# AGENDA

**Gainesville Work Session**
**Thursday, July 27, 2017, 9:00 AM**
**Administration Building, Board Room**
**300 Henry Ward Way, 3rd Floor**
**Mayor or Mayor Pro Tem Presides**

## CITY MANAGER ISSUES

| | | |
|---|---|---|
| | Ordinance: Amend Chapter 6-4 entitled Alcoholic Beverages | Bryan Lackey |
| | Ordinance: Amend Chapter 6-2 entitled Occupation Tax | Bryan Lackey |
| | Ordinance: Amend Chapter 6-13 entitled Sidewalk Cafes | Bryan Lackey |
| | Ordinance: Amend Section 10-1-63 entitled Alcoholic Beverage Fees and Excise Taxes | Bryan Lackey |
| | Resolution: Establish Fees Related to Alcohol Licensing | Bryan Lackey |

## DEPARTMENT ISSUES

| | | |
|---|---|---|
| **Community Development** | **Public Hearing Item for the August 1, 2017 Council Meeting** Resolution: Community Development Block Grant (CDBG) 2017 Annual Action Plan | Rusty Ligon |
| **Community Development** | **Public Hearing Item for the August 1, 2017 Council Meeting** Request from **Keel Property Management, LLC** to annex a 6.32± acres tract located on the northeast side of the intersection of Jesse Jewell Parkway and White Sulphur Road (a/k/a **0 White Sulphur Road**), and to establish zoning as General Business (G-B). **Ward Number: Two.** Tax Parcel Number(s): 09-123-000-008. **Request: Restaurant and retail uses.** | Matt Tate |
| **Community Development** | **Public Hearing Item for the August 1, 2017 Council Meeting** Request from **Will & McCay Crumley** to rezone a 0.308± acre tract located on the north side of Park Street and northeast of the intersection of Park Street and Boulevard (a/k/a **523 Park Street**) from Residential-II (R-II) to Residential-I (R-I). **Ward Number: Two.** Tax Parcel Number(s): 01-038-003-015. **Request: Single-family home.** | Matt Tate |

## MAYOR/COUNCIL ISSUES

Ex-Officio Report(s)

## CITY ATTORNEY ISSUES

## CITY CLERK ISSUES

## EXECUTIVE SESSION

## ADJOURNMENT

Final: Tuesday, July 25, 2017, 11:55 AM

# CITY OF GAINESVILLE

## WORKSESSIONREQUEST

**Date Submitted**: 7/18/2017

**Presenter**: Bryan Lackey

**Item of Business**: Ordinance: Amend Chapter 6-4 entitled Alcoholic Beverages

**Meeting Date**: 7/27/2017

**Purpose of Request**:
Approval of an amendment to the City's Alcoholic Beverage Ordinance to address recent changes in State Law regarding Breweries and Brewpubs, clarify regulations for tastings and samples, and the establishment of a Downtown Dining District. Additionally as with the other related Ordinance amendments, these changes serve to clarify the City staff that are identified as having a role or responsibility in the processing and enforcement.

**History/Background**:
Over the past few months, the City has been evaluating changes to its Ordinances related to Alcohol and Occupational Tax. These proposed changes to this Ordinance and three other related Ordinances are being present to ensure the City conforms with the new State Laws and at the same time realigns its resources to best meet the needs of the Business Community within the City of Gainesville.

**Facts & Issues for Consideration**:

**Department Recommendation**:
Approval

**Department Director**:
Bryan Lackey

**If funding is involved, are funds approved within the current budget?**
N/A

**Amount Requested**:

**Source of Funds**:

**Finance Comments**:

**Administrative Comments:**

ATTACHMENTS:

| Description | Type |
|---|---|
| Amend Chapter 6-4 Alcoholic Beverages | Ordinance |
| Amend Chapter 6-4 Alcoholic Beverages Mark Up | Backup Material |

First Reading: _____________
Passed: _____________

**AN ORDINANCE**

**No. 2017-**

**AN ORDINANCE TO AMEND CHAPTER 6-4 ENTITLED "ALCOHOLIC BEVERAGES" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

## SECTION I.

Chapter 6-4 of the Code of the City of Gainesville Georgia is hereby amended to read as follows:

## ARTICLE 1. PURPOSE AND LICENSING

### Sec. 6-4-1. General Policies and Purpose.

(a) Alcoholic beverages may be sold, manufactured, distributed and imported in the City of Gainesville only after the issuance of a license for such sale by the City and only in the manner permitted by said license, unless exempted by state law. Alcoholic beverages may be sold, manufactured, distributed and imported in the City only by a licensee who complies with the rules and regulations of this Ordinance, and with the licensing, regulatory and revenue requirements of the State of Georgia.

(b) Notwithstanding anything in this chapter to the contrary, the sale of alcoholic beverages in the city is a privilege and not a right, and the issuance of a license hereunder shall not create any property rights in the licensee.

(c) The city council designates the city manager for the purpose of administering this chapter. Any powers granted to or duties imposed upon the city manager may be delegated by the city manager to other city personnel. The city manager or designee shall be responsible for the interpretation of the requirements, standards, definitions, or any other provision of this chapter, unless that authority is provided to another administrative official within a specific article.

Interpretations of the city manager or designee may be appealed under the provisions of section 6-4-11. The city manager or designee shall have administrative authority of this code.

(d) Each licensee of the City shall display the license prominently at all times at the premises for which the license is issued.

(e) The holder of every alcoholic beverage license hereunder shall have available in his place of business at all times a copy of this chapter and shall be responsible for compliance herewith by all persons on the premises.

(f) Any premises outlets which cannot be determined as one (1) identifiable place of business shall require additional licenses regardless of such establishments having the same tradename, ownership, or management.

(g) The purposes of this Ordinance include but are not limited to the following:

1. Compliance with state law.

2. Prevention and control of the sale of alcoholic beverages by unfit persons.

3. Protection of the public health, safety, and general welfare.

## Sec. 6-4-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Alcoholic beverage* means any beverage containing alcohol and shall include but shall not be limited to, malt beverages, wines and distilled spirits.

(b) *Alcoholic beverage caterer* means any retail dealer who has been licensed by the city to sell alcoholic beverages by the drink or the unopened package.

(c) *Art Shop* means a retail business devoted exclusively to providing art education that is limited to instruction in painting, sculpture and similar crafts. An art shop may also sell and display portraits, paintings, sculptures, art supplies and similar art work and crafts. An art shop shall not allow activities that would cause the business to be an "adult entertainment establishment" as defined in Chapter 6-10 of this Code.

(d) *Authorized catered event* means an event at a location not otherwise licensed for consumption of alcoholic beverages by the drink at which alcoholic beverages are furnished, for consideration, and sold, dispensed or provided free of charge to persons present at the event, by the drink, pursuant to a permit obtained under this section.

(e) *Business* means any person, corporation, partnership, or other legal entity which exerts substantial efforts within the city, engages in, causes to be engaged in, and/or represents or holds out to the public to be engaged in any occupation or activity with the object of gain or benefit, either directly or indirectly.

(f) *Brewery* means a place where malt beverages are manufactured. In addition to manufacturing, malt beverages may be sold for consumption on the premises, and/or sold by the package for consumption off the premises in accordance with State law.

(g) *Brewpub* means any restaurant in which malt beverages are manufactured, subject to the barrel production limitation prescribed in O.C.G.A § 3-5-36. Barrels of malt beverage sold to licensed wholesale dealers for distribution or to the public for consumption off the premises as authorized by State law shall not be used when determining the total annual gross food and beverages sales.

(h) *BYOB* or *brown bagging* means possession of an open glass bottle, can, or other container containing an alcoholic beverage or consumption of an alcoholic beverage on premises:

1. For which a city business/occupation tax certificate has been issued; and
2. Which occurs at a location different from where said alcoholic beverage was purchased.

(i) *Church* means a body of communicants gathered into church order: united under one (1) form of government by the profession of the same faith and the observance of the same ritual and ceremonies, place where persons regularly assemble in a facility for worship, congregation, or organization for religious purposes.

(j) *College Campus* means a collection of two or more buildings used for educational purposes, on either one parcel or contiguous parcels that are under the same ownership by either a public or private institution of higher learning.

(k) *Distilled spirits* means any alcoholic beverage obtained by distillation or containing more than twenty- four (24) percent alcohol by volume percent alcohol by volume,

(l) *Establishment* means any physical location or section thereof for the operation of a business.

(m) *Food caterer* means any person who holds a valid business license and for consideration, prepares food for consumption off the premises.

(n) *Fortified wine* means any alcoholic beverage containing not more than twenty-four (24) percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentations with brandy added. The term includes, but is not limited to “brandy.”

(o) *Georgia Farm Winery* means a farm winery which is licensed by the state to manufacture wine in Georgia.

(p) *Growler* means a reusable, resealable, and professionally sanitized glass jug used to transport malt beverages or wine for off-premises consumption that is not to exceed 64 ounces and is filled with malt beverages or wine from a keg by a licensee, or an employee of a licensee, with a malt beverage and/or wine license for consumption off premises issued by the City of Gainesville.

(q) *Hard cider* means an alcoholic beverage obtained by the fermentation of the juice of apples, containing not more than six (6) percent alcohol by volume, including, but not limited to flavored or carbonated cider. For purposes of this chapter, hard cider shall be deemed a malt beverage.

(r) *Importer* means any person who imports an alcoholic beverage into this state from a foreign country and sells the alcoholic beverage to another importer, broker or wholesaler and who warehouses a stock of the alcoholic beverage.

(s) *Licensed alcoholic beverage caterer* means any person licensed for the sale of alcoholic beverages by the state and who possesses a license by a local government in the state authorizing such person to sell or dispense alcoholic beverages by the drink off licensed premises and in connection with an authorized catered function.

(t) *Licensee* means any person who holds a license from the city to engage in the selling, manufacturing, distributing or importing at retail or wholesale, of any alcoholic beverages.

(u) *Lounge* means a separate room connected with a part of and adjacent to a restaurant with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and have a seating capacity of at least forty (40).

(v) *Malt beverage* means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing not more than fourteen (14) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, also known as Japanese rice wine.

(w) *Managing Agent* means an individual that is at least twenty-one (21) years of age, is a U.S. citizen or an alien lawfully admitted for permanent residency, is a resident of the State of Georgia, has day-to-day managerial authority over the business conducted on the licensed premises including the sale of alcoholic beverages, and is employed full-time by the licensed business.

(x) *Manufacturer* means any maker, producer or bottler of an alcoholic beverage. The term also means:

1. In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; provided, however, that a vintner that blends wine with distilled spirits to produce a fortified wine shall not be considered a manufacturer of distilled spirits;
2. In the case of malt beverages, any brewer; and
3. In the case of wine, any vintner

(y) *Minor* means any person less than twenty-one (21) years of age.

(z) *Multi-use facility* means a structure containing three or more retail or office establishments and one or more eating establishment, which has a court area for pedestrian use.

(aa) *Non-profit, charitable and civic organization* means a bona fide nonprofit civic organization which is exempt from federal income tax pursuant to the provisions of subsection (c), (d), or (e) of 26 U.S.C. Section 501.

(bb) *Nonprofit botanical garden or nature science center* means a facility primarily used to develop and maintain animals or plant collections, including flowers, shrubs and trees, for public display, education, research, conservation and enjoyment, through, without limitation, horticultural gardens, public and private programs, exhibitions and special events, having not less than 75 acres of outdoor gardens or land preserved for conservation, containing a documented collection of living plants, shrubs and trees, having meeting event space with a capacity for not less than 100 people, that is owned by a corporation that is exempt from federal income taxes pursuant to section 501(c) of the Internal Revenue Code, as amended.

(cc) *Open air café* means a premise located within the pedestrian court area and adjacent sidewalk of a multi-use facility where food is available for purchase during all hours of operation and where alcoholic beverages may be purchased from a restaurant contained within the multi-use facility for consumption within the open air café.

(dd) *Person* means any individual, firm, partnership, cooperative, nonprofit membership corporation, social club, joint venture, association, company, corporation, limited liability company, limited liability partnerships, agency, syndicate, estate, trust, business trust, receiver, fiduciary or other group or combination acting as a unit, body politic or political subdivision, the plural as well as the singular member, whether public, private or quasi-public.

(ee) *Premises* means one physically identifiable place of business operated by the same ownership and/or overall management consisting of one or more contiguous rooms with only one address registered as a single place of business with the local licensing authority and the state. “Premises” is further defined to include the following areas:

1. In the case of hotels, motels or private clubs, the swimming pool which is owned by said hotel, motel or club.
2. Outdoor areas or patios approved pursuant to this chapter.
3. In the case of a malt beverage and/or wine licensee where a golf course is located adjacent to and contiguous with a restaurant, the playing area of the golf course.
4. In the case of a nonprofit botanical garden or nature science center, the geographic grounds.
5. In the case of an open air café, the pedestrian court area and sidewalk in front of the building in which the multi-use facility is contained.
6. In the case of the Gainesville Civic Center, the geographic grounds of the Gainesville Civic Center and the Martha Hope Cabin.
7. In the case of a brewery, an adjacent outdoor area, contained on the same property utilized by the licensee, that is controlled to limit public access.

(ff) *Private club* means any nonprofit association organized under the laws of this state which:

1. Has been in existence at least one (1) year prior to the filing of its application for a license to be issued pursuant to this chapter;
2. Has at least seventy-five (75) regular dues-paying members;

3. Owns, hires or leases a building or space within a building for the reasonable use of its members, which building or space:

   i. Has suitable kitchen and dining room space and equipment; and

   ii. Is staffed with a sufficient number of employees for cooking, preparing and serving meals for its members and guests; and

4. Has no member, officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary as defined by state law.

(gg) *Private function* means any affair where attendance is by invitation only, where no business transactions are conducted during the private function and there is no cost to attend or to consume the food or alcohol either by donations or by any other means.

(hh) *Residence* means the act or fact of living or regularly staying at or in some place for the discharge of a duty or the enjoyment of a benefit or the place where one actually lives as distinguished from his domicile or place of temporary sojourn.

(ii) *Resident* means a person whose primary residence is within the territorial limits of the county.

(jj) *Restaurant* means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment, air conditioned, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests for every hour they are open. At least one (1) meal per day shall be served at least five (5) days a week, except that restaurants that open for business more than five (5) days a week, shall be required to serve at least one (1) meal per day each day that the restaurant is open, with the exception of holidays, vacation and periods of redecoration, and the serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. A restaurant shall provide at least thirty (30) seats for customers.

(kk) *School* means an organized source of education or training whether public or private for the teaching of children in which the traditional subjects and learning processes associated with the Pre-K - 12 grades of school are taught.

(ll) *Tasting room* means an outlet for the promotion of a Georgia Farm Winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine can be given free of charge or for a fee.

(mm) *Wholesaler or Wholesale Dealer* means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers. This shall include any person that transports or delivers alcoholic beverages from a manufacturer for sale at retail by the package.

(nn) *Wine tasting* means an event as defined in the rules and regulations of the department of revenue.

(oo) *Wine* means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

## Sec. 6-4-3. Qualifications for Licensing.

(a) To qualify for an alcoholic beverage license, an applicant shall meet the following:

1. Designate a managing agent that meets the defined qualifications in Section 6-4-2. In the case of a non-profit private club, the managing agent may be an officer of the non-profit private club in lieu of a full-time employee if the individual is otherwise qualified.
2. All licensed establishments must have and continuously maintain in Hall County a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. The registered agent must be a resident of Hall County. The licensee shall file the name of such agent, along with the written, notarized consent of such agent with the city in such form as may be prescribed.
3. Have a certificate of occupancy that has been issued by the City for the premises for which an alcoholic beverage license is sought.

(b) Where the application is made on behalf of a corporation, partnership, limited liability corporation, limited liability partnership or sole proprietorship, the license shall be issued jointly to the organization and an individual that meets the qualifications of a managing agent.

## Sec. 6-4-4. The Application Process.

(a) Any person desiring to obtain an alcoholic beverage license in the City shall submit a written and signed application on forms provided by City and in connection therewith, shall, under oath, answer all questions, supply all information, and furnish all certificates, affidavits, bonds and other supporting data as required by the City.

(b) All applications for licenses to sell alcoholic beverages of any kind shall be made in person by the applicant to the city manager or designee and shall contain but not be restricted to the following statements and information:

1. The name, age, address and length of residency of applicant.

2. The name of the corporation, partnership, sole proprietorship, or other organization applying for the license. Said name shall include the legal name as well as the trade name of the business.

3. A statement of whether the applicant or any person with an interest in the application has made application at any previous time for any alcoholic beverage license and the disposition of such application.

4. Whether the applicant or any person with an interest in the application has ever been convicted of a crime, other than for traffic violations.

5. Whether a previous license issued to the applicant or any person with interest in the application has been revoked by any state or subdivision thereof or by the federal government and the reason therefor.

6. The identity of any other person interested directly or indirectly in the profits or losses or both of the proposed business.

7. The physical address and detailed plans of such building and outside premises, and evidence of ownership of the building, or a document that evidences the right of the applicant to use the premises, including but not limited to a deed, lease, sublease, management agreement, concession agreement, shall be attached to the application.

8. Every new application for a package license hereunder shall be accompanied by a drawing to scale, showing the nearest church, school or college or by the affidavit of a registered surveyor that the proposed location of the business complies with the distance requirements as specified in this chapter. Applications for renewal of licenses, or for premises that have been licensed in the preceding 12 months, are exempted from this subsection.

(c) Every managing agent, owner and interest holder listed in an application for an alcoholic beverage license shall be fingerprinted in a manner prescribed by the city.

(d) The license fees as required in Title 10 of the Code of Ordinances of the City of Gainesville are due and payable upon the filing of the application. Any person who is doing business on or after the first day of January shall pay the full annual license fee without proration; provided, however, that if an application is filed after July 1st, the license fee shall be one-half (½) of the annual license fee for such calendar year.

(e) All new applications for alcoholic beverage licenses shall be accompanied either by lawful money of the U.S., or by a certified check, cashier's check or money order, payable to the city for the proper amount of the license fee. If the application is denied or if the applicant withdraws the application prior to its being issued, the license fee shall be refunded, less a one hundred fifty dollar ($150.00) administrative fee which shall be retained by the city.

(f) The city license issued shall be valid for the calendar year indicated thereon and shall expire at midnight on the last day of the year.

(g) All applications for alcoholic beverage licenses shall be filed with and approved by the city manager or designee provided the applicant meets all of the requirements and qualifications of this chapter.

(h) The written application for the license shall be a permanent record, and the licensee must maintain current and accurate information within said application as required by this chapter.

## Sec. 6-4-5. Grounds for Denial of Application.

(a) The following shall be sufficient cause for the denial of an application:

1. Failure of the applicant to meet the qualifications for licensing as set forth in this chapter.
2. The making of any untrue or misleading statement in the application for an alcoholic beverage license.
3. Failure to meet distance requirements as provided in this chapter.
4. Where it appears that the applicant would not have adequate participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

(b) When contrary to the public interest and welfare, no license to sell alcoholic beverages of any kind shall be issued to or for:

1. Any person by reason of such person's business experience, trade associations, personal associations, record of arrest, or reputation in any community in which he has resided, who is not likely to maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
2. Any person who has been convicted under any federal, state or local law of any felony involving moral turpitude.
3. Any person who has been convicted under any federal, state or local law of any felony not involving moral turpitude within ten (10) years immediately preceding the filing of application for such license.
4. Any person convicted under any federal, state or local law of a misdemeanor, particularly, but not limited to, those involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.

5. A location not suitable in the judgment and discretion of the city because of traffic congestion, general character of the neighborhood, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties or on the neighborhood.

6. A location within an area where, in the judgment of the city manager, the number of alcoholic beverage licenses already granted makes it contrary to the public interest or welfare.

7. A location at which the operation of the proposed business would be in violation of the City's Unified Land Development Code.

8. A location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgment of the city manager, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the interest of public health, safety, welfare or morals that the sale of alcoholic beverages be permitted at such location.

9. A person or location which the granting of such license would constitute a violation of state law or regulations.

10. The operation of a distilled spirits package business licensed hereunder by any person already holding two (2) such licenses.

11. Any person who is as close kin as brothers or sisters, by blood or marriage, to one already holding two (2) distilled spirits package licenses under this chapter.

12. Any trustee or director of a private club, if disqualified under this chapter.

## Sec. 6-4-6. Renewal of Licenses.

(a) The city manager or designee may approve all applications for renewal of an existing license upon payment of the license fees for renewal of licenses, where no objections have been raised by the City Manager or designee and the application clearly shows no change in the ownership, managing agent, location, or operation of the business.

(b) A licensee that desires to continue in business during the next or subsequent calendar year must make application for such year, on or before November 15$^{th}$ of the preceding year. License fees for such year shall be submitted on or before December 15 of the preceding year. Any license fee submitted after the due date of December 15$^{th}$, shall be considered delinquent and assessed a penalty in the amount of ten (10) percent of the fees due. Interest on delinquent fees shall be assessed at one (1) percent for each month or fraction thereof of delinquency.

(c) If objections have been raised by the City Manager or designee due to previous violations of this chapter or if there have been any changes in the ownership, managing agent, location, or operation of the business, a new application must be submitted to the city manager or designee.

## Sec. 6-4-7. Duty to Remain Current.

(a) It is the duty and responsibility of the licensee to notify the city manager or designee of any changes to the information contained in the original application. Any amendments to the original application shall be made in writing on forms provided by the city manager or designee and shall be under oath and verified as otherwise required of license applications.

(b) Failure to maintain a current application shall be grounds for revocation of the license.

(c) In the event the "managing agent" either ceases to be employed by or ceases to have day-to-day managerial oversight of alcoholic beverage sales, the licensee shall notify the city within five (5) days of the change and must follow the requirements to transfer the license to a new “managing agent” as set forth in section 6-4-8 (b). If the applicant does not meet the qualifications for “managing agent” as required by this chapter and the city manager or designee recommends denial, the applicant may have a hearing as set out in Section 6-4-11.

(d) In the event the "registered agent" changes, the licensee shall notify the city within ten (10) days of the change and must submit written information on forms provided by the city. A fee as required in Title 10 will be charged for the processing of a change in the "registered agent."

(e) No person shall have, own or enjoy any ownership, interest in, share in the profits from, or otherwise participate in the business of any alcoholic beverage licensee in the city unless a full description of such interest is furnished to the city manager or designee at the time such interest arises. It shall be the duty of the licensee to report to the city manager or designee, within twenty (20) days, any change in any interest in such licensee's business including but not limited to:

1. Any division of the profits;
2. Any division of net or gross sales for any purpose whatsoever;
3. Any change in the payment of rents or leases;
4. Any change in the ownership of any lease or building or land used in such business;
5. Any change in the ownership of any corporation that has any interest in such business or the change of management of such corporation.

(f) After receipt of notice pursuant to Section 6-4-7(e), the city manager or designee shall notify such person within thirty (30) days of any objection to the ownership or interest set forth therein, based on the interest holder’s ability to qualify as a licensee under this chapter. In the event such interest is not disposed of in accordance with the objections set forth by the city manager or designee within thirty (30) days after the mailing of the notice by the city manager or designee, or in the event no objections are mailed to the licensee within such thirty-day period, or in the event such person fails to notify the city manager or designee of the transfer of any such interest within twenty (20) days after the acquisition thereof, then the license as provided for herein may be subject to suspension or revocation by the city manager or designee.

(g) The licensee shall make all reports required by this section in the form required by the city manager or designee, and such reports shall be an amendment to the licensee's permanent license application on file with the city and as such shall be under oath and verified as otherwise required of license applications.

## Sec. 6-4-8. Transfer of Licenses.

(a) No city license may be transferred from one (1) person or from one (1) location to another without permission and approval of the city manager or designee upon receipt of a written application made. Approvals as to any change shall be at the discretion of the city manager or designee.

(b) In the event of a change in the managing agent of a licensee, the city license shall remain in effect pending approval or denial of the transfer provided:

1. The licensee notifies the city manager or designee within ten (10) days of the change of the managing agent;
2. The licensee submits a proper written application for approval thereof;
3. The licensee pays a transfer fee as required by Title 10;
4. The transferee meets all qualifications of a managing agent as required by this chapter; and
5. There has been no change of ownership, location or operation of the business.

(c) Any licensee desiring to discontinue business at one (1) location and commence business at some other new location must make a complete new application for such new location. Upon proper application and provided that there has been no change of ownership or interest in the business, the city manager or designee may permit the license to be transferred upon payment of a fee required in Title 10 for a change of location, provided that the licensee and the new location meet all qualifications required by this chapter. The fee for a change of location shall be in addition to the original license fee paid by the licensee for the calendar year.

(d) Upon the sale of an existing business, the city license issued for that business location shall remain in effect pending approval or denial of a new application by the city manager or designee, provided that the buyer or transferee meets all the qualifications of a managing agent as required by this chapter, and provided that the buyer or transferee has immediately upon the date of sale or prior to the date of sale made proper written application and has paid the original license fee required by Title 10.

## Sec. 6-4-9. Right to Investigate.

(a) Upon receipt by the city manager or designee of any application for an alcoholic beverage license, or for the transfer of any license, each person listed on the application shall consent to a criminal background check on the forms supplied by the city manager or designee.

(b) The city manager or designee, the chief of police, or any policeman of the city may enter upon the premises operated under the provisions of this chapter during operating hours for the purpose of inspecting the premises and enforcing this chapter and shall have access during the inspection of all books, records, and supplies relating to the sale, storage or possession of alcoholic beverages.

## Sec. 6-4-10. Surrender, Suspension or Revocation of License or Imposition of a Monetary Administrative Penalty.

(a) The following may be grounds for the suspension and/or revocation of an alcoholic beverage license or for the imposition of a monetary administrative penalty against the licensee.

1. The violation by the licensee of any state or federal law or regulation, except misdemeanors or any ordinance of the city, other than traffic violations. The determination of whether any such violation has occurred shall be made by the administrative hearing officer and an actual conviction in a court for such offense shall not be necessary in order to suspend or revoke the license or issue a monetary administrative penalty.

2. The failure of the licensee or his employee to report promptly to the police department any violation of law or municipal ordinance, breach of the peace, disturbance or altercation resulting in violence, occurring on the premises.

3. Any conduct on the part of the owner of the business, the licensee or his employee contrary to the public welfare, safety, health or morals. While not to be considered a comprehensive or exhaustive listing of prohibited behavior, specific instances of prohibited behavior by the owner, the licensee and/or his employee include, but are not limited to, the following:

    a. Consumption or being under the influence of alcoholic beverage while working or on duty;

    b. Breach of the peace, disturbance or altercation resulting in violence;

    c. The conviction of any felony reasonably related to the ability of the licensee to operate and maintain the premises in a proper manner;

    d. The violation of any state law or regulation governing the manufacture, sale, distribution or transportation of alcoholic beverages;

e. The violation of any section of O.C.G.A. § 10-1-370 et seq., known as the Uniform Deceptive Trade Practices Act, reasonably related to the operation of licensed establishments;

f. The conviction of the owner or the licensee of driving under the influence of alcoholic beverages and/or drugs on two (2) or more occasions;

g. Permitting the solicitation of patrons on the licensed premises for prostitution or any other unlawful act where the licensee or the licensee's employee or agent knew or should have known of such conduct;

h. The selling or serving of any alcoholic beverage to any person that the licensee or the licensee's employee or agent knew or should have known to be in a state of intoxication;

i. The failure to comply with any and all federal, state or municipal tax laws and regulations applicable to the operation of establishments licensed to sell alcoholic beverages;

j. Failure by the licensee to adequately supervise and monitor the conduct of the employees, patrons and others on the licensed premises or on any property owned or leased by the owner or licensee, including but not limited to parking lots and parking areas, or on any parking lots or areas which may be lawfully used by patrons of a licensed establishment, in order to protect the safety and well-being of the general public and of those utilizing the premises.

4. Operating or conducting the business in a manner contrary to the public welfare, safety, health or morals, or in such manner as to constitute a nuisance. Any combination totaling three (3) or more of the following occurrences within any thirty-day period shall constitute prima facie evidence that the licensee is operating or conducting an alcoholic beverage business in a manner which is contrary to the public welfare, safety, health or morals, or in such manner as to constitute a nuisance: Three (3) or more violations of law, violations of municipal ordinances, breach of the peace, disturbance or altercation resulting in violence, all occurring on the premises. The business license holder shall, upon suspension for violations of this section, have the burden of proving such occurrences were beyond his control and not related to the operation of his business.

5. The violation of any state law or regulation or municipal ordinance pertaining to alcoholic beverages.

6. The violation of any provision contained in this chapter.

(b) For the purposes of this section, the definition of an employee shall include any agent or independent contractor that is working for hire on the licensed premises.

(c) The city manager or designee, with an order from the Gainesville Municipal court and/or administrative hearing officer, shall have the right to suspend any alcoholic beverage license pending a hearing as provided for in Section 6-4-11 where in the judgment of the city manager or designee such action is necessary to protect the public health, safety, welfare or morals.

(d) The city manager or designee, chief of police or any police department shift commander on duty at the time may close any location holding an alcoholic beverage license for a period not in excess of twenty-four (24) hours in the event there shall occur on the premises any violation of law or municipal ordinance, breach of the peace, disturbance or altercation resulting in violence, or other occurrence which is contrary to the public health, welfare, safety or morals, when in the judgment of the city manager or designee, chief of police or shift commander such action is necessary to protect the public health, welfare, safety or morals.

(e) In the case of the revocation or surrender of an alcoholic beverage license before expiration, the holder thereof shall not be entitled to receive any refund or fees paid to the City regarding the license to sell alcoholic beverages.

(f) All licenses issued pursuant to this chapter shall be valid only so long as the licensee is actively engaged in such business, with the exception of holidays, vacations, and periods of redecoration, and in the event the licensee shall cease to be actively engaged in such business such license shall be invalid and the licensee of such business shall immediately notify the city manager or designee and return his license thereto.

(g) The violation of any of the provisions of this chapter by a holder of an alcoholic beverage license, or his agent, or employee, shall be unlawful, and shall be punishable as provided in Section 1-1-7 of this Code, and shall also subject the holder of such license to suspension or revocation of such license or monetary administrative penalty, or any combination thereof as the city manager or designee deems proper.

## Sec. 6-4-11. Hearing on Denial, Suspension or Revocation or Imposition of Monetary Administrative Penalty.

(a) Before the denial of any application, including a renewal application, for an alcoholic beverage license or for the transfer of any alcoholic beverage license, or the revocation or suspension of any existing alcoholic beverage license, or for the imposition of a monetary administrative penalty against a licensee, the applicant or licensee, as the case may be, shall be given notice in writing from the city manager or designee to show cause before an administrative hearing officer at a time and place specified therein not less than three (3) days nor more than thirty (30) days from the date of service of the notice, why such application for license or for transfer of license should not be denied, or why such license should not be revoked or suspended as the case may be, or why a monetary administrative penalty should not be imposed, stating the grounds therefor, and at the appointed time and place the applicant or licensee shall have an opportunity to show cause, if any exist, why such application should not be denied or such license revoked or suspended or a monetary administrative penalty imposed after which the administrative hearing officer shall take such actions as he or she in his or her judgment and discretion, shall deem warranted under the facts.

*(b)* The decision of the administrative hearing officer shall be final unless appealed by certiorari to the superior court of Hall County.

(c) In all instances of a denial of any application for an alcoholic beverage license or the revocation of any existing alcoholic beverage license, the applicant, licensee or any person(s) with twenty-five (25) percent or more interest, shall not reapply for a license for at least one (1) year from the final date of the denial or revocation.

## Sec. 6-4-12. Employee Permits.

(a) No person shall be employed to dispense, sell, serve, take orders, or mix alcoholic beverages, or be in any managerial position, by an establishment holding a license for the sale of distilled spirits by the package or for consumption on premises or an establishment holding a license for malt beverage or wine for consumption on premises unless such person has been approved by the Chief of Police or his designee. The individual named on the alcoholic beverage license as the managing agent for such establishment shall be exempt from obtaining an employee permit.

(b) Upon approval by the Chief of Police or his designee, such person shall be issued an employee permit which shall contain the name, expiration date, fingerprint and photograph of such employee. Such employee permit shall remain the property of the city and shall be in the possession of the employee at any time he or she is working at any licensed establishment, and shall be produced upon the request of any law enforcement officer of the city.

(c) No permit shall be issued until such time as a signed application has been filed with the Gainesville Police Department and upon the payment of the non-refundable fee designated in Title 10 of this Code. The applicant shall furnish, at the time of presenting the application, two (2) forms of valid, current identification. Such application shall contain the following information: Applicant's name, date of birth, height, weight, race, sex, address, telephone number, and disclosure of arrest record. Applicant must give permission to the police department to obtain and inspect any criminal history on such applicant which is in the possession of any law enforcement agency.

(d) No person shall be granted an employee permit that has been convicted, plead guilty, or entered a plea of nolo contendere to any crime involving the sale or furnishing of alcoholic beverages to an underage person or any felony within three (3) years of the date of the application.

(e) No person shall be granted an employee permit if he or she has been the holder of an alcoholic beverage license or employee permit which has been revoked within five (5) years of the date of the application.

(f) An employee permit shall be valid for three (3) years from the date of issue. At the expiration of three (3) years, the employee permit may be renewed upon the submission of a renewal application, the payment of the appropriate fee, and upon determination that such individual remains qualified under this chapter.

(g) The employee permit is non-transferable and is valid only for the individual named on the permit. Such permit is valid for the individual named while employed in any establishment licensed in the city.

(h) An employee permit may be suspended or revoked by the Chief of Police if it is determined that the individual has violated any provision of this chapter or committed any offense which would make him or her ineligible to hold such a permit.

(i) Falsifying or failing to disclose any information required by this chapter shall be grounds for denial or revocation of the employee permit.

(j) Notification of any denial, suspension, or revocation of an employee permit shall be in writing and served either in person or by certified mail and shall contain the reasons for such action and the notice of the right to appeal the decision.

1. Decisions of the Chief of Police that adversely affect or aggrieve any applicant, certificate holder, or permit holder under this chapter may be appealed to the Administrative Hearing Officer, as defined in Section 1-8-1 of this Code. All appeals shall be submitted in writing to the Chief of Police within ten (10) calendar days after notification of the adverse decision.

2. A hearing shall be conducted on each appeal within thirty (30) days of the date of the filing of the written appeal, unless a continuance of such hearing is agreed to by the appellant and the Chief of Police, or unless the hearing is rescheduled by the Administrative Hearing Officer. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses.

3. The appellant shall be notified in writing of the date and time of the hearing at least three (3) calendar days prior to the date of the hearing.

4. The findings of the Administrative Hearing Officer shall be final unless appealed within thirty (30) days of the date of the finding by certiorari to the Superior Court of Hall County.

(k) No licensee shall allow any employee or manager required to hold an employee permit to work on the premises unless the employee or manager has in their possession a current valid employee permit. Provided, however, that an individual may be employed for a period of time not to exceed fourteen (14) days pending the submission of the application to and the approval of the permit by the Police Department.

## Sec. 6-4-13. – Sec. 6-4-19. Reserved.

# ARTICLE 2. MALT BEVERAGE AND WINE MANUFACTURERS

## Sec. 6-4-20. Malt Beverage Breweries or Wineries.

(a) No individual shall be permitted to own or operate a brewery without first obtaining a proper brewery license from the City. A licensed brewery shall comply with State law relating to the limited sale of malt beverages to the public and may sell on all days and at all times that sales of malt beverages by retailers are lawful within the City.

(b) A Georgia Farm Winery may engage in retail package sales of wine in a tasting room or the retail consumption sales on premises of its wine and the wine of any other Georgia Farm Winery in a tasting room.

## Sec. 6-4-21. – 6-4-29. Reserved.

# ARTICLE 3. EXCISE TAX ON MIXED DRINKS CONSUMED ON PREMISES

## Sec. 6-4-31. Definitions.

*Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Agent* means the person designated by the licensee in this application for permit to sell alcoholic beverages by the drink.

(b) *Drink* or *mixed drink* shall include any distilled spirits served for consumption on the premises, which may or may not be diluted by water or other substance in solution.

(c) *Licensee* means any person who holds a license from the city to engage in the sale of distilled spirits by the drink for consumption on the premises.

(d) *Monthly period* means the calendar months of any year.

(e) *Purchase price* means the consideration received for the sale of distilled spirits by the drink valued in money, whether received in cash or otherwise, including receipts, cash, credit, property or services of any kind or nature, and also the amount for which credit is allowed by the licensee to the purchaser, without any deduction therefrom whatsoever.

(f) *Purchaser* means any person who orders and gives present or future consideration for any distilled spirits by the drink.

(g) *Return* means any return filed or required to be filed as herein provided.

(h) *Tax* means the tax imposed by this section.

## Sec. 6-4-32. Imposition and Rate of Tax.

There is hereby imposed and levied upon every purchaser of a distilled spirits purchased by the drink within this city a tax in the amount provided in Title 10.

## Sec. 6-4-33. Collection of Tax.

(a) Every licensee or his agent is hereby authorized and directed to collect the tax imposed herein from purchasers of distilled spirits by the drink within the licensed premises. Such licensee or agent shall furnish such information as may be required by the city to facilitate the collection of the tax.

(b) In all cases where the collection of food and drinks is by deferred payment or credit, the licensee is liable at the time of and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The city shall have authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

## Sec. 6-4-34. Determination, Returns and Payments.

(a) The tax imposed by this article shall become due and payable from the purchaser at the time of purchase of any mixed drink in this city. All amount of such taxes collected by the licensee shall be due and payable to the city monthly on or before the twentieth day of every month next succeeding each respective monthly period for which this tax is imposed; provided, however, that upon a proper showing that the tax imposed will not be collected until after a regular billing period of the collecting agent, then the collection of the tax may be deferred by the city for an additional period not exceeding thirty (30) days.

(b) On or before the twentieth day of the month following each monthly period, a return for the preceding monthly period shall be filed with the city in such form as the city may prescribe by every licensee liable for the payment of tax hereunder. All returns shall show the gross receipt of the sale of distilled spirits by the drink and the amount of the tax collected on such drinks.

(c) Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if such amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under State Law.

## Sec. 6-4-35. Deficiency Determinations.

(a) If the city has cause to believe that the return or returns of the tax or the amount of the tax required to be paid to the city by any person is not proper, it may compute and determine the amount required to be paid upon the basis of any information that is within or may come into its possession. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly period.

(b) The amount of the determination shall bear interest at the rate of three-fourths of one percent per month, or fraction thereof from the due date of taxes.

(c) The city or its designated representatives shall give to the licensee written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the licensee at his address as it appears in the records of the city. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

(d) Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

### Sec. 6-4-36. Determination if No Return Made.

(a) If any person fails to make a return, the city shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total sales in this city which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is in possession of or may come into the possession of the city official. Written notice shall be given in the manner prescribed in section 6-4-35 (c).

(b) The amount of the determination shall bear interest at the rate of three-fourths of one percent per month, or fraction thereof, from the due date of taxes.

### Sec. 6-4-37. Penalty for Nonpayment.

Any person who fails to pay the tax herein imposed or fails to pay any amount of the tax required to be collected and paid to the city within the time required shall pay a penalty of twenty-five (25) percent of the tax or amount of the tax, in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof as set forth in Section 6-4-36 (b).

### Sec. 6-4-38. Action for Collection.

(a) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected, the city may bring an action in the courts of this state any other state or of the United States in the name of the city to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

(b) Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, it may be offset against any future liability for the tax.

## Sec. 6-4-39. Overpayment.

If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the city, he will have three (3) years from the date of payment to file claim in writing with the City Manager stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved, the excess amount paid the city may be credited on any amounts then due and payable from the person by whom it was paid, or from his administrators or administrators.

## Sec. 6-4-40. Purchasers or Successors of Business.

(a) If any licensee liable for any amount under this chapter sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the city either a receipt reflecting full payment or a certificate stating that no amount is due.

(b) If the purchaser of a business fails to withhold purchase as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

## Sec. 6-4-41. Administration.

(a) Every licensee for the sale of alcoholic beverages by the drink in the city shall keep such records, receipts, invoices and other pertinent papers in such form as the city may require.

(b) The city or any person authorized in writing by the city may examine the books, papers, records, financial reports, equipment and other facilities of any licensee for sale of distilled spirits by the drink and any licensee liable for the tax in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.

(c) In administration of the provisions of this subsection, the city may require the filing of reports by any person or class of persons having in such person's or persons' possession or custody information relating to purchases which are subject to the tax. Reports shall be filed with the city when required by the city and shall set forth the purchase price for each purchase, the date or dates of purchase, and such other information as the city may require.

## Sec. 6-4-42. Violations.

(a) Any person violating any of the provisions of this chapter shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-1-7 of this Code. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the subsection is committed, continued or permitted by such person, and shall be punished accordingly. Any licensee or any other person who fails to furnish any return required to be made, or fails or refuses to furnish a supplemental return or other data required by the city or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.

(b) Any person violating any of the provisions of this article may, in addition to the other penalties and liabilities provided for herein, have his license or permit revoked as provided for previously herein.

### Sec. 6-4-43. – 6-4-49. Reserved.

## ARTICLE 4. EXCISE TAX REQUIRED OF WHOLESALE DEALERS

### Sec. 6-4-50. Imposition of Tax.

There is hereby levied and imposed upon each wholesale dealer and manufacturer distributing malt beverages, wine or distilled spirits within the city an excise tax in the amounts fixed in Title 10.

### Sec. 6-4-51. Payment of Taxes.

(a) Payment of excise taxes for the distribution of malt beverages, wine or distilled spirits shall be remitted by the tenth day of each month following the month in which deliveries were made.

(b) Copies of the "summary of sales" showing delivery by each supplier to retailers and/or consumption on the premises licensees shall be furnished to the city’s finance department with each monthly payment.

### Sec. 6-4-52. – 6-4-59. Reserved.

## ARTICLE 5. MALT BEVERAGE AND WINE – ORIGINAL PACKAGE

### Sec. 6-4-60. Distance Requirements.

(a) No malt beverage and/or wine shall be offered for sale or sold in an unopened package within one hundred (100) yards of any school building, school grounds or college campus. This subsection shall not apply:

1. To a grocery store licensed for the retail sale of only wine and malt beverages for consumption off the premises, which shall be allowed to sell wine and malt beverages within 100 yards of any school building, school grounds or college campus. As used in this

subparagraph, the term “grocery store” means a retail establishment which has a total retail floor space of at least 10,000 square feet of which at least 85 percent is reserved for the sale of food and other nonalcoholic items and conducts all of its sales inside the building containing its retail floor space.

2. To any premises or location where an alcoholic beverage license was issued or approved prior to July 1, 1981, so long as alcoholic beverages are being sold or dispensed in compliance with the other provisions of this chapter.

3. To any premises or location where alcoholic beverages are being sold or dispensed in compliance with the other provisions of this chapter and a school or college campus is built or erected within the minimum distances provided for in this section.

(b) No malt beverage and/or wine shall be offered for sale or sold in an unopened package within 100 yards of an alcoholic treatment center owned and operated by this state or any county or municipal government.

(c) All measurements to determine distances required by this chapter shall be measured as provided for in Section 6-4-110.

## Sec. 6-4-61. Hours of Sale.

The hours of sale of malt beverages and wine at retail and not for consumption on premises are from 7:00 a.m. to 11:45 p.m. on Monday through Saturday and from 12:30 p.m. to 11:30 p.m. on Sunday.

## Sec. 6-4-62. Growler Sales.

Package malt beverage licensees or wine licensees, who are not also licensed to sell distilled spirits by the package, may fill growlers with malt beverages and/or wine at the licensed location subject to the following requirements:

(a) At least ninety (90) percent of the licensee's total gross sales are from packaged sale of malt beverages and/or wine or the licensee's premises have a minimum of four hundred (400) square feet of floor space dedicated to the display of malt beverages and/or wine offered for sale.

(b) A growler shall not exceed sixty-four (64) ounces. Growlers may only be filled from kegs or barrels procured by the licensee from a duly licensed wholesaler.

(c) Only professionally sanitized and sealed growlers may be filled and made available for retail sale.

(d) Each growler must be securely sealed and removed from the premises in its original sealed condition.

(e) Samples of tap malt beverages may be made available. No individual shall be allowed to sample more than a total of thirty-two (32) ounces per day.

(f) Samples of wine may be made available. No individual shall be allowed to sample more than a total of sixteen (16) ounces per day.

(g) A licensee may charge a fee for samples of tap malt beverages or wine.

### Sec. 6-4-63. No Consumption on Premises.

(a) It shall be unlawful for any person to consume any alcoholic beverage on the premises licensed for the sale of malt beverages or wine by the package and it shall be unlawful for any licensee by the package to open for, or break the package for, a purchaser and/or permit the consumption of alcoholic beverages on said premises.

(b) This section shall not apply for the holder of a temporary limited license as provided for in this chapter during the hours for which the temporary limited license is valid.

### Sec. 6-4-64. – Sec. 6-4-69. Reserved.

## ARTICLE 6. DISTILLED SPIRITS – ORIGINAL PACKAGE

### Sec. 6-4-70. Distance Requirements.

(a) No distilled spirits shall be offered for sale or sold in an unopened package within one hundred (100) yards of any church building or within two hundred (200) yards of any school building, education building, school grounds or college campus.

(b) A new retail package liquor licensed place of business or the relocation of an existing retail package liquor licensed place of business engaged in the retail package sales of distilled spirits shall not be located within five hundred (500) yards of any other business licensed to sell package liquor at retail.

(c) The distance provided for herein shall not apply:

1. To any premises or location where alcoholic beverages are being sold or dispensed in compliance with the other provisions of this chapter and a school or church is built or erected within the minimum distances provided for in this section.

2. To any premises or location licensed as an importer, so long as the same is allowed by the state; provided, however, no signs or other forms of advertisement shall be placed on or near the licensed premises, which directly or indirectly advertise that alcoholic beverages are stored or warehoused on the premises.

