinance; whichever first occurs.

PASSED AND ADOPTED this _____ day of _____, 2020.

_____

LAUREN POE, MAYOR

Attest:

_____

OMICHELE D. GAINEY,
CLERK OF COMMISSION

Approved as to form and legality:

_____

NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2020.

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