(d) No distilled spirits shall be offered for sale or sold in an unopened package within 100 yards of an alcoholic treatment center owned and operated by this state or any county or municipal government.

(e) All measurements to determine distances required by this chapter shall be measured as provided for in Section 6-4-110.

### Sec. 6-4-71. Hours of Sale.

(a) The hours of sale of distilled spirits at retail and not for consumption on premises are from 8:00 a.m. to 11:45 p.m. on Monday through Saturday and from 12:30 p.m. to 11:30 p.m. on Sunday.

(b) No retail dealer of distilled spirits shall be in, or permit others to be in, its place of business Monday through Saturday any time prior to 6:00 a.m. or thirty (30) minutes past the closing time. No retail dealer of distilled spirits shall be in, or permit others to be in, its place of business on Sundays prior to 10:30 a.m. or 30 minutes past the closing time.

### Sec. 6-4-72. No Consumption on Premises.

It shall be unlawful for any person to consume any alcoholic beverage on the premises licensed for the sale of distilled spirits by the package and it shall be unlawful for any licensee by the package to open for, or break the package for, a purchaser and/or permit the consumption of alcoholic beverages on said premises.

### Sec. 6-4-73. Sufficient Lighting Required.

The building in which each retail dealer of distilled spirits in the unbroken package is located shall contain sufficient lighting so that the building itself, the premises and all entrances are readily visible at all times from the street on which the building is located so as to reveal the inside retail area of the building and so as to reveal all of the outside premises of such building.

### Sec. 6-4-74. – Sec. 6-4-79. Reserved.

## ARTICLE 7. CONSUMPTION ON PREMISES OF ALCOHOLIC BEVERAGES

### Sec. 6-4-80. Distance Requirements.

(a) No malt beverages, wine and/or distilled spirits for consumption on the premises may be offered for sale, sold or dispensed within one hundred (100) yards of any property containing three hundred (300) housing units or fewer, which property is owned or operated by a housing authority created by OCGA § 8-3-1 et seq., also known as the Housing Authorities Law. This subsection shall not apply at any location for which a license has been issued prior to July 1, 2000, or to the renewal of such license.

(b) All measurements to determine distances required by this Chapter shall be measured as provided for in Section 6-4-110.

## Sec. 6-4-81. Hours of Sale.

(a) The hours of sale for consumption by the drink on the premises where sold are from 8:00 a.m. to 1:30 a.m. on Monday through Friday, from 8:00 a.m. on Saturday through 1:30 a.m. on Sunday, and from and 12:30 p.m. on Sunday to 1:30 a.m. on Monday.

(b) All alcoholic beverages shall be removed, from the area of the premises utilized by customers or patrons within forty-five (45) minutes after the closing time for the sale of alcoholic beverages.

## Sec. 6-4-82. Food Volume Ratio for Restaurants.

(a) Restaurants shall maintain at least fifty (50) percent of their business volume from the sale of food, private clubs exempted. Food sales shall include all consumable items sold on the premises except alcoholic beverages. The fifty-percent ratio shall be determined on a calendar quarter basis by review of the monthly report submitted by each licensee.

(b) Monthly reports for the preceding month's alcohol and food sales shall be submitted on forms provided by the city on or before the 20th day of the month.

(c) In the event food sales fall below fifty (50) percent of the business volume of the licensee for any two (2) consecutive quarters, then the City Manager or designee may request a hearing for the suspension or revocation of such license in accordance with Section 6-4-11. Nothing herein provided shall prevent the City Manager or designee from suspending or revoking such license for any other violations of this chapter.

(d) Authorized officials of the city may examine the records of businesses licensed hereunder at any reasonable time to ascertain that the requirements of this and other provisions of this chapter are met.

## Sec. 6-4-83. Sales Volume Ratio for Select Businesses.

Any business required to pay a business occupation tax that does not meet the criteria in Section 6-4-82, Section 6-4-84, or Section 6-4-85 may obtain a consumption on premises license for malt beverages and wine subject to the following conditions:

(a) The sale of alcoholic beverages shall be clearly incidental to the primary business conducted on the premises.

(b) Consumption on the premises licensees shall maintain at least sixty (60) percent of their business volume from the sale of merchandise or services, not including alcoholic beverages. The sixty-percent ratio shall be determined on a calendar quarter basis on the monthly report submitted by each licensee.

(c) Monthly reports for the preceding month's alcohol and retail or services sales shall be submitted on forms provided by the city on or before the 20th day of the month.

(d) No alcoholic beverages shall be served on Sunday.

(e) To qualify for a license, a retail or business establishment must be open to the public for business a minimum of 32 hours per week.

## Sec. 6-4-84. Volume Ratio Exemptions.

Business establishments that have a valid consumption on premises license for malt beverages, wine or distilled spirits and meet the following requirements are exempt from the food sales ratios as provided in Section 6-4-82 and retail sales ratios as provided in Section 6-4-83 above:

(a) There shall be no fee, donation or cover charge collected or required to obtain entrance into the business or a requirement to purchase any food or beverages.

(b) The business shall have a maximum occupancy load of seventy-five (75) individuals with seating arranged and set for at least fifty (50) percent of the maximum occupancy load. Folding chairs, lawn furniture or other furniture that, in the opinion of the City Manager or designee, is not "set" is not in compliance with this subsection and shall not be allowed.

(c) No alcoholic beverages shall be served on Sunday.

(d) Sales of alcoholic beverages are subject to the provisions of Section 6-4-81, except that the business may not open prior to 4:00 p.m. on Monday through Friday or prior to 11:00 a.m. on Saturday.

(e) Entertainment shall be allowed provided that no sound shall be audible beyond the licensed premises.

## Sec. 6-4-85. Non-Profit Organizations with Facilities.

(a) Non-profit organizations meeting the criteria of subsection (b) below may obtain a consumption on premises license subject to the following conditions:

1. The sale of alcoholic beverages shall be clearly incidental to the primary function of the non-profit organization on the premises.
2. No alcoholic beverages shall be served on Sunday except as provided by O.C.G.A. § 3-3-7.

(b) To qualify for a consumption on premises license, the nonprofit organization must be exempt from federal income taxes pursuant to section 501(c), (d) or (e) of the Internal Revenue Code and must have a building, facility or grounds that is primarily used for public education, research, conservation and enjoyment, or that serves as a repository for a collection of literary, natural, or scientific objects of interest, or works of art where such facility or building is arranged, intended, designed and open to be viewed by members of the public with or without an admission fee. This shall include, but not be limited to, nonprofit botanical gardens or nature science centers.

### Sec. 6-4-86. Brown Bagging.

(a) It shall be unlawful for a licensee or any other business that has been issued a business occupation tax certificate to allow customers to bring with them their own alcoholic beverages, a practice commonly referred to as "BYOB" or "brown bagging."

(b) It shall be unlawful for any alcoholic beverages to be served, stored, kept or consumed by any person on the premises of any business establishment for which a city business/occupation tax certificate has been issued, excluding those businesses with a valid alcoholic beverage license or as otherwise exempted by this chapter.

(c) The prohibitions in paragraph (a) shall not apply to a private function or an art shop as defined in this chapter.

(d) Art shops, as defined by this chapter are subject to the specific provisions governing the operation of an art shop:

1. An art shop may allow customers to bring in a bottle or bottles of wine and/or malt beverages to be consumed on the premises.

2. The customer must remove any unconsumed wine and or malt beverages from the premises before leaving the premises.

3. The brown bagging of wine and or malt beverages in an art shop shall be subject to this chapter and to state law; including but not limited to the prohibition of consumption by one who is under 21 years of age or intoxicated.

4. An art shop may serve food provided it meets all federal, state and local requirements.

### Sec. 6-4-87. No Outside Consumption.

(a) A consumption on premises licensee shall not permit a purchaser to remove from the premises any alcoholic beverage from the premises, and it is the licensee's responsibility to ensure that no beverages are sold and carried out.

(b) It shall be unlawful for any licensee hereunder to make deliveries of any alcoholic beverage beyond the boundaries of the premises covered by the license.

(c) It is prohibited for customers to gather outside a premises licensed to sell alcoholic beverages and consume alcoholic beverages.

(d) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage premise and consume alcoholic beverages.

(e) This section shall not apply in the following instances:

1. For events that are sponsored or organized by the City of Gainesville where the alcohol is obtained from a participating business within any City designated area, and is contained in and consumed from an approved, clear plastic container.

2. Where the City Council through a resolution has permitted otherwise.

3. For restaurants that have a valid sidewalk café permit provided that all outdoor activities are contained within the permitted sidewalk café.

4. For an open air café as defined by this chapter.

5. Beverages for consumption at a publicly owned or privately owned golf course.

6. For the carrying out of a partially consumed bottle of wine as defined in Section 6-4-88.

7. When a temporary limited license has been issued, provided that the person consuming or possessing an alcoholic beverage remains on the public sidewalk directly in front of the premises licensed to sell alcoholic beverages or within the open areas, sidewalks, decks, or similar unenclosed spaces on or about the premises licensed to sell alcoholic beverages.

8. For a Downtown Dining District as defined by this chapter.

(f) Downtown Dining District - Outside consumption of alcoholic beverages permitted.

1. For the purposes of this Chapter only, a Downtown Dining District is defined as follows: A specifically authorized and pedestrian oriented area of the City as established by resolution of Mayor and Council that allows those establishments with valid consumption on the premises licenses or establishments conducting growler sales within such area to dispense and/or serve an alcoholic beverage for carry out purposes, provided all other laws, rules and ordinances are followed.

2. Within a Downtown Dining District, any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a clear plastic cup; provided, however, that no person shall remove more than one such alcoholic beverage from the licensed premises at a time.

3. Within a Downtown Dining District, no container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed sixteen (16) fluid ounces in size. No person shall hold in its possession on the streets and sidewalks, in parks and squares, or in other public places within a Downton Dining District any open alcoholic beverage container which exceeds sixteen (16) fluid ounces in size.

4. It shall be unlawful within a Downtown Dining District for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass, or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and/or parking lots, whether public or private.

5. No alcoholic beverage purchased pursuant to this provision may be consumed outside of the Downtown Dining District, or upon any private property, without the express consent of the private property owners.

6. Unless authorized by Mayor and Council in the Resolution creating the Downtown Dining District, no alcoholic beverage purchased within the Downtown Dining District pursuant to this provision shall be consumed within the Downtown Dining District on the streets, sidewalks, rights-of-way, and/or parking lots, whether public or private, prior to 12:00 p.m. or later than 12:00 a.m.

## Sec. 6-4-88. Partially Consumed Bottles of Wine Purchased with a Meal.

(a) Any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one (1) unsealed bottle of wine per patron for consumption off premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises.

(b) A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises.

(c) The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.

(d) If transporting in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

## Sec. 6-4-89. Open Area and Patio Sales.

(a) Alcoholic beverage sales may be made by a licensed consumption on premises establishment in a patio/open area type environment if the establishment has been approved as provided in this section.

(b) The requirements for approval are:

1. The patio/open area must be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The only exception to this would be a fire exit as required by building and fire codes. Such fire exit would not be for general public use unless an emergency exists and would be of the type which sounds an alarm

so that the establishment would be alerted of unauthorized use if no emergency exists. The height of such structure shall be a minimum of three and one-half (3.5) feet above the patio floor. The structure is not required to be solid nor does it have to restrict visibility into or out of the patio/open area. The patio/open area shall meet all setback requirements as set forth in the Unified Land Development Code.

2. The patio/open area shall not be required to be covered by a roof.

3. The patio/open area shall be used merely as an extension of the interior seating area. Service in the patio/open area shall be only by waiter or waitress or by customer self-service at an interior selling location; i.e. no outside bar or service window.

(c) It is prohibited for an establishment to be in violation of the City's noise ordinance as defined in Chapter 3-8 of the Code of Ordinances and to allow any noise to be created in a patio/open area which may be heard from a distance of one hundred (100) feet from the patio/open area. Any measurement made pursuant to this section shall describe the shortest straight line distance from the patio to the point in question.

(d) Patio/open area plans must be reviewed and approved on an individual basis by the City Manager or designee. Patio/open areas must be permitted and approved by the city's building inspection and fire departments as required by their governing regulations or codes.

(e) Nothing contained herein shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in the patio areas of such hotel or motel. "Patio areas," as that term is used herein, do not have to conform to the standards in this section.

## Sec. 6-4-90. Happy Hour Promotions.

(a) As used in this section, the term "*drink*" means a single portion beverage which contains any alcoholic beverage.

(b) This section shall be construed to cover, include and apply to all alcoholic beverages including malt beverages, wine and distilled spirits for consumption on premises by properly licensed establishments in the city. All consumption on premises licensees are prohibited from selling or giving away alcoholic beverages under the following circumstances:

1. Offering all you can drink for a set price during a set time.

2. Serving multiple drinks for a single price unless the drinks are part of a variety sampler of which no more than a total of sixteen (16) ounces can be served as part of the sampler and which sampler shall be comprised of at least four (4) different varieties of malt beverages or wine or three (3) different mixes containing distilled spirits.

3. Making a single price the basis for a required purchase of two (2) or more servings.

4. Serving alcoholic beverages by the pitcher, except to two (2) or more persons at any one (1) time.

5. Offering reduced-price drinks to any segment of the population for any period of time as an inducement to patronize the premises; except between the hours of 5:00 p.m. and 7:00 p.m. on Monday through Saturday, drinks may be sold at a reduced price which is no less than half the price usually charged.

6. Selling alcoholic beverages for less than half the normal retail price, or selling alcoholic beverages in pitchers or in jumbo sizes for less than half the normal retail price. Nothing contained in this subsection shall be construed to prohibit the dispensing of drinks in pitchers or in jumbo sizes, provided that such pitchers or jumbo sizes shall be available at all times that the licensee is open for business.

7. Using coupons or other special promotional items as an inducement to purchase alcoholic beverages.

8. Sponsoring, conducting or allowing contests or other promotions which have as their primary purpose increasing the consumption of alcoholic beverages.

9. Offering or delivering any free alcoholic beverages to the general public except as otherwise allowed by law.

(c) The prohibitions and restrictions in the foregoing subsection which apply to licensees or agents or employees of licensees shall not:

1. Apply at private functions;

2. Prohibit the offering of free food or entertainment at any time;

3. Prohibit including drinks as part of the price of a hotel, travel, entertainment, or meal package;

4. Prohibit the sale, offer to sell, or delivery of wine or malt beverage by the bottle, pitcher or carafe;

5. Prohibit any motel or hotel from offering room service to registered guests.

## Sec. 6-4-91. Brewpubs.

(a) No individual shall be permitted to own or operate a brewpub without first obtaining a proper brewpub license from the city. Each brewpub licensee shall comply with all other applicable state and local license requirements.

(b) A brewpub license authorizes the holder of such license to:

1. Manufacture on the licensed premises not more than ten thousand (10,000) barrels of malt beverage in a calendar year solely for retail sale.
2. Operate a restaurant that shall be the sole retail outlet for such malt beverage and may offer for sale for consumption on premises any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter, provided that such alcoholic beverages are purchased from a licensed wholesale dealer and, provided further, in addition to malt beverages manufactured on the premises, each brew pub licensee shall offer for sale commercially available canned or bottled malt beverages purchased from a licensed wholesale dealer.
3. Sell up to a maximum of five thousand (5,000) barrels annually of such malt beverage to licensed wholesale dealers. Under no circumstances shall such malt beverages be sold by a brewpub licensee to any person holding a retail consumption dealer's license or a retailer's license for the purpose of resale.
4. Sell malt beverages manufactured on the premises by the package for consumption off the premises.

(c) Possession of a brewpub license shall not prevent the holder of such license from obtaining any other license available under this chapter for the same premises.

(d) A brewpub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers and, where applicable, wholesale dealers.

(e) Except as set forth in this section, a brewpub licensee shall be subject to all sections of this chapter.

## Sec. 6-4-92. Private Clubs.

(a) Private clubs, meeting the definition of this chapter, are eligible to apply for a license for consumption on premises of alcoholic beverages.

(b) No license shall be issued or renewed for the sale of alcoholic beverages prior to the furnishing of evidence, satisfactory to the city, that such private club has been approved as a tax exempt entity by the IRS.

## Sec. 6-4-93. Gainesville Civic Center.

(a) The sale of alcoholic beverages and consumption of mixed drinks on the premises of the Gainesville Civic Center shall be allowed.

(b) The Director of the Gainesville Parks and Recreation Department, or his designee, may hold an alcoholic beverage license for the Gainesville Civic Center. There shall be no alcoholic beverage license fee paid by the Director of the Gainesville Parks and Recreation Department or his designee.

(c) The consumption on the premises license provided for herein is exempted from the food sale requirements provided for in section 6-4-82 of this chapter.

(d) The city may solicit for proposals to be the designee for the Gainesville Parks and Recreation Department for alcoholic beverage services for consumption on the premises at the Gainesville Civic Center.

(e) Any designee shall obtain a business occupation tax and an alcoholic beverage license for consumption on the premises under this chapter.

(f) The hours of sale of alcoholic beverages on the premises of the Gainesville Civic Center shall be the same as provided in Section 6-4-81.

### Sec. 6-4-94. – 6-4-99. Reserved.

## ARTICLE 8. EVENTS

### Sec. 6-4-100. Non-Profit Special Temporary Event Permit.

(a) Bona fide non-profit charitable and civic organizations, colleges and universities desiring to sell alcoholic beverages may apply to the City Manager or designee for a special temporary event permit authorizing the organization to sell or distribute alcoholic beverages for a period not to exceed three (3) days as provided in rules 560-2-11-.02 and 560-2-11-.03 of the rules and regulations of the state department of revenue as amended from time to time.

(b) The non-refundable permit fees as required in Title 10 of the Code of Ordinances of the City of Gainesville are due and payable upon the filing of the application for a special temporary event permit.

(c) Bona fide non-profit charitable and civic organizations, colleges and universities, if approved for a temporary event, may sell distilled spirits and malt beverages for consumption on premises only. Wine may be sold for consumption on the premises and by the unopened package subject to O.C.G.A. §§ 3-9-3, 3-9-4 and 3-9-5 and subject to distance requirements for package sales as outlined in this chapter. If the temporary event is a wine tasting, then the event shall also be subject to the provisions of section 6-4-104.

(d) Holders of a special temporary event permit shall be considered the same as any other licensee and subject to all laws, rules and regulations and other applicable sections of this chapter relating thereto.

(e) No more than six (6) permits may be issued to an organization in any one (1) calendar year pursuant to this section.

(f) Permits issued pursuant to this section shall be valid only for the place specified in the permit.

(g) Applicants under this section do not have to obtain alcohol bonds.

(h) If a designee has been appointed by the Gainesville Parks and Recreation Board for alcoholic beverage services for consumption on the premises at the Gainesville Civic Center, then only the designee shall submit an application for a special temporary event permit to be held at the Gainesville Civic Center.

## Sec. 6-4-101. For-Profit Special Temporary Event Permit.

(a) A for-profit organization desiring to sell alcoholic beverages may apply to the City Manager or designee for a special temporary event permit which, if issued, licenses the event for alcohol sales by the drink.

(b) A for-profit organization desiring to obtain a special temporary event permit, must possess a valid consumption on premises license for malt beverage, wine or liquor or a valid malt beverage, wine, or distilled spirits package license issued by the city.

(c) The non-refundable permit fees as required in Title 10 of the Code of Ordinances of the City of Gainesville are due and payable upon the filing of the application for a special temporary event permit.

(d) Provided a special temporary permit has been issued to a for-profit organization, said organization shall be subject to all laws, rules and regulations and other applicable sections of this chapter relating thereto.

(e) Permits issued pursuant to this section shall be valid only for the place specified in the application.

(f) If a designee has been appointed by the Gainesville Parks and Recreation Board for alcoholic beverage services for consumption on the premises at the Gainesville Civic Center, then only the designee shall submit an application for a special temporary event permit to be held at the Gainesville Civic Center.

(g) No special temporary event permit shall be issued within any property zoned central business during any event that is sponsored or organized by the City of Gainesville.

(h) The licensee for a permitted special temporary event shall designate and clearly mark, by the use of ropes, barricades, stanchions or similar devices, a specific area within which alcoholic beverages may be consumed.

(i) Applicants desiring to sell distilled spirits must obtain an alcohol bond as required by the City.

## Sec. 6-4-102. Temporary Limited License.

(a) A retail dealer that is licensed to sell only malt beverages and/or wine by the package may apply for a temporary limited license to allow for the sale of malt beverages or wine by the drink for consumption on the premises.

1. Applications for the temporary limited license shall be made by the licensee in person with the City Manager or designee on forms provided by the City.

2. Payment of the non-refundable license fee as provided for in Title 10 shall be paid at the time the application is submitted.

(b) If issued, the temporary limited license shall be valid for a period not to exceed eight (8) hours.

(c) Any licensed retail dealer shall not be granted more than two (2) temporary limited licenses per calendar month.

(d) Any retail dealer receiving a temporary limited license under this section shall comply with all other provisions of this chapter not in conflict with this section.

## Sec. 6-4-103. Catered Events.

(a) Annual licenses to cater alcoholic beverages by the drink on premises at authorized catered events may be obtained only by those persons, firms or corporations currently licensed by the city for the sale of alcoholic beverages by the drink or for sales of alcohol in the unbroken package.

(b) Any licensee desiring to obtain a license to be an alcoholic beverage caterer in the City shall submit, in person, a written and signed application on forms provided by City. Only a licensed alcoholic beverage caterer may distribute or sell alcoholic beverages by the drink at an authorized catered event, after the application and issuance of a catered event permit.

(c) Before a licensed alcoholic beverage caterer may sell or dispense alcoholic beverages at any authorized catered function, such caterer shall apply for a catered event permit from the City Manager or designee at least ten (10) working days prior to the event.

1. The application for a catered event permit shall include the name of the alcoholic beverage caterer, the caterer's license number, and the date, address and time of the event.

2. If the catered event permit is granted, it shall be good only for the specific event at the specified address and times set forth in the application, not in excess of eight (8) hours, unless otherwise approved by city council by resolution.

3. The permit shall be kept in the vehicle used to transport alcoholic beverages to the event at all times during which the permit is in effect.

(d) Caterers licensed by the city shall maintain a record of all alcoholic beverages transported for each event, and shall make report and remittance of such taxes with their regular monthly reports to the city.

(e) No alcoholic beverages shall be transported, distributed, or sold to other than licensed locations in the city, except to permitted catered events, unless otherwise authorized by this chapter or by state law.

(f) No licensed alcoholic beverage caterer shall employ any person under twenty-one (21) years of age to dispense, serve, sell or handle alcoholic beverages at authorized catered functions.

(g) No catered event permit will be issued for an event at the Gainesville Civic Center or any location with respect to which any alcohol license has been denied or revoked within the past twelve (12) months; nor for any location with respect to which conduct prohibited in this chapter has previously occurred.

(h) The hours and days of sale or distribution of alcoholic beverages at an authorized catered event shall be conducted in compliance with this chapter. Except as set forth above in this section, an off-premises permit holder must comply with all other provisions set forth in this chapter.

## Sec. 6-4-104. Wine Tasting.

(a) A request to conduct a wine tasting may be approved by the City Manager or designee when such request is made in writing on an application furnished by the City Manager or designee, and a non-refundable fee as provided for in Title 10 is submitted. If issued, the wine tasting shall be conducted under the following conditions:

1. A wine tasting must comply with all local and state laws and regulations pertaining to the sale and distribution of alcoholic beverages in the state and the city.

2. No wine tasting may be conducted on the premises of any place of business licensed to sell distilled spirits in the unbroken package or container at retail.

(b) A bona fide non-profit charitable and civic organization that seeks to conduct a wine tasting shall comply with all requirements set forth in O.C.G.A. § 3-9-3, 3-9-4, and 3-9-5 and must make application twenty-five (25) days prior to the proposed event on forms supplied by the city.

(c) A for-profit organization that seeks to conduct a wine tasting and is not licensed shall comply with all requirements set forth in O.C.G.A. § 3-6-20 and must make application twenty-five (25) days prior to the proposed event on forms supplied by the city, and shall obtain the wine secured for the wine tasting through a wholesale dealer possessing a valid license to distribute wine issued by the city.

(d) Licensees that are licensed to sell wine in the unbroken package are exempt from the requirement to make application for a wine tasting if sixty (60) percent or greater of the total malt beverage and/or wine sales is derived from the sale of wine. Samples of wine may be made available for consumption on the premise provided no individual shall be allowed to sample more than a total of sixteen (16) ounces per day. A licensee may charge a fee for samples of wine.

## Sec. 6-4-105. Home Brew Special Events.

(a) Home brewed malt beverages for purposes of this section shall be limited to malt beverages produced by an individual(s) pursuant to the provisions of O.C.G.A. § 3-5-4 and any applicable rules and regulations of the Georgia Department of Revenue.

(b) A home brew special event may be conducted on the premises of any place of business licensed under this chapter for the sale, storage, or distribution of alcoholic beverages by the package or for consumption on the premises, or may be conducted at locations not otherwise licensed under this chapter.

(c) All applications for a home brew special event shall be submitted in writing to the City Manager or designee, on forms provided by the city, along with a payment of a non-refundable fee as outlined in Title 10.

(d) At a minimum, applicants shall provide the following information in their application:

1. Name, address, and contact number of the applicant;
2. Location of the event;
3. Date and times at which the event will be held;
4. Estimated number of participants in the event.

(e) Home brew special events shall be subject to the following regulations:

1. Events shall only be held during legal hours for drinking on premises as defined in this chapter.
2. Consumption of alcoholic beverages at the event shall be limited solely to home brewed malt beverages produced pursuant to O.C.G.A. § 3-5-4. Consumption of other alcoholic beverages shall be prohibited.
3. Consumption of home brewed malt beverages shall be limited solely to participants in and judges of the special event. For the purpose of this section, participants shall be either individuals submitting home brewed malt beverages to the event or individuals admitted to the event by the sponsor without having to submit a home brew.
4. At the event, home brewed malt beverages shall not be sold, offered for sale, or made available for consumption by the general public.
5. A home brew special event permittee shall not allow any person to take an open container of alcoholic beverage from the designated event area.

(f) A home brew special event permittee shall be subject to all laws, rules and regulations of the city and state, including the rules and regulations of the Georgia Department of Revenue and shall be subject to permit revocation for violation thereof.

### Sec. 6-4-106. – 6-4-109. Reserved.

## ARTICLE 9. RULES AND REGULATIONS

### Sec. 6-4-110. Measurement of Distances.

(a) All measurements to determine distances required by this chapter shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

1. In a straight line from the front door of the structure from which alcoholic beverages are sold or offered for sale;
2. To the front door of the building of a church, government-owned treatment center or a retail package store; or
3. To the nearest property line of the real property being used for school or educational purposes or property that is owned or operated by a housing authority.

### Sec. 6-4-111. Grandfather Provision for Distance Requirements.

If the sale of alcoholic beverages was lawful at a location at any time during the 12 months immediately preceding an application for renewal or a new application for an alcoholic beverage license, the premises shall be grandfathered in regarding any distance requirements as outlined in this chapter.

### Sec. 6-4-112. Sales on Election Day.

No malt beverages, wine or distilled spirits will be sold within two hundred fifty (250) feet of any polling place or of the outer edge of any building within which such polling place is established on primary or election days. As used in this section, the term “day” means that period of time beginning with the opening of the polls and ending with the closing of the polls.

### Sec. 6-4-113. Responsibility of Licensees and Employees.

(a) No holder of a license authorizing the sale of alcoholic beverages in the city nor any agent or employee of the licensee, shall do any of the following upon the licensed premises:

1. Knowingly furnish or cause to be furnished or permit any other person in his employ to furnish any minor alcoholic beverages.

2. Knowingly sell alcoholic beverages to any person while such person is in an intoxicated condition.

3. Sell alcoholic beverages upon the licensed premises on any day or at any time when such sale or consumption is prohibited by law.

4. Permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practice on the licensed premises. Such misconduct shall be immediately reported to the city police department.

5. Sell, offer for sale, possess, or permit the consumption on the licensed premises of any kind of alcoholic beverages, the sale, possession or consumption of which is not authorized under his license.

6. Add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

(b) Sell or offer for sale alcoholic beverages by use of vending machines.

(c) Receive or cause to be delivered at the licensed premises any alcoholic beverages by any means other than by a conveyance owned and operated by a wholesale dealer with a license from the city to make such deliveries. Transportation of alcoholic beverages by any other means shall be grounds for revocation of all licenses concerned.

(d) The sale of alcoholic beverages for consumption by persons in any back room or side room which is not open to the general public use is prohibited, except that private parties and conventions, or a properly permitted wine tasting, which have been scheduled in advance, may be served in public or private dining rooms or meeting rooms, and provided further that this prohibition shall not apply at private clubs hereunder, nor to the sale for consumption hereunder to the registered guests of any hotel or motel in their designated rooms.

(e) All alcoholic beverages shall be stored only on the premises for which the license is issued.

## Sec. 6-4-114. Financial Interest Prohibited.

It shall be unlawful for any person to hold an alcoholic beverage license (package or consumption) who also has any direct financial interest in any wholesale alcoholic beverage business. It shall be unlawful for the holder of any alcoholic beverage license (package or consumption) to or accept or receive financial aid or assistance from the holder of any alcoholic beverage manufacturer's or wholesale dealer's license.

## Sec. 6-4-115. Employment of Minors.

(a) No person shall allow or require a person in his employment under eighteen (18) years of age to dispense, serve, sell or take orders for any alcoholic beverages for consumption on premises.

(b) No person shall allow or require a person in his employment under eighteen (18) years of age to sell or take orders for any distilled spirits in the unopened package.

(c) No person shall allow or require a person in his employment under sixteen (16) years of age to sell or take orders for any malt beverages or wine in the unopened package.

## Sec. 6-4-116. Regulations Involving Minors.

(a) The following regulations involving minors shall apply:

1. No person knowingly, by himself or through another, shall furnish, cause to be furnished, or permit any person in his employ to furnish any alcoholic beverage to any person under twenty-one (21) years of age.

2. No person under twenty-one (21) years of age shall purchase or knowingly possess any alcoholic beverage.

3. No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under twenty-one (21) years of age.

4. No person under twenty-one (21) years of age shall misrepresent his age, identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.

(b) In any case where a reasonable or prudent person could reasonably be in doubt as to whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished is actually twenty-one (21) years of age or older, it shall be the duty of the person selling or otherwise furnishing such alcoholic beverage to request to see and to be furnished with proper identification in order to verify the age of such person; and the failure to make such request and verification in any case where the person to whom the alcoholic beverage is sold or otherwise furnished is less than twenty-one (21) years of age may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so knowingly.

(c) For purposes of this chapter, "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's license or an identification card authorized under O.C.G.A. § 40-5-100 et seq. "Proper identification" shall not include a birth certificate.

(d) The prohibition contained in subsection (a) above shall not apply with respect to the sale, purchase or possession of alcoholic beverages for consumption:

1. For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state.

2. At a religious ceremony.

3. In the home of the minor with the consent of said minor's parent or legal guardian.

### Sec. 6-4-117. Violations.

Any person violating any of the provisions of this chapter shall be punished as provided in section 1-1-7 of this Code. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person, and shall be punished accordingly.

## SECTION II.

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

## SECTION III.

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

## SECTION IV.

The Ordinance is enacted as an amendment to Chapter 6-4 of the Code of Ordinances of the City of Gainesville, Georgia.

## SECTION V.

The effective date of this Ordinance shall be upon approval by the Governing Body of the City of Gainesville.

______________________________
**C. Danny Dunagan, Jr., Mayor**

**This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.**

**ATTEST:**

______________________________
**Denise O. Jordan, City Clerk**

## ARTICLE 1. PURPOSE AND LICENSING

### Sec. 6-4-1. General Policies and Purpose.

(a) Alcoholic beverages may be sold, manufactured, distributed and imported in the City of Gainesville only after the issuance of a license for such sale by the City and only in the manner permitted by said license, unless exempted by state law. Alcoholic beverages may be sold, manufactured, distributed and imported in the City only by a licensee who complies with the rules and regulations of this Ordinance, and with the licensing, regulatory and revenue requirements of the State of Georgia.

(b) Notwithstanding anything in this chapter to the contrary, the sale of alcoholic beverages in the city is a privilege and not a right, and the issuance of a license hereunder shall not create any property rights in the licensee.

(c) The city council designates the city ~~marshal~~manager for the purpose of administering this chapter. Any powers granted to or duties imposed upon the city ~~marshal~~ manager may be delegated by the city ~~marshal~~ manager to other city personnel. The city ~~marshal~~ manager or designee shall be responsible for the interpretation of the requirements, standards, definitions, or any other provision of this chapter, unless that authority is provided to another administrative official within a specific article. Interpretations of the city ~~marshal~~ manager or designee ~~or other administrative official~~ may be appealed under the provisions of section 6-4-11. The city ~~marshal~~ manager or designee shall have administrative authority of this code.

(d) Each licensee of the City shall display the license prominently at all times at the premises for which the license is issued.

(e) The holder of every alcoholic beverage license hereunder shall have available in his place of business at all times a copy of this chapter and shall be responsible for compliance herewith by all persons on the premises.

(f) Any premises outlets which cannot be determined as one (1) identifiable place of business shall require additional licenses regardless of such establishments having the same tradename, ownership, or management.

(g) The purposes of this Ordinance include but are not limited to the following:

1. Compliance with state law.
2. Prevention and control of the sale of alcoholic beverages by unfit persons.
3. Protection of the public health, safety, and general welfare.

### Sec. 6-4-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Alcoholic beverage* means any beverage containing alcohol and shall include but shall not be limited to, malt beverages, wines and distilled spirits.

(b) *Alcoholic beverage caterer* means any retail dealer who has been licensed by the city to sell alcoholic beverages by the drink or the unopened package.

(c) *Art Shop* means a retail business devoted exclusively to providing art education that is limited to instruction in painting, sculpture and similar crafts. An art shop may also sell and display portraits, paintings, sculptures, art supplies and similar art work and crafts. An art shop shall not allow activities that would cause the business to be an "adult entertainment establishment" as defined in Chapter 6-10 of this Code.

(d) *Authorized catered event* means an event at a location not otherwise licensed for consumption of alcoholic beverages by the drink at which alcoholic beverages are furnished, for consideration, and sold, dispensed or provided free of charge to persons present at the event, by the drink, pursuant to a permit obtained under this section.

(e) *Business* means any person, corporation, partnership, or other legal entity which exerts substantial efforts within the city, engages in, causes to be engaged in, and/or represents or holds out to the public to be engaged in any occupation or activity with the object of gain or benefit, either directly or indirectly.

(f) *Brewery* means a place where malt beverages are manufactured. In addition to manufacturing, malt beverages may be sold for consumption on the premises, and/or sold by the package for consumption off the premises in accordance with State law. ~~means a place where malt beverages are manufactured or brewed,.~~

(g) *Brewpub* means any restaurant in which malt beverages are manufactured, subject to the barrel production limitation prescribed in O.C.G.A ~~§~~§ 3-5-36. Barrels of malt beverage sold to licensed wholesale dealers for distribution or to the public for consumption off the premises as authorized by State law shall not be used when determining the total annual gross food and beverages sales.

(h) *BYOB* or *brown bagging* means possession of an open glass bottle, can, or other container containing an alcoholic beverage or consumption of an alcoholic beverage on premises:

1. For which a city business/occupation tax certificate has been issued; and
2. Which occurs at a location different from where said alcoholic beverage was purchased.

(i) *Church* means a body of communicants gathered into church order: united under one (1) form of government by the profession of the same faith and the observance of the same ritual and ceremonies, place where persons regularly assemble in a facility for worship, congregation, or organization for religious purposes.

(j) *College Campus* means a collection of two or more buildings used for educational purposes, on either one parcel or contiguous parcels that are under the same ownership by either a public or private institution of higher learning.

(k) *Distilled spirits* means any alcoholic beverage obtained by distillation or containing more than twenty- four (24) percent alcohol by volume percent alcohol by volume,

(l) *Establishment* means any physical location or section thereof for the operation of a business.

(m) *Food caterer* means any person who holds a valid business license and for consideration, prepares food for consumption off the premises.

(n) *Fortified wine* means any alcoholic beverage containing not more than twenty-four (24) percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentations with brandy added. The term includes, but is not limited to "brandy."

(o) *Georgia Farm Winery* means a farm winery which is licensed by the state to manufacture wine in Georgia.

(p) *Growler* means a reusable, resealable, and professionally sanitized glass jug used to transport malt beverages or wine for off-premises consumption that is not to exceed 64 ounces and is filled with malt beverages or wine from a keg by a licensee, or an employee of a licensee, with a malt beverage and/or wine license for consumption off premises issued by the City of Gainesville.

(q) *Hard cider* means an alcoholic beverage obtained by the fermentation of the juice of apples, containing not more than six (6) percent alcohol by volume, including, but not limited to flavored or carbonated cider. For purposes of this chapter, hard cider shall be deemed a malt beverage.

(r) *Importer* means any person who imports an alcoholic beverage into this state from a foreign country and sells the alcoholic beverage to another importer, broker or wholesaler and who warehouses a stock of the alcoholic beverage.

(s) *Licensed alcoholic beverage caterer* means any person licensed for the sale of alcoholic beverages by the state and who possesses a license by a local government in the state authorizing such person to sell or dispense alcoholic beverages by the drink off licensed premises and in connection with an authorized catered function.

(t) *Licensee* means any person who holds a license from the city to engage in the selling, manufacturing, distributing or importing at retail or wholesale, of any alcoholic beverages.

(u) *Lounge* means a separate room connected with a part of and adjacent to a restaurant with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and have a seating capacity of at least forty (40).

(v) *Malt beverage* means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing not more than fourteen (14) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, also known as Japanese rice wine.

(w) *Managing Agent* means an individual that is at least twenty-one (21) years of age, is a U.S. citizen or an alien lawfully admitted for permanent residency, is a resident of the State of Georgia, has day-to-day managerial authority over the business conducted on the licensed premises including the sale of alcoholic beverages, and is employed full-time by the licensed business.

(x) *Manufacturer* means any maker, producer or bottler of an alcoholic beverage. The term also means:

1. In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; provided, however, that a vintner that blends wine with distilled spirits to produce a fortified wine shall not be considered a manufacturer of distilled spirits;
2. In the case of malt beverages, any brewer; and
3. In the case of wine, any vintner

(y) *Minor* means any person less than twenty-one (21) years of age.

(z) *Multi-use facility* means a structure containing three or more retail or office establishments and one or more eating establishment, which has a court area for pedestrian use.

(aa) *Non-profit, charitable and civic organization* means a bona fide nonprofit civic organization which is exempt from federal income tax pursuant to the provisions of subsection (c), (d), or (e) of 26 U.S.C. Section 501.

(bb) *Nonprofit botanical garden or nature science center* means a facility primarily used to develop and maintain animals or plant collections, including flowers, shrubs and trees, for public display, education, research, conservation and enjoyment, through, without limitation, horticultural gardens, public and private programs, exhibitions and special events, having not less than 75 acres of outdoor gardens or land preserved for conservation, containing a documented collection of living plants, shrubs and trees, having meeting event space with a capacity for not less than 100 people, that is owned by a corporation that is exempt from federal income taxes pursuant to section 501(c) of the Internal Revenue Code, as amended.

(cc) *Open air café* means a premise located within the pedestrian court area and adjacent sidewalk of a multi-use facility where food is available for purchase during all hours of operation and where alcoholic beverages may be purchased from a restaurant contained within the multi-use facility for consumption within the open air café.

(dd) *Person* means any individual, firm, partnership, cooperative, nonprofit membership corporation, social club, joint venture, association, company, corporation, limited liability company, limited liability partnerships, agency, syndicate, estate, trust, business trust, receiver, fiduciary or other group or combination acting as a unit, body politic or political subdivision, the plural as well as the singular member, whether public, private or quasi-public.

(ee) *Premises* means one physically identifiable place of business operated by the same ownership and/or overall management consisting of one or more contiguous rooms with only one address registered as a single place of business with the local licensing authority and the state. "Premises" is further defined to include the following areas:

1. In the case of hotels, motels or private clubs, the swimming pool which is owned by said hotel, motel or club.
2. Outdoor areas or patios approved pursuant to this chapter.
3. In the case of a malt beverage and/or wine licensee where a golf course is located adjacent to and contiguous with a restaurant, the playing area of the golf course.
4. In the case of a nonprofit botanical garden or nature science center, the geographic grounds.
5. In the case of an open air café, the pedestrian court area and sidewalk in front of the building in which the multi-use facility is contained.
6. In the case of the Gainesville Civic Center, the geographic grounds of the Gainesville Civic Center and the Martha Hope Cabin.

~~6.~~7. In the case of a brewery, an adjacent outdoor area, contained on the same property utilized by the licensee, that is controlled to limit public access.

(ff) *Private club* means any nonprofit association organized under the laws of this state which:

1. Has been in existence at least one (1) year prior to the filing of its application for a license to be issued pursuant to this chapter;
2. Has at least seventy-five (75) regular dues-paying members;
3. Owns, hires or leases a building or space within a building for the reasonable use of its members, which building or space:
   i. Has suitable kitchen and dining room space and equipment; and
   ii. Is staffed with a sufficient number of employees for cooking, preparing and serving meals for its members and guests; and

4. Has no member, officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary as defined by state law.

(gg) *Private function* means any affair where attendance is by invitation only, where no business transactions are conducted during the private function and there is no cost to attend or to consume the food or alcohol either by donations or by any other means.

(hh) *Residence* means the act or fact of living or regularly staying at or in some place for the discharge of a duty or the enjoyment of a benefit or the place where one actually lives as distinguished from his domicile or place of temporary sojourn.

(ii) *Resident* means a person whose primary residence is within the territorial limits of the county.

(jj) *Restaurant* means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment, air conditioned, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests for every hour they are open. At least one (1) meal per day shall be served at least five (5) days a week, except that restaurants that open for business more than five (5) days a week, shall be required to serve at least one (1) meal per day each day that the restaurant is open, with the exception of holidays, vacation and periods of redecoration, and the serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. A restaurant shall provide at least thirty (30) seats for customers.

(kk) *School* means an organized source of education or training whether public or private for the teaching of children in which the traditional subjects and learning processes associated with the Pre-K - 12 grades of school are taught.

(ll) *Tasting room* means an outlet for the promotion of a Georgia ~~f~~Farm ~~w~~Winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine can be given free of charge or for a fee.

(mm) *Wholesaler or Wholesale Dealer* means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers. This shall include any person that transports or delivers alcoholic beverages from a manufacturer for sale at retail by the package.

(nn) *Wine tasting* means an event as defined in the rules and regulations of the department of revenue.

(oo) *Wine* means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

## Sec. 6-4-3. Qualifications for Licensing.

(a) To qualify for an alcoholic beverage license, an applicant shall meet the following:

1. Designate a managing agent that meets the defined qualifications in Section 6-4-2. In the case of a non-profit private club, the managing agent may be an officer of the ~~organization~~ non-profit private club in lieu of a full-time employee if the individual is otherwise qualified.

2. All licensed establishments must have and continuously maintain in Hall County a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. ~~This person~~The registered agent must be a resident of Hall County. The licensee shall file the name of such agent, along with the written, notarized consent of such agent with the city in such form as may be prescribed.

3. Have a certificate of occupancy that has been issued by the City for the premises for which an alcoholic beverage license is sought.

(b) Where the application is made on behalf of a corporation, partnership, limited liability corporation, limited liability partnership or sole proprietorship, the license shall be issued jointly to the organization and an individual that meets the qualifications of a managing agent.

## Sec. 6-4-4. The Application Process.

(a) Any person desiring to obtain an alcoholic beverage license in the City shall submit a written and signed application on forms provided by City and in connection therewith, shall, under oath, answer all questions, supply all information, and furnish all certificates, affidavits, bonds and other supporting data as required ~~thereby~~by the City.

(b) All applications for licenses to sell alcoholic beverages of any kind shall be made in person by the applicant to the city ~~marshal~~ manager or designee and shall contain but not be restricted to the following statements and information:

1. The name, age, address and length of residency of applicant.

2. The name of the corporation, partnership, sole proprietorship, or other organization applying for the license. Said name shall include the legal name as well as the trade name of the business.

3. A statement of whether the applicant or any person with an interest in the application has made application at any previous time for any alcoholic beverage license and the disposition of such application.

4. Whether the applicant or any person with an interest in the application has ever been convicted of a crime, other than for traffic violations.

5. Whether a previous license issued to the applicant or any person with interest in the application has been revoked by any state or subdivision thereof or by the federal government and the reason therefor.

6. The identity of any other person interested directly or indirectly in the profits or losses or both of the proposed business.

7. The physical address and detailed plans of such building and outside premises, and evidence of ownership of the building, or a document that evidences the right of the applicant to use the premises, including but not limited to a deed, lease, sublease, management agreement, concession agreement, shall be attached to the application

8. Every new application for a package license hereunder shall be accompanied by a drawing to scale, showing the nearest church, school or college or by the affidavit of a registered surveyor that the proposed location of the business complies with the distance requirements as specified in this chapter. Applications for renewal of licenses, or for premises that have been licensed in the preceding 12 months, are exempted from this subsection.

(c) Every managing agent, owner and interest holder listed in an application for an alcoholic beverage license shall be fingerprinted in a manner prescribed by the city.

(d) The license fees as required in Title 10 of the Code of Ordinances of the City of Gainesville are due and payable upon the filing of the application. Any person who is doing business on or after the first day of January shall pay the full annual license fee without proration; provided, however, that if an application is filed after July 1st, the license fee shall be one-half (½) of the annual license fee for such calendar year.

(e) All new applications for alcoholic beverage licenses shall be accompanied either by lawful money of the U.S., or by a certified check, cashier's check or money order, payable to the city for the proper amount of the license fee. If the application is denied or if the applicant withdraws the application prior to its being issued, the license fee shall be refunded, less a one hundred fifty dollar ($150.00) administrative fee which shall be retained by the city.

(f) The city license issued shall be valid for the calendar year indicated thereon and shall expire at midnight on the last day of the year.

(g) All applications for alcoholic beverage licenses shall be filed with and approved by the ~~city marshal~~city manager or designee provided the applicant meets all of the requirements and qualifications of this chapter.

~~(h) The city marshalcity manager or designee may in the city marshalcity manager or designee's discretion require a personal statement of any employee of any licensed establishment for licensing purposes.~~

~~(i)~~(h) The written application for the license shall be a permanent record, and ~~which~~ the licensee must maintain current and accurate information within said application as required by this chapter.

## Sec. 6-4-5. Grounds for Denial of Application.

(a) The following shall be sufficient cause for the denial of an application:

1. Failure of the applicant to meet the qualifications for licensing as set forth in this chapter.

2. The making of any untrue or misleading statement in the application for an alcoholic beverage license.

3. Failure to meet distance requirements as provided in this chapter.

4. Where it appears that the applicant would not have adequate participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

(b) When contrary to the public interest and welfare, no license to sell alcoholic beverages of any kind shall be issued to or for:

1. Any person by reason of such person's business experience, trade associations, personal associations, record of arrest, or reputation in any community in which he has resided, who is not likely to maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.

2. Any person who has been convicted under any federal, state or local law of any felony involving moral turpitude.

3. Any person who has been convicted under any federal, state or local law of any felony not involving moral turpitude within ten (10) years immediately preceding the filing of application for such license.

4. Any person convicted under any federal, state or local law of a misdemeanor, particularly, but not limited to, those involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.

5. A location not suitable in the judgment and discretion of the city because of traffic congestion, general character of the neighborhood, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties or on the neighborhood.

6. A location within an area where, in the judgment of the city manager, the number of alcoholic beverage licenses already granted makes it contrary to the public interest or welfare.

7. A location at which the operation of the proposed business would be in violation of the City's Unified Land Development Code.

8. A location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgment of the city manager, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the interest of public health, safety, welfare or morals that the sale of alcoholic beverages be permitted at such location.

9. A person or location ~~W~~which the granting of such license would constitute a violation of state law or regulations.

10. The operation of a distilled spirits package business licensed hereunder by any person already holding two (2) such licenses.

11. Any person who is as close kin as brothers or sisters, by blood or marriage, to one already holding two (2) distilled spirits package licenses under this chapter.

12. Any trustee or director of a private club, if disqualified under this chapter.

## Sec. 6-4-6. Renewal of Licenses.

(a) The ~~city marshal~~city manager or designee may approve all applications for renewal of an existing license upon payment of the license fees for renewal of licenses, where no objections have been raised by the City Manager or designee~~filed~~ and the application clearly shows no change in the ownership, managing agent, location, or operation of the business.

(b) A licensee that desires to continue in business during the next or subsequent calendar year must make application for such year, on or before November 15th of the preceding year. License fees for such year shall be submitted on or before December 15 of the preceding year. Any license fee submitted after the due date of December 15th, shall be considered delinquent and assessed a penalty in the amount of ten (10) percent of the fees due. Interest on delinquent fees shall be assessed at one (1) percent for each month or fraction thereof of delinquency.

(c) If objections have been raised by the City Manager or designee ~~filed by the city~~ due to previous violations of this chapter or if there have been any changes in the ownership, managing agent, location, or operation of the business, a new application must be submitted to the ~~city marshal~~city manager or designee.

## Sec. 6-4-7. Duty to Remain Current.

(a) It is the duty and responsibility of the licensee to notify the ~~city marshal~~city manager or designee of any changes to the information contained in the original application. Any amendments to the original application shall be made in writing on forms provided by the ~~city marshal~~city manager or designee and shall be under oath and verified as otherwise required of license applications.

(b) Failure to maintain a current application shall be grounds for revocation of the license.

(c) In the event the "managing agent" either ceases to be employed by or ceases to have day-to-day managerial oversight of alcoholic beverage sales, the licensee shall notify the city within five (5) days of the change and must follow the requirements to transfer the license to a new "managing agent" as set forth in section 6-4-8 (b). If the applicant does not meet the qualifications for "managing agent" as required by this chapter and the ~~city marshal~~city manager or designee recommends denial, the applicant may have a hearing as set out in section 6-4-11.

(d) In the event the "registered agent" changes, the licensee shall notify the city within ten~~five~~ (10~~5~~) days of the change and must submit written information on forms provided by the city. A fee as required in Title 10 will be charged for the processing of a change in the "registered agent."

(e) No person shall have, own or enjoy any ownership, interest in, share in the profits from, or otherwise participate in the business of any alcoholic beverage licensee in the city unless a full description of such interest ~~shall have been~~is furnished to the ~~city marshal~~city manager or designee at the time such interest ~~arose~~arises. It shall be the duty of the licensee to report to the ~~city marshal~~city manager or designee, within ~~five~~ twenty (~~5~~20) days, any change in any interest in such licensee's business including but not limited to:

1. Any division of the profits;
2. Any division of net or gross sales for any purpose whatsoever;
3. Any change in the payment of rents or leases;
4. Any change in the ownership of any lease or building or land used in such business;
5. Any change in the ownership of any corporation that has any interest in such business or the change of management of such corporation.

(f) After receipt of ~~such~~ notice pursuant to Section 6-4-7(e), the ~~city marshal~~city manager or designee shall notify such person within ~~a reasonable time~~thirty (30) days of any objection to the ownership or interest set forth therein, based on the interest holder's ability to qualify as a licensee under this chapter. In the event such interest is not disposed of in accordance with the objections set forth by the city manager or designee within thirty (30) days after the mailing of the notice by the ~~city marshal~~city manager or designee, or in the event no objections are ~~filed~~ mailed to the licensee within such thirty-day period, or in the event such person fails to notify the ~~city marshal~~city manager or designee of the transfer of any such interest within twenty (20) days after the acquisition thereof, then the license as provided for herein may be subject to suspension or revocation by the ~~city marshal~~city manager or designee.

(g) The licensee shall make all reports required by this section in the form required by the ~~city marshal~~city manager or designee, and such reports shall be an amendment to the licensee's permanent license application on file with the city and as such shall be under oath and verified as otherwise required of license applications.

## Sec. 6-4-8. Transfer of Licenses.

(a) No city license may be transferred from one (1) person or from one (1) location to another without permission and approval of the ~~city marshal~~city manager or designee upon receipt of a written application made. Approvals as to any change shall be at the discretion of the ~~city marshal~~city manager or designee.

(b) In the event of a change in the managing agent of a licensee, the city license shall remain in effect pending approval or denial of the transfer provided:

1. The licensee notifies the ~~city marshal~~city manager or designee within ten ~~five~~ (10~~5~~) days of the change of the managing agent;
2. The licensee submits a proper written application for approval thereof;
3. The licensee pays a transfer fee as required by Title 10;
4. The transferee meets all qualifications of a managing agent as required by this chapter; and
5. There has been no change of ownership, location or operation of the business.

(c) Any licensee desiring to discontinue business at one (1) location and commence business at some other new location must make a complete new application for such new location. Upon proper application and provided that there has been no change of ownership or interest in the business, the ~~city marshal~~city manager or designee may permit the license to be transferred upon payment of a fee required in Title 10 for a change of location, provided that the licensee and the new location meet all qualifications required by this chapter. The fee for a change of location shall be in addition to the original license fee paid by the licensee for the calendar year.

(d) Upon the sale of an existing business, the city license issued for that business location shall remain in effect pending approval or denial of a new application by the ~~city marshal~~city manager or designee, provided that the buyer or transferee meets all the qualifications of a managing agent as required by this chapter, and provided that the buyer or transferee has immediately upon the date of sale or prior to the date of sale made proper written application and has paid the original license fee required by Title 10.

### Sec. 6-4-9. Right to Investigate.

(a) Upon receipt by the ~~city marshal~~city manager or designee of any application for an alcoholic beverage license, or for the transfer of any license, each person listed on the application shall consent to a criminal background check on the forms supplied by the ~~city marshal~~city manager or designee.

(b) The ~~city marshal~~city manager or designee, ~~the assistant city marshal,~~ the chief of police, or any policeman of the city may enter upon the premises operated under the provisions of this chapter during operating hours for the purpose of inspecting the premises and enforcing this chapter and shall have access during the inspection of all books, records, and supplies relating to the sale, storage or possession of alcoholic beverages.

### Sec. 6-4-10. Surrender, Suspension or Revocation of License or Imposition of a Monetary Administrative Penalty.

(a) The following may be grounds for the suspension and/or revocation of an alcoholic beverage license or for the imposition of a monetary administrative penalty against the licensee.

1. The violation by the licensee of any state or federal law or regulation, except misdemeanors or any ordinance of the city, other than traffic violations. The determination of whether any such violation has occurred shall be made by the administrative hearing officer and an actual conviction in a court for such offense shall not be necessary in order to suspend or revoke the license or issue a monetary administrative penalty.

2. The failure of the licensee or his employee to report promptly to the police department any violation of law or municipal ordinance, breach of the peace, disturbance or altercation resulting in violence, occurring on the premises.

3. Any conduct on the part of the owner of the business, the licensee or his employee contrary to the public welfare, safety, health or morals. While not to be considered a comprehensive or exhaustive listing of prohibited behavior, specific instances of prohibited behavior by the owner, the licensee and/or his employee include, but are not limited to, the following:

    a. Consumption or being under the influence of alcoholic beverage while working or on duty;

    b. Breach of the peace, disturbance or altercation resulting in violence;

    c. The conviction ~~of the owner, licensee, or employee~~ of any felony reasonably related to the ability of the licensee to operate and maintain the premises in a proper manner;

    d. The violation of any state law or regulation governing the manufacture, sale, distribution or transportation of alcoholic beverages;

    e. The violation of any section of ~~O.C.G.A. Tit. 10, Ch. 1, Art. 15, Pt. 1 (~~O.C.G.A. § 10-1-370 et seq.~~)~~, known as the Uniform Deceptive Trade Practices Act, reasonably related to the operation of licensed establishments;

    f. The conviction of the owner or the licensee of driving under the influence of alcoholic beverages and/or drugs on two (2) or more occasions;

g. Permitting the solicitation of patrons on the licensed premises for prostitution or any other unlawful act where the licensee or the licensee's employee or agent knew or should have known of such conduct;

h. The selling or serving of any alcoholic beverage to any person that the licensee or the licensee's employee or agent knew or should have known to be in a state of intoxication;

i. The failure to comply with any and all federal, state or municipal tax laws and regulations applicable to the operation of establishments licensed to sell alcoholic beverages;

j. Failure by the licensee to adequately supervise and monitor the conduct of the employees, patrons and others on the licensed premises or on any property owned or leased by the owner or licensee, including but not limited to parking lots and parking areas, or on any parking lots or areas which may be lawfully used by patrons of a licensed establishment, in order to protect the safety and well-being of the general public and of those utilizing the premises.

4. Operating or conducting the business in a manner contrary to the public welfare, safety, health or morals, or in such manner as to constitute a nuisance. Any combination totaling three (3) or more of the following occurrences within any thirty-day period shall constitute prima facie evidence that the licensee is operating or conducting an alcoholic beverage business in a manner which is contrary to the public welfare, safety, health or morals, or in such manner as to constitute a nuisance: Three (3) or more violations of law, violations of municipal ordinances, breach of the peace, disturbance or altercation resulting in violence, all occurring on the premises. The business license holder shall, upon suspension for violations of this section, have the burden of proving such occurrences were beyond his control and not related to the operation of his business.

5. The violation of any state law or regulation or municipal ordinance pertaining to alcoholic beverages.

6. The violation of any provision contained in this chapter.

(b) For the purposes of this section, the definition of an employee shall include any agent or independent contractor that is working for hire on the licensed premises.

(c) The ~~city marshal~~city manager or designee, with an order from the Gainesville Municipal court and/or administrative hearing officer, shall have the right to suspend any alcoholic beverage license pending a hearing as provided for in section 6-4-11 where in the judgment of the ~~city marshal~~city manager or designee such action is necessary to protect the public health, safety, welfare or morals.

(d) The ~~city marshal~~city manager or designee, chief of police or any police department shift commander on duty at the time may close any location holding an alcoholic beverage license for a period not in excess of twenty-four (24) hours in the event there shall occur on the premises any violation of law or municipal ordinance, breach of the peace, disturbance or altercation resulting in violence, or other occurrence which is contrary to the public health, welfare, safety or morals, when in the judgment of the ~~city marshal~~city manager or designee, chief of police or shift commander such action is necessary to protect the public health, welfare, safety or morals.

(e) In the case of the revocation or surrender of an alcoholic beverage license before expiration, the holder thereof shall not be entitled to receive any refund or fees paid to the City regarding the license to sell alcoholic beverages.

(f) All licenses issued pursuant to this chapter shall be valid only so long as the licensee is actively engaged in such business, with the exception of holidays, vacations, and periods of redecoration, and in the event the licensee shall cease to be actively engaged in such business such license shall be invalid and the licensee of such business shall immediately notify the ~~city marshal~~city manager or designee and return his license thereto.

(g) The violation of any of the provisions of this chapter by a holder of an alcoholic beverage license, or his agent, or employee, shall be unlawful, and shall be punishable as provided in section 1-1-7 of this Code, and shall also subject the holder of such license to suspension or revocation of such license or monetary administrative penalty, or any combination thereof as the ~~city marshal~~city manager or designee deems proper.

## Sec. 6-4-11. Hearing on Denial, Suspension or Revocation or Imposition of Monetary Administrative Penalty.

(a) Before the denial of any application, including a renewal application, for an alcoholic beverage license or for the transfer of any alcoholic beverage license, or the revocation or suspension of any existing alcoholic beverage license, or for the imposition of a monetary administrative penalty against a licensee, the applicant or licensee, as the case may be, shall be given notice in writing from the ~~city marshal~~city manager or designee to show cause before ~~the~~ an administrative hearing officer at a time and place specified therein not less than three (3) days nor more than thirty (30) days from the date of service of the notice, why such application for license or for transfer of license should not be denied, or why such license should not be revoked or suspended as the case may be, or why a monetary administrative penalty should not be imposed, stating the grounds therefore, and at the appointed time and place the applicant or licensee shall have an opportunity to show cause, if any exist, why such application should not be denied or such license revoked or suspended or a monetary administrative penalty imposed after which the administrative hearing officer shall take such actions as he or she in his or her judgment and discretion, shall deem warranted under the facts. ~~All decisions of the administrative hearing officer shall be in writing with reasons therefore stated and mailed or delivered to the applicant or licensee.~~

*(b)* The decision of the administrative hearing officer shall be final unless appealed by certiorari to the superior court of ~~the~~ Hall county. *~~If the decision is appealed, the city solicitor or his designee shall represent the city in superior court.~~*

(c) In all instances of a denial of any application for an alcoholic beverage license or the revocation of any existing alcoholic beverage license, the applicant, licensee or any person(s) with twenty-five (25) percent or more interest, shall not reapply for a license for at least one (1) year from the final date of the denial or revocation.

## Sec. 6-4-12. Employee Permits.

(a) No person shall be employed to dispense, sell, serve, take orders, or mix alcoholic beverages, or be in any managerial position, by an establishment holding a license for the sale of distilled spirits by the package or for consumption on premises or an establishment holding a license for malt beverage or wine for consumption on premises unless such person has been approved by the chief of police or his designee. The individual named on the alcoholic beverage license as the managing agent for such establishment shall be exempt from obtaining an employee permit.

(b) Upon approval by the chief of police or his designee, such person shall be issued an employee permit which shall contain the name, expiration date, fingerprint and photograph of such employee. Such employee permit shall remain the property of the city and shall be in the possession of the employee at any time he or she is working at any licensed establishment, and shall be produced upon the request of any law enforcement officer of the city.

(c) No permit shall be issued until such time as a signed application has been filed with the Gainesville Police Department and upon the payment of the non-refundable fee designated in Title 10 of this Code. The applicant shall furnish, at the time of presenting the application, two (2) forms of valid, current identification. Such application shall contain the following information: Applicant's name, date of birth, height, weight, race, sex, address, telephone number, and disclosure of arrest record. Applicant must give permission to the police department to obtain and inspect any criminal history on such applicant which is in the possession of any law enforcement agency.

(d) No person shall be granted an employee permit that has been convicted, plead guilty, or entered a plea of nolo contendere to any crime involving the sale or furnishing of alcoholic beverages to an underage person or any felony within three (3) years of the date of the application.

(e) No person shall be granted an employee permit if he or she has been the holder of an alcoholic beverage license or employee permit which has been revoked within five (5) years of the date of the application.

(f) An employee permit shall be valid for three (3) years from the date of issue. At the expiration of three (3) years, the employee permit may be renewed upon the submission of a renewal application, the payment of the appropriate fee, and upon determination that such individual remains qualified under this chapter.

(g) The employee permit is non-transferable and is valid only for the individual named on the permit. Such permit is valid for the individual named while employed in any establishment licensed in the city.

(h) An employee permit may be suspended or revoked by the chief of police if it is determined that the individual has violated any provision of this chapter or committed any offense which would make him or her ineligible to hold such a permit.

(i) Falsifying or failing to disclose any information required by this chapter shall be grounds for denial or revocation of the employee permit.

(j) Notification of any denial, suspension, or revocation of an employee permit shall be in writing and served either in person or by certified mail and shall contain the reasons for such action and the notice of the right to appeal the decision.

1. Decisions of the chief of police that adversely affect or aggrieve any applicant, certificate holder, or permit holder under this chapter may be appealed to the administrative hearing officer, as ~~provided~~ defined in section 1-8-1 of this Code. All appeals shall be submitted in writing to the chief of police within ten (10) calendar days after notification of the adverse decision.

2. A hearing shall be conducted on each appeal within thirty (30) days of the date of the filing of the written appeal, unless a continuance of such hearing is agreed to by the appellant and the chief of police, or unless the hearing is rescheduled by the administrative hearing officer. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses.

3. The appellant shall be notified in writing of the date and time of the hearing at least ~~seven~~ three (~~7~~3) calendar days prior to the date of the hearing.

4. The findings of the administrative hearing officer shall be final unless appealed within thirty (30) days of the date of the finding by certiorari to the Superior Court of Hall County.

(k) No licensee shall allow any employee or manager required to hold an employee permit to work on the premises unless the employee or manager has in their possession a current valid employee permit. Provided, however, that an individual may be employed for a period of time not to exceed fourteen (14) days pending the submission of the application to and the approval of the permit by the police department.

### Sec. 6-4-13. – Sec. 6-4-19. Reserved.

## ARTICLE 2. MALT BEVERAGE AND WINE MANUFACTURERS

### Sec. 6-4-20. Malt Beverage Breweries or Wineries.

(a) No individual shall be permitted to own or operate a brewery without first obtaining a proper brewery license from the City. A licensed brewery shall ~~not engage in retail package or retail consumption sales on premises, of alcoholic beverages at any time.~~comply with State law relating to the limited sale of malt beverages to the public and may sell on all days and at all times that sales of malt beverages by retailers are lawful within the City.

(b) A Georgia Farm Winery may engage in retail package sales of wine in a tasting room or the retail consumption sales on premises of its wine and the wine of any other Georgia Farm Winery in a tasting room.

### ~~Sec. 6-4-21. Malt Beverage Brewery Facility Tours.~~

~~(a) Facility tours may be conducted on the licensed premises of a brewery in accordance with the provisions of O.C.G.A. § 3-5-38, as amended from time to time.~~

### Sec. 6-4-2~~2~~1. – 6-4-29. Reserved.

## ARTICLE 3. EXCISE TAX ON MIXED DRINKS CONSUMED ON PREMISES

### Sec. 6-4-31. Definitions.

*Definitions.* The following words, terms and phrases, when used in this ~~section~~article, shall have the meanings ascribed to them in this ~~sub~~section, except where the context clearly indicates a different meaning:

1. *Agent* means the person designated by the licensee in this application for permit to sell alcoholic beverages by the drink.

2. *Drink* or *mixed drink* shall include any distilled spirits served for consumption on the premises, which may or may not be diluted by water or other substance in solution.

3. *Licensee* means any person who holds a license from the city to engage in the sale of distilled spirits by the drink for consumption on the premises.

4. *Monthly period* means the calendar months of any year.

5. *Purchase price* means the consideration received for the sale of distilled spirits by the drink valued in money, whether received in cash or otherwise, including receipts, cash, credit, property or services of any kind or nature, and also the amount for which credit is allowed by the licensee to the purchaser, without any deduction therefrom whatsoever.

6. *Purchaser* means any person who orders and gives present or future consideration for any distilled spirits by the drink.

7. *Return* means any return filed or required to be filed as herein provided.

8. *Tax* means the tax imposed by this section.

## Sec. 6-4-32. Imposition and Rate of Tax.

There is hereby imposed and levied upon every purchaser of a distilled spirits purchased by the drink within this city a tax in the amount provided in Title 10.

## Sec. 6-4-33. Collection of Tax.

(a) Every licensee or his agent is hereby authorized and directed to collect the tax imposed herein from purchasers of distilled spirits by the drink within the licensed premises. Such licensee or agent shall furnish such information as may be required by the city to facilitate the collection of the tax.

(b) In all cases where the collection of food and drinks is by deferred payment or credit, the licensee is liable at the time of and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The city shall have authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

## Sec. 6-4-34. Determination, Returns and Payments.

(a) The tax imposed by this ~~section~~ article shall become due and payable from the purchaser at the time of purchase of any mixed drink in this city. All amount of such taxes collected by the licensee shall be due and payable to the city monthly on or before the twentieth day of every month next succeeding each respective monthly period for which this tax is imposed; provided, however, that upon a proper showing that the tax imposed will not be collected until after a regular billing period of the collecting agent, then the collection of the tax may be deferred by the city for an additional period not exceeding thirty (30) days.

(b) On or before the twentieth day of the month following each monthly period, a return for the preceding monthly period shall be filed with the city in such form as the city may prescribe by every licensee liable for the payment of tax hereunder. All returns shall show the gross receipt of the sale of distilled spirits by the drink and the amount of the tax collected on such drinks.

(c) Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if such amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under State Law.~~the "Georgia Retailers' and Consumers' Sales and Use Tax Act," approved February 20, 1951, as now or hereafter amended (OCGA Section 48-8-50).~~

## Sec. 6-4-35. Deficiency Determinations.

(a) If the city has cause to believe that the return or returns of the tax or the amount of the tax required to be paid to the city by any person is not proper, it may compute and determine the amount required to be paid upon the basis of any information that is within or may come into its possession. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly period.

(b) The amount of the determination shall bear interest at the rate of three-fourths of one percent per month, or fraction thereof from the due date of taxes.

(c) The city or its designated representatives shall give to the licensee written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the licensee at his address as it appears in the records of the city. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

(d) Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

## Sec. 6-4-36. Determination if No Return Made.

(a) If any person fails to make a return, the city shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total sales in this city which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is in possession of or may come into the possession of the city official. Written notice shall be given in the manner prescribed in section 6-4-35 (c).

(b) The amount of the determination shall bear interest at the rate of three-fourths of one percent per month, or fraction thereof, from the due date of taxes.

## Sec. 6-4-37. Penalty for Nonpayment.

Any person who fails to pay the tax herein imposed or fails to pay any amount of the tax required to be collected and paid to the city within the time required shall pay a penalty of twenty-five (25) percent of the tax or amount of the tax, in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof as set forth in section 6-4-36 (b).

## Sec. 6-4-38. Action for Collection.

(a) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected, the city may bring an action in the courts of this state any other state or of the United States in the name of the city to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

(b) Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, it may be offset against any future liability for the tax.

### Sec. 6-4-39. Overpayment.

If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the city, he will have three (3) years from the date of payment to file claim in writing with the City Manager stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved ~~by the council~~, the excess amount paid the city may be credited on any amounts then due and payable from the person by whom it was paid, or from his administrators or administrators.

### Sec. 6-4-40. Purchasers or Successors of Business.

(a) If any licensee liable for any amount under this chapter sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the city either a receipt reflecting full payment or a certificate stating that no amount is due.

(b) If the purchaser of a business fails to withhold purchase as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

### Sec. 6-4-41. Administration.

(a) Every licensee for the sale of alcoholic beverages by the drink in the city shall keep such records, receipts, invoices and other pertinent papers in such form as the city may require.

(b) The city or any person authorized in writing by the city may examine the books, papers, records, financial reports, equipment and other facilities of any licensee for sale of distilled spirits by the drink and any licensee liable for the tax in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.

(c) In administration of the provisions of this subsection, the city may require the filing of reports by any person or class of persons having in such person's or persons' possession or custody information relating to purchases which are subject to the tax. Reports shall be filed with the city when required by the city and shall set forth the purchase price for each purchase, the date or dates of purchase, and such other information as the city may require.

### Sec. 6-4-42. Violations.

(a) Any person violating any of the provisions of this ~~subsection~~ chapter shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-1-7 of this Code. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the subsection is committed, continued or permitted by such person, and shall be punished accordingly. Any licensee or any other person who fails to furnish any return required to be made, or fails or refuses to furnish a supplemental return or other data required by the city or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.

(b) Any person violating any of the provisions of this ~~subsection~~ article may~~shall~~, in addition to the other penalties and liabilities provided for herein, have his license or permit revoked as provided for previously herein. ~~Sections 6-9-1 and 6-9-2 shall apply to such revocation.~~

### Sec. 6-4-43. – 6-4-49. Reserved.

## ARTICLE 4. EXCISE TAX REQUIRED OF WHOLESALE DEALERS

### Sec. 6-4-50. Imposition of Tax.

There is hereby levied and imposed upon each wholesale dealer and manufacturer distributing malt beverages, wine or distilled spirits within the city an excise tax in the amounts fixed in Title 10.

### Sec. 6-4-51. Payment of Taxes.

(a) Payment of excise taxes for the distribution of malt beverages, wine or distilled spirits shall be remitted by the tenth day of each month following the month in which deliveries were made.

(b) Copies of the "summary of sales" showing delivery by each supplier to retailers and/or consumption on the premises licensees shall be furnished to the city's finance department with each monthly payment.

### Sec. 6-4-52. – 6-4-59. Reserved.

## ARTICLE 5. MALT BEVERAGE AND WINE – ORIGINAL PACKAGE

### Sec. 6-4-60. Distance Requirements.

(a) No malt beverage and/or wine shall be offered for sale or sold in an unopened package within one hundred (100) yards of any school building, school grounds or college campus. This subsection shall not apply:

1. To a grocery store licensed for the retail sale of only wine and malt beverages for consumption off the premises, which shall be allowed to sell wine and malt beverages within 100 yards of any school building, school grounds or college campus. As used in this subparagraph, the term "grocery store" means a retail establishment which has a total retail floor space of at least 10,000 square feet of which at least 85 percent is reserved for the sale of food and other nonalcoholic items and conducts all of its sales inside the building containing its retail floor space.

2. To any premises or location where an alcoholic beverage license was issued or approved prior to July 1, 1981, so long as alcoholic beverages are being sold or dispensed in compliance with the other provisions of this chapter.

3. To any premises or location where alcoholic beverages are being sold or dispensed in compliance with the other provisions of this chapter and a school or college campus is built or erected within the minimum distances provided for in this section.

(b) No malt beverage and/or wine shall be offered for sale or sold in an unopened package within 100 yards of an alcoholic treatment center owned and operated by this state or any county or municipal government.

(c) All measurements to determine distances required by this chapter shall be measured as provided for in Section 6-4-110.

## Sec. 6-4-61. Hours of Sale.

The hours of sale of malt beverages and wine at retail and not for consumption on premises ~~is~~ are from 7:00 a.m. to 11:45 p.m. on Monday through Saturday and ~~Sunday~~ from 12:30 p.m. to 11:30 p.m. on Sunday.

## Sec. 6-4-62. Growler Sales.

Package malt beverage licensees or wine licensees, who are not also licensed to sell distilled spirits by the package, may fill growlers with malt beverages and/or wine at the licensed location subject to the following requirements:

1. At least ninety (90) percent of the licensee's total gross sales are from packaged sale of malt beverages and/or wine or the licensee's premises have a minimum of four hundred (400) square feet of floor space dedicated to the display of malt beverages and/or wine offered for sale.

2. A growler shall not exceed sixty-four (64) ounces. Growlers may only be filled from kegs or barrels procured by the licensee from a duly licensed wholesaler.

3. Only professionally sanitized and sealed growlers may be filled and made available for retail sale.

4. Each growler must be securely sealed and removed from the premises in its original sealed condition.

5. Samples of tap malt beverages ~~or wine~~ may be made available. No individual shall be allowed to sample more than a total of ~~twenty-four (24)~~ thirty-two (32) ounces per day. ~~which shall be comprised of at least four (4) different varieties of malt beverages or wine~~.

~~5.~~6. Samples of wine may be made available. No individual shall be allowed to sample more than a total of sixteen (16) ounces per day.

~~6.~~7. A licensee may charge a fee for samples of tap malt beverages or wine.

## Sec. 6-4-63. No Consumption on Premises.

(a) It shall be unlawful for any person to consume any alcoholic beverage on the premises licensed for the sale of malt beverages or wine by the package and it shall be unlawful for any licensee by the package to open for, or break the package for, a purchaser and/or permit the consumption of alcoholic beverages on said premises.

(b) This section shall not apply for the holder of a temporary limited license as provided for in this chapter during the hours for which the temporary limited license is valid.

## Sec. 6-4-64. – Sec. 6-4-69. Reserved.

# ARTICLE 6. DISTILLED SPIRITS – ORIGINAL PACKAGE

## Sec. 6-4-70. Distance Requirements.

(a) No distilled spirits shall be offered for sale or sold in an unopened package within one hundred (100) yards of any church building or within two hundred (200) yards of any school building, education building, school grounds or college campus.

(b) A new retail package liquor licensed place of business or the relocation of an existing retail package liquor licensed place of business engaged in the retail package sales of distilled spirits shall not be located within five hundred (500) yards of any other business licensed to sell package liquor at retail.

(c) The distance provided for herein shall not apply:

1. To any premises or location where alcoholic beverages are being sold or dispensed in compliance with the other provisions of this chapter and a school or church is built or erected within the minimum distances provided for in this section.

2. To any premises or location licensed as an importer, so long as the same is allowed by the state; provided, however, no signs or other forms of advertisement shall be placed on or near the licensed premises, which directly or indirectly advertise that alcoholic beverages are stored or warehoused on the premises.

(d) No distilled spirits shall be offered for sale or sold in an unopened package within 100 yards of an alcoholic treatment center owned and operated by this state or any county or municipal government.

(e) All measurements to determine distances required by this chapter shall be measured as provided for in Section 6-4-110.

## Sec. 6-4-71. Hours of Sale.

(a) The hours of sale of distilled spirits at retail and not for consumption on premises ~~is~~ are from 8:00 a.m. to 11:45 p.m. on Monday through Saturday and ~~Sunday~~ from 12:30 p.m. to 11:30 p.m. on Sunday.

(b) No retail dealer of distilled spirits shall be in, or permit others to be in, its place of business Monday through Saturday any time prior to 6:00 a.m. or thirty (30) minutes past the closing time. No retail dealer of distilled spirits shall be in, or permit others to be in, its place of business on Sundays prior to 10:30 a.m. or 30 minutes past the closing time.

## Sec. 6-4-72. No Consumption on Premises.

It shall be unlawful for any person to consume any alcoholic beverage on the premises licensed for the sale of distilled spirits by the package and it shall be unlawful for any licensee by the package to open for, or break the package for, a purchaser and/or permit the consumption of alcoholic beverages on said premises.

## Sec. 6-4-73. Sufficient Lighting Required.

The building in which each retail dealer of distilled spirits in the unbroken package is located shall contain sufficient lighting so that the building itself, the premises and all entrances are readily visible at all times from the street on which the building is located so as to reveal the inside retail area of the building and so as to reveal all of the outside premises of such building.

## Sec. 6-4-74. – Sec. 6-4-79. Reserved.

# ARTICLE 7. CONSUMPTION ON PREMISES OF ALCOHOLIC BEVERAGES

## Sec. 6-4-80. Distance Requirements.

(a) No malt beverages, wine and/or distilled spirits for consumption on the premises may be offered for sale, sold or dispensed within one hundred (100) yards of any property containing three hundred (300) housing units or fewer, which property is owned or operated by a housing authority created by ~~Article 1 of Chapter 3 of Title 8 of~~OCGA § 8-3-1 et seq., also known as the Housing Authorities Law. This subsection shall not apply at any location for which a license has been issued prior to July 1, 2000, or to the renewal of such license.

(b) All measurements to determine distances required by this Chapter shall be measured as provided for in Section 6-4-110.

## Sec. 6-4-81. Hours of Sale.

(a) The hours of sale for consumption by the drink on the premises where sold ~~is~~ are from 8:00 a.m. to 1:30 a.m. on Monday through Friday, from 8:00 a.m. on Saturday through 1:30 a.m. on Sunday, and from and 12:30 p.m. on Sunday to 1:30 a.m. on Monday.

(b) All alcoholic beverages shall be removed, from the area of the premises utilized by customers or patrons within forty-five (45) minutes after the closing time for the sale of alcoholic beverages.

## Sec. 6-4-82. Food Volume Ratio for Restaurants.

(a) Restaurants shall maintain at least fifty (50) percent of their business volume from the sale of food, private clubs exempted. Food sales shall include all consumable items sold on the premises except alcoholic beverages. The fifty-percent ratio shall be determined on a calendar quarter basis ~~on~~ by review of the monthly report submitted by each licensee.

(b) Monthly reports for the preceding month's alcohol and food sales shall be submitted on forms provided by the city on or before the 20th day of the month.

(c) In the event food sales fall below fifty (50) percent of the business volume of the licensee for any two (2) consecutive quarters, then the ~~city marshal~~city manager or designee ~~shall~~ may request a hearing for the suspension or revocation of such license in accordance with section 6-4-11. Nothing herein provided shall prevent the ~~city marshal~~city manager or designee from suspending or revoking such license for any other violations of this chapter.

(d) Authorized officials of the city may examine the records of businesses licensed hereunder at any reasonable time to ascertain that the requirements of this and other provisions of this chapter are met.

## Sec. 6-4-83. Sales Volume Ratio for Select Businesses.

Any business required to pay a business occupation tax that does not meet the criteria in Section 6-4-82, Section 6-4-84, or Section 6-4-85 may obtain a consumption on premises license for malt beverages and wine subject to the following conditions:

1. The sale of alcoholic beverages shall be clearly incidental to the primary business conducted on the premises.
2. Consumption on the premises licensees shall maintain at least sixty (60) percent of their business volume from the sale of merchandise or services, not including alcoholic beverages. The sixty-percent ratio shall be determined on a calendar quarter basis on the monthly report submitted by each licensee.
3. Monthly reports for the preceding month's alcohol and retail or services sales shall be submitted on forms provided by the city on or before the 20th day of the month.
4. No alcoholic beverages shall be served on Sunday.
5. To qualify for a license, a retail or business establishment must be open to the public for business a minimum of 32 hours per week.

## Sec. 6-4-84. Volume Ratio Exemptions.

Business establishments that have a valid consumption on premises license for malt beverages, wine or distilled spirits and meet the following requirements are exempt from the food sales ratios as provided in Section 6-4-82 and retail sales ratios as provided in Section 6-4-83 above:

1. There shall be no fee, donation or cover charge collected or required to obtain entrance into the business or a requirement to purchase any food or beverages.
2. The business shall have a maximum occupancy load of seventy-five (75) individuals with seating arranged and set for at least fifty (50) percent of the maximum occupancy load. Folding chairs, lawn furniture or other furniture that, in the opinion of the ~~city marshal~~city manager or designee, is not "set" is not in compliance with this subsection and shall not be allowed.
3. No alcoholic beverages shall be served on Sunday.
4. Sales of alcoholic beverages are subject to the provisions of Section 6-4-81, except that the business may not open prior to 4:00 p.m. on Monday through Friday or prior to 11:00 a.m. on Saturday.
5. Entertainment shall be allowed provided that no sound shall be audible beyond the licensed premises.

## Sec. 6-4-85. Non-Profit Organizations with Facilities.

(a) Non-profit organizations meeting the criteria of subsection (b) below may obtain a consumption on premises license subject to the following conditions:

1. The sale of alcoholic beverages shall be clearly incidental to the primary function of the non-profit organization on the premises.

2. No alcoholic beverages shall be served on Sunday except as provided by O.C.G.A. § 3-3-7.

(b) To qualify for a consumption on premises license, the nonprofit organization must be exempt from federal income taxes pursuant to section 501(c), (d) or (e) of the Internal Revenue Code and must have a building, facility or grounds that is primarily used for public education, research, conservation and enjoyment, or that serves as a repository for a collection of literary, natural, or scientific objects of interest, or works of art where such facility or building is arranged, intended, designed and open to be viewed by members of the public with or without an admission fee. This shall include, but not be limited to, nonprofit botanical gardens or nature science centers.

## Sec. 6-4-86. Brown Bagging.

(a) It shall be unlawful for a licensee or any other business that has been issued a business occupation tax certificate to allow customers to bring with them their own alcoholic beverages, a practice commonly referred to as "BYOB" or "brown bagging."

(b) It shall be unlawful for any alcoholic beverages to be served, stored, kept or consumed by any person on the premises of any business establishment for which a city business/occupation tax certificate has been issued, excluding those businesses with a valid alcoholic beverage license or as otherwise exempted by this chapter.

(c) The prohibitions in paragraph (a) shall not apply to a private function or an art shop as defined in this chapter.

(d) Art shops, as defined by this chapter are subject to the specific provisions governing the operation of an art shop:

1. An art shop may allow customers to bring in a bottle or bottles of wine and/or malt beverages to be consumed on the premises.

2. The customer must remove any unconsumed wine and or malt beverages from the premises before leaving the premises.

3. The brown bagging of wine and or malt beverages in an art shop shall be subject to this chapter and to state law; including but not limited to the prohibition of consumption by one who is under 21 years of age or intoxicated.

4. An art shop may serve food provided it meets all federal, state and local requirements.

## Sec. 6-4-87. No Outside Consumption.

(a) A consumption on premises licensee shall not permit a purchaser to remove from the premises any alcoholic beverage from the premises, and it is the licensee's responsibility to ensure that no beverages are sold and carried out.

(b) It shall be unlawful for any licensee hereunder to make deliveries of any alcoholic beverage beyond the boundaries of the premises covered by the license.

(c) It is prohibited for customers to gather outside ~~an alcoholic beverage~~a premises licensed to sell alcoholic beverages and consume alcoholic beverages.

(d) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage premise and consume alcoholic beverages.

(e) This section shall not apply in the following instances:

1. For events that are sponsored or organized by the City of Gainesville ~~but only for malt beverage and wine and~~ where the alcohol is obtained from a participating business within ~~the~~any City designated area, and is contained in and consumed from an approved, clear plastic container ~~and where the person consuming or possessing such alcohol is wearing an approved wristband~~.

2. Where the City Council through a resolution has permitted otherwise.

3. For restaurants that have a valid sidewalk café permit provided that all outdoor activities are contained within the permitted sidewalk café.

4. For an open air café as defined by this chapter.

5. Beverages for consumption at a publicly owned or privately owned golf course.

6. For the carrying out of a partially consumed bottle of wine as defined in Section 6-4-88.

7. When a temporary limited license has been issued, provided that the person consuming or possessing an alcoholic beverage remains on the public sidewalk directly in front of the ~~alcoholic beverage establishment~~premises licensed to sell alcoholic beverages or within the open areas, sidewalks, decks, or similar unenclosed spaces on or about the premises ~~of the alcoholic beverage establishment~~licensed to sell alcoholic beverages.

8. For a Downtown Dining District as defined by this chapter.

(f) Downtown Dining District - Outside consumption of alcoholic beverages permitted.

1. For the purposes of this Chapter only, a Downtown Dining District is defined as follows: A specifically authorized and pedestrian oriented area of the City as established by resolution of Mayor and Council that allows those establishments with valid consumption on the premises licenses or establishments conducting growler sales within such area to dispense and/or serve an alcoholic beverage for carry out purposes, provided all other laws, rules and ordinances are followed.

2. Within a Downtown Dining District, any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a clear plastic cup; provided, however, that no person shall remove more than one such alcoholic beverage from the licensed premises at a time.

3. Within a Downtown Dining District, no container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed sixteen (16) fluid ounces in size. No person shall hold in its possession on the streets and sidewalks, in parks and squares, or in other public places

within a Downton Dining District any open alcoholic beverage container which exceeds sixteen (16) fluid ounces in size.

4. It shall be unlawful within a Downtown Dining District for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass, or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and/or parking lots, whether public or private.

5. No alcoholic beverage purchased pursuant to this provision may be consumed outside of the Downtown Dining District, or upon any private property, without the express consent of the private property owners.

~~7.~~6. Unless authorized by Mayor and Council in the Resolution creating the Downtown Dining District, no alcoholic beverage purchased within the Downtown Dining District pursuant to this provision shall be consumed within the Downtown Dining District on the streets, sidewalks, rights-of-way, and/or parking lots, whether public or private, prior to 12:00 p.m. or later than 12:00 a.m.

## Sec. 6-4-88. Partially Consumed Bottles of Wine Purchased with a Meal.

(a) Any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one (1) unsealed bottle of wine per patron for consumption off premises, if the patron has purchased a meal and a consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises.

(b) A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises.

(c) The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.

(d) If transporting in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a lock trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

## Sec. 6-4-89. Open Area and Patio Sales.

(a) Alcoholic beverage sales ~~can~~ may be made by a licensed consumption on premises establishment in a patio/open area type environment if the establishment has been approved as provided in this section.

(b) The requirements for approval are:

1. The patio/open area must be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The only exception to this would be a fire exit as required by building and fire codes. Such fire exit would not be for general public use unless an emergency exists and would be of the type which sounds an alarm so that the establishment would be alerted of unauthorized use if no emergency exists. The height of such structure shall be a minimum of three and one-half (3.5) feet above the patio floor. The structure is not required to be solid nor does it have to restrict visibility into or out of

the patio/open area. The patio/open area shall meet all setback requirements as set forth in the Unified Land Development Code.

2. The patio/open area shall not be required to be covered by a roof.

3. The patio/open area shall be used merely as an extension of the interior seating area. Service in the patio/open area shall be only by waiter or waitress or by customer self-service at an interior selling location; i.e. no outside bar or service window.

(c) It is prohibited for an establishment to be in violation of the City's noise ordinance as defined in Chapter 3-8 of the Code of Ordinances and to allow any noise to be created in a patio/open area which may be heard from a distance of one hundred (100) feet from the patio/open area. Any measurement made pursuant to this section shall describe the shortest straight line distance from the patio to the point in question.

(d) Patio/open area plans must be reviewed and approved on an individual basis by the ~~city marshal~~city manager or designee. Patio/open areas must be permitted and approved by the city's building inspection and fire departments as required by their governing regulations or codes.

(e) Nothing contained herein shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in the patio areas of such hotel or motel. "Patio areas," as that term is used herein, do not have to conform to the standards in this section.

## Sec. 6-4-90. Happy Hour Promotions.

(a) As used in this ~~sub~~section, the term "*d~~D~~rink*" means a single portion beverage which contains any alcoholic beverage.

(b) This section shall be construed to cover, include and apply to all alcoholic beverages including malt beverages, wine and distilled spirits for consumption on premises by properly licensed establishments in the city. All consumption on premises licensees are prohibited from selling or giving away alcoholic beverages under the following circumstances:

1. Offering all you can drink for a set price during a set time.

2. Serving multiple drinks for a single price unless the drinks are part of a variety sampler of which no more than a total of sixteen (16) ounces can be served as part of the sampler and which sampler shall be comprised of at least four (4) different varieties of malt beverages or wine or three (3) different mixes containing distilled spirits.

3. Making a single price the basis for a required purchase of two (2) or more servings.

4. Serving alcoholic beverages by the pitcher, except to two (2) or more persons at any one (1) time.

5. Offering reduced-price drinks to any segment of the population for any period of time as an inducement to patronize the premises; except between the hours of 5:00 p.m. and 7:00 p.m.~~,~~ on Monday through Saturday, drinks may be sold at a reduced price which is no less than half the price usually charged.

6. Selling alcoholic beverages for less than half the normal retail price, or selling alcoholic beverages in pitchers or in jumbo sizes for less than half the normal retail price. Nothing contained in this subsection shall be construed to prohibit the dispensing of drinks in pitchers or in jumbo sizes, provided that such pitchers or jumbo sizes shall be available at all times that the licensee is open for business.

7. Using coupons or other special promotional items as an inducement to purchase alcoholic beverages.

8. Sponsoring, conducting or allowing contests or other promotions which have as their primary purpose increasing the consumption of alcoholic beverages.

9. Offering or delivering any free alcoholic beverages to the general public except as otherwise allowed by law.

(c) The prohibitions and restrictions in the foregoing subsection which apply to licensees or agents or employees of licensees shall not:

1. Apply at private functions;

2. Prohibit the offering of free food or entertainment at any time;

3. Prohibit including drinks as part of the price of a hotel, travel, entertainment, or meal package;

4. Prohibit the sale, offer to sell, or delivery of wine or malt beverage by the bottle, pitcher or carafe;

5. Prohibit any motel or hotel from offering room service to registered guests.

### Sec. 6-4-91. Brewpubs.

(a) No individual shall be permitted to own or operate a brewpub without first obtaining a proper brewpub license ~~and consumption on premises license~~ from the city. Each brewpub licensee shall comply with all other applicable state and local license requirements.

(b) A brewpub license authorizes the holder of such license to:

1. Manufacture on the licensed premises not more than ten thousand (10,000) barrels of malt beverage in a calendar year solely for retail sale.

2. Operate a restaurant that shall be the sole retail outlet for such malt beverage and may offer for sale for consumption on premises any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter, provided that such alcoholic beverages are purchased from a licensed wholesale dealer and, provided further, in addition to malt beverages manufactured on the premises, each brew pub licensee shall offer for sale commercially available canned or bottled malt beverages purchased from a licensed wholesale dealer.

3. Sell up to a maximum of five thousand (5,000) barrels annually of such malt beverage to licensed wholesale dealers. Under no circumstances shall such malt beverages be sold by a brewpub licensee to any person holding a retail consumption dealer's license or a retailer's license for the purpose of resale.

~~3.~~4. Sell malt beverages manufactured on the premises by the package for consumption off the premises.

(c) Possession of a brewpub license shall not prevent the holder of such license from obtaining any other license available under this chapter for the same premises.

~~(d) A brewpub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises.~~

~~(e)~~(d) A brewpub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers and, where applicable, wholesale dealers.

~~(f)~~(e) Except as set forth in this section, a brewpub licensee shall be subject to all sections of this chapter.

### Sec. 6-4-92. Private Clubs.

(a) Private clubs, meeting the definition of this chapter, are eligible to apply for a license for consumption on premises of alcoholic beverages.

(b) No license shall be issued or renewed for the sale of alcoholic beverages prior to the furnishing of evidence, satisfactory to the city, that such private club has been approved as a tax exempt entity by the IRS.

### Sec. 6-4-93. Gainesville Civic Center.

(a) The sale of alcoholic beverages and consumption of mixed drinks on the premises of the Gainesville Civic Center shall be allowed.

(b) The Director of the Gainesville Parks and Recreation Department, or his designee, may hold an alcoholic beverage license for the Gainesville Civic Center. There shall be no alcoholic beverage license fee paid by the Director of the Gainesville Parks and Recreation Department or his designee.

(c) The consumption on the premises license provided for herein is exempted from the food sale requirements provided for in section 6-4-82 of this chapter.

(d) The city may solicit for proposals to be the designee for the Gainesville Parks and Recreation Department for alcoholic beverage services for consumption on the premises at the Gainesville Civic Center.

(e) ~~The~~ Any designee shall obtain a business occupation tax and an alcoholic beverage license for consumption on the premises under this chapter.

(f) The hours of sale of alcoholic beverages on the premises of the Gainesville Civic Center shall be the same as provided in Section 6-4-81 ~~of this chapter for the sale of alcoholic beverages upon the licensed premises~~.

### Sec. 6-4-94. – 6-4-99. Reserved.

## ARTICLE 8. EVENTS

### Sec. 6-4-100. Non-Profit Special Temporary Event Permit.

(a) Bona fide non-profit charitable and civic organizations, colleges and universities desiring to sell alcoholic beverages may apply to the ~~city marshal~~city manager or designee for a special temporary event permit authorizing the organization to sell or distribute alcoholic beverages for a period not to exceed three (3) days as provided in rules 560-2-11-.02 and 560-2-11-.03 of the rules and regulations of the state department of revenue as amended from time to time.

(b) The non-refundable permit fees as required in Title 10 of the Code of Ordinances of the City of Gainesville are due and payable upon the filing of the application for a special temporary event permit.

(c) Bona fide non-profit charitable and civic organizations, colleges and universities, if approved for a temporary event, may sell distilled spirits and malt beverages for consumption on premises only~~;~~. ~~w~~Wine may be sold for consumption on the premises and by the unopened package subject to O.C.G.A. §§ 3-9-3, 3-9-4 and 3-9-5 and subject to distance requirements for package sales as outlined in this chapter. If the temporary event is a wine tasting, then the event shall also be subject to the provisions of section 6-4-104.

(d) Holders of a special temporary event permit shall be considered the same as any other licensee and subject to all laws, rules and regulations and other applicable sections of this chapter relating thereto.

(e) No more than six (6) permits may be issued to an organization in any one (1) calendar year pursuant to this section.

(f) Permits issued pursuant to this section shall be valid only for the place specified in the permit.

(g) Applicants under this section do not have to obtain alcohol bonds.

(h) If a designee has been appointed by the Gainesville Parks and Recreation Board for alcoholic beverage services for consumption on the premises at the Gainesville Civic Center, then only the designee shall submit an application for a special temporary event permit to be held at the Gainesville Civic Center.

## Sec. 6-4-101. For-Profit Special Temporary Event Permit.

(a) A for-profit organization desiring to sell alcoholic beverages may apply to the ~~city marshal~~city manager or designee for a special temporary event permit which, if issued, licenses the event for alcohol sales by the drink.

(b) A for-profit organization desiring to obtain a special temporary event permit, must possess a valid consumption on premises license for malt beverage, wine or liquor or a valid malt beverage, wine, or distilled spirits package license issued by the city.

(c) The non-refundable permit fees as required in Title 10 of the Code of Ordinances of the City of Gainesville are due and payable upon the filing of the application for a special temporary event permit.

(d) Provided a special temporary permit has been issued to a for-profit organization, said organization shall be subject to all laws, rules and regulations and other applicable sections of this chapter relating thereto.

(e) Permits issued pursuant to this section shall be valid only for the place specified in the application.

(f) If a designee has been appointed by the Gainesville Parks and Recreation Board for alcoholic beverage services for consumption on the premises at the Gainesville Civic Center, then only the designee shall submit an application for a special temporary event permit to be held at the Gainesville Civic Center.

(g) No special temporary event permit shall be issued within any property zoned central business during any event that is sponsored or organized by the City of Gainesville.

(h) The licensee for a permitted special temporary event shall designate and clearly mark, by the use of ropes, barricades, stanchions or similar devices, a specific area ~~that~~ within which alcoholic beverages may be consumed.

(i) Applicants desiring to sell distilled spirits must obtain an alcohol bond as required by the City.

## Sec. 6-4-102. Temporary Limited License.

(a) A retail dealer that is licensed to sell only malt beverages and/or wine by the package may apply for a temporary limited license to allow for the sale of malt beverages or wine by the drink for consumption on the premises.

1. Applications for the temporary limited license shall be made by the licensee in person with the city ~~marshal~~ manager or ~~his~~ designee on forms provided by the City.

2. Payment of the non-refundable license fee as provided for in Title 10 shall be paid at the time the application is submitted.

(b) If issued, the temporary limited license shall be valid for a period not to exceed ~~six (6)~~ eight (8) hours.

(c) Any licensed retail dealer shall not be granted more than two (2) temporary limited licenses per calendar month.

(d) Any retailer dealer receiving a temporary limited license under this section shall comply with all other provisions of this chapter not in conflict with this section.

## Sec. 6-4-103. Catered Events.

(a) Annual licenses to cater alcoholic beverages by the drink on premises at authorized catered events may be obtained only by those persons, firms or corporations currently licensed by the city for the sale of alcoholic beverages by the drink or for sales of alcohol in the unbroken package.

(b) Any licensee desiring to obtain a license to be an alcoholic beverage caterer in the City shall submit, in person, a written and signed application on forms provided by City. Only a licensed alcoholic beverage caterer may distribute or sell alcoholic beverages by the drink at an authorized catered event, after the application and issuance of a catered event permit.

(c) Before a licensed alcoholic beverage caterer may sell or dispense alcoholic beverages at any authorized catered function, such caterer shall apply for a catered event permit from the ~~city marshal~~city manager or designee ~~or his designee~~ at least ten (10) working days prior to the event.

1. The application for a catered event permit shall include the name of the alcoholic beverage caterer, the caterer's license number, and the date, address and time of the event.

2. If the catered event permit is granted, it shall be good only for the specific event at the specified address and times set forth in the application, not in excess of eight~~six~~ (8~~6~~) hours, unless otherwise approved by city council by resolution.

3. The permit shall be kept in the vehicle used to transport alcoholic beverages to the event at all times during which the permit is in effect.

(d) Caterers licensed by the city shall maintain a record of all alcoholic beverages transported for each event, and shall make report and remittance of such taxes with their regular monthly reports to the city.

(e) No alcoholic beverages shall be transported, distributed, or sold to other than licensed locations in the city, except to ~~authorize~~ permitted catered events, unless otherwise authorized by this chapter or by state law.

(f) No licensed alcoholic beverage caterer shall employ any person under twenty-one (21) years of age to dispense, serve, sell or handle alcoholic beverages at authorized catered functions.

(g) No catered event permit will be issued for an event at the Gainesville Civic Center or any location with respect to which any alcohol license has been denied or revoked within the past twelve (12) months; nor for any location with respect to which ~~the~~ conduct prohibited ~~set forth~~ in this chapter has previously occurred.

(h) The hours and days of sale or distribution of alcoholic beverages at an authorized catered event shall be conducted in compliance with this chapter. Except as set forth above in this section, an off-premises permit holder must comply with all other provisions set forth in this chapter.

## Sec. 6-4-104. Wine Tasting.

(a) A request to conduct a wine tasting may be approved by the ~~city marshal~~city manager or designee when such request is made in writing on an application furnished by the ~~city marshal~~city manager or designee, and a non-refundable fee as provided for in Title 10 is submitted. If issued, the wine tasting shall be conducted under the following conditions:

1. A wine tasting must comply with all local and state laws and regulations pertaining to the sale and distribution of alcoholic beverages in the state and the city.

2. No wine tasting may be conducted on the premises of any place of business licensed to sell distilled spirits in the unbroken package or container at retail.

(b) A bona fide non-profit charitable and civic organization that seeks to conduct a wine tasting shall comply with all requirements set forth in O.C.G.A. §§ 3-9-3, 3-9-4, and 3-9-5 and must make application twenty-five (25) days prior to the proposed event on forms supplied by the city.

(c) A for-profit organization that seeks to conduct a wine tasting and is not licensed shall comply with all requirements set forth in O.C.G.A. § 3-6-20 and must make application twenty-five (25) days prior to the proposed event on forms supplied by the city, and shall obtain the wine secured for the wine tasting through a wholesale dealer possessing a valid license to distribute wine issued by the city.

~~(c)~~(d) Licensees that are licensed to sell wine in the unbroken package are exempt from the requirement to make application for a wine tasting if sixty (60) percent or greater of the total malt beverage and/or wine sales is derived from the sale of wine. Samples of wine may be made available for consumption on the premise provided no individual shall be allowed to sample more than a total of sixteen (16) ounces per day. A licensee may charge a fee for samples of wine.

## Sec. 6-4-105. Home Brew Special Events.

(a) Home brewed malt beverages for purposes of this section shall be limited to malt beverages produced by an individual(s) pursuant to the provisions of O.C.G.A. § 3-5-4 and any applicable rules and regulations of the Georgia Department of Revenue.

(b) A home brew special event may be conducted on the premises of any place of business licensed under this chapter for the sale, storage, or distribution of alcoholic beverages by the package or for consumption on the premises, or may be conducted at locations not otherwise licensed under this chapter.

(c) All applications for a home brew special event shall be submitted in writing to the city ~~marshal,~~manager or ~~his~~ designee, on forms provided by the city, along with a payment of a non-refundable fee as outlined in Title 10.

(d) At a minimum, applicants shall provide the following information in their application:

1. Name, address, and contact number of the applicant;
2. Location of the event;
3. Date and times at which the event will be held;
4. Estimated number of participants in the event.

(e) Home brew special events shall be subject to the following regulations:

1. Events shall only be held during legal hours for drinking on premises as defined in this chapter.
2. Consumption of alcoholic beverages at the event shall be limited solely to home brewed malt beverages produced pursuant to O.C.G.A. § 3-5-4. Consumption of other alcoholic beverages shall be prohibited.
3. Consumption of home brewed malt beverages shall be limited solely to participants in and judges of the special event. For the purpose of this section participants shall be either individuals submitting home brewed malt beverages to the event or individuals admitted to the event by the sponsor without having to submit a home brew.
4. At the event, home brewed malt beverages shall not be sold, offered for sale, or made available for consumption by the general public.
5. A home brew special event permittee shall not allow any person to take an open container of alcoholic beverage from the designated event area.

(f) A home brew special event permittee shall be subject to all laws, rules and regulations of the city and state, including the rules and regulations of the Georgia Department of Revenue and shall be subject to permit revocation for violation thereof.

## Sec. 6-4-106. – 6-4-109. Reserved.

# ARTICLE 9. RULES AND REGULATIONS

## Sec. 6-4-110. Measurement of Distances.

(a) All measurements to determine distances required by this chapter shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

1. In a straight line from the front door of the structure from which alcoholic beverages are sold or offered for sale;

2. To the front door of the building of a church, government-owned treatment center or a retail package store; or

3. To the nearest property line of the real property being used for school or educational purposes or property that is owned or operated by a housing authority.

## Sec. 6-4-111. Grandfather Provision for Distance Requirements.

If the sale of alcoholic beverages was lawful at a location at any time during the 12 months immediately preceding an application for renewal or a new application for an alcoholic beverage license, the premises shall be grandfathered in regarding any distance requirements as outlined in this chapter.

## Sec. 6-4-112. Sales on Election Day.

No malt beverages, wine or distilled spirits will be sold within two hundred fifty (250) feet of any polling place or of the outer edge of any building within which such polling place is established on primary or election days. As used in this section, the term "day" means that period of time beginning with the opening of the polls and ending with the closing of the polls.

## Sec. 6-4-113. Responsibility of Licensees and Employees.

(a) No holder of a license authorizing the sale of alcoholic beverages in the city nor any agent or employee of the licensee, shall do any of the following upon the licensed premises:

1. Knowingly furnish or cause to be furnished or permit any other person in his employ to furnish any minor alcoholic beverages.

2. Knowingly sell alcoholic beverages to any person while such person is in an intoxicated condition.

3. Sell alcoholic beverages upon the licensed premises on any day or at any time when such sale or consumption is prohibited by law.

4. Permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practice on the licensed premises. Such misconduct shall be immediately reported to the city police department.

5. Sell, offer for sale, possess, or permit the consumption on the licensed premises of any kind of alcoholic beverages, the sale, possession or consumption of which is not authorized under his license.

6. Add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

(b) Sell or offer for sale alcoholic beverages by use of vending machines.

(c) Receive or cause to be delivered at the licensed premises any alcoholic beverages by any means other than by a conveyance owned and operated by a wholesale dealer with a license from the city to make such deliveries. Transportation of alcoholic beverages by any other means shall be grounds for revocation of all licenses concerned.

(d) The sale of alcoholic beverages for consumption by persons in any back room or side room which is not open to the general public use is prohibited, except that private parties and conventions, or a properly permitted wine tasting, which have been scheduled in advance, may be served in public or private dining rooms or meeting rooms, and provided further that this prohibition shall not apply at private clubs hereunder, nor to the sale for consumption hereunder to the registered guests of any hotel or motel in their designated rooms.

(e) All alcoholic beverages shall be stored only on the premises for which the license is issued.

## Sec. 6-4-114. Financial Interest Prohibited.

It shall be unlawful for any person to hold an alcoholic beverage license (package or consumption) who also has any direct financial interest in any wholesale alcoholic beverage business. It shall be unlawful for the holder of any alcoholic beverage license (package or consumption) to or accept or receive financial aid or assistance from the holder of any alcoholic beverage manufacturer's or wholesale dealer's license.

## Sec. 6-4-115. Employment of Minors.

(a) No person shall allow or require a person in his employment under eighteen (18) years of age to dispense, serve, sell or take orders for any alcoholic beverages for consumption on premises.

(b) No person shall allow or require a person in his employment under eighteen (18) years of age to sell or take orders for any distilled spirits in the unopened package.

(c) No person shall allow or require a person in his employment under sixteen (16) years of age to sell or take orders for any malt beverages or wine in the unopened package.

## Sec. 6-4-116. Regulations Involving Minors.

(a) The following regulations involving minors shall apply:

1. No person knowingly, by himself or through another, shall furnish, cause to be furnished, or permit any person in his employ to furnish any alcoholic beverage to any person under twenty-one (21) years of age.

2. No person under twenty-one (21) years of age shall purchase or knowingly possess any alcoholic beverage.

3. No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under twenty-one (21) years of age.

4. No person under twenty-one (21) years of age shall misrepresent his age, identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.

(b) In any case where a reasonable or prudent person could reasonably be in doubt as to whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished is actually twenty-one (21) years of age or older, it shall be the duty of the person selling or otherwise furnishing such alcoholic beverage to request to see and to be furnished with proper identification in order to verify the age of such person; and the failure to make such request and verification in any case where the person to whom the alcoholic beverage is sold or otherwise furnished is less than twenty-one (21) years of age may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so knowingly.

(c) For purposes of this chapter, "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's license or an identification card authorized under O.C.G.A. § 40-5-100 et seq. "Proper identification" shall not include a birth certificate.

(d) The prohibition contained in subsection (a) above shall not apply with respect to the sale, purchase or possession of alcoholic beverages for consumption:

1. For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state.

2. At a religious ceremony.

3. In the home of the minor with the consent of said minor's parent or legal guardian.

## Sec. 6-4-117. Violations.

Any person violating any of the provisions of this chapter shall be punished as provided in section 1-1-7 of this Code. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person, and shall be punished accordingly.

# CITY OF GAINESVILLE

## WORKSESSIONREQUEST

**Date Submitted**: 7/18/2017

**Presenter**: Bryan Lackey

**Item of Business**: Ordinance: Amend Chapter 6-2 entitled Occupation Tax

**Meeting Date**: 7/27/2017

**Purpose of Request**:
Approval of an amendment to the City's Occupational Tax (Business License) Ordinance and Regulations regarding the City staff that are identified as having a role or responsibility in the processing and enforcement.

**History/Background**:
Over the past few months, the City has been evaluating changes to its Ordinances related to Alcohol and Occupational Tax. These proposed changes to this Ordinance and three other related Ordinances are being present to ensure the City conforms with the new State Laws and at the same time realigns its resources to best meet the needs of the Business Community within the City of Gainesville.

**Facts & Issues for Consideration**:

**Department Recommendation**:
Approval of proposed ordinance.

**Department Director**:
Bryan Lackey

**If funding is involved, are funds approved within the current budget?**
N/A

**Amount Requested**: **Source of Funds**:

**Finance Comments**:

**Administrative Comments:**

ATTACHMENTS:

| Description | Type |
|---|---|
| Occupation Tax Ordinance | Ordinance |
| Occupation Tax Ordinance Mark Up | Backup Material |

**First Reading:** ____________
**Passed:** ____________

# AN ORDINANCE

**No. 2017-**

**AN ORDINANCE TO AMEND CHAPTER 6-2 ENTITLED "OCCUPATION TAX" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW;TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I**

Chapter 6-2 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:

Sec. 6-2-1. - Occupation tax required; occupation tax required for business dealings within the city.

For the year 1996 and succeeding years thereafter, each person engaged in any business, trade, profession or occupation in the City of Gainesville, Georgia, whether with a location in the City of Gainesville, or in the case of an out-of-state business with no location in Georgia exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for said business, trade, profession or occupation; which tax and any applicable certificate, except for practitioners of professions and occupations, shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in the City of Gainesville, Georgia. If the taxpayer has no permanent business location in the City of Gainesville, Georgia, such business tax certificate shall be shown to a city code enforcement officer, the Business Services Manager, Chief Financial Officer or to any police officer of the City of Gainesville, Georgia upon their request.

Sec. 6-2-2. - Construction of terms; definitions.

(a) Wherever the term "City of Gainesville" is used herein, such term shall be construed to mean "Gainesville, Georgia"; wherever the term "city" is used herein, it shall be construed to mean "Gainesville, Georgia."
(b) As used in this chapter, the term:

*Business* means any person, corporation, partnership, or other legal entity which exerts substantial efforts within the city, engages in, causes to be engaged in, and/or represents or holds out to the public to be engaged in any occupation or activity with the object of gain or benefit, either directly or indirectly.

*Business location or office* shall include any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. A temporary work site which serves multiple customers is included in this definition. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of the real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or the lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.

*Dominant line* means the type of business within a multiple line business that the greatest amount of income is derived from.

*Employee.*

(1) Except as otherwise provided in subsection (2) of this definition, "employee" means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2 but not a form I.R.S. 1099.

(2) An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual is an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

*Engaged in business* means doing or performing of any act of selling any goods or services, or soliciting business, or offering any goods or services for sale primarily in an attempt to make a profit, including selling or performing services of the character of a wholesaler or retailer, or being involved in any of the functions performed as a manufacturer, or renting real or personal property; all of the foregoing performed either as an owner, operator or agent of any business, trade, profession, or occupation within the city.

*Manufacturing* means a person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use any articles, substances or commodities, including, but not limited to, the following: materials upon which commercial activities have been applied, by hand or machinery, so that as a result thereof a new substance of trade or commerce is produced; the production or fabrication of special or custom-made articles; the making, fabrication, processing, refining, mixing, slaughtering, packing, aging, curing, preserving, canning, preparing and freezing of fresh foods, fruits, vegetables and meats.

*Nonprofit organization* means an organization which compiles with U.S. Internal Revenue Code 501-a.

*Occupation tax* means a tax levied for revenue raising purposes on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business.

*Person* wherever used in this chapter shall be held to include sole proprietors, corporations, partnerships or any other form of business organization.

*Practitioner of profession or occupation* is one who by state law requires state licensure regulating such profession or occupation. "Practitioners of professions and occupations" shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

*Regulatory fees* means payments, whether designated as license fees, permit fees, or by another name, which are required by a local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession, or business. The amount of the regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the city. A regulatory fee may not include an administrative fee or registration fee. The city is not authorized to require any administrative fee, registration fee, or fee by any other name in connection with a regulatory fee, except an occupation tax, as defined in the Code section. Regulatory fees do not include development impact fees and defined by paragraph (8) of O.C.G.A. § 36-71-2 or other costs or conditions of zoning or land development.

*Retailer* means a person who sells to consumers or any other person for any purpose, other than for resale, any tangible personal property.

*Services* means the accommodating or performing a duty or work by a person utilizing time or talents for direct or indirect remuneration.

*Wholesaler* means a person who sells to jobbers or to persons, other than consumers, any tangible personal property.

Sec. 6-2-3. - Regulatory fee structure.

A regulatory fee will only be imposed as provided under O.C.G.A. § 48-13-9 on those applicable businesses. A regulatory fee may not include an administrative fee.

Sec. 6-2-4. - Occupation tax levied; restrictions.

(a) An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one (1) or more locations or offices within the corporate limits of the city of and upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. § 48-13-7 based upon the following criteria:

(1) Number of full-time equivalent employees of the business or practitioner determined as follows:

By adding the total number of hours worked during the preceding calendar year by all employees and dividing that total by two thousand eighty (2,080) (forty (40) hours per week times fifty-two (52) weeks), and rounding the result to the nearest whole. (Five-tenths (0.5) or greater would be rounded up; less than five-tenths (0.5) would be rounded down.)

Employees whose total number of hours worked are not available (such as salaried employees) shall be calculated at a rate of forty (40) hours per week.

In businesses where it can be shown that calculation by this method would be impractical, an alternate method may be used which would provide an accurate count of full-time equivalent employees.

An employee whose hours total more than two thousand eighty (2,080) during a year, may be counted as having worked two thousand eighty (2,080) hours.

Any alternate method is subject to the approval of the Business Services Manager or Chief Financial Officer.

(2) For the purpose of calculating full-time equivalent employees, all employees, including owners, who actually perform work at the business shall be included.

(b) (1) The city shall not require the payment of more than one (1) occupational tax for each location that a business or practitioner shall have.

(2) The city shall not require an occupation tax on those employees that were taxed by occupation tax in other localities or states, provided that those businesses were taxed in full compliance with O.C.G.A. § 48-13-7 and § 48-13-14. Upon request by any city official, including but not limited to personnel of the Financial Services department, and building inspection department, the operator of a business shall be required to provide proof that the business was taxed pursuant to O.C.G.A. § 48-13-7 and § 48-13-14.

(3) An occupation tax shall not be levied in any other manner except as described in this section.

(c) Occupation tax schedule. The occupation tax levied shall be based on the following tax table:

Tax Table

| Number of Employees | Tax Amount |
|---|---|
| 0—1 | $135.00 |
| 2—2 | 210.00 |
| 3—4 | 315.00 |
| 5—7 | 435.00 |
| 8—10 | 545.00 |
| 11—15 | 685.00 |
| 16—20 | 800.00 |
| 21—27 | 945.00 |
| 28—35 | 1,073.00 |
| 36—50 | 1,290.00 |
| 51—75 | 1,630.00 |
| 76—100 | 2,030.00 |
| 101—150 | 2,510.00 |
| 151—200 | 2,950.00 |
| 201—300 | 3,570.00 |
| 301—500 | 4,790.00 |
| 501—1,000 | 7,150.00 |
| 1,000+ | 9,950.00 |

Sec. 6-2-5. - Paying occupation tax of business with no location in Georgia.

For out-of-state businesses with no location in Georgia, occupation taxes apply to the employees of the business which are reasonably attributed to sales or services in the state. The assessment of an occupation tax is hereby imposed on those businesses and practitioners of professions with no location or office in the state if the business' largest dollar volume of business in Georgia is in the city and the business or practitioner:

(1) Has one (1) or more employees or agents who exert substantial efforts within the jurisdiction of the city for the purpose of soliciting business or serving customers or clients; or

(2) Owns personal or real property which generates income and which is located within the jurisdiction of the city.

Sec. 6-2-6. - Dominant line of business to be identified on business registration.

The business registration of each business operated in the city shall identify the dominant line of business that the business conducts. Except for practitioners of professions and occupations, no business shall conduct any line of business without first having that line of business registered with the Financial Services department and that line of business being noted by the Business Services Manager or Chief Financial Officer upon the occupation tax certificate form which is to be displayed by the business owner.

Sec. 6-2-7. - Number of businesses considered operating in city.

Where a person conducts business at more than one (1) store or place, each store or place shall be considered a separate business for the purpose of occupation tax.

Sec. 6-2-8. - Professionals as classified in O.C.G.A. § 48-13-9(c), paragraphs 1 through 18.

Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1) through (18) shall elect as their entire occupation tax:

(1) For the year 1996 and subsequent years, one (1) of the following:

a. The occupation tax based on number of employees.
b. A fee of four hundred dollars ($400.00) per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location. The per practitioner fee shall include all persons in the business who qualify as a practitioner under the state's regulatory guidelines and framework.

Sec. 6-2-9. - Practitioners exclusively practicing for the government.

Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, instrumentalities of the United States, the state or a municipality or county of the state, shall not be required to obtain a license or pay an occupation tax for that practice.

Sec. 6-2-10. - Purpose and scope of tax.

The tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade or calling. The occupation tax applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law ordinance. Payment of an occupation tax shall not be required as a precondition for the practice of professions and occupations as set out in O.C.G.A. § 48-13-9(c).

Sec. 6-2-11. - When tax due and payable; effect of transacting business when tax delinquent.

(a) Each such business or occupation tax shall be for the calendar year 1996 and succeeding calendar years thereafter unless otherwise specifically provided. Except for practitioners of law, said registration and occupation tax shall be payable January 15 of each year and shall be delinquent if not paid by April 15 of each year and shall be subject to penalties for delinquency as prescribed in this chapter. In the event that any person commences business on any date after January 15 in any year, the tax shall be due and payable thirty (30) days following commencement of the business.

(b) Except for practitioners of law, regulatory fees authorized by this chapter shall be paid before commencing business as a condition precedent for transacting business.

(c) Regulatory fees may be paid after commencing business when:

  (1) The work done or services provided are necessary for the health and safety of one (1) or more individuals; and

  (2) The work done or services provided have no adverse effect on any other person; and

  (3) Regulatory fees are tendered to the local government within two (2) business days after commencing business.

(d) The tax certificate herein provided for shall be issued by the Business Services Manager or Chief Financial Officer. Except for the practitioners of law, if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax become delinquent, transact, or offer to transact, in the city, any of the kind of profession, trade or calling in this chapter specified without having first obtained said registration and certificate, such person shall, in addition to remedies provided herein, be punished as provided in section 6-2-18 of this chapter.

(e) In addition to the above remedies, the Business Services Manager or Chief Financial Officer may proceed to collect delinquent business or occupation tax in the same manner as provided by law for tax executions.

(f) (1) Any occupation tax due by any practitioner of law pursuant to this chapter shall be due and payable within thirty (30) days of January 15 for the previous calendar year.

  (2) If a practitioner of law commences business in the city on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be fifty (50) percent of the tax imposed for the entire year and shall be due and payable within thirty (30) days of January 15 for the previous calendar year.

Sec. 6-2-12. - Allocation of employees of businesses with multiple intra or interstate locations.

For those businesses who have multiple locations inside and outside of the city where the number of employees can be allocated to each location, the number of employees used to determine the occupational tax assessed will be those employees attributed to each city location. In the case where the number of employees attributed locally cannot be determined in those businesses with multiple locations, the total number of employees will be divided by the total number of locations in the city and elsewhere and allotted to those locations. Upon request, the business or practitioner with a location or office situated in more than one (1) jurisdiction shall provide to the city the following:

(1) Information necessary to allocate the number of employees of the business or practitioner; and
(2) Information relating to the allocation of the business' or practitioner's number of employees by other local governments.

Sec. 6-2-13. - Exemption on grounds that business operated for charitable purpose.

No business on which a business registration or occupation tax is levied by this chapter shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless eighty (80) percent or more of the entire proceeds from said business are devoted to such purpose.

Sec. 6-2-14. - Evidence of state registration required if applicable; state registration to be displayed.

Each person who is licensed under Title 43 of the state license examining boards shall provide evidence of proper and current state licensure before the city registration may be issued.

Sec. 6-2-15. - Evidence of qualification required if applicable.

(a) Any business required to obtain health permits, bonds, certificate of qualification, certificates of competency or any other regulatory matter shall first, before the issuance of a city business registration, show evidence of such qualification.
(b) Any business required to submit an annual application for continuance of that business shall do so before the registration is issued.

Sec. 6-2-16. - Liability of officers and agents; registration required; failure to obtain.

(a) All persons subject to the occupation taxes provided in this chapter shall be required to take out the necessary registration and obtain the necessary tax certificate for said business prescribed in this chapter, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a certificate. Except for practitioners of professions and occupations, every person commencing business in the city after January 1 of each year shall likewise obtain the registration and obtain the tax certificate herein provided for before commencing the same; and any person transacting, or offer to transact in the city, any of the kinds of business, trade, profession or occupation without first having so obtained said registration, except for practitioners of professions and occupations, shall be subject to penalties provided herein and upon conviction, be punished as provided in section 6-1-18 of this chapter. In the case of practitioners of professions and occupations, if any person, firm, or corporation whose duty it is to obtain a registration and an occupation tax certificate shall fail to pay such tax in a timely fashion, such offender shall be subject to penalties provided in O.C.G.A. § 48-13-21.

(b) It shall be unlawful for the owner, proprietor, manager, executive officer or employee of any business, coming within the provisions of this chapter, to make a false registration for such business, or to give or file, or direct the giving or filing, of any false information with respect to the occupation tax due under the provisions of this chapter or upon which any occupation tax due under the provisions of this chapter is based.

Sec. 6-2-17. - When registration and tax due and payable; effect of transacting business when tax delinquent.

(a) Each such registration shall be for the calendar year 1996 and each succeeding calendar year thereafter unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before April 15 of each year, on the 16th day of April of each year thereafter. The penalty for failure to comply with this section shall be assessed in the amount of ten (10) percent of the occupational tax determined to be due and owning under the provisions of this chapter for the first thirty (30) days or fraction thereof of delinquency and an additional one and five-tenths (1.5) percent of the occupation tax for each additional month or fraction thereof of delinquency. Said penalties shall be in addition to all other civil penalties, herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.

(b) The registration certificate herein provided for shall be issued by the Business Services Manager or Chief Financial Officer and, except for practitioners of law, if any person, firm or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in the city, any of the kind of business or trade without having first obtained said registration, such offender shall be subject to the penalties provided thereof.

(c) In the case of practitioners of law, if any person, firm or corporation whose duty it is to obtain a registration and an occupation certificate, or shall fail to pay such tax when due, the penalty for failure to comply with this paragraph shall be assessed in the amount of ten (10) percent of the occupational tax determined to be due and owing under the provisions of this chapter for the first thirty (30) days or fraction thereof of delinquency and an additional one and five-tenths (1.5) percent of the occupation tax for each additional month or fraction thereof of delinquency. Said penalties shall be in addition to all other civil penalties, herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.

Sec. 6-2-18. - Penalty for chapter violation.

(a) In addition to the other remedies available to the city for the collection of special taxes, occupation taxes, and license regulatory fees due the city from persons subject to the tax fee who fail or refuse to pay the tax or fee, the Business Services Manager or Chief Financial Officer shall issue executions against the delinquent taxpayers for any or all of the following: the amount of the taxes or fees due when the taxes or fees become due; any penalty imposed by section 6-2-17(a) and (b); and any interest imposed by section 6-2-17(a) and (b), except for practitioners or professions and occupations, the municipal court may impose a civil fine for failure to pay the occupation tax or regulatory fee. Such a civil fine shall not exceed five hundred dollars ($500.00) and may be enforced by the contempt power of the municipal court.

(b) Any person whose qualifications to practice their profession is determined by the general laws of the state and who fails to pay an occupation tax as provided in this chapter shall only be subject to the provisions of section 6-2-17(c) of this chapter.

Sec. 6-2-19. - Code Enforcement Officers; business inspector.

Code Enforcement Officers shall be classified as business inspectors with full subpoena and arresting powers in conjunction with any violation pertaining to the business tax ordinance for 1996 (this chapter) and succeeding years thereafter. The Business Services Manager or Chief Financial Officer shall administer and enforce the provisions of this chapter for the levy, assessment and collection and penalties imposed herein. In carrying out its responsibilities hereunder, the Business Services Manager or Chief Financial Officer shall have the following duties:

(1) To prepare and provide the necessary forms for registration of a business, and for the submission of required information as may be necessary to properly administer and enforce the provisions of this chapter.
(2) To issue to each person an occupation tax certificate within a reasonable time after the payment of the occupation tax assessed and levied in this chapter; provided, however, where under other ordinances of the city, permits, certifications, and compliance with the enumerated conditions are required for the operation of the business, the Business Services Manager or Chief Financial Officer shall not issue said certificate until the applicant exhibits to the Business Services Manager or Chief Financial Officer such obtained permits, certifications and compliances;
(3) To audit periodically, and when deemed necessary by the Business Services Manager or Chief Financial Officer, the books and records of the businesses subject to the provisions of this chapter, and to require the submission of such additional information as may be necessary in order to correctly determine the amount of the occupation tax due and to insure the collection of same; and
(4) The Business Services Manager or Chief Financial Officer shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this chapter or other laws of the city and the state or the constitution of this state for the administration and enforcement of the provisions of this chapter and the collection of the occupation tax and fees hereunder.

Sec. 6-2-20. - Businesses not covered by this chapter.

The following businesses are not covered by the provisions of this chapter but may be assessed an occupation tax or other type of tax or fee pursuant to the provisions of other general laws of the state or by act of local law.

(1) Those businesses regulated by the Georgia Public Service Commission.
(2) Those electrical service businesses organized under Chapter 3 of Title 46 of the Official Code of Georgia Annotated.
(3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
(4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
(5) Insurance companies governed by O.C.G.A. § 33-8-8, and city Code Chapter 6-6-1 et seq.
(6) Motor common carriers governed by O.C.G.A. § 46-7-15.
(7) Those businesses governed by O.C.G.A. § 48-5-355.

(8) Agricultural products and livestock raised in the state governed by O.C.G.A. § 48-5-356.
(9) Disabled veterans and blind persons with proof of exemption under O.C.G.A. § 43-12-1.
(10) Depository financial institutions governed by O.C.G.A. § 48-6-93, and city Code Chapter 6-5-1 et seq.
(11) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
(12) Any state or local authority or nonprofit organization.
(13) Any person engaging in casual or isolated activity and commercial transactions, where such involve personal assets and are not an occupation for the individual.
   a. In regard to yard/garage sales, this exemption shall apply to persons or nonprofit organizations conducting such sales at a private residence or at a commercial location with an occupancy permit and with permission of the property owner, not exceeding four (4) events per year.
   b. In regard to the rental of personally owned residences, this exemption shall apply to persons renting a maximum of five (5) residences within the state.

The city may require any business claiming not to be covered by the provisions of this chapter to provide specific and detailed evidence showing such noncoverage.

Sec. 6-2-21. - Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.

This occupation tax is not levied upon any part of a business where such levy is prohibited or exempted by the laws of Georgia or of the United States.

Sec. 6-2-22. - Occupation taxes levied on business to be transacted during calendar year; filing of returns showing number of employees during preceding calendar year.

(a) All occupation taxes levied by this chapter are levied on number of employees during the calendar year. However, for convenience of both the city and the taxpayer, those businesses subject to the occupation tax levied in sections 6-2-4 and 6-2-8 hereof shall, on or before the times hereinafter set forth, file with the Business Services Manager or Chief Financial Officer the returns hereinafter specifically provided for, showing the number of full-time equivalent employees of that business during the preceding calendar year.
(b) The owner, proprietor, manager or secretary officer of the business subject to said occupation tax for the current calendar year shall, at the end of the preceding year, and on or before April 15 of the current calendar year, file with the Financial Services department of the city, on a form furnished by the Business Services Manager or Chief Financial Officer, a signed return setting forth the number of full-time equivalent employees of such business for the preceding calendar year. The return calendar year 1996 shall include the number of full-time equivalent employees for calendar year 1995.
(c) Where a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year, the number of full-time equivalent employees for such part shall be set forth in said return. Said return shall also show a figure putting the full-time equivalent employees for such part of a year on an annual basis, which figure shall bear the same ratio to the number of employees for such part year as the full year bears to such part. Said figure shall be used as the estimate of the number of full-time equivalent employees of the business for the current calendar year.
(d) If any person fails to make a return, the Business Services Manager or Chief Financial Officer may make an estimate of the number of full-time equivalent employees of the business. The estimate shall be made for the period or periods in respect to which the person failed to make

the return and shall be based upon any information which is or may come into the possession of the Business Services Manager or Chief Financial Officer.

(1) The Business Services Manager or Chief Financial Officer, shall give to the operator written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the operator at his/her address as it appears in the records of the Business Services Manager or Chief Financial Officer. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
(2) The amount of the determination shall bear interest and penalty as required in Section 6-1-19.

Sec. 6-2-23. - Plan for economic development; prorated tax for persons sixty-five years of age or older conducting business from their homes with under ten thousand dollars annual gross income.

The city recognizes and encourages the fact that individuals within the city who have reached the age of sixty-five (65) wish to remain involved in the economy of the area without pursuing a full-time business or occupation. This involvement contributes to the economic development of the city, and as a means of encouraging this, the following plan for economic development shall apply:

Any person sixty-five (65) years of age or older conducting business from his/her home with under ten thousand dollars ($10,000.00) annual gross income may conduct such business by paying one-half (½) of the otherwise required business tax. Proof of qualification for this status must be provided to the Business Services Manager or Chief Financial Officer.

Sec. 6-2-24. - Payment of occupation tax by newly established businesses.

In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of the city in the preceding year, the owner, proprietor, manager or executive officer of the business liable for occupation tax shall estimate the number of full-time-equivalent employees from commencing date to the end of the calendar year and such tax shall be paid as provided in Section 6-2-11. The estimate shall be, at a minimum, the number of full-time-equivalent employees which will be employed when the business begins operation.

Businesses beginning operation after July 1 of any calendar year shall pay a pro-rated business tax of fifty (50) percent of the tax which would be due on an annual basis.

Sec. 6-2-25. - More than one place of business.

Where a business is operated at more than one (1) place, the number of employees of each location will be entered on a separate occupation tax return on a form to be furnished by the city.

Sec. 6-2-26. - Reserved.

Sec. 6-2-27. - Returns confidential.

Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee, agent or clerk of the city or any other person to divulge or make known in any manner any information provided for the purpose of determining the amount of occupation tax required under this chapter. Such information shall be confidential and open only to the officials, employees, agents or clerks of the city using said returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the city shall be classed as "agents of the city." Nothing herein shall be construed to prohibit the publication by the city officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, or information such as name, location, ownership and line of business with no association made to number of employees or amount of tax paid, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia or of the United States, and other local governments. Information provided by a business or practitioner may be disclosed to the governing authority of another local government for tax purposes.

Sec. 6-2-28. - Inspection of books and records.

In any case the Business Services Manager or Chief Financial Officer, through his officers, agents, employees or representatives, may inspect the books of the business for which the returns are made. The Business Services Manager or the Chief Financial Officer or their designees shall have the right to inspect the books or records for the business of which the return was made in the city, and upon demand of the Business Services Manager, or Chief Financial Officer or their designees such books or records shall be submitted for inspection by a representative of the city within thirty (30) days. Failure of submission of such books or records within thirty (30) days shall be grounds for revocation of the tax certificate currently existing to do business in the city. In the case of practitioners of professions and occupations, the city shall be sensitive to the issues of client or customer confidentiality. In such cases, the practitioner may redact information claimed to be privileged before disclosing books or records of financial transactions. If such Practitioner alleges that redaction provides inadequate protection to the confidences of its clients or customers, such Practitioner may petition the Superior Court of Hall County for an in camera inspection, prior to examination by the Business Services Manager or Chief Financial Officer. Except for practitioners of professions and occupations electing to pay a flat fee in lieu of a per employee tax, adequate records shall be kept in Gainesville, Georgia, for examination by the Business Services Manager or Chief Financial Officer or their designees at their discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of underreporting, a penalty of ten (10) percent of the deficiency and an additional one (1) percent of the deficiency for each month or fraction thereof that the deficiency was due and unpaid shall be assessed.

Sec. 6-2-29. - Tax certificate to be revoked for failure to pay tax, file returns, permit inspection of books.

Except for a person whose qualifications to practice law are determined by the general laws of the state, the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent or upon failure to permit inspection of its books as above provided, any business tax certificate granted by the city under this chapter permitting the owner of said business to do business in the city for the current year shall be, ipso facto, revoked. No new business tax certificate shall be granted by the city for the operation of a business for which any part of the occupation tax herein provided for is at that time unpaid, or to a person who has failed to submit adequate records as requested by the Business Services Manager or Chief Financial Officer in accordance with provisions found in Section 6-2-22. In the case of practitioners of law, if any such person, firm, or corporation whose duty it is to obtain a registration and an occupation tax certificate shall fail to pay such tax in a timely fashion, such offender shall be subject to the penalties provided in section 6-2-17(c).

Sec. 6-2-30. - Effect of failure to comply with chapter provisions; continuing in business after tax certificate revocation.

Any persons, their manager, agent or employee, who does business in the city after the certificate for said business has been revoked as above; any person, their manager, agent or employee, who is hereby required to make returns showing the amount of full-time equivalent employees and who fail to make said returns within the time and in the manner herein provided, or refuse to amend such returns so as to set forth the correct information, or who shall make false returns, and except for practitioners of professions and occupations electing to pay a flat fee in lieu of a per employee tax, any person, their manager, agent or employee who refuses to permit an inspection of books in their charge when the officer(s), agent(s), employee(s) or representative(s) of the city request such inspection, during business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided in Section 6-2-18 of this chapter.

Sec. 6-2-31. - Execution for delinquent occupation tax.

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the Business Services Manager or Chief Financial Officer of the city, upon any tax or installment of said tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the person liable for said tax, which execution shall bear interest at the rate of one and one-half (1.5) percent per month from the date when such tax or installment becomes delinquent, and the lien shall cover the property of the person liable for said tax, all as provided by the Ordinances and Charter of the City and the laws of Georgia. The lien of said occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the Business Services Manager or Chief Financial Officer upon the property of the person liable for said tax, and sufficient property shall be advertised and sold the [to] pay the amount of said execution, with interest and costs. All other proceedings in relation thereto shall be had as is provided by the Ordinances and the Charter of the City and the laws of Georgia and the defendant in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the Charter of the City and the laws of Georgia in regard to tax executions. When a nulla bona entry has been entered by property authority upon an execution issued by the Business Services Manager or Chief Financial Officer against any person defaulting on the occupation tax, except for practitioners of professions and occupations, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full to other with all interest, penalties and costs accrued on the tax, the person may collect any fees and charges due the person as though the person had never defaulted in the payment of the taxes.

Sec. 6-2-32. - Amendment, repeal of provision.

This chapter shall be subject to amendment or repeal, in whole or in part, at any time and no such amendment or repeal shall be construed to deny the right of the council to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the city of additional occupation taxes upon the same person, property or business.

Sec. 6-2-33. - Applications of provisions to prior ordinance.

This chapter does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinance or ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee or assessment shall be fully paid.

Sec. 6-2-34. - Enforcement of provision.

It is hereby made the duty of the Business Services Manager, Chief Financial Officer, Code Enforcement and the police department to see that the provisions of this chapter relating to occupation taxes are observed; and to summon all violators of the same to appear before the municipal court. It is hereby made the further duty of the Business Services Manager, Chief Financial Officer, Code Enforcement, the chief of police, their designees and assistants, to inspect all certificates issued by the city, as often as in their judgment it may seem necessary to determine whether the certificate held is the proper one for the business sought to be transacted thereunder.

Sec. 6-2-35. - Provisions to remain in full force and effect until changed by council.

This chapter shall remain in full force and effect until changed by amendment adopted by the council. All provisions hereto relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.

Sec. 6-2-36. - Requirement of public hearing.

In any year when revenue from occupation taxes is greater than the preceding year, the city shall hold a public hearing as a part of the process for determining how to use the additional revenue.

Sec. 6-2-37. - Option to establish exemption or reduction in occupation tax.

The city may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax to one (1) or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious.

Sec. 6-2-38. - Conflicts between specific and general provisions.

Where there is an apparent conflict in this chapter between specific and general provisions, it is the intention hereof that the specific shall control.

Sec. 6-2-39. - Reserved.

Sec. 6-2-40. - Occupation tax certificate not transferable.

An occupation tax certificate and/or regulatory fee certificate shall not be transferable and a transfer of ownership shall be considered in the same light as the termination of such business and the establishment of a new business. Therefore, a new certificate shall be required for each new owner of the business.

Sec. 6-2-41. - Duty to keep information current.

Any person required by this chapter to register his or her business shall notify the Business Services Manager or Chief Financial Officer in writing within thirty (30) days of the following changes:

(1) Any change of address of the business, in which case the same occupation tax certificate shall be valid at the new location.
(2) Any change of ownership, in which case the transfer shall be treated as the termination of one (1) business and the establishment of a new business for the purposes of this chapter.
(3) The termination of any business.

Sec. 6-2-42. - Compliance with other ordinances and laws.

(a) All businesses are required to comply with the provisions of all ordinances of the city and other laws and the issuance of a occupation tax receipt to any business pursuant to this chapter shall not authorize that business to engage in or carry on business or to perform any other activity in violation of state or federal law or regulations and other ordinances of the city nor shall it relieve that business from obtaining any certificate or permit required by the provision of other laws or ordinances.
(b) No certificate shall be issued or renewed until any delinquent property taxes and other debts to the city have been paid.

Sec. 6-2-43. - Practitioners of professions and occupations.

It being the intention of the mayor and council that no portion of this taxation scheme shall be construed to be, or have the practical effect of, regulation of practitioners of professions and occupations and if any provision hereof shall be construed by a court of competent jurisdiction to be an unlawful regulation of such profession, then such provision shall be considered rescinded by the mayor and council as if such provision had not been adopted, and in such case, the remaining provisions of this chapter shall be applied to such practitioner.

**SECTION II**

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

**SECTION III**

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional

**SECTION IV**

The ordinance is enacted as an amendment to Chapter 6-2 of the Code of Ordinances of the City of Gainesville, Georgia.

**SECTION V**

The effective date of this ordinance shall be upon approval by the governing body of the City of Gainesville.

______________________________

**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

______________________________

**Denise O. Jordan, City Clerk**

## AN ORDINANCE

**No. 2017-**

**AN ORDINANCE TO AMEND CHAPTER 6-2 ENTITLED "OCCUPATION TAX" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW;TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I**

~~Section 6-2-1~~Chapter 6-2 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:

Sec. 6-2-1. - Occupation tax required; occupation tax required for business dealings within the city.

For the year 1996 and succeeding years thereafter, each person engaged in any business, trade, profession or occupation in the City of Gainesville, Georgia, whether with a location in the City of Gainesville, or in the case of an out-of-state business with no location in Georgia exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for said business, trade, profession or occupation; which tax and any applicable certificate, except for practitioners of professions and occupations, shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in the City of Gainesville, Georgia. If the taxpayer has no permanent business location in the City of Gainesville, Georgia, such business tax certificate shall be shown to a city code enforcement officer, the Business Services Manager, Chief Financial Officer ~~the city marshal or his deputies~~ or to any police officer of the City of Gainesville, Georgia upon ~~his or~~ their request.

~~**SECTION 2**~~

~~Section 6-2-2 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-2. - Construction of terms; definitions.

(a) Wherever the term "City of Gainesville" is used herein, such term shall be construed to mean "Gainesville, Georgia"; wherever the term "city" is used herein, it shall be construed to mean "Gainesville, Georgia."

(b) As used in this chapter, the term:

*Business* means any person, corporation, partnership, or other legal entity which exerts substantial efforts within the city, engages in, causes to be engaged in, and/or represents or holds out to the public to be engaged in any occupation or activity with the object of gain or benefit, either directly or indirectly.

*Business location or office* shall include any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. A temporary work site which serves multiple customers is included in this definition. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of the real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or the lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.

*Dominant line* means the type of business within a multiple line business that the greatest amount of income is derived from.

*Employee.*

(1) Except as otherwise provided in subsection (2) of this definition, "employee" means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2 but not a form I.R.S. 1099.

(2) An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual is an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

*Engaged in business* means doing or performing of any act of selling any goods or services, or soliciting business, or offering any goods or services for sale primarily in an attempt to make a profit, including selling or performing services of the character of a wholesaler or retailer, or being involved in any of the functions performed as a manufacturer, or renting real or personal property; all of the foregoing performed either as an owner, operator or agent of any business, trade, profession, or occupation within the city.

*Manufacturing* means a person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use any articles, substances or commodities, including, but not limited to, the following: materials upon which commercial activities have been applied, by hand or machinery, so that as a result thereof a new substance of trade or commerce is produced; the production or fabrication of special or custom-made articles; the making, fabrication, processing, refining, mixing, slaughtering, packing, aging, curing, preserving, canning, preparing and freezing of fresh foods, fruits, vegetables and meats.

*Nonprofit organization* means an organization which compiles with U.S. Internal Revenue Code 501-a.

*Occupation tax* means a tax levied for revenue raising purposes on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business.

*Person* wherever used in this chapter shall be held to include sole proprietors, corporations, partnerships or any other form of business organization.

*Practitioner of profession or occupation* is one who by state law requires state licensure regulating such profession or occupation. "Practitioners of professions and occupations" shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

*Regulatory fees* means payments, whether designated as license fees, permit fees, or by another name, which are required by a local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession, or business. The amount of the regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the city. A regulatory fee may not include an administrative fee or registration fee. The city is not authorized to require any administrative fee, registration fee, or fee by any other name in connection with a regulatory fee, except an occupation tax, as defined in the Code section. Regulatory fees do not include development impact fees and defined by paragraph (8) of O.C.G.A. § 36-71-2 or other costs or conditions of zoning or land development.

*Retailer* means a person who sells to consumers or any other person for any purpose, other than for resale, any tangible personal property.

*Services* means the accommodating or performing a duty or work by a person utilizing time or talents for direct or indirect remuneration.

*Wholesaler* means a person who sells to jobbers or to persons, other than consumers, any tangible personal property.

~~**SECTION 3**~~

~~Section 6-2-3 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-3. - Regulatory fee structure.

A regulatory fee will only be imposed as provided under O.C.G.A. § 48-13-9 on those applicable businesses. A regulatory fee may not include an administrative fee.

~~**SECTION 4**~~

~~Section 6-2-4 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-4. - Occupation tax levied; restrictions.

(a) An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one (1) or more locations or offices within the corporate limits of the city of and upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. § 48-13-7 based upon the following criteria:

(1) Number of full-time equivalent employees of the business or practitioner determined as follows:

By adding the total number of hours worked during the preceding calendar year by all employees and dividing that total by two thousand eighty (2,080) (forty (40) hours per week times fifty-two (52) weeks), and rounding the result to the nearest whole. (Five-tenths (0.5) or greater would be rounded up; less than five-tenths (0.5) would be rounded down.)

Employees whose total number of hours worked are not available (such as salaried employees) shall be calculated at a rate of forty (40) hours per week.

In businesses where it can be shown that calculation by this method would be impractical, an alternate method may be used which would provide an accurate count of full-time equivalent employees.

An employee whose hours total more than two thousand eighty (2,080) during a year, may be counted as having worked two thousand eighty (2,080) hours.

Any alternate method is subject to the approval of the Business Services Manager or Chief Financial Officer~~city marshal~~.

(2) For the purpose of calculating full-time equivalent employees, all employees, including owners, who actually perform work at the business shall be included.

(b) (1) The city shall not require the payment of more than one (1) occupational tax for each location that a business or practitioner shall have.

(2) The city shall not require an occupation tax on those employees that were taxed by occupation tax in other localities or states, provided that those businesses were taxed in full compliance with O.C.G.A. § 48-13-7 and § 48-13-14. Upon request by any city official, including but not limited to personnel of the ~~city marshal's office, finance~~Financial Services department, and building inspection department, the operator of a business shall be required to provide proof that the business was taxed pursuant to O.C.G.A. § 48-13-7 and § 48-13-14.

(3) An occupation tax shall not be levied in any other manner except as described in this section.

(c) Occupation tax schedule. The occupation tax levied shall be based on the following tax table:

Tax Table

| Number of Employees | Tax Amount |
|---|---|
| 0—1 | $135.00 |
| 2—2 | 210.00 |
| 3—4 | 315.00 |
| 5—7 | 435.00 |
| 8—10 | 545.00 |
| 11—15 | 685.00 |
| 16—20 | 800.00 |
| 21—27 | 945.00 |
| 28—35 | 1,073.00 |
| 36—50 | 1,290.00 |
| 51—75 | 1,630.00 |
| 76—100 | 2,030.00 |

101—150 ..... 2,510.00

151—200 ..... 2,950.00

201—300 ..... 3,570.00

301—500 ..... 4,790.00

501—1,000 ..... 7,150.00

1,000+ ..... 9,950.00

~~**SECTION 5**~~

~~Section 6-2-5 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-5. - Paying occupation tax of business with no location in Georgia.

For out-of-state businesses with no location in Georgia, occupation taxes apply to the employees of the business which are reasonably attributed to sales or services in the state. The assessment of an occupation tax is hereby imposed on those businesses and practitioners of professions with no location or office in the state if the business' largest dollar volume of business in Georgia is in the city and the business or practitioner:

(1) Has one (1) or more employees or agents who exert substantial efforts within the jurisdiction of the city for the purpose of soliciting business or serving customers or clients; or

(2) Owns personal or real property which generates income and which is located within the jurisdiction of the city.

~~**SECTION 6**~~

~~Section 6-2-6 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-6. - Dominant line of business to be identified on business registration.

The business registration of each business operated in the city shall identify the dominant line of business that the business conducts. Except for practitioners of professions and occupations, no business shall conduct any line of business without first having that line of business registered with the Financial Services department ~~city marshal~~ and that line of business being noted by the Business Services Manager or Chief Financial Officer ~~city marshal~~ upon the occupation tax certificate form which is to be displayed by the business owner.

~~**SECTION 7**~~

~~Section 6-2-7 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-7. - Number of businesses considered operating in city.

Where a person conducts business at more than one (1) store or place, each store or place shall be considered a separate business for the purpose of occupation tax.

~~**SECTION 8**~~

~~Section 6-2-8 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-8. - Professionals as classified in O.C.G.A. § 48-13-9(c), paragraphs 1 through 18.

Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1) through (18) shall elect as their entire occupation tax:

(1) For the year 1996 and subsequent years, one (1) of the following:

a. The occupation tax based on number of employees.
b. A fee of four hundred dollars ($400.00) per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location. The per practitioner fee shall include all persons in the business who qualify as a practitioner under the state's regulatory guidelines and framework.

~~**SECTION 9**~~

~~Section 6-2-9 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-9. - Practitioners exclusively practicing for the government.

Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, instrumentalities of the United States, the state or a municipality or county of the state, shall not be required to obtain a license or pay an occupation tax for that practice.

~~**SECTION 10**~~

~~Section 6-2-10 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-10. - Purpose and scope of tax.

The tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade or calling. The occupation tax applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law ordinance. Payment of an occupation tax shall not be required as a precondition for the practice of professions and occupations as set out in O.C.G.A. § 48-13-9(c).

~~**SECTION 11**~~

~~Section 6-2-11 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-11. - When tax due and payable; effect of transacting business when tax delinquent.

(a) Each such business or occupation tax shall be for the calendar year 1996 and succeeding calendar years thereafter unless otherwise specifically provided. Except for practitioners of law, said registration and occupation tax shall be payable January 15 of each year and shall be delinquent if not paid by April 15 of each year and shall be subject to penalties for delinquency as prescribed in this chapter. In the event that any person commences business on any date after January 15 in any year, the tax shall be due and payable thirty (30) days following commencement of the business.

(b) Except for practitioners of law, regulatory fees authorized by this chapter shall be paid before commencing business as a condition precedent for transacting business.

(c) Regulatory fees may be paid after commencing business when:

 (1) The work done or services provided are necessary for the health and safety of one (1) or more individuals; and
 (2) The work done or services provided have no adverse effect on any other person; and
 (3) Regulatory fees are tendered to the local government within two (2) business days after commencing business.

(d) The tax certificate herein provided for shall be issued by the Business Services Manager or Chief Financial Officer~~city marshal~~. Except for the practitioners of law, if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax become delinquent, transact, or offer to transact, in the city, any of the kind of profession, trade or calling in this chapter specified without having first obtained said registration and certificate, such person shall, in addition to remedies provided herein, be punished as provided in section 6-2-18 of this chapter.

(e) In addition to the above remedies, the Business Services Manager or Chief Financial Officer~~city marshal~~ may proceed to collect delinquent business or occupation tax in the same manner as provided by law for tax executions.

(f) (1) Any occupation tax due by any practitioner of law pursuant to this chapter shall be due and payable within thirty (30) days of January 15 for the previous calendar year.

 (2) If a practitioner of law commences business in the city on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be fifty (50) percent of the tax imposed for the entire year and shall be due and payable within thirty (30) days of January 15 for the previous calendar year.

~~**SECTION 12**~~

~~Section 6-2-12 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-12. - Allocation of employees of businesses with multiple intra or interstate locations.

For those businesses who have multiple locations inside and outside of the city where the number of employees can be allocated to each location, the number of employees used to determine the occupational tax assessed will be those employees attributed to each city location. In the case where the number of employees attributed locally cannot be determined in those businesses with multiple locations, the total number of employees will be divided by the total number of locations in the city and elsewhere and allotted to those locations. Upon request, the business or practitioner with a location or office situated in more than one (1) jurisdiction shall provide to the city the following:

(1) Information necessary to allocate the number of employees of the business or practitioner; and
(2) Information relating to the allocation of the business' or practitioner's number of employees by other local governments.

~~**SECTION 13**~~

~~Section 6-2-13 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-13. - Exemption on grounds that business operated for charitable purpose.

No business on which a business registration or occupation tax is levied by this chapter shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless eighty (80) percent or more of the entire proceeds from said business are devoted to such purpose.

~~**SECTION 14**~~

~~Section 6-2-14 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-14. - Evidence of state registration required if applicable; state registration to be displayed.

Each person who is licensed under Title 43 of the state license examining boards shall provide evidence of proper and current state licensure before the city registration may be issued.

~~**SECTION 15**~~

~~Section 6-2-15 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-15. - Evidence of qualification required if applicable.

(a) Any business required to obtain health permits, bonds, certificate of qualification, certificates of competency or any other regulatory matter shall first, before the issuance of a city business registration, show evidence of such qualification.
(b) Any business required to submit an annual application for continuance of that business shall do so before the registration is issued.

~~**SECTION 16**~~

~~Section 6-2-16 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-16. - Liability of officers and agents; registration required; failure to obtain.

(a) All persons subject to the occupation taxes provided in this chapter shall be required to take out the necessary registration and obtain the necessary tax certificate for said business prescribed in this chapter, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a certificate. Except for practitioners of professions and occupations, every person commencing business in the city after January 1 of each year shall likewise obtain the registration and obtain the tax certificate herein provided for before commencing the same; and any person transacting, or offer to transact in the city, any of the kinds of business, trade, profession or occupation without first having so obtained said registration, except for practitioners of professions and occupations, shall be subject to penalties provided herein and upon conviction, be punished as provided in section 6-1-18 of this chapter. In the case of practitioners of professions and occupations, if any person, firm, or corporation whose duty it is to obtain a registration and an occupation tax certificate shall fail to pay such tax in a timely fashion, such offender shall be subject to penalties provided in O.C.G.A. § 48-13-21.

(b) It shall be unlawful for the owner, proprietor, manager, executive officer or employee of any business, coming within the provisions of this chapter, to make a false registration for such business, or to give or file, or direct the giving or filing, of any false information with respect to the occupation tax due under the provisions of this chapter or upon which any occupation tax due under the provisions of this chapter is based.

~~**SECTION 17**~~

~~Section 6-2-17 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-17. - When registration and tax due and payable; effect of transacting business when tax delinquent.

(a) Each such registration shall be for the calendar year 1996 and each succeeding calendar year thereafter unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before April 15 of each year, on the 16th day of April of each year thereafter. The penalty for failure to comply with this section shall be assessed in the amount of ten (10) percent of the occupational tax determined to be due and owning under the provisions of this chapter for the first thirty (30) days or fraction thereof of delinquency and an additional one and five-tenths (1.5) percent of the occupation tax for each additional month or fraction thereof of delinquency. Said penalties shall be in addition to all other civil penalties, herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.

(b) The registration certificate herein provided for shall be issued by the ~~city marshal~~ Business Services Manager or Chief Financial Officer and, except for practitioners of law, if any person, firm or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in the city, any of the kind of business or trade without having first obtained said registration, such offender shall be subject to the penalties provided thereof.

(c) In the case of practitioners of law, if any person, firm or corporation whose duty it is to obtain a registration and an occupation certificate, or shall fail to pay such tax when due, the penalty for failure to comply with this paragraph shall be assessed in the amount of ten (10) percent of the occupational tax determined to be due and owing under the provisions of this chapter for the first thirty (30) days or fraction thereof of delinquency and an additional one and five-tenths (1.5) percent of the occupation tax for each additional month or fraction thereof of delinquency. Said penalties shall be in addition to all other civil penalties, herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.

~~**SECTION 18**~~

~~Section 6-2-18 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-18. - Penalty for chapter violation.

(a) In addition to the other remedies available to the city for the collection of special taxes, occupation taxes, and license regulatory fees due the city from persons subject to the tax fee who fail or refuse to pay the tax or fee, the Business Services Manager or Chief Financial Officer~~city marshal~~ shall issue executions against the delinquent taxpayers for any or all of the following: the amount of the taxes or fees due when the taxes or fees become due; any penalty imposed by section 6-2-17(a) and (b); and any interest imposed by section 6-2-17(a) and (b), except for practitioners or professions and occupations, the municipal court may impose a civil fine for failure to pay the occupation tax or regulatory fee. Such a civil fine shall not exceed five hundred dollars ($500.00) and may be enforced by the contempt power of the municipal court.

(b) Any person whose qualifications to practice their profession is determined by the general laws of the state and who fails to pay an occupation tax as provided in this chapter shall only be subject to the provisions of section 6-2-17(c) of this chapter.

~~**SECTION 19**~~

~~Section 6-2-19 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-19. - ~~City~~ ~~marshal~~Code Enforcement Officers; business inspector.

~~The city marshal and his duly designated~~Code Enforcement ~~o~~Officers~~ and inspectors or his successors~~ shall be classified as business inspectors with full subpoena and arresting powers in conjunction with any violation pertaining to the business tax ordinance for 1996 (this chapter) and succeeding years thereafter. The Business Services Manager or Chief Financial Officer~~The marshal~~ shall administer and enforce the provisions of this chapter for the levy, assessment and collection and penalties imposed herein. In carrying out its responsibilities hereunder, the ~~marshal~~Business Services Manager or Chief Financial Officer shall have the following duties:

(1) To prepare and provide the necessary forms for registration of a business, and for the submission of required information as may be necessary to properly administer and enforce the provisions of this chapter.
(2) To issue to each person an occupation tax certificate within a reasonable time after the payment of the occupation tax assessed and levied in this chapter; provided, however, where under other ordinances of the city, permits, certifications, and compliance with the enumerated conditions are required for the operation of the business, the ~~marshal~~Business Services Manager or Chief Financial Officer shall not issue said certificate until the applicant exhibits to the ~~marshal~~Business Services Manager or Chief Financial Officer such obtained permits, certifications and compliances;
(3) To audit periodically, and when deemed necessary by the ~~marshal~~Business Services Manager or Chief Financial Officer, the books and records of the businesses subject to the provisions of this chapter, and to require the submission of such additional information as may be necessary in order to correctly determine the amount of the occupation tax due and to insure the collection of same; and
(4) The ~~marshal~~Business Services Manager or Chief Financial Officer shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this chapter or other laws of the city and the state or the constitution of this state for the administration and enforcement of the provisions of this chapter and the collection of the occupation tax and fees hereunder.

~~**SECTION 20**~~

~~Section 6-2-20 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-20. - Businesses not covered by this chapter.

The following businesses are not covered by the provisions of this chapter but may be assessed an occupation tax or other type of tax or fee pursuant to the provisions of other general laws of the state or by act of local law.

(1) Those businesses regulated by the Georgia Public Service Commission.
(2) Those electrical service businesses organized under Chapter 3 of Title 46 of the Official Code of Georgia Annotated.
(3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
(4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
(5) Insurance companies governed by O.C.G.A. § 33-8-8, and city Code chapter 6-6-1 et seq.
(6) Motor common carriers governed by O.C.G.A. § 46-7-15.
(7) Those businesses governed by O.C.G.A. § 48-5-355.
(8) Agricultural products and livestock raised in the state governed by O.C.G.A. § 48-5-356.
(9) Disabled veterans and blind persons with proof of exemption under O.C.G.A. § 43-12-1.
(10) Depository financial institutions governed by O.C.G.A. § 48-6-93, and city Code chapter 6-5-1 et seq.
(11) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
(12) Any state or local authority or nonprofit organization.
(13) Any person engaging in casual or isolated activity and commercial transactions, where such involve personal assets and are not an occupation for the individual.

a. In regard to yard/garage sales, this exemption shall apply to persons or nonprofit organizations conducting such sales at a private residence or at a commercial location with an occupancy permit and with permission of the property owner, not exceeding four (4) events per year.
b. In regard to the rental of personally owned residences, this exemption shall apply to persons renting a maximum of five (5) residences within the state.

The city may require any business claiming not to be covered by the provisions of this chapter to provide specific and detailed evidence showing such noncoverage.

**~~SECTION 21~~**

~~Section 6-2-21 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-21. - Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.

This occupation tax is not levied upon any part of a business where such levy is prohibited or exempted by the laws of Georgia or of the United States.

**~~SECTION 22~~**

~~Section 6-2-22 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-22. - Occupation taxes levied on business to be transacted during calendar year; filing of returns showing number of employees during preceding calendar year.

(a) All occupation taxes levied by this chapter are levied on number of employees during the calendar year. However, for convenience of both the city and the taxpayer, those businesses subject to the occupation tax levied in sections 6-2-4 and 6-2-8 hereof shall, on or before the times hereinafter set forth, file with the ~~city marshal~~Business Services Manager or Chief Financial Officer ~~-~~the returns hereinafter specifically provided for, showing the number of full-time equivalent employees of that business during the preceding calendar year.
(b) The owner, proprietor, manager or secretary officer of the business subject to said occupation tax for the current calendar year shall, at the end of the preceding year, and on or before April 15 of the current calendar year, file with the ~~city marshal~~Financial Services department of the city, on a form furnished by the ~~city marshal~~Business Services Manager or Chief Financial Officer, a signed return setting forth the number of full-time equivalent employees of such business for the preceding calendar year. The return calendar year 1996 shall include the number of full-time equivalent employees for calendar year 1995.
(c) Where a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year, the number of full-time equivalent employees for such part shall be set forth in said return. Said return shall also show a figure putting the full-time equivalent employees for such part of a year on an annual basis, which figure shall bear the same ratio to the number of employees for such part year as the full year bears to such part. Said figure shall be used as the estimate of the number of full-time equivalent employees of the business for the current calendar year.

(d) If any person fails to make a return, the ~~city marshal~~Business Services Manager or Chief Financial Officer may make an estimate of the number of full-time equivalent employees of the business. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the ~~marshal~~Business Services Manager or Chief Financial Officer.

(1) The ~~marshal~~Business Services Manager or Chief Financial Officer,~~ or designee,~~ shall give to the operator written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the operator at his/her address as it appears in the records of the ~~marshal~~Business Services Manager or Chief Financial Officer. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

(2) The amount of the determination shall bear interest and penalty as required in section 6-1-19.

~~**SECTION 23**~~

~~Section 6-2-23 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-23. - Plan for economic development; prorated tax for persons sixty-five years of age or older conducting business from their homes with under ten thousand dollars annual gross income.

The city recognizes and encourages the fact that individuals within the city who have reached the age of sixty-five (65) wish to remain involved in the economy of the area without pursuing a full-time business or occupation. This involvement contributes to the economic development of the city, and as a means of encouraging this, the following plan for economic development shall apply:

Any person sixty-five (65) years of age or older conducting business from his/her home with under ten thousand dollars ($10,000.00) annual gross income may conduct such business by paying one-half (½) of the otherwise required business tax. Proof of qualification for this status must be provided to the ~~city marshal~~Business Services Manager or Chief Financial Officer.

~~**SECTION 24**~~

~~Section 6-2-24 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-24. - Payment of occupation tax by newly established businesses.

In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of the city in the preceding year, the owner, proprietor, manager or executive officer of the business liable for occupation tax shall estimate the number of full-time-equivalent employees from commencing date to the end of the calendar year and such tax shall be paid as provided in section 6-2-11. The estimate shall be, at a minimum, the number of full-time-equivalent employees which will be employed when the business begins operation.

Businesses beginning operation after July 1 of any calendar year shall pay a pro-rated business tax of fifty (50) percent of the tax which would be due on an annual basis.

~~**SECTION 25**~~

~~Section 6-2-25 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-25. - More than one place of business.

Where a business is operated at more than one (1) place, the number of employees of each location will be entered on a separate occupation tax return on a form to be furnished by the city.

~~**SECTION 26**~~

~~Section 6-2-26 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-26. - Reserved.

~~**SECTION 27**~~

~~Section 6-2-27 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-27. - Returns confidential.

Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee, agent or clerk of the city or any other person to divulge or make known in any manner any information provided for the purpose of determining the amount of occupation tax required under this chapter. Such information shall be confidential and open only to the officials, employees, agents or clerks of the city using said returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the city shall be classed as "agents of the city." Nothing herein shall be construed to prohibit the publication by the city officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, or information such as name, location, ownership and line of business with no association made to number of employees or amount of tax paid, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia or of the United States, and other local governments. Information provided by a business or practitioner may be disclosed to the governing authority of another local government for tax purposes.

~~**SECTION 28**~~

~~Section 6-2-28 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-28. - Inspection of books and records.

In any case the ~~city marshal~~Business Services Manager or Chief Financial Officer, through his officers, agents, employees or representatives, may inspect the books of the business for which the returns are made. The ~~city marshal~~Business Services Manager ~~and/~~or the ~~director of the finance department~~Chief Financial Officer or their designees shall have the right to inspect the books or records for the business of which the return was made in the city, and upon demand of the ~~city marshal~~Business Services Manager, ~~and/~~or ~~the director of the finance department~~ Chief Financial Officer or their designees such books or records shall be submitted for inspection by a representative of the city within thirty (30) days. Failure of submission of such books or records within thirty (30) days shall be grounds for revocation of the tax certificate currently existing to do business in the city. In the case of practitioners of professions and occupations, the city shall be sensitive to the issues of client or customer confidentiality. In such cases, the practitioner may redact information claimed to be privileged before disclosing books or records of financial transactions. If such Practitioner alleges that redaction provides inadequate protection to the confidences of its clients or customers, such Practitioner may petition the Superior Court of Hall County for an in camera inspection, prior to examination by the ~~city marshal~~Business Services Manager ~~and/~~or ~~the director of the finance department~~Chief Financial Officer. Except for practitioners of professions and occupations electing to pay a flat fee in lieu of a per employee tax, adequate records shall be kept in Gainesville, Georgia, for examination by the ~~city marshal~~Business Services Manager ~~and/~~or ~~the director of the finance department~~Chief Financial Officer or their designees at their discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of underreporting, a penalty of ten (10) percent of the deficiency and an additional one (1) percent of the deficiency for each month or fraction thereof that the deficiency was due and unpaid shall be assessed.

**~~SECTION 29~~**

~~Section 6-2-29 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-29. - Tax certificate to be revoked for failure to pay tax, file returns, permit inspection of books.

Except for a person whose qualifications to practice law are determined by the general laws of the state, the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent or upon failure to permit inspection of its books as above provided, any business tax certificate granted by the city under this chapter permitting the owner of said business to do business in the city for the current year shall be, ipso facto~~r~~, revoked. No new business tax certificate shall be granted by the city for the operation of a business for which any part of the occupation tax herein provided for is at that time unpaid, or to a person who has failed to submit adequate records as requested by the ~~city marshal~~Business Services Manager or Chief Financial Officer in accordance with provisions found in section 6-2-22. In the case of practitioners of law, if any such person, firm, or corporation whose duty it is to obtain a registration and an occupation tax certificate shall fail to pay such tax in a timely fashion, such offender shall be subject to the penalties provided in section 6-2-17(c).

**~~SECTION 30~~**

~~Section 6-2-30 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-30. - Effect of failure to comply with chapter provisions; continuing in business after tax certificate revocation.

Any persons, their manager, agent or employee, who does business in the city after the certificate for said business has been revoked as above; any person, their manager, agent or employee, who is hereby required to make returns showing the amount of full-time equivalent employees and who fail to make said returns within the time and in the manner herein provided, or refuse to amend such returns so as to set forth the correct information, or who shall make false returns, and except for practitioners of professions and occupations electing to pay a flat fee in lieu of a per employee tax, any person, their manager, agent or employee who refuses to permit an inspection of books in their charge when the officer(s), agent(s), employee(s) or representative(s) of the city request such inspection, during business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided in section 6-2-18 of this chapter.

~~**SECTION 31**~~

~~Section 6-2-31 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-31. - Execution for delinquent occupation tax.

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the ~~city marshal~~Business Services Manager or Chief Financial Officer of the city, upon any tax or installment of said tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the person liable for said tax, which execution shall bear interest at the rate of one and one-half (1.5) percent per month from the date when such tax or installment becomes delinquent, and the lien shall cover the property of the person liable for said tax, all as provided by the Ordinances and Charter of the City and the laws of Georgia. The lien of said occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the ~~city marshal~~Business Services Manager or Chief Financial Officer upon the property of the person liable for said tax, and sufficient property shall be advertised and sold the [to] pay the amount of said execution, with interest and costs. All other proceedings in relation thereto shall be had as is provided by the Ordinances and the Charter of the City and the laws of Georgia and the defendant in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the Charter of the City and the laws of Georgia in regard to tax executions. When a nulla bona entry has been entered by property authority upon an execution issued by the ~~city marshal~~Business Services Manager or Chief Financial Officer against any person defaulting on the occupation tax, except for practitioners of professions and occupations, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full to other with all interest, penalties and costs accrued on the tax, the person may collect any fees and charges due the person as though the person had never defaulted in the payment of the taxes.

~~**SECTION 32**~~

~~Section 6-2-32 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-32. - Amendment, repeal of provision.

This chapter shall be subject to amendment or repeal, in whole or in part, at any time and no such amendment or repeal shall be construed to deny the right of the council to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the city of additional occupation taxes upon the same person, property or business.

~~**SECTION 33**~~

~~Section 6-2-33 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-33. - Applications of provisions to prior ordinance.

This chapter does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinance or ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee or assessment shall be fully paid.

~~**SECTION 34**~~

~~Section 6-2-34 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-34. - Enforcement of provision.

It is hereby made the duty of the ~~city marshal~~Business Services Manager, Chief Financial Officer, Code Enforcement and the police department to see that the provisions of this chapter relating to occupation taxes are observed; and to summon all violators of the same to appear before the municipal court. It is hereby made the further duty of the ~~city marshal~~Business Services Manager, Chief Financial Officer, Code Enforcement, the chief of police, their designees and assistants, to inspect all certificates issued by the city, as often as in their judgment it may seem necessary to determine whether the certificate held is the proper one for the business sought to be transacted thereunder.

~~**SECTION 35**~~

~~Section 6-2-35 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-35. - Provisions to remain in full force and effect until changed by council.

This chapter shall remain in full force and effect until changed by amendment adopted by the council. All provisions hereto relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.

~~**SECTION 36**~~

~~Section 6-2-36 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-36. - Requirement of public hearing.

In any year when revenue from occupation taxes is greater than the preceding year, the city shall hold a public hearing as a part of the process for determining how to use the additional revenue.

~~**SECTION 37**~~

~~Section 6-2-37 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-37. - Option to establish exemption or reduction in occupation tax.

The city may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax to one (1) or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious.

~~**SECTION 38**~~

~~Section 6-2-38 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-38. - Conflicts between specific and general provisions.

Where there is an apparent conflict in this chapter between specific and general provisions, it is the intention hereof that the specific shall control.

~~**SECTION 39**~~

~~Section 6-2-39 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-39. - Reserved.

~~**SECTION 40**~~

~~Section 6-2-40 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-40. - Occupation tax certificate not transferable.

An occupation tax certificate and/or regulatory fee certificate shall not be transferable and a transfer of ownership shall be considered in the same light as the termination of such business and the establishment of a new business. Therefore, a new certificate shall be required for each new owner of the business.

**~~SECTION 41~~**

~~Section 6-2-41 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-41. - Duty to keep information current.

Any person required by this chapter to register his or her business shall notify the ~~marshal~~Business Services Manager or Chief Financial Officer in writing within thirty (30) days of the following changes:

(1) Any change of address of the business, in which case the same occupation tax certificate shall be valid at the new location.
(2) Any change of ownership, in which case the transfer shall be treated as the termination of one (1) business and the establishment of a new business for the purposes of this chapter.
(3) The termination of any business.

**~~SECTION 42~~**

~~Section 6-2-42 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-42. - Compliance with other ordinances and laws.

(a) All businesses are required to comply with the provisions of all ordinances of the city and other laws and the issuance of a occupation tax receipt to any business pursuant to this chapter shall not authorize that business to engage in or carry on business or to perform any other activity in violation of state or federal law or regulations and other ordinances of the city nor shall it relieve that business from obtaining any certificate or permit required by the provision of other laws or ordinances.
(b) No certificate shall be issued or renewed until any delinquent property taxes and other debts to the city have been paid.

**~~SECTION 43~~**

~~Section 6-2-43 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:~~

Sec. 6-2-43. - Practitioners of professions and occupations.

It being the intention of the mayor and council that no portion of this taxation scheme shall be construed to be, or have the practical effect of, regulation of practitioners of professions and occupations and if any provision hereof shall be construed by a court of competent jurisdiction to be an unlawful regulation of such profession, then such provision shall be considered rescinded by the mayor and council as if such provision had not been adopted, and in such case, the remaining provisions of this chapter shall be applied to such practitioner.

**SECTION II**

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

**SECTION III**

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional

**SECTION IV**

The ordinance is enacted as an amendment to Chapter 6-2 of the Code of Ordinances of the City of Gainesville, Georgia.

**SECTION V**

The effective date of this ordinance shall be upon approval by the governing body of the City of Gainesville.

**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

**Denise O. Jordan, City Clerk**

# CITY OF GAINESVILLE

## WORKSESSIONREQUEST

**Date Submitted**: 7/18/2017

**Presenter**: Bryan Lackey

**Item of Business**: Ordinance: Amend Chapter 6-13 entitled Sidewalk Cafes

**Meeting Date**: 7/27/2017

**Purpose of Request**:
To propose an amendment to the City's Sidewalk Cafes Ordinance and Regulations regarding the definition of City staff that are identified as having a role or responsibility in the processing and enforcement.

**History/Background**:
Over the past few months, the City has been evaluating changes to its Ordinances related to Alcohol and Occupational Tax. These proposed changes to this Ordinance and three other related Ordinances are being present to ensure the City conforms with the new State Laws and at the same time realigns its resources to best meet the needs of the Business Community within the City of Gainesville.

**Facts & Issues for Consideration**:

**Department Recommendation**:
Approval of the proposed ordinance.

**Department Director**:
Bryan Lackey

**If funding is involved, are funds approved within the current budget?**
N/A

**Amount Requested**:

**Source of Funds**:

**Finance Comments**:

**Administrative Comments:**

ATTACHMENTS:

| Description | Type |
|---|---|
| Sidewalk Café Ordinance | Ordinance |
| Sidewalk Cafe Ordinance Markup | Backup Material |

**First Reading:** ____________
**Passed:** ____________

**AN ORDINANCE**

**No. 2017-**

**AN ORDINANCE TO AMEND CHAPTER 6-13 ENTITLED "SIDEWALK CAFES" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I.**

Chapter 6-13 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:

**Sec. 6-13-1. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning

*Sidewalk cafe* means the location and use of tables and chairs and other associated equipment and furnishings on the public sidewalk or City installed and/or approved parklet and operated as an extension of a licensed eating establishment or licensed alcoholic beverage premises in the central business district.

**Sec. 6-13-2. - Sidewalk cafes allowed in central business district; license required.**

(a) Sidewalk cafes shall be allowed in the city zoning district known as the central business district subject to the provisions of this chapter.

(b) No person shall operate a sidewalk cafe without first obtaining a license from the city manager or designee.

(c) All applications for a license shall be submitted to the city manager or designee and shall contain the following information:

(1) A drawing depicting the location, size and number of tables and chairs at the proposed location of the sidewalk cafe, subject to the following:

a. A minimum of forty-eight (48) inches, clear and unobstructed, sidewalk space shall be maintained for pedestrian traffic at all times;

b. If a sidewalk has less than sixty (60) inches clear width, then passing spaces at least sixty (60) inches by sixty (60) inches shall be located at reasonable intervals not to exceed two hundred (200) feet along the sidewalk in order to ensure compliance with the Americans with Disabilities Act;

c. On the sidewalks of the downtown square: (1) Bradford Street between Spring Street and Washington Street; (2) Washington Street between Bradford Street and Main Street; and (3) Main Street between Washington Street and Spring Street, the tables and chairs shall be placed in such a manner so as to allow a clear and unobstructed forty-eight (48) inch wide path for pedestrian traffic at all times;

d. On the sidewalks in other areas of the central business district, the tables and chairs must be placed in the area nearest the building and allow a clear and unobstructed forty-eight (48) inch wide path for pedestrian traffic at all times; and

e. The area in which a sidewalk cafe is located shall not extend parallel in either direction beyond the outside walls of the building in which the restaurant is located.

(2) The name, location, description and mailing address of the business applying for the license.

(d) The applicant shall procure and shall maintain comprehensive general liability and broad form property damage insurance as shall protect applicant from claims for damages for bodily injury, including accidental death, as well as from claims for property damages, which may arise from operation of a sidewalk cafe by the applicant, whether such operations are by the applicant or by any subcontractor or by anyone directly or indirectly employed by either of them. The amount of insurance shall not be less than one million dollars ($1,000,000.00).

(e) The applicant shall provide a certificate of insurance acceptable to the city which shall be attached to each signed application when transmitted for final approval. The city shall be named as an additional insured on all coverages. The certificates of insurance, and any subsequent renewals, shall reference the license.

(f) The certificate of insurance shall contain a statement that "Coverages afforded under the policies will not be canceled unless at least thirty (30) days prior to cancellation written notice has been given to the city."

**Sec. 6-13-3. - General regulations.**

(a) A covered trash container with a minimum capacity of thirty-two (32) gallons, containing a disposable plastic liner, shall be provided within each sidewalk cafe area, and it shall be emptied as often as necessary to prevent overflow and other unsanitary conditions.

(b) Permit holders shall maintain sidewalk café areas and all equipment and furnishings in such conditions as to be clean, sanitary and safe at all times.

(c) Receptacles for disposal of cigarettes shall be provided for the use of customers of the sidewalk cafe.

(d) The number of patrons occupying the sidewalk cafe shall not be greater than the number of chairs at each table within the sidewalk cafe.

(e) All tables, chairs, trash containers, and other associated equipment or furnishings shall be removed from the public sidewalk area at the close of business every day.

**Sec. 6-13-4. - Regulations pertaining specifically to businesses holding alcoholic beverage licenses.**

(a) Those businesses holding alcoholic beverage licenses shall store all alcoholic beverages inside their principal building.

(b) If customers choose to purchase alcoholic beverages inside the business and take them outside to the sidewalk cafe portion of the restaurant, it shall be the responsibility of the license holder to ensure that alcoholic beverages laws and ordinances are complied with in the sidewalk cafe.

(c) Except as otherwise permitted by law, it shall be unlawful for any customer to leave the confines of the sidewalk cafe, except to enter the principal building containing the licensed establishment, with alcoholic beverages in such customer's possession.

(d) It shall be unlawful for the license holder or employees thereof to permit any person to leave the sidewalk cafe, except to enter the principal building containing the licensed establishment, with alcoholic beverages in such person's possession.

(e) The general regulations as set out in section 6-13-3 shall also apply to those restaurants holding alcoholic beverage licenses.

**Sec. 6-13-5. - Revocation, suspension.**

(a) Any violation of this chapter that may warrant revocation of a sidewalk cafe license shall be reported by any person to the city manager or designee who shall have the power, in his discretion, to suspend the license for a period not to exceed ten (10) days pending a hearing before the administrative hearing officer on the question of whether or not the license shall be revoked for cause.

(b) Upon a charge that there has been a violation of this chapter, the city manager or designee may order the use of the sidewalk cafe suspended, pending a hearing on the charge.

Before the denial of any application for a license or for the revocation of any existing sidewalk café license subject to the provisions of this chapter, the applicant or licensee, as the case may be, shall be given notice in writing from the city manager or designee to show cause before the administrative hearing officer at a time and place specified therein not less than three (3) days nor more than ten (10) days from the date of service of the notice, why such application for a license should not be denied, or why such license should not be revoked, as the case may be, stating the grounds therefor, and at the appointed time and place the applicant or licensee shall have an opportunity to show cause, if any exist, why such application should not be denied or such license revoked, after which the administrative hearing officer shall take such actions as he or she in his or her judgment and discretion, shall deem warranted under the facts. All decisions of the administrative hearing officer shall be in writing with reasons therefore stated and mailed or delivered to the applicant, licensee, or the person in charge of the place of business if the license holder cannot be located. In addition, at any hearing as provided herein, the party afforded the hearing shall have the opportunity to present evidence and cross-examine opposing witnesses.

(d) Any person aggrieved by the action or decision of the administrative hearing officer to deny an application for a license applied for under the provisions of this chapter or the revocation or suspension of a license, shall have the right of appeal by certiorari to the superior court of Hall County from the decision of the administrative hearing officer, as provided by law.

**Sec. 6-13-6. - Penalty for violation.**

Any person violating any of the provisions of this chapter shall be punished as provided in section 1-1-7 of this Code.

**SECTION II.**

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

**SECTION III.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

**SECTION IV.**

The Ordinance is enacted as an amendment to Chapter 6-13 of the Code of Ordinances of the City of Gainesville, Georgia.

**SECTION V.**

The effective date of this Ordinance shall be upon approval by the Governing Body of the City of Gainesville.

______________________________________
**C. Danny Dunagan, Jr., Mayor**

**This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.**

**ATTEST:**

______________________________________
**Denise O. Jordan, City Clerk**

First Reading: ____________
Passed: ____________

**AN ORDINANCE**

**No. 2017-**

**AN ORDINANCE TO AMEND CHAPTER 6-13 ENTITLED "SIDEWALK CAFES" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I.**

~~Section 6-13-110-1-63 of the Code of the City of Gainesville, Georgia is hereby deleted in its entirety and replaced with a new Section 6-13-110-1-63~~Chapter 6-13 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:

## Sec. 6-13-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning

*Sidewalk cafe* means the location and use of tables and chairs and other associated equipment and furnishings on the public sidewalk or ~~city-installed~~City installed and/or approved parklet and operated as an extension of a licensed eating establishment or licensed alcoholic beverage premises in the central business district.

~~**SECTION 2.**~~

~~Section 6-13-2 of the Code of the City of Gainesville, Georgia is hereby deleted in its entirety and replaced with a new Section 6-13-2 to read as follows:~~

## Sec. 6-13-2. - Sidewalk cafes allowed in central business district; license required.

(a) Sidewalk cafes shall be allowed in the city zoning district known as the central business district subject to the provisions of this chapter.

(b) No person shall operate a sidewalk cafe without first obtaining a license from the city manager or designee.

(c) All applications for a license shall be submitted to the ~~city marshal~~city manager or designee and shall contain the following information:

(1) A drawing depicting the location, size and number of tables and chairs at the proposed location of the sidewalk cafe, subject to the following:

a. A minimum of forty-eight (48) inches, clear and unobstructed, sidewalk space shall be maintained for pedestrian traffic at all times;

b. If a sidewalk has less than sixty (60) inches clear width, then passing spaces at least sixty (60) inches by sixty (60) inches shall be located at reasonable intervals not to exceed two hundred (200) feet along the sidewalk in order to ensure compliance with the Americans with Disabilities Act ~~(ADA Compliance Guide Section 4.3).~~;

c. On the sidewalks of the downtown square: (1~~.~~) Bradford Street between Spring Street and Washington Street; (2~~.~~) Washington Street between Bradford Street and Main Street; and (3)~~.~~ Main Street between Washington Street and Spring Street~~)~~, the tables and chairs shall be placed in such a manner so as to allow a clear and unobstructed forty-eight~~-~~ (48) inch wide path for pedestrian traffic at all times;

d. On the sidewalks in other areas of the central business district, the tables and chairs must be placed in the area nearest the building and allow a clear and unobstructed forty-eight~~-~~(48)inch wide path for pedestrian traffic at all times; and

e. The area in which a sidewalk cafe is located shall not extend parallel in either direction beyond the outside walls of the building in which the restaurant is located.

(2) The name, location, description and mailing address of the business applying for the license.

(d) The applicant shall procure and shall maintain comprehensive general liability and broad form property damage insurance as shall protect applicant from claims for damages for bodily injury, including accidental death, as well as from claims for property damages, which may arise from operation of a sidewalk cafe by the applicant, whether such operations are by the applicant or by any subcontractor or by anyone directly or indirectly employed by either of them. The amount of insurance shall not be less than one million dollars ($1,000,000.00).

(e) The applicant shall provide a certificate of insurance acceptable to the city which shall be attached to each signed application when transmitted for final approval. The city shall be named as an additional insured on all coverages. The certificates of insurance, and any subsequent renewals, shall reference the license.

(f) The certificate of insurance shall contain a statement that "Coverages afforded under the policies will not be canceled unless at least thirty (30) days prior to cancellation written notice has been given to the city."

~~**SECTION 3.**~~

~~Section 6-13-3 of the Code of the City of Gainesville, Georgia is hereby deleted in its entirety and replaced with a new Section 6-13-3 to read as follows:~~

## Sec. 6-13-3. - General regulations.

(a) A covered trash container with a minimum capacity of thirty-two (32) gallons, containing a disposable plastic liner, shall be provided within each sidewalk cafe area, and it shall be emptied as often as necessary to prevent overflow and other unsanitary conditions.

(b) Permit holders shall maintain sidewalk café areas and all equipment and furnishings in such conditions as to be clean, sanitary and safe at all times.

(c) Receptacles for disposal of cigarettes shall be provided for the use of customers of the sidewalk cafe.

(d) The number of patrons occupying the side~~-~~walk cafe shall not be greater than the number of chairs at each table within the sidewalk cafe.

(e) All tables, chairs, trash containers, and other associated equipment or furnishings shall be removed from the public sidewalk area at the close of business every day.

~~**SECTION 4.**~~

~~Section 6-13-4 of the Code of the City of Gainesville, Georgia is hereby deleted in its entirety and replaced with a new Section 6-13-4 to read as follows:~~

## Sec. 6-13-4. - Regulations pertaining specifically to businesses holding alcoholic beverage licenses.

(a) Those businesses holding alcoholic beverage licenses shall store all alcoholic beverages inside their principal building.

(b) If customers choose to purchase alcoholic beverages inside the business and take them outside to the sidewalk cafe portion of the restaurant, it shall be the responsibility of the license holder to ensure that alcoholic beverages laws and ordinances are complied with in the sidewalk cafe.

(c) Except as otherwise permitted by law, It shall be unlawful for ~~anyone~~any customer to leave the confines of the sidewalk cafe, except to enter the principal building containing the licensed establishment, with alcoholic beverages in ~~their~~such customer's possession.

(d) It shall be unlawful for the license holder or employees thereof to permit any person to leave the sidewalk cafe, except to enter the principal building containing the licensed establishment, with alcoholic beverages in ~~their~~such person's possession.

(e) The general regulations as set out in section 6-13-3 shall also apply to those restaurants holding alcoholic beverage licenses.

~~**SECTION 5.**~~

~~Section 6-13-5 of the Code of the City of Gainesville, Georgia is hereby deleted in its entirety and replaced with a new Section 6-13-5 to read as follows:~~

## Sec. 6-13-5. - Revocation, suspension.

(a) Any violation of this chapter that may warrant revocation of a sidewalk cafe license shall be reported by any person to the ~~city marshal~~city manager or designee who shall have the power, in his discretion, to suspend the license for a period not to exceed ten (10) days pending a hearing before the administrative hearing officer on the question of whether or not the license shall be revoked for cause.

(b) Upon a charge that there has been a violation of this chapter, the ~~city marshal~~city manager or designee may order the use of the sidewalk cafe suspended, pending a hearing on the charge.

~~(c)~~ Before the denial of any application for a license or for the revocation of any existing sidewalk café license subject to the provisions of this chapter, the applicant or licensee, as the case may be, shall be given notice in writing from the ~~Before the denial of any application for a license or for the revocation of any existing sidewalk cafe license subject to the provisions of this chapter, the applicant or licensee, as the case may be, shall be given notice in writing from the city marshal~~city manager or designee to show cause before the administrative hearing officer at a time and place specified therein not less than three (3) days nor more than ten (10) days from the date of service of the notice, why such application for a license should not be denied, or why such license should not be revoked, as the case may be, stating the grounds therefore, and at the appointed time and place the applicant or licensee shall have an opportunity to show cause, if any exist, why such application should not be denied or such license revoked, after which the administrative hearing officer shall take such actions as he or she in his or her judgment and discretion, shall deem warranted under the facts. All decisions of the administrative hearing officer shall be in writing with reasons therefore stated and mailed or delivered to the applicant, licensee, or the person in charge of the place of business if the license holder cannot be located. In addition, at any hearing as provided herein, the party afforded the hearing shall have the opportunity to present evidence and cross-examine opposing witnesses.

(d) Any person aggrieved by the action or decision of the administrative hearing officer to deny an application for a license applied for under the provisions of this chapter or the revocation or suspension of a license, shall have the right of appeal by certiorari to the superior court of Hall County from the decision of the administrative hearing officer, as provided by law.

~~**SECTION 6.**~~

~~Section 6-13-6 of the Code of the City of Gainesville, Georgia is hereby deleted in its entirety and replaced with a new Section 6-13-6 to read as follows:~~

**Sec. 6-13-6. - Penalty for violation.**

Any person violating any of the provisions of this chapter shall be punished as provided in section 1-1-7 of this Code.

## SECTION ~~7~~II.

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

## SECTION ~~8~~III.

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

## SECTION ~~9~~IV.

The Ordinance is enacted as an amendment to Chapter 6-~~4~~13 of the Code of Ordinances of the City of Gainesville, Georgia.

## SECTION ~~10~~V.

The effective date of this Ordinance shall be upon approval by the Governing Body of the City of Gainesville.

**C. Danny Dunagan, Jr., Mayor**

**This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.**

**ATTEST:**

**Denise O. Jordan, City Clerk**

# CITY OF GAINESVILLE

## WORKSESSIONREQUEST

**Date Submitted**: 7/18/2017

**Presenter**: Bryan Lackey

**Item of Business**: Ordinance: Amend Section 10-1-63 entitled Alcoholic Beverage Fees and Excise Taxes

**Meeting Date**: 7/27/2017

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**Purpose of Request**:
Approval of an Amendment to the City's Ordinance Title 10 entitled Schedule of Fees of the Code of Ordinances of the City of Gainesville, Georgia, which enables the City Council to set and update fees related to alcohol licensing by Resolution. The proposed revisions to section 10-1-63 establish this requirement.

**History/Background**:
Over the past few months, the City has been evaluating changes to its Ordinances related to Alcohol and Occupational Tax. These proposed changes to this Ordinance and three other related Ordinances are being present to ensure the City conforms with the new State Laws and at the same time realigns its resources to best meet the needs of the Business Community within the City of Gainesville.

**Facts & Issues for Consideration**:

**Department Recommendation**:
Approval of the proposed amended ordinance.

**Department Director**:
Bryan Lackey

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**If funding is involved, are funds approved within the current budget?**
N/A

**Amount Requested**:

**Source of Funds**:

**Finance Comments**:

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**Administrative Comments:**

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ATTACHMENTS:

| Description | Type |
|---|---|
| Alcohol Fee Schedule | Ordinance |
| Alcohol Fee Schedules - Markup | Backup Material |

First Reading: ____________
Passed: ____________

**AN ORDINANCE**

**No. 2017-**

**AN ORDINANCE TO AMEND SECTION 10-1-63 ENTITLED "ALCOHOLIC BEVERAGE FEES AND EXCISE TAXES" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I.**

Section 10-1-63 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:

(a) The amounts imposed for alcoholic beverage annual fees will be set by Resolution of the governing body of the City of Gainesville.

(b) The amounts imposed for excise taxes in the city are as follows:

1. The malt beverage excise tax imposed pursuant to section 6-4-50 shall be in the following amounts:

   i. For malt beverages sold in or from a barrel or bulk container (commonly known as tap or draft beer) a tax of six dollars ($6.00) on each container sold containing not more than fifteen and one-half (15½) gallons and a proportionate tax on the same rate on all fractional parts of fifteen and one-half (15½) gallons.

   ii. For malt beverages sold in bottles, cans or other containers, except barrel or bulk containers, a tax of five cents ($0.05) cents per twelve (12) ounces and a proportionate tax at the same rate of all fractional parts of twelve (12) ounces.

2. The wine excise tax imposed pursuant to section 6-4-50 shall be in the amount of twenty-two cents ($0.22) per liter and a proportionate tax at the same rate of all fractional parts of a liter.

3. The distilled spirits excise tax imposed pursuant to section 6-4-50 shall be in the amount of twenty-two cents ($0.22) per liter and a proportionate tax at the same rate of all fractional parts of a liter.

4. The distilled spirits excise tax imposed pursuant to section 6-4-32 (mixed drinks consumed on premises) shall be in the amount of three (3) percent of the purchase price of the beverage.

**SECTION II.**

All Ordinances and part of Ordinances in conflict herewith are hereby repealed.

**SECTION III.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

**SECTION IV.**

The Ordinance is enacted as amendment to Section 10-1-63 of the Code of Ordinances of the City of Gainesville, Georgia.

**SECTION V.**

The effective date of this Ordinance shall be upon approval by the Governing Body of the City of Gainesville.

____________________________________
**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

____________________________________
**Denise O. Jordan, City Clerk**

First Reading: ____________
Passed: ____________

## AN ORDINANCE

**No. 2017-**

**AN ORDINANCE TO AMEND SECTION 10-1-63 ENTITLED "ALCOHOLIC BEVERAGE FEES AND EXCISE TAXES" OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I.**

Section 10-1-63 of the Code of the City of Gainesville, Georgia is hereby amended to read as follows:

(a) The amounts imposed for alcoholic beverage annual fees will be set by Resolution of the governing body of the City of Gainesville.

~~(b) The amounts imposed for alcoholic beverage annual fees in the city shall be set forth by resolution of the Governing Body.~~

~~(c) are as follows:~~

~~Distilled spirits (liquor), manufacturer .....$3,000.00~~

~~Distilled spirits (liquor), importer .....100.00~~

~~Distilled spirits (liquor), wholesale .....3,000.00~~

~~Distilled spirits (liquor), package .....5,000.00~~

~~Distilled spirits (liquor), pouring .....3,000.00~~

~~Distilled spirits (liquor), pouring off premises at a catered function by the drink .....100.00~~

~~Malt beverages, manufacturer only.....3,000.00~~

~~Malt beverages, importer .....100.00~~

~~Malt beverages, wholesale .....100.00~~

~~Malt beverages, package .....700.00~~

~~Malt beverages, pouring .....700.00~~

~~Malt beverages, pouring off premises at a catered function by the drink .....50.00~~

~~Malt beverages, Brewpub License with distilled spirits .....1,54,400.00~~

~~Malt beverages, Brewpub License without distilled spirits .....1,400.00~~

~~Malt beverages, Brewery .....3,700.00~~

~~Wine, manufacturer .....3,000.00~~

~~Wine, importer .....100.00~~

~~Wine, wholesale .....100.00~~

~~Wine, package .....700.00~~

~~Wine, pouring .....700.00~~

~~Wine, pouring off premises at a catered function by the drink .....50.00~~

~~Wine, Georgia Farm Winery Tasting Room .....1,400.00~~

~~(d)~~(b) The amounts imposed for excise taxes in the city are as follows:

1. The malt beverage excise tax imposed pursuant to section 6-4-50 shall be in the following amounts:

    i. For malt beverages sold in or from a barrel or bulk container (commonly known as tap or draft beer) a tax of six dollars ($6.00) on each container sold containing not more than fifteen and one-half (15½) gallons and a proportionate tax on the same rate on all fractional parts of fifteen and one-half (15½) gallons.

    ii. For malt beverages sold in bottles, cans or other containers, except barrel or bulk containers, a tax of five cents ($0.05) cents per twelve (12) ounces and a proportionate tax at the same rate of all fractional parts of twelve (12) ounces.

2. The wine excise tax imposed pursuant to section 6-4-50 shall be in the amount of twenty-two cents ($0.22) per liter and a proportionate tax at the same rate of all fractional parts of a liter.

3. The distilled spirits excise tax imposed pursuant to section 6-4-50 shall be in the amount of twenty-two cents ($0.22) per liter and a proportionate tax at the same rate of all fractional parts of a liter.

4. The distilled spirits excise tax imposed pursuant to section 6-4-32 (mixed drinks consumed on premises) shall be in the amount of three (3) percent of the purchase price of the beverage.

~~The amounts imposed for alcoholic beverage annual fees will be set by Resolution of the governing body of the City of Gainesville.~~

~~(e) The amount imposed for the transfer of an alcoholic beverage license shall be set forth by resolution of the Governing Body. as follows:~~

~~1. Upon the change of a managing agent of a licensee pursuant to section 6-4-8 (b) the fee shall be one hundred dollars ($100.00).~~

~~2. Upon the change of a registered agent of a licensee pursuant to section 6-4-7 (d) the fee shall be twenty-five dollars ($25.00)~~

~~3. Upon a change of location pursuant to section 6-4-8 (c) shall be five hundred dollars ($500.00).~~

~~(f) The amounts imposed for special events shall be set forth by resolution of the Governing Body. are as follows:~~

~~1. For a special temporary event permit pursuant to section 6-4-100 or 6-4-101 the fee shall be twenty-five dollars ($25.00) per permit.~~

~~2. For a temporary limited license pursuant to section 6-4-102 the fee shall be twenty-five dollars ($25.00) per license.~~

~~3. For a wine tasting pursuant to section 6-4-104 the fee shall be twenty-five dollars ($25.00) per wine tasting event.~~

~~4. For a home brew special event pursuant to section 6-4-105 the fee shall be twenty-five dollars ($25.00) per event.~~

~~(g) The amount imposed for Employee Permits pursuant to section 6-4-12 (d) shall be twenty dollars ($20.00).~~

**SECTION II.**

All Ordinances and part of Ordinances in conflict herewith are hereby repealed.

**SECTION III.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

**SECTION IV.**

The Ordinance is enacted as amendment to Section 10-1-63 of the Code of Ordinances of the City of Gainesville, Georgia.

**SECTION V.**

The effective date of this Ordinance shall be upon approval by the Governing Body of the City of Gainesville.

**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

**Denise O. Jordan, City Clerk**

# CITY OF GAINESVILLE

## WORKSESSIONREQUEST

**Date Submitted**: 7/18/2017

**Presenter**: Bryan Lackey

**Item of Business**: Resolution: Establish Fees Related to Alcohol Licensing

**Meeting Date**: 7/27/2017

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**Purpose of Request**:
Approval of a resolution establishing the newly revised schedule of fees related to alcohol licensing.

**History/Background**:
With the approval of the amendments to City's Code Section 10-1-63 entitled Schedule of Fees, the City Council of Gainesville is required to adopt a Resolution setting the fees related to alcohol licensing.

**Facts & Issues for Consideration**:
Over the past few months, the City has been evaluating changes to its Ordinances related to Alcohol and Occupational Tax. These proposed changes to this Ordinance and three other related Ordinances are being present to ensure the City conforms with the new State Laws and at the same time realigns its resources to best meet the needs of the Business Community within the City of Gainesville.

**Department Recommendation**:
Approval of the proposed resolution upon adoption of the amendments to City's Code Section 10-1-63 entitled Schedule of Fees.

**Department Director**:
Bryan Lackey

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**If funding is involved, are funds approved within the current budget?**
N/A

**Amount Requested**: **Source of Funds**:

**Finance Comments**:

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**Administrative Comments:**

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ATTACHMENTS:

| Description | Type |
|---|---|
| Establishing Fees Related to Alcohol Licensing | Resolution |
| Alcohol Fee Schedule | Attachments/Exhibits |

**RESOLUTION BR-2017 - ___**

**Establish Fees Related to Alcohol Licensing**

**WHEREAS**, Section 10-1-63(a) entitled Alcoholic Beverage Fees and Excise Taxes of the Code of Ordinances of the City of Gainesville, Georgia states that alcoholic beverage annual fees will be set by Resolution of the Governing Body of the City of Gainesville; and

**WHEREAS**, the Governing Body will from time to time, review all fees and make changes as needed; and

**WHEREAS**, the Governing Body has reviewed the fees on the attached schedule.

**NOW, THEREFORE, BE IT RESOLVED THAT** the governing body for the City of Gainesville hereby approves the fees on the attached Alcoholic Beverage Annual Fee Schedule, which fees shall be in effect until further resolution of the governing body.

**Adopted this _____ day of ___________________, 2017.**

______________________________________
**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

______________________________________
**Denise O. Jordan, City Clerk**

# ALCOHOLIC BEVERAGE ANNUAL FEE SCHEDULE

**Revised 08/15/2017**

| Distilled Spirits (liquor) | |
|---|---|
| Manufacturer Only | $3,000 |
| Importer | $100 |
| Wholesale | $3,000 |
| Package | $5,000 |
| Pouring | $3,000 |
| Pouring off premises at a catered function by the drink | $100 |
| **Malt Beverages** | |
| Manufacturer Only | $3,000 |
| Importer | $100 |
| Wholesale | $100 |
| Package | $700 |
| Pouring | $700 |
| Pouring off premises at a catered function by the drink | $50 |
| **Wine** | |
| Manufacturer Only | $3,000 |
| Importer | $100 |
| Wholesale | $100 |
| Package | $700 |
| Pouring | $700 |
| Pouring off premises at a catered function by the drink | $50 |
| Georgia Farm Winery Tasting Room | $1,400 |
| **Brewpub** | |
| With distilled spirits | $4,400 |
| Without distilled spirits | $1,400 |
| **Brewery** | |
| Brewery | $3,700 |
| **Modifications to License** | |
| Change of a managing agent of a licensee (6-4-8(b) | $100 |
| Change of a registered agent of a licensee (6-4-7(d)) | $25 |
| Change of location pursuant (6-4-8(c)) | $500 |
| **Special Events** | |
| Special temporary event permit (6-4-100 or 6-4-101) | $25 per permit |
| Temporary limited license (6-4-102) | $25 per permit |
| Wine tasting (6-4-104) | $25 per wine tasting event |
| Home brew special event (6-4-105) | $25 per event |
| **Employee Permits** | |
| Employee Permits (6-4-12 (d)) | $20 |

# CITY OF GAINESVILLE

## WORKSESSIONREQUEST

**Date Submitted**: 7/17/2017

**Presenter**: Rusty Ligon

**Item of Business**: **Public Hearing Item for the August 1, 2017 Council Meeting**
Resolution: Community Development Block Grant (CDBG) 2017 Annual Action Plan

**Meeting Date**: 7/27/2017

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**Purpose of Request**:
Public Hearing and Resolution approving the CDBG 2017 Annual Action Plan.

**History/Background**:
The Community Development Block Grant (CDBG) is an annual allocation of funding received by the City each year from the U.S. Department of Housing and Urban Development (HUD). One of the requirements for receiving these funds is the development of an Annual Action Plan which must be approved by City Council and submitted to HUD for approval. The Annual Action Plan provides a detailed budget and description of activities the City will carry out with the CDBG funding.

**Facts & Issues for Consideration**:
The amount of funding allocated to the City of Gainesville for the 2017 Program year is $412,753. A draft version of the plan was made available for public comment and a neighborhood meeting was held to discuss the proposed activities. CDBG funded activities must address the goals identified within our adopted Consolidated Plan and meet one of three National Objectives of the CDBG Program: 1) Benefit to low and moderate income persons, 2) Elimination of slum and blight, 3) Meeting a particular urgent need.

**Department Recommendation**:
After the Public Hearing, approval of the 2017 Annual Action Plan.

**Department Director**:
Rusty Ligon

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**If funding is involved, are funds approved within the current budget?**
N/A

**Amount Requested**:

**Source of Funds**:

**Finance Comments**:

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**Administrative Comments:**

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ATTACHMENTS:

| Description | Type |
|---|---|
| July 7 Legal Ad | Legal Ad |
| July 21 Legal Ad | Legal Ad |
| Annual Action Plan 2017 | Resolution |
| Annual Action Plan 2017 & Attachments | Attachments/Exhibits |

RUSSIA ELECTION INVESTIGATION

# 'Nobody really knows for sure'

## Trump stops short of condemning nation for election meddling hours before meeting Putin

BY KEN THOMAS AND DARLENE SUPERVILLE
Associated Press

**WARSAW, Poland** — Hours before a crucial meeting with Russian President Vladimir Putin, President Donald Trump stopped short Thursday of condemning Moscow for meddling in the U.S. presidential election — and refused to say if he would raise the issue when the leaders go behind closed doors.

Yet in a speech to a friendly crowd of thousands who chanted his name in downtown Warsaw, Trump sought to demonstrate he wasn't overlooking Russian behavior that has sparked global concern, especially from Poland and other eastern and central European nations.

"We urge Russia to cease its destabilizing activities in Ukraine and elsewhere, and its support for hostile regimes, including Syria and Iran, and to join the community of responsible nations in our fight against common enemies and in defense of civilization itself," he said from Krasinski Square.


Putin

Trump then flew to Hamburg, Germany, where more than 100,000 protesters were expected to flood the city to stage massive protests against the Group of 20 summit. On the eve of the two-day meeting, German police used water cannons and pepper spray to disperse protesters in Hamburg after being attacked with bottles and stones by some marchers.

Trump's critique of Russia did not appear to extend to its actions during last year's presidential campaign. Multiple U.S. intelligence agencies have concluded that Russia meddled in the election to benefit Trump, who has refused to embrace the finding wholeheartedly.

During a news conference before his speech praising Poland for overcoming adversity, Trump again questioned the reliability of U.S. intelligence on the election issue and argued that Russia wasn't the only country that might be guilty of interfering.

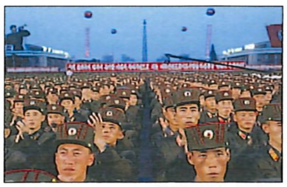
"Nobody really knows for sure," Trump said.

Poland's conservative government had promised the U.S. president enthusiastic crowds in its invitation to Trump, Polish media had reported, and it clearly delivered.

Opening his second overseas trip since taking office in January, Trump also warned North Korea that he's considering "some pretty severe things" in response to the isolated nation's unprecedented launch this week of a missile capable of reaching the U.S. He offered no details, but called on all nations to confront North Korea's "very, very bad behavior."

Trump also stated unequivocally the U.S. stands "firmly behind Article 5," the NATO provision requiring members to defend each other if they come under attack. He had disappointed U.S. allies by declining to affirm that commitment during his first trip to Europe in May.

As U.S. investigations into Russia's interference continue, Trump is under intense scrutiny over how he handles his first face-to-face meeting today with Putin, a former Russian intelligence agent. They will meet in Hamburg on the sidelines of the summit of the world's rich and developing nations.


JON CHOL JIN | Associated Press
Soldiers gather Thursday in Kim Il Sung Square in Pyongyang, North Korea, to celebrate the test launch of North Korea's first intercontinental ballistic missile two days earlier.

# Of 'severe things,' US military strike on N. Korea slim

BY ROBERT BURNS
Associated Press

**WASHINGTON** — A pre-emptive military strike may be among the "pretty severe things" President Donald Trump says he is considering for North Korea, but it's a step so fraught with risk it ranks among the unlikeliest options.

Even a so-called surgical strike aimed at the North's partially hidden nuclear and missile force is unlikely to destroy the arsenal or stop its leader, Kim Jong Un, from swiftly retaliating with long-range artillery that could kill stunning numbers in South Korea within minutes.

An all-out conflict could then ensue. And while Trump's Pentagon chief, Jim Mattis, says the U.S. would prevail, he believes it would be "a catastrophic war."

In Poland on Thursday, Trump said the time has arrived to confront North Korea.

"I don't like to talk about what I have planned, but I have some pretty severe things that we're thinking about," the president said. "That doesn't mean we're going to do them."

Trump didn't mention which "severe" options he is weighing following North Korea's July 4 test-launch of an intercontinental ballistic missile. The administration has been reviewing its North Korea policy for months, having declared earlier attempts at "strategic patience" with the North to have failed. The administration has spoken about starving North Korea of cash for its nuclear program and getting other countries to add diplomatic and economic pressure.

But Trump and his aides have not have ruled out war with an adversary that is openly defying U.N. Security Council resolutions and threatening the United States.

"It's a shame that they're behaving this way," Trump said, "but they are behaving in a very, very dangerous manner and something will have to be done about it."

Trump was referring to North Korea's test-launch Tuesday of an unarmed ballistic missile that for the first time demonstrated the range needed to reach U.S. soil. The ICBM was launched on a lofted trajectory so that it fell short of Japan. U.S. analysts calculated that if it is launched on a standard attack trajectory, the missile could reach Alaska. With further testing, they say, North Korea will achieve even longer ranges.

The missile launch created a new reality for the U.S. and its South Korean and Japanese allies, which already are in range of the North's missiles. With a population of more than 20 million, Seoul is in easy range of North Korea's massive array of artillery guns north of the Demilitarized Zone that forms a buffer between North and South. Japan could also be a target. Beyond the nuclear threat, the North also is believed to have chemical and biological weapons.

The U.S. has about 28,000 troops in South Korea, and Gen. Joseph Dunford, chairman of the Joint Chiefs of Staff, says about 300,000 U.S. citizens are in Seoul alone. Dunford predicted in June 12 that war casualties would be heavy — "and many of those casualties will be in the first three, five, seven days of the war where all those people in the greater Seoul area (are) exposed to the North Korean threat that we will not be able to mitigate initially."

Mattis told a House committee last month if it came to a fight, the U.S. and its allies would prevail, but at a cost difficult to imagine.

"It will be a war more serious in terms of human suffering than anything we've seen since 1953," he said, referring to the final year of the Korean War. Then, U.S. forces siding with South Korea fought North Korea to a stalemate. It was an era when the North had no nuclear or chemical weapons.

# Trump uses Poland visit to break presidential etiquette

BY KEN THOMAS
Associated Press

**WARSAW** — Most U.S. presidents use their foreign trips to promote the virtues of American democracy. President Donald Trump did some of that, too. But he didn't hesitate to use his quick visit to Poland to air some pointed grievances, blasting his predecessor, casting doubt on his own spy agencies and unloading on news outlets by name.

Trump's news conference with Polish President Andrzej Duda on Thursday offered a fresh window into how a new president, not yet six months in office, has shown a penchant for changing the unwritten rules of the White House.

Trump thumped former President Barack Obama for failing to do more to address allegations that Russia meddled in the 2016 election. At one point, Trump asserted that Obama had stayed silent because he expected his Democratic heir apparent to win.

"I think he thought Hillary Clinton was going to win the election, and he said, let's not do anything about it," Trump said. "Had he thought the other way he would have done something about it."

Trump was pressed about the conclusion by the U.S. national intelligence director last year that Russia was behind the hack of Democratic Party email systems and otherwise attempted to influence the 2016 election to aid Trump. Trump volunteered U.S. spy agencies had once been confident Iraq had weapons of mass destruction.

"They were wrong and it led to a mess," he said, meaning the Iraq war.

All of it came on the eve of Trump's meeting with Russian President Vladimir Putin and as investigators look into contacts between Trump's associates and Moscow during the 2016 campaign and transition.

Rep. Adam Schiff, D-Calif., the top Democrat on the House intelligence committee, said Trump's comments in Poland "continue to directly undermine U.S. interests. This is not putting America first, but continuing to propagate his own personal fiction at the country's expense."

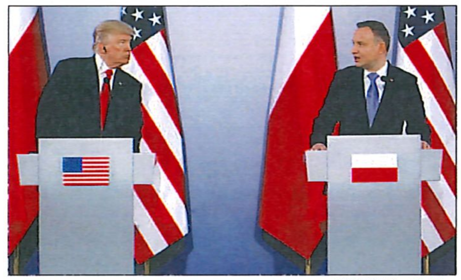
While many U.S. presidents have pointed to a free and independent press as a pillar of democracy, Trump repeated his longstanding critique of CNN and singled out NBC News, complaining it was "equally as bad despite the fact that I made them a fortune with 'The Apprentice' but they forgot that."

Trump appeared to find common ground with Duda, who complained about his treatment by a broadcaster. Last year, Duda signed a law designed to give his government more control of state media, drawing condemnation from watchdog groups.

"This is another example of Trump redefining the presidency," said Jeanne Zaino, political science professor at Iona College. "He is willing to say things past presidents would not say and break norms that his predecessors would not."

She added, "While this may upset some Americans, I imagine his supporters will cheer him on."

The exchanges brought to mind the principles espoused by Republican Sen. Arthur Vandenburg of Michigan, who called for an end to "partisan politics at the water's edge" following World War II and forged a bipartisan consensus for Democratic President Harry S. Truman's foreign policies.


EVAN VUCCI | Associated Press
Poland's President Andrzej Duda, right, and U.S President Donald Trump attend a news conference Thursday at Royal Castle, in Warsaw.

### Trump frames anti-terrorism fight a clash of civilizations

**WARSAW, Poland** — President Donald Trump's speech in Warsaw cast the fight against terrorism as a clash of civilizations, adopting a framework that his two predecessors had determinedly avoided and linking it to his controversial policies on immigration.

The speech Thursday offered extended praise for what Trump described as the unique virtues of Western civilization, which he said faced "dire threats."

Those, he said, emanate from the "south or the east" — apparently a thinly veiled reference to the Islamic world — and could "erase the bonds of culture, faith and tradition that make us who we are."

"The fundamental question of our time is whether the West has the will to survive," he said, one of nearly a dozen times that he invoked the idea of "will" during the course of the approximately 40-minute speech.

Trump had expressed similar ethnocentric ideas during his presidential campaign, but had never before described them at such length.

"If we are looking for a Trump doctrine, this is as close as we are going to get," said Michal Baranowski, the director of the German Marshall Fund office in Warsaw and an expert on Polish and European politics. "It is not a foreign policy doctrine — it is almost a manifesto."

The speech marked a shift from the rhetorical stance Trump took just a few weeks ago when he was in Saudi Arabia. In a speech on terrorism in Riyadh, the Saudi capital, he said that "this is not a battle between different faiths, different sects or different civilizations. This is a battle between barbaric criminals who seek to obliterate human life, and decent people of all religions who seek to protect it."

The more pointed language of his Warsaw speech reflected the influence of the two strongest advocates of populist nationalism among Trump's advisors, his strategist, Stephen K. Bannon, and his policy adviser, Stephen Miller, who wrote much of the speech. Although Miller had a strong hand in the Saudi speech as well, the language in that address was heavily negotiated in advance.

Trump's words also departed sharply from the approach taken by his predecessors.

Since the terrorist attacks on Sept. 11, 2001, both Presidents George W. Bush and Barack Obama repeatedly rejected the idea that the fight against terrorism should be seen as a battle between the West and Islam or any other culture.

Bush, for example, in one of his most extensive explanations of his policies, five years after 9/11, described the war against terrorism as one in which "all civilized nations are bound together" in a "struggle between moderation and extremism."

Obama went further, repeatedly insisting that terrorism did not pose an "existential" threat to the U.S. the way communism or Nazism had.

Trump, by contrast, speaking in front of a monument to Poland's resistance to the Nazis in World War II and praising the country for resisting Soviet domination, explicitly linked the fight against what he labeled "radical Islamic terrorism" to those earlier struggles.

Associated Press



**PUBLIC NOTICE**
**CITY OF GAINESVILLE**
**Community Development Block Grant (CDBG)**
**"Draft" 2017 Annual Action Plan**

The City of Gainesville has completed a draft of its 2017 Program Year Annual Action Plan for the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program. The Plan details the proposed activities to be carried out during the 2017/2018 Program Year. Proposed Activities include Public Facilities and Infrastructure Improvements, and Program Administration.

The draft Annual Action Plan will be available for review and public comment from July 7, 2017 through July 21, 2017. Comments should be submitted to the Community Development Department, 311 Henry Ward Way, Gainesville, GA 30501. Copies of the Annual Action Plan will be available for public examination at the Community Development Department during normal business hours. The report will be posted on the City of Gainesville website at www.gainesville.org. Comments may also be submitted by email to housing@gainesville.org. For further information please contact Theresa Dyer at 770-538-4944.

# GOP leaders plan health vote

## Senate pushed toward approval of bill next Tuesday

BY ALAN FRAM
Associated Press

ANDREW HARNIK | Associated Press

From left, Senate Majority Leader Mitch McConnell of Ky., Senate Majority Whip John Cornyn of Texas., and Sen. John Thune, R-S.D., speaks to members of the media outside of the West Wing of the White House in Washington, Wednesday following a luncheon with President Donald Trump and other GOP leadership.

WASHINGTON — Republican leaders pushed toward a Senate vote next Tuesday on resurrecting their nearly flat-lined health care bill. Their uphill drive was further complicated by the ailing GOP Sen. John McCain's potential absence and a dreary report envisioning that the number of uninsured Americans would soar.

The White House and GOP leaders fished Thursday for ways to win over recalcitrant senators, including an administration proposal to let states use Medicaid funds to help people buy their own private health insurance. But there were no indications they'd ensured the votes needed to even start debating the party's legislative keystone, a bill scuttling and supplanting President Barack Obama's health care law.

"Dealing with this issue is what's right for the country," said Majority Leader Mitch McConnell, R-Ky. He added, "It was certainly never going to be easy, but we've come a long way and I look forward to continuing our work together to finally bring relief."

As leaders tested revisions that might attract GOP votes, others began comparing the process with the trade-offs they scorned seven years ago as top Democrats pushed Obama's overhaul.

"It's almost becoming a bidding process — let's throw $50 billion here, let's throw $100 billion there," said Sen. Bob Corker, R-Tenn. "It's making me uncomfortable right now. It's beginning to feel a lot like how Obamacare came together."

In a blow, the Congressional Budget Office said McConnell's latest bill would produce 22 million additional uninsured people by 2026 and drive up premiums for many older Americans. Congress' nonpartisan fiscal analyst also said it would boost typical deductibles — the money people must pay before insurers cover costs — for single people to $13,000 that year, well above the $5,000 they'd be expected to pay under Obama's statute.

"Many people with low income would not purchase any plan even if it had very low premiums" because of that exorbitant deductible, the budget office said.

That dire outlook resembled one the office released last month on McConnell's initial bill, which the leader had to withdraw as Republicans rebelled against it.

Thursday's report seemed unlikely to do much better to help win over balking moderate Republicans upset over millions of voters losing coverage and cuts in Medicaid, the health insurance program for the poor. These included Sens. Lisa Murkowski of Alaska, Susan Collins of Maine, Ohio's Rob Portman and West Virginian Shelley Moore Capito.

The GOP's fissures have changed little for months.

Conservatives like Sens. Mike Lee of Utah and Texas' Ted Cruz want to loosen Obama's requirements that insurers cover numerous services and cap customers' costs, and some want to cut spending for Medicaid and other programs.

Conservative Rand Paul, R-Ky., is most interested in simply repealing the 2010 law. Moderates want to ease the spending reductions and leave consumer protections in place.

"There's a handful of folks who clearly have significant reservations" about backing the bill, said Sen. Pat Toomey, R-Pa. "But they haven't said no. They haven't said yes either."

# Exxon fined for Tillerson-era breach of Russia sanctions

BY JOSH LEDERMAN AND MATTHEW LEE
Associated Press

WASHINGTON — Exxon Mobil Corp. must pay a $2 million fine for showing "reckless disregard" for U.S. sanctions on Russia while Secretary of State Rex Tillerson was the oil giant's CEO, the Treasury Department said Thursday. Exxon sued the U.S. government to stop the fine.

Treasury said Exxon violated sanctions when it signed contracts in May 2014 with Russian oil magnate Igor Sechin, chairman of government-owned energy giant Rosneft. The U.S. blacklisted Sechin, Tillerson's longtime business associate, as part of its response to Moscow's actions in Ukraine and annexation of Crimea.

The same month Exxon signed the deals, Tillerson said the company generally opposes sanctions and finds them "ineffective."

Exxon maintained it had done nothing wrong. Hours after the fine was announced, the Texas-based company sued Treasury Secretary Steven Mnuchin and the government, saying the U.S. had clearly told companies that doing business with Rosneft was allowed — just not with Sechin himself. As America's top diplomat, Tillerson has insisted the sanctions will stay in place until Russia reverses course in Ukraine and gives back Crimea. Still, the sanctions breach on his watch raises significant questions about his ability to credibly enforce the sanctions and to persuade European countries to keep doing so.

Yet the Treasury Department said Exxon's "senior-most executives" knew Sechin was blacklisted when two of its subsidiaries signed deals with him. The Office of Foreign Assets Control, or OFAC, said Exxon caused "significant harm" to the sanctions program.

The dispute between Exxon and the government centers on whether the sanctions differentiated between "professional" and "personal" interactions with Sechin, who had been blacklisted only weeks earlier.

Exxon, in its lawsuit, noted that the former Obama administration had said the sanctions strategy was to identify individuals like Sechin who were contributing to the Ukraine crisis and to "target their personal assets, but not companies that they may manage on behalf of the Russian state," according to a White House fact sheet from the time.

# SCORES

■ Continued from 1A

and learning in Hall County Schools, said his district's results in the testing "are very comparable with recent years."

"If you view the data from a lens of how well students are doing as they go through school towards graduation, the data is quite positive," Bales said. "It is encouraging to see that our students perform better in ELA as they go through high school.

"Our analysis shows that the district has numerous elementary-aged students who face language acquisition challenges and need early literacy supports," Bales added. "By middle school, we find that our students are above the state average in mathematics in grades 6,7 and 8. Our students are also above the state average in (Social Studies) at both the elementary and middle school levels. In science, the fifth-grade scores are slightly below the state average while eighth-grade science scores are above the state average."

Photos by DAVID BARNES | The Times

Law enforcement officers collect the weapons that will be used during Advanced Law Enforcement Rapid Response Training at Mundy Mill Elementary Thursday.

A law enforcement officer looks out a classroom door during the training.

# TRAINING

■ Continued from 1A

officers about a slower rate of fire to not burn through ammo and about keeping lines of communication open.

In one area of the new school on Millside Parkway, officers assessed the injured and stayed alert near medical personnel rendering aid. Down another hallway, a squad of officers performed the secondary sweep to clear the building. Holbrook said one of the goals of the three-day course was to acclimate law enforcement with the layout of the new school while still practicing fundamentals for any emergency situation.

"Anybody that might be in the area, whether it be an investigator, administrative personnel, uniformed or non-uniformed, (is trained) so they can respond," Holbrook said.

# FUNDING

■ Continued from 1A

indicate that consistent, countywide policies/procedures/processes are in place to manage the extraterritorial extension of water and sewer services provided by all service providers."

Flowery Branch Mayor Mike Miller called the matter "much ado about nothing."

Although he's not seen the revision requests made by DCA, Miller said he's been told it's just a matter of making minor tweaks to the document.

"I understand one box was not checked," Miller said. "It's a matter of the state wanting to have every 'i' dotted and 't' crossed," Miller said.

Gainesville City Manager Bryan Lackey said he expects the matter to be resolved quickly. Lackey added that he's unaware of the state withholding funding from Gainesville.

"I have no reason to believe that DCA will not receive satisfactory clarification to their comments they have requested from our community, resulting in a resolution to this matter by the end of July," Lackey said.

Oakwood City Manager Stan Brown said from information that's been shared with him, the revisions requested should be remedied quickly.

"It's minor editorial changes," Brown said.

As for the state withholding funding, Brown added that Oakwood does not "have any issues."

Regardless, until DCA receives the revised document and approves it, Hall County and its nine municipalities — including a portion of Braselton and Buford, Clermont, Gillsville and Rest Haven — will not be getting state-issued permits, state funding and state administered federal funding, according to DCA.

Another seven counties and 29 cities appear on the DCA "ineligible" list from among the 159 counties and 535 incorporated municipalities in Georgia.

In a statement, Hall County spokeswoman Katie Crumley said that the county and its cities are not in jeopardy of losing out on any funding.

"We expect these minor clarifications to be submitted shortly, and we fully expect the SDS document to be approved," Crumley said.





PUBLIC NOTICE
CITY OF GAINESVILLE
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
(CDBG)

The City of Gainesville will hold a public hearing at 5:30 p.m. on Tuesday, August 1, 2017 during the regularly scheduled City Council meeting to adopt a resolution approving the FY 2017 CDBG Annual Action Plan. Public comments will be accepted during this meeting. The meeting will be held at the Gainesville Public Safety Complex in the Municipal Court Room located at 701 Queen City Parkway.

Persons with special needs relating to handicapped accessibility or foreign language should contact Theresa Dyer at 770-538-4944.

**RESOLUTION PR-2017 - ___**

**COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)**
**2017 ANNUAL ACTION PLAN**

**WHEREAS**, the City of Gainesville is designated an entitlement grantee by the U. S. Department of Housing and Urban Development (HUD) for the purpose of participation in the *Community Development Block Grant (CDBG)* Program; and

**WHEREAS**, the Community Development Department is directed to prepare and file an application including all appropriate appendages, assurances, and certifications with the U.S. Department of Housing and Urban Development requesting funding under the *Community Development Block Grant Program for Entitlement Cities*; and

**WHEREAS**, all proposed activities are consistent with the City's 2014 Consolidated Plan which was approved by HUD; and

**WHEREAS,** the Community Development Department anticipates receiving funds from HUD in the total amount of $412,753.00 and anticipates generation of the total amount of $30,000.00 in income through Community Development Department program activities; and

**WHEREAS**, all monies distributed from the *2017 Community Development Block Grant* will be utilized only for specifically designated and approved projects as outlined in the attached Fourth Program Year 2017 Annual Action Plan activities list as set forth in the attached Exhibit "A"; and

**NOW, THEREFORE, BE IT RESOLVED THAT** the governing body for the City of Gainesville hereby authorizes the Mayor or City Manager to sign all necessary resolutions, certifications, applications, subrecipient agreements and papers directly related to obtaining and administering the *2017 Community Development Block Grant* on behalf of the City of Gainesville.

**Adopted this _____ day of __________________, 2017.**

______________________________________
**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

______________________________________
**Denise O. Jordan, City Clerk**

# ANNUAL ACTION PLAN

## COMMUNITY DEVELOPMENT BLOCK GRANT
## PROGRAM YEAR 2017/2018

CITY OF GAINESVILLE
August 01, 2017

**Community Development Department**
**311 Henry Ward Way**
**Gainesville, Georgia 30501**

Mission Statement

To enrich the community of Gainesville by practicing good stewardship of resources and providing innovative and exemplary services for all people.

City Council
Mayor C. Danny Dunagan, Jr.
Mayor Pro-Tem Ruth Bruner
Councilmember Barbara Brooks
Councilmember George Wangemann
Councilmember Sam Couvillon
Councilmember Zack Thompson

Management
Bryan Lackey, City Manager
Angela Sheppard, Assistant City Manager
Rusty Ligon, Community Development Director

# Executive Summary

## AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

### 1. Introduction

**Purpose**

The Action Plan is a requirement of the Department of Housing and Urban Development (HUD) as a condition of receiving funding under certain federal programs. The goal of the plan is to extend and strengthen partnerships among the public and private sector to provide decent housing, establish and maintain a suitable living environment and expand economic opportunities.

This plan serves as the City's application for federal funding for the following federal entitlement programs:

- Community Development Block Grant (CDBG)

**Background**

The 2017 Annual Action Plan represents the fourth year of the City of Gainesville Consolidated Plan. The current Consolidated Plan was approved on May 6, 2014 by the Gainesville City Council. The plan identifies a comprehensive strategy to address community needs for the five-year period 2014-2018. The plan associates goals and objectives with current needs throughout the five-year period. The goals and objectives identified guide staff in selecting activities to be carried out during each fiscal year. Specific priorities and goals determined in the Consolidated Plan include the following:

1. Revitalization of neighborhoods that are in a state of decline through:

- Rehabilitation of owner occupied units.
- Acquisition and demolition of dilapidated housing.
- Acquisition of vacant parcels to assemble land for suitable building sites.
- Construction of affordable housing.
- Conversion of rental dwellings to owner occupied dwellings with down payment assistance.
- Improving but preserving neighborhood character.
- Developing programs and services with the private sector that will aid in the success of revitalization efforts.

- Landscaping/Streetscape improvements and other Public Facilities including infrastructure, public safety and improving residential desirability and quality of life in low and moderate income neighborhoods.
- Support Public Services with funding for Sub-recipient/Nonprofit Agencies that provide housing assistance to special needs populations, homeless providers, elderly services, and other community needs.
- Continue to eliminate lead-based paint hazards in dwellings assisted with federal funding.
- Promote Fair Housing as defined by the Federal Fair Housing Act.

## 2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

The 2017-2018 Annual Action Plan describes the CDBG activities selected for the 2017 fiscal year. The Five-Year Consolidated Plan guides development of the plan and selection of activities to be undertaken. The plan also includes the resources available to perform the activities, a detailed description of the activities, and maps depicting the areas in which the activities will take place. The activities to be undertaken by the City of Gainesville for the 2017-2018 fiscal year will include Program Administration and the allocation of funds for Public Facilities and Infrastructure Improvements to aide in the development of affordable housing. It is anticipated that a majority of the activities will be completed within the program year. The direct objectives of these activities are to create suitable living environments and to promote economic development activities. The outcomes include availability and accessibility.

In addition to routine Community Development activities through the CDBG Programs, we continue to seek opportunities to expand the supply of affordable housing units with the assistance of the Gainesville Nonprofit Development Foundation, Inc. The development of new housing units will require the experience and oversight of the City of Gainesville Housing Division.

## 3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

The 2015 program year began July 1, 2015 and ended June 30, 2016. Final approval of the second program year action plan funding was received from HUD in July 2015. The City of Gainesville was awarded $441,727 by the U. S. Department of Housing and Urban Development (HUD) as part of the 2015 Fiscal Year CDBG for Entitlement Cities. The City also reinvested $94,456 in program income received from activities carried out in previous years. The funds were allocated to activities identified as areas of high priority in the Consolidated Plan to improve the quality of life for the City of Gainesville's low-to-moderate income residents. In the 2015 program year, the City of Gainesville allocateds funds to carry out Public Services, Code Enforcement, and Public Facilities and Infrastructure Improvements. Activities resulted in the development of 4 new affordable single family homes, identification of 5789 of code violations, 7 dilapidated homes demolished and 3 homes remodeled through code in targeted areas, and funding for 7 public service agencies providing service to 850 beneficiaries. 2015 funds were also allocated to activities still underway including streetscaping efforts in a low mod income census tract to support economic development and improve the living environment and buffer development to provide additional measures to protect a low mod income neighborhood from an intrusive industrial sight. The 2016 program year is still underway and evaluation of those efforts will be reported in the 2018 Annual Plan. Performance for the City of Gainesville continues to be successful.

### 4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

The City of Gainesville complies with HUD's citizen participation requirements listed in the federal regulations 24 CFR 91.105. The following summarizes our citizen's participation plan process for the development of the 2017 Annual Action Plan:

1. Public Meeting held to discuss the development of the draft plan;
2. Draft of the plan made available for 30 days to the public for comment (15 day permitted in 2017 per HUD) ;
3. Public Meeting to review the draft plan at City Council Study session;
4. Official Public Hearing held at City Council meeting.

### 5. Summary of public comments

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

None received.

### 6. Summary of comments or views not accepted and the reasons for not accepting them

None received.

## 7. Summary

Based on the activities currently funded and other needs identified in the city's adopted 2014-2018 Consolidated Plan, Gainesville has determined that the most appropriate use of its 2017 CDBG allocation is for Public Facilities and Infrastructure improvements. Other programs receiving funding will include Program Administration and Housing Rehabilitation.

## PR-05 Lead & Responsible Agencies – 91.200(b)

### 1. Agency/entity responsible for preparing/administering the Consolidated Plan

Describe the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

| Agency Role | Name | Department/Agency |
|---|---|---|
| Lead Agency | GAINESVILLE | |
| CDBG Administrator | GAINESVILLE | Community Development Department/Housing Division |
| HOPWA Administrator | | |
| HOME Administrator | | |
| HOPWA-C Administrator | | |

**Table 1 – Responsible Agencies**

**Narrative (optional)**

**Consolidated Plan Public Contact Information**

*Theresa L. Dyer*

*Housing Coordinator*

*City of Gainesville,* Community *Development*

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## AP-10 Consultation – 91.100, 91.200(b), 91.215(l)

### 1. Introduction

Consultation on the development of the plan began in March 2017 and was accomplished through a variety of strategies, including internal departmental meetings (to include Code Enforcement, Building Inspections, and Planning staff), public notices, and public and community meetings. All efforts were made to contact appropriate parties and obtain their input for the content of this plan. These consultations, coupled with citizen participation, provided the direction for plan development.

### Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l))

The City of Gainesville works closely with public and private sector service providers to ensure delivery of services to residents and to promote interagency communication and planning. The City has representatives on many of the non-profit agency boards and/or advisory committees. The Community Development Department works with various housing, health, mental health and service agencies to gather data and identify gaps in services.

### Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

The Georgia Department of Community Affairs provides homeless McKinney Act funds to agencies in the City of Gainesville for their Balance of State Continuum of Care. These funds assist with emergency shelters and transitional housing, preventing homelessness, outreach, and supportive services. Gainesville's City Council pledges support to local groups that apply for funding through the DCA to coordinate care and services for this population.

### Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

The ESG program is administered through the Georgia Department of Community Affairs.

**2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction's consultations with housing, social service agencies and other entities**

See Table below.

**Table 2 – Agencies, groups, organizations who participated**

| | | |
|---|---|---|
| 1 | **Agency/Group/Organization** | GAINESVILLE HOUSING AUTHORITY |
| | **Agency/Group/Organization Type** | PHA |
| | **What section of the Plan was addressed by Consultation?** | Housing Need Assessment<br>Public Housing Needs<br>Market Analysis<br>Economic Development |
| | **Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?** | The agency was consulted through meetings. The Gainesville Housing Authority works closely with city staff to address community needs in a strategic manner to extend the use of federal funds that come into the city. |
| 2 | **Agency/Group/Organization** | DISABILITY RESOURCE CENTER, INC. |
| | **Agency/Group/Organization Type** | Services-Persons with Disabilities |
| | **What section of the Plan was addressed by Consultation?** | Non-Homeless Special Needs |
| | **Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?** | The agency was consulted through meetings. The agency will notify their participants and share the details of our programs. Efforts will continue to address the needs of the disabled within the Community. |
| 3 | **Agency/Group/Organization** | Gateway House, Inc. |
| | **Agency/Group/Organization Type** | Housing<br>Services-Victims of Domestic Violence |
| | **What section of the Plan was addressed by Consultation?** | Transitional Housing |
| | **Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?** | Through meetings. Currently working on additional opportunities to partner in order to develop additional transitional housing units. |

### Identify any Agency Types not consulted and provide rationale for not consulting

Attempts to identify and include all agencies are made.

### Other local/regional/state/federal planning efforts considered when preparing the Plan

| Name of Plan | Lead Organization | How do the goals of your Strategic Plan overlap with the goals of each plan? |
|---|---|---|
| Continuum of Care | Georgia Department of Community Affairs | |

**Table 3 – Other local / regional / federal planning efforts**

### Narrative (optional)

The Georgia Department of Community Affairs provides homeless McKinney Act funds to agencies in the City of Gainesville for their Balance of State Continuum of Care. These funds assist with emergency shelters and transitional housing, preventing homelessness, outreach, and supportive services.

## AP-12 Participation – 91.105, 91.200(c)

### 1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

The City of Gainesville continues to acknowledge the importance of citizen participation in developing activities for each upcoming year. We will continue to search for avenues to increase the level of participation by the community. Resources to better our current plan include HUD recommendations; contact with other cities to review their plans, and most importantly the consideration of input from the local community to increase involvement.

The City also encouraged public participation in developing the 2017 Annual Plan by making a copy of the plan available to various committees, a copy accessible on the City of Gainesville website, and in the Community Development Department for the general public, nonprofits and other interested parties to review and submit comments from July 7, 2017 through July 21, 2017.

At all public meetings the 2017 Annual Action Plan was reviewed and discussed. The major discussion was on the type of activities proposed for the 2017 fiscal year.

**Citizen Participation Outreach**

| Sort Order | Mode of Outreach | Target of Outreach | Summary of response/attendance | Summary of comments received | Summary of comments not accepted and reasons | URL (If applicable) |
|---|---|---|---|---|---|---|
| 1 | Public Meeting | Minorities<br><br>Non-English Speaking - Specify other language: Spanish<br><br>Persons with disabilities<br><br>Non-targeted/broad community<br><br>Residents of Public and Assisted Housing | 0 | 0 | 0 | |

| Sort Order | Mode of Outreach | Target of Outreach | Summary of response/attendance | Summary of comments received | Summary of comments not accepted and reasons | URL (If applicable) |
|---|---|---|---|---|---|---|
| 2 | Public Hearing | Minorities<br><br>Non-English Speaking - Specify other language: Spanish<br><br>Persons with disabilities<br><br>Non-targeted/broad community<br><br>Residents of Public and Assisted Housing | 0 | 0 | 0 | |

| Sort Order | Mode of Outreach | Target of Outreach | Summary of response/attendance | Summary of comments received | Summary of comments not accepted and reasons | URL (If applicable) |
|---|---|---|---|---|---|---|
| 3 | Newspaper Ad | Minorities<br><br>Non-English Speaking - Specify other language: Spanish<br><br>Persons with disabilities<br><br>Non-targeted/broad community<br><br>Residents of Public and Assisted Housing | 0 | 0 | 0 | |

| Sort Order | Mode of Outreach | Target of Outreach | Summary of response/attendance | Summary of comments received | Summary of comments not accepted and reasons | URL (If applicable) |
|---|---|---|---|---|---|---|
| 4 | Internet Outreach | Minorities<br><br>Non-English Speaking - Specify other language: Spanish<br><br>Persons with disabilities<br><br>Non-targeted/broad community<br><br>Residents of Public and Assisted Housing | 0 | 0 | 0 | |

**Table 4 – Citizen Participation Outreach**

# Expected Resources

## AP-15 Expected Resources – 91.220(c)(1,2)

### Introduction

### Anticipated Resources

| Program | Source of Funds | Uses of Funds | Expected Amount Available Year 1 | | | | Expected Amount Available Remainder of ConPlan $ | Narrative Description |
|---|---|---|---|---|---|---|---|---|
| | | | Annual Allocation: $ | Program Income: $ | Prior Year Resources: $ | Total: $ | | |
| CDBG | public - federal | Acquisition<br>Admin and Planning<br>Economic Development<br>Housing<br>Public Improvements<br>Public Services | 412,753 | 30,000 | 0 | 442,753 | 412,753 | Estimated funding for 2018. |

**Table 5 - Expected Resources – Priority Table**

### Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

Federal funds will enhance and extend the availability of local funds for other economic development activities within the City of Gainesville. The use of federal funds has leveraged local monies to address community wide slum and blight. Local contributions from the Gainesville Nonprofit Development Foundation provide funding to assist with program administration. The agency also donates property to for use in collaboration with CDBG funds to develop affordable housing. The City of Gainesville also provides tax incentives in targeted areas to encourage additional development from the private sector.

### If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

Property may be provided by the City of Gainesville or the Gainesville Nonprofit Development

Foundation to assist with the development of Affordable Housing.

**Discussion**

No Discussion

# Annual Goals and Objectives

## AP-20 Annual Goals and Objectives

### Goals Summary Information

| Sort Order | Goal Name | Start Year | End Year | Category | Geographic Area | Needs Addressed | Funding | Goal Outcome Indicator |
|---|---|---|---|---|---|---|---|---|
| **1** | General Program Administration | 2014 | 2018 | Affordable Housing<br>Public Housing<br>Homeless<br>Non-Homeless Special Needs<br>Non-Housing Community Development | City-Wide | Affordable Housing<br>Economic Development<br>Public Facilities<br>Non-Housing Community Development | CDBG: $82,550 | Other: 1 Other |
| **2** | Affordable Housing Goal #4 Rental Units | 2014 | 2018 | Affordable Housing<br>Non-Homeless Special Needs | Fair Street Neighborhood<br>Midtown - Greenway | Affordable Housing<br>Public Facilities | CDBG: $330,203 | Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit: 252 Households Assisted |

**Table 6 – Goals Summary**

**Goal Descriptions**

| | | |
|---|---|---|
| **1** | **Goal Name** | General Program Administration |
| | **Goal Description** | Funds will be allocated for administering the housing programs funded by the Community Development Block Grant Program. |
| **2** | **Goal Name** | Affordable Housing Goal #4 Rental Units |
| | **Goal Description** | Funds will be useed to support the development of affordable rental housing. At completion, the project will provide 252 affordable rental units. 90% of the units will be income restricted to 60% AMI and less. |

# Projects

## AP-35 Projects – 91.220(d)

### Introduction

The 2017 Annual Action Plan describes the CDBG activities proposed for the City's 2018 fiscal year. The Five-Year Consolidated Plan guides development of the plan and selection of activities to be undertaken. The plan also includes the resources available to perform the activities, a detailed description of the activities, and maps depicting the areas in which the activities will take place. The activities to be undertaken by the City of Gainesville for the 2017 fiscal year will include Program Administration and Public Facilities, Infrastructure Improvements. It is anticipated that a majority of the proposed activities will be completed within the program year. In addition to routine Community Development activities through the CDBG Programs, we continue to seek opportunities to expand the supply of affordable housing units with the assistance of the Gainesville Nonprofit Development Foundation, Inc. The development of new housing units will require the experience and oversight of the City of Gainesville Housing Division.

**Projects**

| # | Project Name |
|---|---|
| 1 | General Program Administration |
| 2 | Public Facilities and Infrastructure Improvments |

**Table 7 - Project Information**

### Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The allocation priorities were selected to address the development of affordable housing within the City of Gainesville.  Funds will be used to partner with a nonprofit to develop 252 units of affordable rental housing.  No obstacles were met when addressing underserved needs.

## AP-38 Project Summary

### Project Summary Information

| | | |
|---|---|---|
| 1 | **Project Name** | General Program Administration |
| | **Target Area** | City-Wide |
| | **Goals Supported** | General Program Administration |
| | **Needs Addressed** | |
| | **Funding** | CDBG: $82,550 |
| | **Description** | Staff salary, planning, and administrative service delivery costs for implementing the Community Development Block Grant Program. |
| | **Target Date** | 6/30/2018 |
| | **Estimate the number and type of families that will benefit from the proposed activities** | |
| | **Location Description** | Staff salary, planning, and administrative service delivery costs for implementing the Community Development Block Grant Program. |
| | **Planned Activities** | Staff salary, planning, and administrative service delivery costs for implementing the Community Development Block Grant Program. |
| 2 | **Project Name** | Public Facilities and Infrastructure Improvments |
| | **Target Area** | |
| | **Goals Supported** | Affordable Housing Goal #4 Rental Units |
| | **Needs Addressed** | Affordable Housing<br>Public Facilities |
| | **Funding** | : |
| | **Description** | Funds will be used for the Acquisition, construction, or rehabilitation of parking lots andparking garages. Installation or repair of streets, street drains, storm drains, curbs and gutters, tunnels, bridges, and trafficlights/signs. Improvements to sidewalks that include the installationof trash receptacles, lighting, benches, and trees. Activities limited totree planting (sometimes referred to as beautification. Installation or replacement of water lines, sanitary sewers, storm sewers, and fire Hydrants. Drainage Improvements and the installation of water lines, sanitary sewer and storm sewers associated with developing affordablehousing. |
| | **Target Date** | |

| | | |
|---|---|---|
| | **Estimate the number and type of families that will benefit from the proposed activities** | |
| | **Location Description** | |
| | **Planned Activities** | |

## AP-50 Geographic Distribution – 91.220(f)

### Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

Program activities carried out by the City of Gainesville will occur throughout the City, but some specifically within the Midtown Redevelopment Area. This area can be defined as bounded on the north by Jesse Jewell Parkway, on the west by EE Butler Parkway, on the east by Queen City Boulevard and to the south by the Norfolk Southern rail line. The area involved has been included in City of Gainesville revitalization activities for many years however a more economic effort is underway in an attempt to address needs of this and surrounding low income areas. Please see attached maps of census tracts containing areas of minority concentration and low income block groups. The targeted area is located within census tracts with high minority populations and high poverty levels.

### Geographic Distribution

| Target Area | Percentage of Funds |
|---|---|
| Fair Street Neighborhood | |
| New Town | |
| Midtown - Greenway | 80 |
| Hillcrest Avenue | |
| City-Wide | 20 |

**Table 8 - Geographic Distribution**

### Rationale for the priorities for allocating investments geographically

Gainesville is located in northeast Georgia bordered to the west by Lake Sidney Lanier and is located 50 miles northeast of Atlanta and 40 miles northwest of Athens. The City of Gainesville serves as the economic center and county seat for Hall County and continues to grow in its role as the medical hub for northeast Georgia. Gainesville has an estimated population of 36,306 (US Census data Quick Facts). From 2010 to 2015, the population increased by 7.4 percent.

The City of Gainesville offers assistance to low and moderate income citizens on a city-wide basis with an emphasis on activities located within census tracts 8 and 11. Census tract 8 has an African American population ranging from 45% to 65%, a Hispanic population ranging from 20% to 40% and poverty levels of 25% to 35%. Census tract 11 has an African American population ranging from 5% to 25%, a Hispanic population ranging from 60% to 80%, and poverty levels of 23% to 44%. Maps supporting this data have been attached for reference.

### Discussion

The City of Gainesville will continue to offer assistance to low and moderate income citizens on a city-wide basis with an emphasis on activities located within census tracts 8 and 11.

# Affordable Housing

## AP-55 Affordable Housing – 91.220(g)

### Introduction

The City of Gainesville has administered a very successful Rehabilitation and Emergency Repair Program (ERP) funded with CDBG allocations. The ERP assists elderly and/or disabled homeowners with grants of up to $10,000 to complete specific repairs to their homes. The City plans to fund this program annually. For individuals or properties that do not qualify for the ERP, other funds may be available through the city's CHIP program or the Gainesville Nonprofit Development Foundation. These programs target very low and low-to-moderate income households to sustain the availability of affordable housing.

| One Year Goals for the Number of Households to be Supported | |
|---|---|
| Homeless | 0 |
| Non-Homeless | 0 |
| Special-Needs | 0 |
| Total | 0 |

**Table 9 - One Year Goals for Affordable Housing by Support Requirement**

| One Year Goals for the Number of Households Supported Through | |
|---|---|
| Rental Assistance | 0 |
| The Production of New Units | 0 |
| Rehab of Existing Units | 0 |
| Acquisition of Existing Units | 0 |
| Total | 0 |

**Table 10 - One Year Goals for Affordable Housing by Support Type**

### Discussion

The City's affordable housing strategy is to continue to offer assistance to low/mod income homeowners by providing rehabilitation and emergency repair funds through CDBG dollars and to regularly seek CHIP funding from the Georgia DCA in order to provide additional funds for the rehabilitation of owner-occupied housing units. The City will partner with and support public and private agencies, when possible, to further the development of affordable housing. In addition, the City of Gainesville continues to develop affordable housing with a grant from the State of Georgia for the development of new affordable housing units. It is expected that 2 new homes will be built with HOME funds during the 2017 fiscal year.

## AP-60 Public Housing – 91.220(h)

### Introduction

The City of Gainesville does not plan to undertake capital improvements in 2017 that directly affect public housing.  Infrastructure Improvements in areas adjacent to Housing Authority properties are being considered.

### Actions planned during the next year to address the needs to public housing

The City of Gainesville does not plan to undertake capital improvements in 2017 that directly affect public housing.

### Actions to encourage public housing residents to become more involved in management and participate in homeownership

There are no specific actions planned during 2017 to address the needs for public housing. The GHA does a great job at accessing these needs.

### If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

N/A

### Discussion

The City of Gainesville and the GHA continue to support each other's efforts as redevelopment opportunities of low income areas arise. Both agencies are working together to develop better Public Housing and to enhance areas surrounding existing public housing properties.

## AP-65 Homeless and Other Special Needs Activities – 91.220(i)

### Introduction

The Georgia Department of Community Affairs provides McKinney-Vento Act homeless funds to agencies in the City of Gainesville from their "Balance of State Continuum of Care". These funds assist with emergency shelters and transitional housing, preventing homelessness, outreach, and supportive services. The Salvation Army, Avita, Gateways House, and Ninth District Opportunity, Inc. have applied for funding from the Georgia DCA for the upcoming funding year.

### Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

### Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The City's goal is to provide decent housing to all and reduce the threat of pending homelessness in Gainesville. There are approximately 98 total beds offered for the homeless by seven agencies in the City of Gainesville. Of these, 32 are emergency beds and 66 are transitional beds for families. The majority of the funding for the homeless is provided by the the Georgia DCA through the "Balance of State Continuum of Care". Funding is the greatest obstacle to addressing this goal.

### Addressing the emergency shelter and transitional housing needs of homeless persons

Emergency and transitional housing needs may be addressed through grant funding opportunities, such as the competitive Continuum of Care process, or through other state or local funding streams.

In 2010 program year, through City and County collaboration, the first Homeless Coalition Group was established. With the support of the Community Service Center, the group has established the following goals:

- Create a directory of homeless assistance providers
- Take an inventory of homeless services
- Identify funding sources for homeless activities
- Track homeless persons
- Educate the community about homelessness

The development of this coalition will greatly aid local goals for addressing homeless issues in our community. The group has created a comprehensive list of all available resources county-wide to address homelessness issues. The group has not completed any other goals to date. During the 2014 fiscal year, the City of Gainesville provided funding to assist with the development of 6 new transitional housing units.

**Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again**

The City of Gainesville is not a direct recipient of the Emergency Solutions Grant (ESG) which could assist with housing the homeless and provide services to prevent homelessness, re-house or otherwise permanently house the homeless. ESG funding is made available through a competitive process through the Georgia DCA.

The City will encourage local social service agencies and developers to buy and rehabilitate current housing stock for persons with HIV/AIDS. The City will also work toward the goal of adding subsidized rental units for the disabled/mentally ill (non-homeless) using the following strategies:

- Acquire land for future development of small multifamily (12 units) subsidized rental property targeting the disabled and/or mentally ill.
- Induce developers through low interest loans to increase the amount of supply at the extremely low and low-income level.
- Provide funds for handicapped accessibility modifications.
- Require developers of new rental complexes to provide handicapped units.

**Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.**

The City's goal is to provide citizens with special needs access to all resources and decent affordable housing. Handicapped Accessibility Modifications are addressed with all housing repair programs carried out by the city. Modifications include the installation of wheelchair ramps, grab bars in bathrooms, door widening, bathroom modifications, and kitchen modifications if needed and funds are available. All new homes built with funds from the Gainesville Nonprofit Development Foundation and the Georgia DCA meet current visitability standards. The City also made FY2015 funding available on a competitive basis to public services agencies that provide these services however no agencies applied for this type of assistance.

The City's public service agencies assist households through the use of HOPWA for:

- Short-term rent, mortgage, and utility assistance to prevent homelessness of the individual or family
- Tenant-based rental assistance
- Units provided in housing facilities (transitional or permanent) that are being developed, leased, or operated
- Units provided in transitional short-term housing facilities developed, leased, or operated with HOPWA funds

## Discussion

According to the 2010 Census, approximately 350 people reported to be homeless. During our interviews with homeless providers, all agreed that this number is understated. However, the extent of the homeless situation is nearly impossible to quantify. Homeless needs have been addressed in Gainesville; however, service providers stated that there is a demand for additional transitional supply. Several providers also indicated that there is demand for more permanent affordable housing for households that suffer with homelessness, particularly those with poor credit or who are unemployed.

There are approximately 98 total beds offered for the homeless by seven agencies in the City of Gainesville. Of these, 32 are emergency beds and 66 are transitional beds for families. Historically, The Salvation Army and Gainesville Action Ministries reportedly maintained a greater number of transitional housing beds. Based on information gathered through survey responses there does appear to be a need for additional transitional housing for all population groups including individuals, families, and victims of domestic violence. This need was also reported by other market participants, representatives of service providers in particular. The largest need appears to be for families and victims of domestic violence.

## AP-75 Barriers to affordable housing – 91.220(j)

### Introduction:

There does not appear to be any one significant barrier to constructing affordable housing (both rental and single-family homes) within Gainesville. It is important to note however that we are aware of the lack of vacant affordable land upon which to build. Other barriers that typically affect housing costs are as follows:

- Lack of developable land and/or where development is restricted using zoning.
- Cost of developable land and construction.
- Credit worthiness of potential buyers for homeownership.
- Social opinions discouraging affordable development in particular neighborhoods ("Not in My Backyard"- NIMBY).
- Lack of responsible landlords for maintaining safe and clean living conditions.
- Credit worthiness of potential renters.

These barriers to affordable housing are most likely to affect the growth of affordable housing in Gainesville. There is no single factor that can prevent or reduce the barriers however, any initiative taken to promote affordable housing should be taken to avoid situations such as "NIMBY." Unfortunately, areas where there are high concentrations of low to moderate income areas are those where property values are already low. The housing conditions in these areas are most likely poor.

Recently Myrtle Terraces, a LIHTC project supported by the City of Gainesville opened offering 84 affordable housing units to persons 55 and older. In addition, Walton Communities is currently constructing 84 affordable housing units of a planned three phased apartment development. Tax credits for phase one and two have been awarded. Walton is applying for tax credits for phase three in the current fiscal year. A total of 252 affordable housing units are expected at completion.

### Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

The City of Gainesville has adopted the following strategies to remove or ameliorate barriers to affordable housing

- Create Fair Housing Brochure in English and Spanish.
- Met with Local Housing Partners with Metro Fair Housing Services, Inc., to deliver brochures and

determine needed fair housing support services.

- Distribute Fair Housing Posters.
- Meet with local realty companies to discuss and identify barriers and strategies to eliminate.
- Help promote and advertise the International Festival and other local cultural events.
- Identify major groups in the community and learn their history (i.e., length of residence, migration patterns, changes in political, economic, and social status
- Convene a community council comprised of influential leaders from different groups to help review, analyze, and summarize the information gathered.
- Work with the community council to identify potential entry points and/or strategies for building an inclusive community.
- Apply for Lead Outreach Grant Program.
- Distribute pamphlets Protect *Your Family From Lead in Your Home* in English and Spanish through school system, Boys and Girls Club, community organizations and churches with a concentration on African American.
- Meet with local realty companies.
- Meet with Real Estate Trade Associations to discuss findings of AI and develop strategies to reduce instances of impediments to fair housing.
- Mail a copy of the AI to local realtors and mortgage financial institutions.
- Review and revise development codes as appropriate to address special housing needs and opportunities such as elderly housing and accessory dwelling units.
- Review existing regulations and remove any unnecessary impediments to affordable housing (e.g., redundant reviews, overly restrictive building codes for rehabilitation projects) and revise as appropriate.
- Work to eliminate land speculation in the market place which has driven up land prices.
- Provide funding to organizations who provide financial literacy courses as well as credit counseling.

**Discussion:**

No discussion.

## AP-85 Other Actions – 91.220(k)

### Introduction:

The 2017 Annual Action Plan describes the jurisdiction's planned activities to carry out the following goals outlined in the Consolidated Plan:

- Housing assistance for households at or below 80% of area median income;
- Public services for homeless and non-homeless special needs populations;
- Non-Housing Community Development;
- Public improvements and facilities to benefit low- and moderate-income persons;
- Creation of suitable living environments; and
- Economic Development Opportunities.

### Actions planned to address obstacles to meeting underserved needs

The City will continued to provide funds to non-profit entities or eligible activities assisting low-moderate income households. Eligible Public Assistance activities according to Section 105(a) of the Community Development Act include, but not limited to:

- Employment services (e.g. job training);
- Crime prevention and public safety; Child care;
- Health Services;
- Substance abuse services (e.g. counseling and treatment);
- Fair housing counseling;
- Education programs; Services for senior citizens; and
- Services for homeless persons.

No new funding will be allocated in the 2017 program year.

### Actions planned to foster and maintain affordable housing

In an effort to maintain the current affordable housing stock, the City of Gainesville continues to fund owner-occupied housing rehabilitation programs. Since 2001, the City has rehabilitated 45 homes with a total cost of $1,256,578.

## Actions planned to reduce lead-based paint hazards

Lead poisoning is one of the worst environmental threats to children in the United States. While anyone exposed to high concentrations of lead can become poisoned, the effects are most pronounced among young children.  All children are at higher risk to suffer lead poisoning than adults, but children under age six are more vulnerable because their nervous systems are still developing. At high levels, lead poisoning can cause convulsions, coma, and even death. Such severe cases of lead poisoning are now extremely rare, but do still occur. At lower levels, observed adverse health effects from lead poisoning in young children include reduced intelligence, reading and learning disabilities impaired hearing and slowed growth.

An important initiative emanating from H.U.D in the last decade is the reduction of lead-based paint hazards, and many jurisdictions around the country have focused a concerted effort to reach this goal. The federal Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992) amends the Lead-Based Paint Poisoning Prevention Act of 1971, which is the law covering lead-based paint in federally funded housing. These laws and subsequent regulations issued by the U.S. Department of Housing and Urban Development (24 CFR Part 35) protect young children from lead-based paint hazards in housing that is financially assisted or being sold by the federal government.

In property rehabilitation projects involving the City of Gainesville, the City will assess whether lead-based paint might be present and, if so, follow the guidelines set forth in the Residential Lead-Based Paint Hazard Reduction Act of 1992, Title X of the Housing and Community Development Act of 1992 (Title 24, Part 35 of the Code of Federal Regulations).

The City of Gainesville is committed to testing and abating lead in all pre-1978 housing units assisted with federal grant funds in any of the housing programs implemented. Currently, the City of Gainesville has contracted with an agency to provide all lead testing and clearance activities.

## Actions planned to reduce the number of poverty-level families

The City of Gainesville's anti-poverty strategy focuses on helping all low-income households improve their economic status and remain above poverty levels.  This may include, but is not limited to, job training, education, healthcare services, and emergency assistance.  Current programs to eliminate poverty are provided by Georgia Department of Labor, Lanier Technical College New Connections to Work, Consumer Credit Counseling Service, and Chamber of Commerce's Quality Education Strategy



OMB Control No: 2506-0117 (exp. 06/30/2018)

Team. In addition, City of Gainesville housing programs inherently address poverty by creating housing opportunities for low income households. Without these housing opportunities many low income households would not be able to afford housing rehabilitation costs or to purchase a home.

Additionally, the funding of CDBG Public Service activities, such as transitional housing providers, allows individuals that would normally reside in impoverished conditions the opportunity to establish themselves in order to find suitable employment. Such efforts will work to reduce the number of persons currently living in poverty.

## Actions planned to develop institutional structure

The City of Gainesville works closely with the United Way, Gainesville Housing Authority, state and local agencies and governments, and other service providers to coordinate the delivery of services to City residents. The City has representatives on many of the non-profit boards and advisory committees. The Community Development Department will consult with various housing, social services, elderly and disability agencies to both gather data and identify service gaps. While there are unmet needs within the City of Gainesville, we have not identified any significant gaps in the service delivery system provided by the institutions within the City.

## Actions planned to enhance coordination between public and private housing and social service agencies

Public Housing in the City of Gainesville is managed by the Gainesville Housing Authority. The quasi-governmental authority is governed by its board of commissioners which are appointed by the City. There are a total of 364 public housing units. The Housing Authority receives federal funds to modernize and repair those units. The City of Gainesville Community Development Department is working closely with the Housing Authority to offer Financial Literacy classes to public housing residents and other citizens. Efforts are also being made to identify Housing Authority residents that may be ready for homeownership. Assistance from the City of Gainesville down payment assistance program has been made available to assist residents with purchasing a new home. Such actions will help housing authority residents become more independent and make units available for families with greater needs.

## Discussion:

CDBG program funds are provided to low income individuals for housing rehabilitation and homebuyer purchase assistance. These funds are provided in a variety of forms and will be extended to persons with incomes up to but not greater than 80% of the Area Median Income adjusted by family size as published by the U.S. Department of Housing and Urban Development. Assistance provided for homebuyer assistance will be in the form of secondary mortgages. Listed below are the recapture provisions for rehabilitation and homebuyer assistance programs with maximum amounts of assistance available for the activity. A Deed of Trust and Promissory Note for the amount of assistance provided under the program will be used to secure the assistance. Should the recipient default under program requirements, collection of the funds will be pursued with legal guidance as documented on the deed of trust and promissory note as recorded. Assistance may be in the form of deferred loans or amortized loans.

- Housing Rehabilitation Assistance will be offered to persons/families with incomes up to but not greater than 80% of the area median income adjusted by family size and as published annually for Gainesville. The combination of a grant or a low interest loan is available. Deferred loans are due upon sale or transfer of the property. The amount of assistance varies by home depending on the needs to be addressed; however the total rehab cost will not exceed 110% of after rehab value.

Assistance provided to nonprofit agencies through the CDBG Program will be secured with a sub-recipient agreement. Should the agency fail to comply with program rules, the assistance will be recaptured.

# Program Specific Requirements

## AP-90 Program Specific Requirements – 91.220(l)(1,2,4)

**Introduction:**

### Community Development Block Grant Program (CDBG)
### Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

| | |
|---|---|
| 1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed | 0 |
| 2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan. | 0 |
| 3. The amount of surplus funds from urban renewal settlements | 0 |
| 4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan | 0 |
| 5. The amount of income from float-funded activities | 0 |
| **Total Program Income:** | **0** |

### Other CDBG Requirements

| | |
|---|---|
| 1. The amount of urgent need activities | 0 |
| 2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income.Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan. | 95.00% |

# Attachments

**RESOLUTION PR-2017 - ___**

**COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)**
**2017 ANNUAL ACTION PLAN**

**WHEREAS**, the City of Gainesville is designated an entitlement grantee by the U. S. Department of Housing and Urban Development (HUD) for the purpose of participation in the *Community Development Block Grant (CDBG)* Program; and

**WHEREAS**, the Community Development Department is directed to prepare and file an application including all appropriate appendages, assurances, and certifications with the U.S. Department of Housing and Urban Development requesting funding under the *Community Development Block Grant Program for Entitlement Cities*; and

**WHEREAS**, all proposed activities are consistent with the City's 2014 Consolidated Plan which was approved by HUD; and

**WHEREAS,** the Community Development Department anticipates receiving funds from HUD in the total amount of $412,753.00 and anticipates generation of the total amount of $30,000.00 in income through Community Development Department program activities; and

**WHEREAS**, all monies distributed from the *2017 Community Development Block Grant* will be utilized only for specifically designated and approved projects as outlined in the attached Fourth Program Year 2017 Annual Action Plan activities list as set forth in the attached Exhibit "A"; and

**NOW, THEREFORE, BE IT RESOLVED THAT** the governing body for the City of Gainesville hereby authorizes the Mayor or City Manager to sign all necessary resolutions, certifications, applications, subrecipient agreements and papers directly related to obtaining and administering the *2017 Community Development Block Grant* on behalf of the City of Gainesville.

**Adopted this _____ day of __________________, 2017.**

________________________________________
**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

________________________________________
**Denise O. Jordan, City Clerk**

## EXHIBIT A

## CITY OF GAINESVILLE
## COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
## FOURTH PROGRAM YEAR
## 2017 ANNUAL ACTION PLAN

**PROGRAM FUNDING SOURCES**

| | |
|---|---|
| 2017 Grant Allocation | **$412,753** |
| Projected Program Income | **$ 30,000** |
| **TOTAL FUNDING** | **$442,753** |

| **PROPOSED ACTIVITIES** | **BUDGETED AMOUNT** |
|---|---|

**HOUSING** **$30,000**

Homeowner Rehab- Funds used for repair and rehabilitation of residential structures.

**PUBLIC FACILITIES OR INFRASTRUCTURE** **$334,753**

Acquisition, construction, or rehabilitation of parking lots and parking garages. Installation or repair of streets, street drains, storm drains, curbs and gutters, tunnels, bridges, and traffic lights/signs. Improvements to sidewalks that include the installation of trash receptacles, lighting, benches, and trees. Activities limited to tree planting (sometimes referred to as "beautification"). Installation or replacement of water lines, sanitary sewers, storm sewers, and fire Hydrants. Drainage Improvements and the installation of water lines, sanitary sewer and storm sewers associated with developing affordable housing.

**PROGRAM ADMINISTRATION** **$ 78,000**

Funds will be used for the management and oversight of all activities carried out under the CDBG Program. The funds cover expenses for salaries, legal fees, advertisements, supplies, and other administrative costs.

**TOTAL EXPENDITURES** **$442,753**

OMB Number: 4040-0004
Expiration Date: 10/31/2019

## Application for Federal Assistance SF-424

* 1. Type of Submission:
  - [ ] Preapplication
  - [x] Application
  - [ ] Changed/Corrected Application

* 2. Type of Application:
  - [x] New
  - [ ] Continuation
  - [ ] Revision

* If Revision, select appropriate letter(s):

* Other (Specify):

* 3. Date Received: 08/01/2017

4. Applicant Identifier:

5a. Federal Entity Identifier: n/a

5b. Federal Award Identifier: B-17-MC-08-0002

**State Use Only:**

6. Date Received by State:

7. State Application Identifier: n/a

**8. APPLICANT INFORMATION:**

* a. Legal Name: City of Gainesville

* b. Employer/Taxpayer Identification Number (EIN/TIN): 58-6000581

* c. Organizational DUNS: 0759269230000

**d. Address:**

* Street1: 300 Henry Ward Way
  Street2:
* City: Gainesville
  County/Parish: Hall
* State: GA: Georgia
  Province:
* Country: USA: UNITED STATES
* Zip / Postal Code: 30041-3753

**e. Organizational Unit:**

Department Name: Community Development

Division Name: Housing

**f. Name and contact information of person to be contacted on matters involving this application:**

Prefix: Mr.
* First Name: Rusty
Middle Name:
* Last Name: Ligon
Suffix:

Title: Community Development Director

Organizational Affiliation:

* Telephone Number: 770-531-6570
Fax Number: 770-538-2474

* Email: rligon@gainesville.org

## Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

C: City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

U.S. Department of Housing and Urban Development (HUD)

**11. Catalog of Federal Domestic Assistance Number:**

14.218

CFDA Title:

Community Development Block Grants/Entitlement Grants

*** 12. Funding Opportunity Number:**

CDBG

* Title:

Community Development Block Grant

**13. Competition Identification Number:**

Title:

**14. Areas Affected by Project (Cities, Counties, States, etc.):**

Add Attachment | Delete Attachment | View Attachment

*** 15. Descriptive Title of Applicant's Project:**

2017 Community Development Block Grant (CDBG) Program

Attach supporting documents as specified in agency instructions.

Add Attachments | Delete Attachments | View Attachments

## Application for Federal Assistance SF-424

**16. Congressional Districts Of:**

* a. Applicant: 10

* b. Program/Project: 10

Attach an additional list of Program/Project Congressional Districts if needed.

[ ] Add Attachment | Delete Attachment | View Attachment

**17. Proposed Project:**

* a. Start Date: 07/01/2017

* b. End Date: 06/30/2018

**18. Estimated Funding ($):**

| | |
|---|---|
| * a. Federal | 412,753.00 |
| * b. Applicant | 0.00 |
| * c. State | 0.00 |
| * d. Local | 0.00 |
| * e. Other | 0.00 |
| * f. Program Income | 30,000.00 |
| * g. TOTAL | 442,753.00 |

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on ________ .

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.

☒ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

☐ Yes ☒ No

If "Yes", provide explanation and attach

[ ] Add Attachment | Delete Attachment | View Attachment

**21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**

Prefix: Mr.

* First Name: C.

Middle Name: Danny

* Last Name: Dunagan

Suffix: Jr.

* Title: Mayor

* Telephone Number: 770-535-6865

Fax Number: 770-535-6896

* Email: ddunagan@gainesville.org

* Signature of Authorized Representative:

* Date Signed: 08/01/2017

**CERTIFICATIONS**

In accordance with the applicable statutes and the regulations governing the consolidated plan regulations, the jurisdiction certifies that:

**Affirmatively Further Fair Housing --**The jurisdiction will affirmatively further fair housing.

**Uniform Relocation Act and Anti-displacement and Relocation Plan --** It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601-4655) and implementing regulations at 49 CFR Part 24. It has in effect and is following a residential anti-displacement and relocation assistance plan required under 24 CFR Part 42 in connection with any activity assisted with funding under the Community Development Block Grant or HOME programs.

**Anti-Lobbying --**To the best of the jurisdiction's knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

3. It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

**Authority of Jurisdiction --**The consolidated plan is authorized under State and local law (as applicable) and the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

**Consistency with plan --**The housing activities to be undertaken with Community Development Block Grant, HOME, Emergency Solutions Grant, and Housing Opportunities for Persons With AIDS funds are consistent with the strategic plan in the jurisdiction's consolidated plan.

**Section 3 --** It will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR Part 135.

| | |
|---|---|
| ___________________________ | 08/01/2017 |
| Signature of Authorized Official | Date |

Mayor
Title

## Specific Community Development Block Grant Certifications

The Entitlement Community certifies that:

**Citizen Participation --** It is in full compliance and following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.105.

**Community Development Plan --** Its consolidated plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that that have been developed in accordance with the primary objective of the CDBG program (i.e., the development of viable urban communities, by providing decent housing and expanding economic opportunities, primarily for persons of low and moderate income) and requirements of 24 CFR Parts 91 and 570.

**Following a Plan --** It is following a current consolidated plan that has been approved by HUD.

**Use of Funds --** It has complied with the following criteria:

1. Maximum Feasible Priority. With respect to activities expected to be assisted with CDBG funds, it has developed its Action Plan so as to give maximum feasible priority to activities which benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight. The Action Plan may also include CDBG-assisted activities which the grantee certifies are designed to meet other community development needs having particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available (see Optional CDBG Certification).

2. Overall Benefit. The aggregate use of CDBG funds, including Section 108 guaranteed loans, during program year(s) 2017, 2018, 2019 [a period specified by the grantee of one, two, or three specific consecutive program years], shall principally benefit persons of low and moderate income in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period.

3. Special Assessments. It will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements.

However, if CDBG funds are used to pay the proportion of a fee or assessment that relates to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds.

In addition, in the case of properties owned and occupied by moderate-income (not low-income) families, an assessment or charge may be made against the property for public improvements financed by a source other than CDBG funds if the jurisdiction certifies that it lacks CDBG funds to cover the assessment.

**Excessive Force --** It has adopted and is enforcing:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

**Compliance with Anti-discrimination laws --** The grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations.

**Lead-Based Paint --** Its activities concerning lead-based paint will comply with the requirements of 24 CFR Part 35, Subparts A, B, J, K and R.

**Compliance with Laws --** It will comply with applicable laws.

______________________________ 08/01/2017

Signature of Authorized Official Date

Mayor

Title

**APPENDIX TO CERTIFICATIONS**

INSTRUCTIONS CONCERNING LOBBYING CERTIFICATION:

**Lobbying Certification**

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

# PUBLIC MEETING NOTICE
# CITY OF GAINESVILLE
## COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)

The City of Gainesville Housing Division will hold a public meeting at 10:00 a.m. on Tuesday, April 4, 2017 at the City of Gainesville, Community Development Department, 311 Henry Ward Way, Gainesville, GA 30501 on the first floor, for the purpose of discussing proposed activities for the City's 2017 Community Development Block Grant (CDBG) Program Annual Plan. Items to be discussed include: Proposed activities for the 2017 grant year, estimated funding amounts for the proposed activities and Fair Housing.

The public is invited to attend this meeting for comments and questions. Persons with special needs related to handicapped accessibility or foreign language should contact the Community Development Department at 770-531-2693 during normal business hours, 8:00 a.m. to 5:00 p.m., before April 3, 2017.

EQUAL HOUSING OPPORTUNITY

Georgia Relay Partner
Dial 7-1-1

# PUBLIC NOTICE
# CITY OF GAINESVILLE
## Community Development Block Grant (CDBG)
## "Draft" 2017 Annual Action Plan

The City of Gainesville has completed a draft of its 2017 Program Year Annual Action Plan for the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program. The Plan details the proposed activities to be carried out during the 2017/2018 Program Year. Proposed Activities include Public Facilities and Infrastructure Improvements, and Program Administration.

The draft Annual Action Plan will be available for review and public comment from July 7, 2017 through July 21, 2017. Comments should be submitted to the Community Development Department, 311 Henry Ward Way, Gainesville, GA 30501. Copies of the Annual Action Plan will be available for public examination at the Community Development Department during normal business hours. The report will be posted on the City of Gainesville website at www.gainesville.org. Comments may also be submitted by email to housing@gainesville.org. For further information please contact Theresa Dyer at 770-538-4944.

Equal Housing Opportunity

Georgia Relay Partner

Dial 7-1-1

# PUBLIC NOTICE
# CITY OF GAINESVILLE
# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)

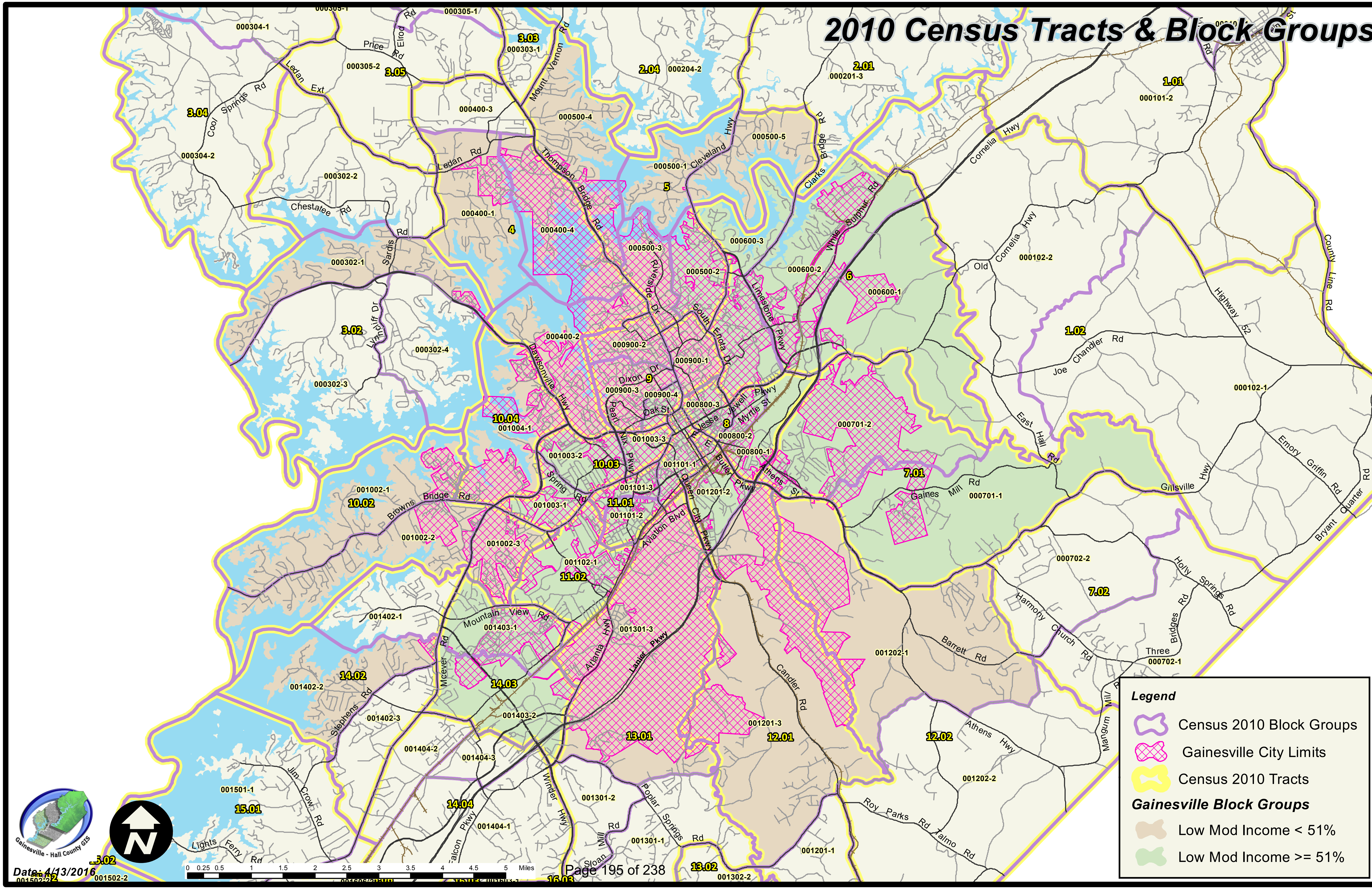
The City of Gainesville will hold a public hearing at 5:30 p.m. on Tuesday, August 1, 2017 during the regularly scheduled City Council meeting to adopt a resolution approving the FY 2017 CDBG Annual Action Plan. Public comments will be accepted during this meeting. The meeting will be held at the Gainesville Public Safety Complex in the Municipal Court Room located at 701 Queen City Parkway.

Persons with special needs relating to handicapped accessibility or foreign language should contact Theresa Dyer at 770-538-4944.

Equal Housing Opportunity

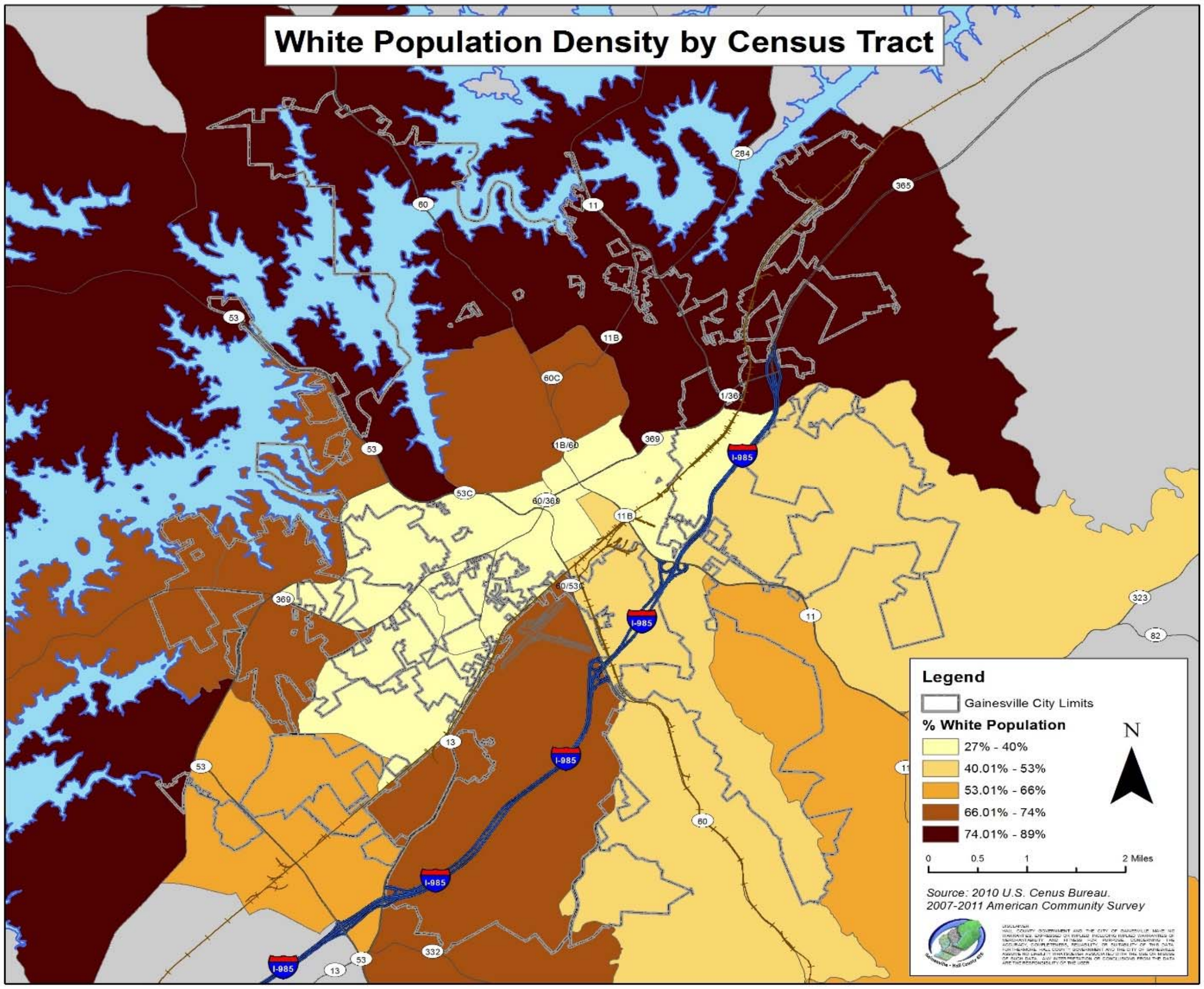
Georgia Relay Partner
Dial 7-1-1

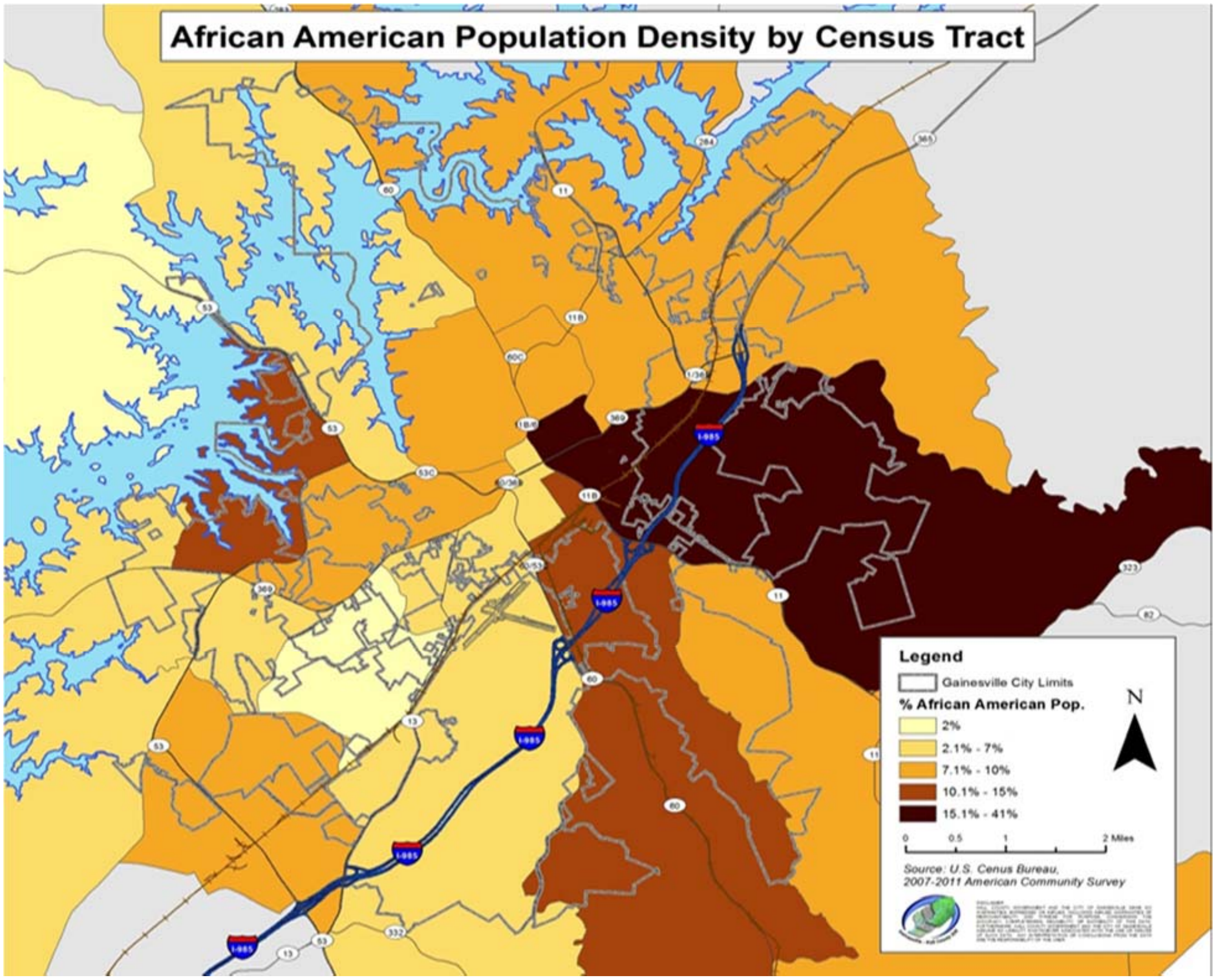
# 2010 Census Tracts & Block Groups



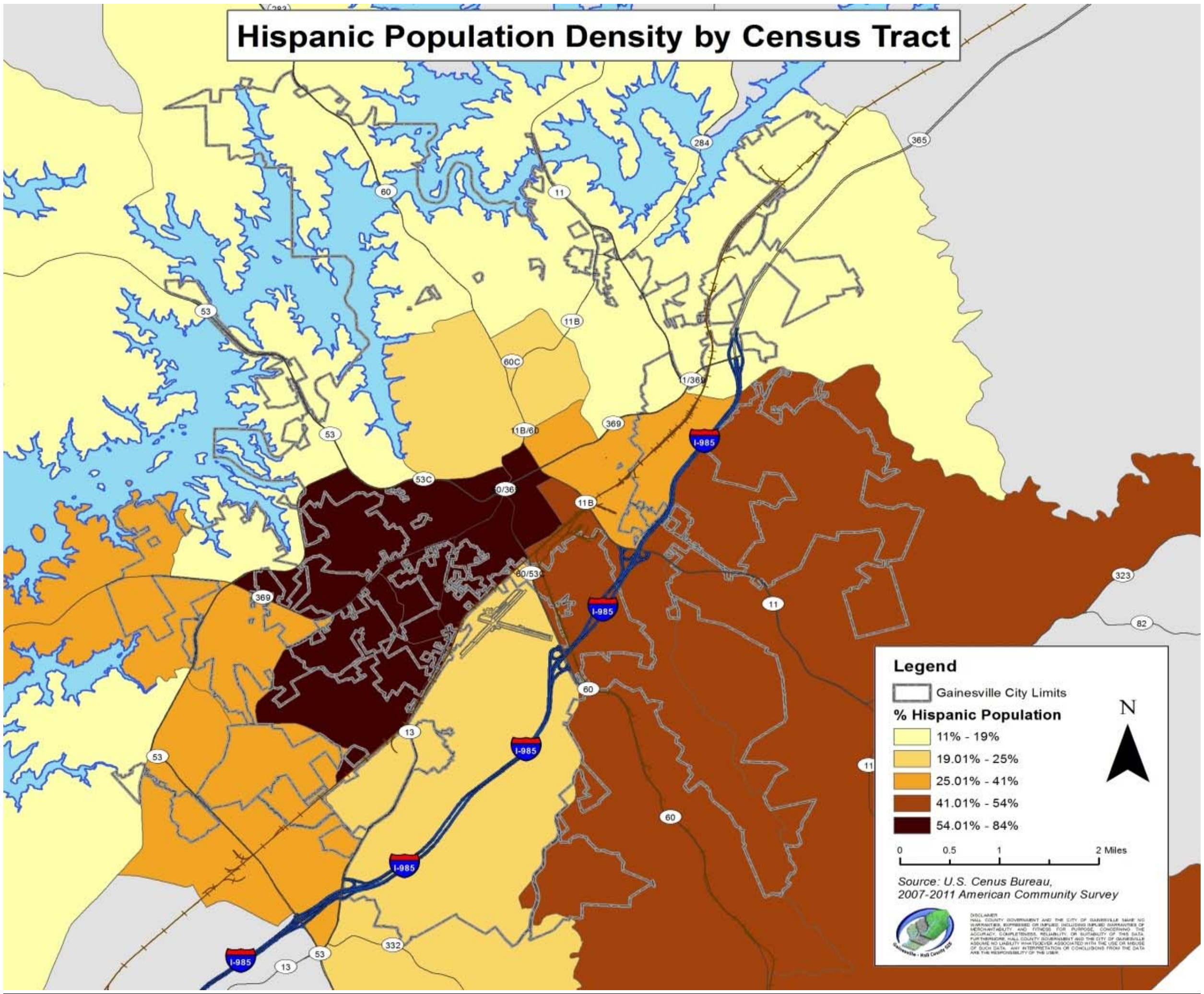
CITY OF GAINESVILLE CENSUS TRACTS-LOW/MOD POPULATION

| Census Tract | Block Group | LowMod | LowModUniv | % LowMOD |
|---|---|---|---|---|
| 3.02 | 1 | 545 | 1785 | 31 |
| 4 | 1 | 370 | 1515 | 24 |
| | 2 | 655 | 1370 | 48 |
| | 4 | 395 | 1075 | 37 |
| 5 | 1 | 40 | 750 | 5 |
| | 2 | 1535 | 2050 | 75 |
| | 3 | 350 | 700 | 50 |
| | 4 | 495 | 2655 | 19 |
| | 5 | 355 | 1240 | 29 |
| 6 | 1 | 680 | 1135 | 60 |
| | 2 | 925 | 1705 | 54 |
| | 3 | 1720 | 2635 | 65 |
| 7.01 | 1 | 1385 | 2660 | 52 |
| | 2 | 2405 | 3640 | 66 |
| 8 | 1 | 410 | 675 | 61 |
| | 2 | 635 | 900 | 71 |
| | 3 | 835 | 1185 | 70 |
| 9 | 1 | 130 | 790 | 16 |
| | 2 | 450 | 1350 | 33 |
| | 3 | 180 | 920 | 20 |
| | 4 | 1410 | 1710 | 82 |
| 10.02 | 1 | 825 | 1890 | 44 |
| | 2 | 700 | 2175 | 32 |
| | 3 | 575 | 1835 | 31 |
| 10.03 | 1 | 1155 | 2055 | 56 |
| | 2 | 1560 | 2590 | 60 |
| | 3 | 735 | 890 | 83 |
| 10.04 | 1 | 1220 | 3060 | 40 |
| 11.01 | 1 | 1090 | 1750 | 62 |
| | 2 | 1260 | 1720 | 85 |
| | 3 | 1210 | 1615 | 75 |
| 11.02 | 1 | 2690 | 4520 | 60 |
| 12.01 | 2 | 950 | 1295 | 73 |
| | 3 | 1465 | 2955 | 50 |
| 12.02 | 1 | 1645 | 3275 | 50 |
| 13.01 | 3 | 735 | 1840 | 40 |
| 14.02 | 2 | 725 | 1970 | 37 |
| 14.03 | 1 | 595 | 940 | 63 |
| | 2 | 1500 | 2345 | 64 |


White Population Density by Census Tract
Legend
Gainesville City Limits
% White Population
27% - 40%
40.01% - 53%
53.01% - 66%
66.01% - 74%
74.01% - 89%
N
0
0.5
1
2 Miles
Source: 2010 U.S. Cenus Bureau.
2007-2011 American Community Survey
284
365
60
11
53
11B
60C
1/36
369
1B/60
53C
60/369
369
60/53C
I-985
323
82
13
60
332

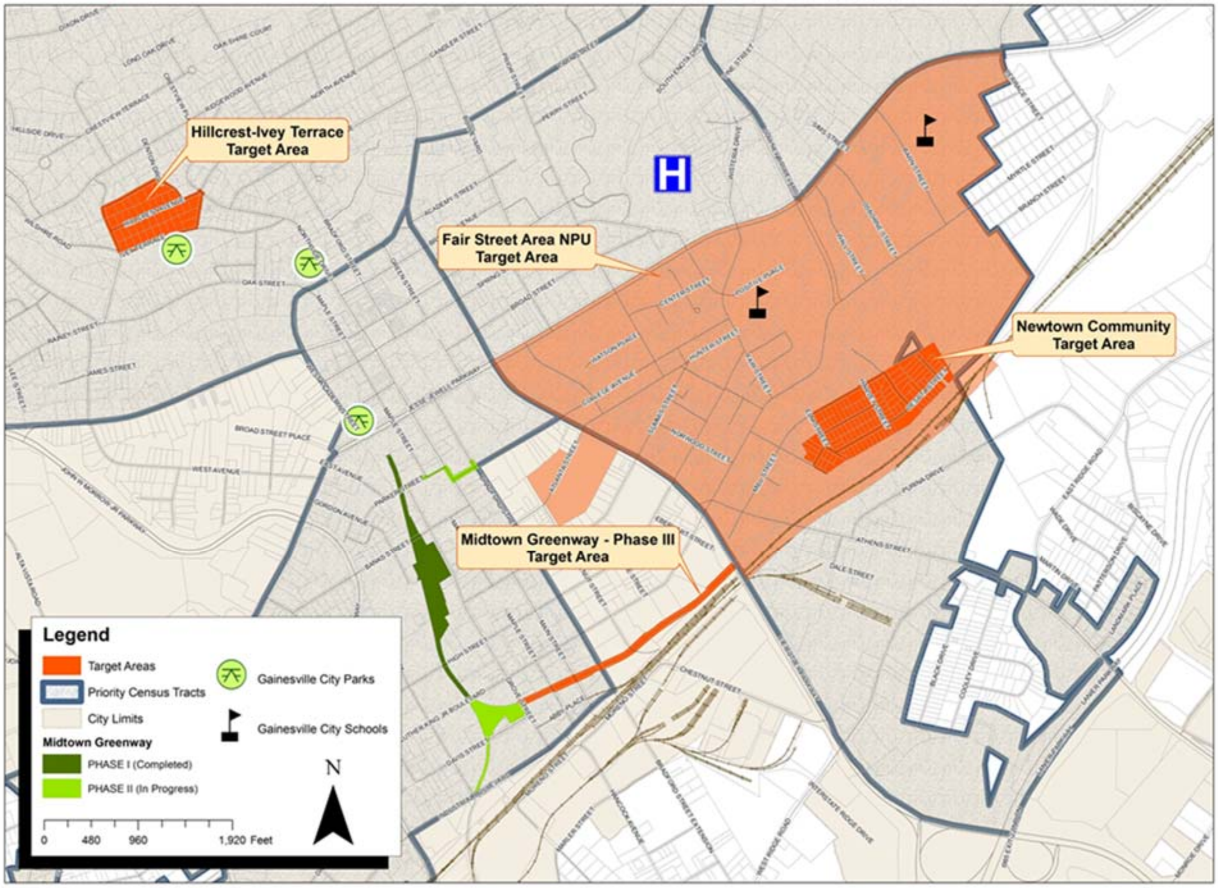


African American Population Density by Census Tract
Legend
Gainesville City Limits
% African American Pop.
2%
2.1% - 7%
7.1% - 10%
10.1% - 15%
15.1% - 41%
N
0
0.5
1
2 Miles
Source: U.S. Cenus Bureau,
2007-2011 American Community Survey


Hispanic Population Density by Census Tract
Legend
Gainesville City Limits
% Hispanic Population
11% - 19%
19.01% - 25%
25.01% - 41%
41.01% - 54%
54.01% - 84%
N
0 0.5 1 2 Miles
Source: U.S. Cenus Bureau,
2007-2011 American Community Survey
DISCLAIMER
HALL COUNTY GOVERNMENT AND THE CITY OF GAINESVILLE MAKE NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THIS DATA. FURTHERMORE, HALL COUNTY GOVERNMENT AND THE CITY OF GAINESVILLE ASSUME NO LIABILITY WHATSOEVER ASSOCIATED WITH THE USE OR MISUSE OF SUCH DATA. ANY INTERPRETATION OR CONCLUSIONS FROM THE DATA ARE THE RESPONSIBILITY OF THE USER.
I-985
53
60
11
369
13
332
323
82
284
365

# City of Gainesville

## Target Areas Within Priority Census Tracts



# CITY OF GAINESVILLE

## WORKSESSIONREQUEST

**Date Submitted**: 7/14/2017

**Presenter**: Matt Tate

**Item of Business**: **Public Hearing Item for the August 1, 2017 Council Meeting**
Request from **Keel Property Management, LLC** to annex a 6.32± acres tract located on the northeast side of the intersection of Jesse Jewell Parkway and White Sulphur Road (a/k/a **0 White Sulphur Road**), and to establish zoning as General Business (G-B). **Ward Number: Two.** Tax Parcel Number(s): 09-123-000-008.
**Request: Restaurant and retail uses.**

**Meeting Date**: 7/27/2017

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**Purpose of Request**:
The applicant is proposing to annex the subject property into the city limits of Gainesville with a zoning of General Business (G-B). The property is currently zoned Agricultural Residential-III (AR-III) and Highway Business (H-B) within unincorporated Hall County and is adjacent to the city limits to the south and west. The applicant intends to utilize water and sewer services for future restaurant and retail purposes. The conceptual plan proposes a 3,500 square foot Fazoli's restaurant, 4,800 square foot restaurant and a 7,000 square foot retail building. Access is proposed from White Sulphur Road, directly across from the rear entrance to the New Holland Market Place. The property is undeveloped, heavily wooded and abuts railroad right-of-way to the east. Adjacent uses include the New Haven Church to the north, single-family homes to the east, and various retail and restaurant uses within the New Holland Market Place to the south and west.

**History/Background**:

**Facts & Issues for Consideration**:

**Department Recommendation**:
Planning staff recommended approval with five conditions.

The Planning and Appeals Board recommended approval with five conditions.

See the PAB Recommendation Report for details and excerpts from the PAB meeting minutes.

SAMPLE MOTIONS

Approve Annexation
I move to approve first reading of an ordinance to annex the subject property into the City of Gainesville.

Approve Zoning
I move to approve first reading of an ordinance to establish zoning of the subject property as General Business, with five conditions.

Denial
I move to deny the annexation request.

**Department Director**:
Rusty Ligon

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**If funding is involved, are funds approved within the current budget?**
N/A

**Amount Requested**:

**Source of Funds**:

**Finance Comments**:

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**Administrative Comments:**

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ATTACHMENTS:

| | Description | Type |
|---|---|---|
| 🗋 | Legal Ad | Legal Ad |
| 🗋 | PAB Recommendation Report | Report |
| 🗋 | Proposed Annexation Ordinance | Ordinance |
| 🗋 | Proposed Zoning Ordinance | Ordinance |
| 🗋 | Location Maps | Backup Material |
| 🗋 | Narrative | Backup Material |
| 🗋 | Survey | Backup Material |
| 🗋 | Site Plan | Backup Material |
| 🗋 | Fazoli's Information | Backup Material |
| 🗋 | Architectural Rendering | Backup Material |

**COMBINED LEGAL AD**
**Gainesville Planning and Appeals Board**
**Gainesville City Council**

**Publish Sunday, June 25, 2017**
THE TIMES

## NOTICE OF PLANNING AND APPEALS BOARD PUBLIC HEARING

Notice is hereby given that the **Gainesville Planning and Appeals Board** will conduct a public hearing on **Tuesday, July 11, 2017** at **5:30 p.m.** in the **Gainesville Justice Center** (Municipal Courtroom at the Public Safety Complex), 701 Queen City Parkway in midtown Gainesville on the following requests:

1) Request from **Keel Property Management, LLC** to annex a 6.32± acres tract located on the northeast side of the intersection of Jesse Jewell Parkway and White Sulphur Road (a/k/a **0 White Sulphur Road**), and to establish zoning as General Business (G-B).
   Ward Number: Two
   Tax Parcel Number(s): 09-123-000-008
   Request: Restaurant and retail uses

2) Request from **Will & McCay Crumley** to rezone a 0.308± acre tract located on the north side of Park Street and northeast of the intersection of Park Street and Boulevard (a/k/a **523 Park Street**) from Residential-II (R-II) to Residential-I (R-I).
   Ward Number: Two
   Tax Parcel Number(s): 01-038-003-015
   Request: Single-family home

## NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE GAINESVILLE ZONING MAP

Notice is hereby given that the **Gainesville City Council** will conduct a public hearing on **Tuesday, August 1, 2017** at **5:30 p.m.** in the **Gainesville Justice Center** (Municipal Courtroom at the Public Safety Complex), 701 Queen City Parkway in midtown Gainesville on the following requests:

1) Request from **Keel Property Management, LLC** to annex a 6.32± acres tract located on the northeast side of the intersection of Jesse Jewell Parkway and White Sulphur Road (a/k/a **0 White Sulphur Road**), and to establish zoning as General Business (G-B).
   Ward Number: Two
   Tax Parcel Number(s): 09-123-000-008
   Request: Restaurant and retail uses

2) Request from **Will & McCay Crumley** to rezone a 0.308± acre tract located on the north side of Park Street and northeast of the intersection of Park Street and Boulevard (a/k/a **523 Park Street**) from Residential-II (R-II) to Residential-I (R-I).
   Ward Number: Two
   Tax Parcel Number(s): 01-038-003-015
   Request: Single-family home

Additional information is available from the Community Development Department, Planning Division, by calling 770-531-6570.

NOTE: In accordance with Georgia law, anyone who wishes to express opposition to the proposed zoning action, and has made, within two years immediately preceding the filing of the proposed zoning action, campaign contributions aggregating $250 or more to a local government official who will consider the application, shall file a disclosure of contribution(s) with the Planning Division at least five (5) days prior to the first reading of the proposed zoning action by the City Council. (OCGA § 36-67A-3 3 {c})

**GAINESVILLE PLANNING and APPEALS BOARD**
**RECOMMENDATION**

**Applicant** .................................................................. Keel Property Management, LLC
**Property Owners** ...................................................... Pacolet Milliken Enterprises, Inc.
**Location** ..................................................................... 0 White Sulphur Road
**Request** ...................................................................... Annex with G-B zoning
**Size** ............................................................................ 6.32± acres
**Ward** ........................................................................... Two
**Proposed Use** ............................................................ Restaurant and retail uses
**Planning Division Staff Recommendation** ............ **Approval, with conditions**
**Planning and Appeals Board Recommendation** .... **Approval, with conditions**
**Date** ............................................................................. July 11, 2017

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- ***Applicant's Proposal and Background Information***

The applicant is proposing to annex the subject property into the city limits of Gainesville with a zoning of General Business (G-B). The property is currently zoned Agricultural Residential-III (AR-III) and Highway Business (H-B) within unincorporated Hall County and is adjacent to the city limits to the south and west. The property is undeveloped, heavily wooded and abuts railroad right-of-way to the east. In addition, the property is located within the Limestone Parkway Overlay Zone and the Hall County Gateway District.

The applicant intends to utilize water and sewer services for future restaurant and retail purposes. The conceptual plan proposes a 3,500 square foot Fazoli's restaurant, 4,800 square foot restaurant and a 7,000 square foot retail building. The exterior of the buildings will be constructed with brick, stone or masonry finish on all sides visible from a public street and will comply with the overlay zone and gateway standards. Access is proposed from White Sulphur Road, directly across from the rear entrance to the New Holland Market Place. Public water and sewer will be utilized which will require a sanitary sewer extension of approximately 1,300 feet from Jesse Jewell Parkway.

- ***Adjacent Land Use and Zoning***

| Location | Use | Zoning |
|---|---|---|
| North | New Haven Church | Residential-I-A (R-I-A) -City |
| South | New Holland Market Outparcels | Planned Unit Development (P-U-D) |
| East | Railroad; Single-family homes; Undeveloped land | Agricultural Residential-III (AR-III), Agricultural Residential-IV (AR-IV) and Highway Business (H-B) -County |
| West | New Holland Market; New Haven Church | Planned Unit Development (P-U-D) and Residential-I-A (R-I-A) -City |

Other nearby uses include the Hall County Farmers Market located to the south; Gainesville Regional Youth Detention Center and Hall County Emergency Services Complex located to the north.

- ***Other Departmental Comments***

The Gainesville Public Works Departments states that a trip generation distribution will need to be provided by the applicant to see if turn lanes will be required for the development.

The Georgia Department of Transportation would like a traffic study to determine the impact on S.R. 369. The existing turn lanes may require lengthening.

There were no other departmental comments regarding this request.

- ***Zoning History***

*The following zoning actions have taken place in the immediate area during the last ten years:*

**2017 –** A request by the City of Gainesville to rezone 53.177± acres located at 1514, 1515, 1545, 1560 and 1581 Community Way from Residential-II (R-II) to Office and Institutional(O-I) zoning for existing uses and for future professional office purposes is scheduled for a July 18, 2017 City Council meeting.

**2016 –** A request by Timothy Bullard to annex a 20.417± acres tract located at 1582 and 1586 Pine Valley Road was denied for a 240-unit apartment complex with Residential-II (R-II) zoning.

**2012 –** A request by Pacolet Milliken Enterprises, Inc. to annex a 68.223± acres tract located at 601 White Sulphur Road was approved with conditional Planned Unit Development (P-U-D) zoning for a mixed-use development.

**2008 –** A request by JHME Properties, LLC to rezone 10.0± acres located at 1465 Jesse Jewell Parkway from Residential-II (R-II) to Office and Institutional (O-I) was approved with conditions for medical and general office uses.

**2007 –** A request by Northeast Georgia Medical Center/Health System, Inc. to annex 4.218± acres with Planned Unit Development (P-U-D) zoning and to rezone 4.218± acres from Residential-II (R-II) & General Business (G-B) to Planned Unit Development (P-U-D) located at 0, 1295, 1317, 1319, 1321 & 1405 Jesse Jewell Parkway and 1284 & 1285 Sims Street was approved with conditions for medical uses.

**2007 –** A request by Bow-Mil Properties, LLP to rezone 2.0± acres located at 2306 Limestone Parkway from Office and Institutional (O-I) to Neighborhood Business (N-B) was approved with conditions for a pharmacy, professional and medical uses.

**2007 –** A request by Steven P. Gilliam for a Special Use within Office and Institutional (O-I) zoning located at 2278 Limestone Parkway was approved with conditions for a 55-bed assisted living facility.

- ***Staff Analysis***

**(1) Is the proposed use suitable in view of the zoning and development of adjacent and nearby property?**

The proposed use is suitable in view of the zoning and development of the adjacent and nearby properties. The subject property is adjacent to a commercial shopping district located approximately 0.2 miles west of Exit 24 and I-985. The surrounding land uses include a mixture of uses and zoning districts consisting of single-family residential, commercial, church and nearby public uses. These properties are zoned Agricultural Residential-III (AR-III), Agricultural

Residential-IV (AR-IV), Residential-I-A (R-I-A), Planned Unit Development (P-U-D) and Highway Business (H-B).

**(2) Will the proposed use adversely affect the existing use or usability of adjacent or nearby property?**

The proposed use should have limited adverse impacts to the adjacent properties as the subject tract borders right-of-way on all sides and is in close proximity with other commercial development. Access to the development will be aligned with the adjacent New Holland Market Development rear access road.

**(3) Is the proposed use compatible with the purpose and intent of the Comprehensive Plan?**

The proposed development appears to be compatible with the Future Development Map of the Comprehensive Plan as the subject property is located within the *Retail/Commercial* land use category. The *Retail/Commercial* land use category includes commercial service activities such as grocery stores, banks, restaurants, theatres, hotels, and automotive related businesses. Commercial uses may be located as a single use in one building or grouped together in a shopping center.

According to the Character Area map for the City of Gainesville, the subject property is located within the *Limestone Medical Corridor* Character Area and the *Historic Mill Villages* Character Area. The *Limestone Medical Corridor* is envisioned as an employment corridor and is not anticipated to expand Gainesville's traditional neighborhood fabric. Land uses allowed within this area include public / institutional, low-density residential, medium-density residential, multi-family residential, mixed-use, commercial, and parks / recreation / conservation.

The *Historic Mill Villages* Character Area states that new development should be designed to incorporate green technologies and practices as well as architecture consistent with the forms and materials of the mill and housing. Opportunities may exist for future adaptive reuse for mixed-use development and neighborhood serving commercial. Vacant land and underutilized industrial parcels near New Holland Mill are excellent infill development opportunities. Land uses allowed in the Historic Mill Villages include medium-density residential, mixed-use, commercial, public / institutional, and parks / recreation / conservation.

**(4) Are there substantial reasons why the property cannot or should not be used as currently zoned?**

The property is currently zoned Agricultural Residential-III (AR-III) and Highway Business (H-B) within unincorporated Hall County which would only allow for commercial uses within the portion of property zoned Highway Business (H-B). The applicant desires to annex the property to utilize City water and sewer services in order to develop the entire tract for non-residential purposes which is appropriate given its proximity to Jesse Jewell Parkway.

**(5) Will the proposed use cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sewer utilities, and police or fire protection?**

The proposed use intends to utilize water and sewer services which will require a sanitary sewer extension of approximately 1,300 feet from Jesse Jewell Parkway. Hall County Fire Station #7 is located off of East Crescent Drive and is approximately 0.4 miles from the subject property. Gainesville Fire Station #1 is located off of Queen City Parkway and is approximately 3.2 miles from the subject property. Gainesville Fire and Police currently serve the adjacent property. The proposed project is non-residential and should have no impacts to the school system.

According to the "Trip Generation Manual" as published by the Institute of Transportation Engineers, the proposed use could generate an average of 2,647± new trips per weekday, 235 A.M. peak hour trips and 197 P.M. peak hour trips. Recent road improvements including a signalized intersection and dedicated left and right turn lanes have been installed at the intersection of Jesse Jewell Parkway, White Sulphur Road and Textile Way. However, GDOT is requesting a traffic study to determine whether the existing turn lanes will accommodate the future traffic generated by the development. As well, the developer will need to provide current trip distribution to see if additional turn lanes will be required at the entrance to the proposed development.

**(6) Is the proposed use supported by new or changing conditions not anticipated by the Comprehensive Plan or reflected in the existing zoning on the property or surrounding properties?**

The proposed annexation request appears to be consistent with the Comprehensive Plan and the surrounding mixture of residential and non-residential land uses. Compatible growth has occurred along Jesse Jewell Parkway within the last 5 to 10 years including the adjacent New Holland Market. Much of this growth is in the form of medical office, professional office, commercial/retail, public uses and multi-family residential.

**(7) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?**

Given the mixture of adjacent uses, the proposed annexation request with the recommended conditions appears to promote a reasonable balance between the interests of the City, the property owner, and neighboring residents and property owners.

- ***Staff Recommendation***

The Planning Division staff is recommending **conditional approval** of this annexation request with **G-B zoning**, based on the Comprehensive Plan and the adjacent mixture of land uses.

**Conditions**

1. **Prohibited commercial uses shall include motels or hotels with rooms accessed from the exterior of the building, adult novelty stores, adult entertainment centers, pawn shops, gas stations, tire stores, massage parlors except for practitioners licensed by the State of Georgia, vaping stores, auto body shops, automobile sale establishments, marine sales or repair stores, automated or non-automated car wash, coin-laundry facilities, truck stop, non-climate controlled mini-warehouses or storage facilities, tattoo parlors, psychics, fortune tellers, clairvoyants and the like.**
2. **The exterior of the buildings shall be constructed with brick, stone or masonry finish on all sides visible from a public street and will comply with the Limestone Parkway Overlay Zone standards and Architectural Design Guidelines stated within the Gainesville Unified Land Development Code.**
3. **The proposed development shall be limited to one free standing sign per lot. Each sign shall be limited to a maximum height of 10-feet, maximum sign face area of 50 square feet, maximum sign structure area of 96 square feet with internal or indirect lighting. No electronic changeable copy signs shall be permitted. The purpose of these sign standards is to provide for consistency with the adjacent New Holland Market development.**
4. **Prior to a permit being issued, the developer shall provide a traffic study and coordinate with the Georgia Department of Transportation (GDOT) Traffic Division to determine the traffic development impacts on the intersection of SR 369/Jesse Jewell**

**Parkway and White Sulphur Road and to determine whether the existing turn lanes will accommodate the future traffic generated by the development.**

5. **All access point design for the subject property shall require approval by the Georgia Department of Transportation in conjunction with the Gainesville Public Works Director. All required access / traffic / sidewalk improvements associated with the proposed development shall be at the full expense of the developer / property owner.**

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**Excerpts from the July 11, 2017 PAB Meeting Minutes**

**Applicant Presentation: Ed Myers,** Myers & Company, 752 Chattahoochee Place, stated he represented the applicant and was the project engineer. He stated the request was to annex the subject property, be consistent with General Business zoning standards, and to get water and sewer services from the City. He stated the developer would be the owner of the Fazoli's franchise on the corner and develop the rest of the property to market to help cover the costs. Mr. Myers stated the property has been on the market for a month and they have a proposed car wash and asked the restriction of a car wash in the conditions be removed. He stated they did not ask for that use to be restricted and noted it is a permitted use within the General Business zoning district. He stated they would also like the option for mini-warehouse units on Lot 3, on the north side, noting they would be screened and the front facades constructed in compliance with overlay standards. He felt there was a need for both of these uses in the area because of new residential developments.

**FAVOR:** None

**OPPOSE:** None

**Planning and Appeals Board Comments:** None

There was a motion to recommend approval of the request to annex the subject property and establish zoning as General Business (G-B) with the following conditions as proposed by staff:

<u>**Conditions**</u>

1. **Prohibited commercial uses shall include motels or hotels with rooms accessed from the exterior of the building, adult novelty stores, adult entertainment centers, pawn shops, gas stations, tire stores, massage parlors except for practitioners licensed by the State of Georgia, vaping stores, auto body shops, automobile sale establishments, marine sales or repair stores, automated or non-automated car wash, coin-laundry facilities, truck stop, non-climate controlled mini-warehouses or storage facilities, tattoo parlors, psychics, fortune tellers, clairvoyants and the like.**
2. **The exterior of the buildings shall be constructed with brick, stone or masonry finish on all sides visible from a public street and will comply with the Limestone Parkway Overlay Zone standards and Architectural Design Guidelines stated within the Gainesville Unified Land Development Code.**
3. **The proposed development shall be limited to one free standing sign per lot. Each sign shall be limited to a maximum height of 10-feet, maximum sign face area of 50 square feet, maximum sign structure area of 96 square feet with internal or indirect lighting. No electronic changeable copy signs shall be permitted. The purpose of these sign standards is to provide for consistency with the adjacent New Holland Market development.**

4. **Prior to a permit being issued, the developer shall provide a traffic study and coordinate with the Georgia Department of Transportation (GDOT) Traffic Division to determine the traffic development impacts on the intersection of SR 369 / Jesse Jewell Parkway and White Sulphur Road and to determine whether the existing turn lanes will accommodate the future traffic generated by the development.**

5. **All access point design for the subject property shall require approval by the Georgia Department of Transportation in conjunction with the Gainesville Public Works Director. All required access / traffic / sidewalk improvements associated with the proposed development shall be at the full expense of the developer / property owner.**

Motion made by Board Member Martin
Motion seconded by Vice-Chair Fleming
Vote – 5 favor, 2 absent (Rucker, Delgado)

First Reading: ______________
Passed: ______________

**AN ORDINANCE**

**No. 2017-**

**AN ORDINANCE ANNEXING A 6.32± ACRES TRACT LOCATED ON THE NORTHEAST SIDE OF THE INTERSECTION OF JESSE JEWELL PARKWAY AND WHITE SULPHUR ROAD (A/K/A 0 WHITE SULPHUR ROAD); ADJACENT TO BUT NOT NOW WITHIN THE CORPORATE LIMITS OF THE CITY OF GAINESVILLE, GEORGIA; REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**(Amendment to City Limit Boundary)**

**WHEREAS**, a 6.32± acres tract located on the northeast side of the intersection of Jesse Jewell Parkway and White Sulphur Road (a/k/a **0 White Sulphur Road**), lies within the unincorporated lands of Hall County and adjoins the existing corporate limits of the City of Gainesville; and

**WHEREAS**, the hereinafter described lands be incorporated and annexed into the City of Gainesville.

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I.**

That from and after the passage of this Ordinance the following described lands are and shall be annexed into the existing corporate limits of the City of Gainesville, Georgia, so that said lands shall constitute a part of the land within the corporate limits of the City of Gainesville, Georgia, as fully and completely as if the limits had been so defined by the General Assembly of Georgia.

**Legal Description**

All that certain piece, parcel or tract of land located in Hall County, Georgia, containing approximately 6.32 acres and shown on a Composite Map Prepared for the Property of Deering Milliken, Incorporated, New Holland Mill, with a last revision date of November 19, 2002 and described as follows:

Beginning at an iron pin located in the eastern right of way of White Sulphur Road at its intersection with Jesse Jewell Parkway and running thence along a curve having a radius of 641.21 feet; an arc length of 616.47 feet; and a chord bearing and distance of N 05-05-56 E 593.00 feet to an iron pin; thence continuing along said right of way, N 32-38-30 E 337.13 feet to a iron pin located in the western right of way of Southern Railroad; thence along said right of way along a curve having a radius of 791.20 feet; an arc length of 352.82 feet; and a chord bearing and distance of N 19-52-00 349.91 feet to an iron pin; thence along the railroad right of way along a curve having a radius of 2239.09 feet; an arc length of 730.05 feet; and a chord bearing and distance of S 01-25-30 W 726.82 feet; thence continuing along said right of way S

11-30-00 W 467.64 feet to a iron pin located in the northern right of way of Jesse Jewell Parkway where it dead ends with the railroad; thence along the northern right of way of Jesse Jewell Parkway the following three courses and distances: S 71-02-58 W 68.14 feet to an iron pin; thence along a curve having a radius of 1507.70 feet; an arc length of 85.44 feet; and a chord bearing and distance of S 69-25-32 W 85.47 feet; thence N 71-08-28 W 103.26 feet to the Point of Beginning.

The annexation is to include all that portion of right-of-way known as Jesse Jewell Parkway and White Sulphur Road located between the subject property and the existing city limits of Gainesville.

**SECTION II.**

The Secretary to the City Council of the City of Gainesville is directed to make and file with the Department of Community Affairs of the State of Georgia a certified copy of this Ordinance together with a plat describing lands annexed to the City of Gainesville by this Ordinance.

**SECTION III.**

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

**SECTION IV.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

**SECTION V.**

The effective date of this Ordinance shall be upon approval by the governing authority of the City of Gainesville, Georgia.

**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

**Denise O. Jordan, City Clerk**

First Reading: ______________
Passed: ______________

**AN ORDINANCE**

**No. 2017-**

**AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA BY ESTABLISHING THE ZONING ON A 6.32± ACRES TRACT LOCATED ON THE NORTHEAST SIDE OF THE INTERSECTION OF JESSE JEWELL PARKWAY AND WHITE SULPHUR ROAD (A/K/A 0 WHITE SULPHUR ROAD) AT THE TIME OF ANNEXATION AS GENERAL BUSINESS, WITH CONDITIONS (G-B-c); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**(Amendment to Zoning Map)**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I.**

That from and after the passage of this Ordinance the following described lands shall be zoned and so designated on the Zoning Map of the City of Gainesville as **General Business, with conditions (G-B-c)**:

**Conditions**

1. **Prohibited commercial uses shall include motels or hotels with rooms accessed from the exterior of the building, adult novelty stores, adult entertainment centers, pawn shops, gas stations, tire stores, massage parlors except for practitioners licensed by the State of Georgia, vaping stores, auto body shops, automobile sale establishments, marine sales or repair stores, automated or non-automated car wash, coin-laundry facilities, truck stop, non-climate controlled mini-warehouses or storage facilities, tattoo parlors, psychics, fortune tellers, clairvoyants and the like.**
2. **The exterior of the buildings shall be constructed with brick, stone or masonry finish on all sides visible from a public street and will comply with the Limestone Parkway Overlay Zone standards and Architectural Design Guidelines stated within the Gainesville Unified Land Development Code.**
3. **The proposed development shall be limited to one free standing sign per lot. Each sign shall be limited to a maximum height of 10-feet, maximum sign face area of 50 square feet, maximum sign structure area of 96 square feet with internal or indirect lighting. No electronic changeable copy signs shall be permitted. The purpose of these sign standards is to provide for consistency with the adjacent New Holland Market development.**
4. **Prior to a permit being issued, the developer shall provide a traffic study and coordinate with the Georgia Department of Transportation (GDOT) Traffic Division to determine the traffic development impacts on the intersection of SR 369 / Jesse**

**Jewell Parkway and White Sulphur Road and to determine whether the existing turn lanes will accommodate the future traffic generated by the development.**

5. **All access point design for the subject property shall require approval by the Georgia Department of Transportation in conjunction with the Gainesville Public Works Director. All required access / traffic / sidewalk improvements associated with the proposed development shall be at the full expense of the developer / property owner.**

**Legal Description**

All that certain piece, parcel or tract of land located in Hall County, Georgia, containing approximately 6.32 acres and shown on a Composite Map Prepared for the Property of Deering Milliken, Incorporated, New Holland Mill, with a last revision date of November 19, 2002 and described as follows:

Beginning at an iron pin located in the eastern right of way of White Sulphur Road at its intersection with Jesse Jewell Parkway and running thence along a curve having a radius of 641.21 feet; an arc length of 616.47 feet; and a chord bearing and distance of N 05-05-56 E 593.00 feet to an iron pin; thence continuing along said right of way, N 32-38-30 E 337.13 feet to a iron pin located in the western right of way of Southern Railroad; thence along said right of way along a curve having a radius of 791.20 feet; an arc length of 352.82 feet; and a chord bearing and distance of N 19-52-00 349.91 feet to an iron pin; thence along the railroad right of way along a curve having a radius of 2239.09 feet; an arc length of 730.05 feet; and a chord bearing and distance of S 01-25-30 W 726.82 feet; thence continuing along said right of way S 11-30-00 W 467.64 feet to a iron pin located in the northern right of way of Jesse Jewell Parkway where it dead ends with the railroad; thence along the northern right of way of Jesse Jewell Parkway the following three courses and distances: S 71-02-58 W 68.14 feet to an iron pin; thence along a curve having a radius of 1507.70 feet; an arc length of 85.44 feet; and a chord bearing and distance of S 69-25-32 W 85.47 feet; thence N 71-08-28 W 103.26 feet to the Point of Beginning.

The annexation is to include all that portion of right-of-way known as Jesse Jewell Parkway and White Sulphur Road located between the subject property and the existing city limits of Gainesville.

**SECTION II.**

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

**SECTION III.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

**SECTION IV.**

This Ordinance is enacted as an amendment to the Code of the City of Gainesville, Georgia, and is to be codified as a part of Section 9-1-1-5.

**SECTION V.**

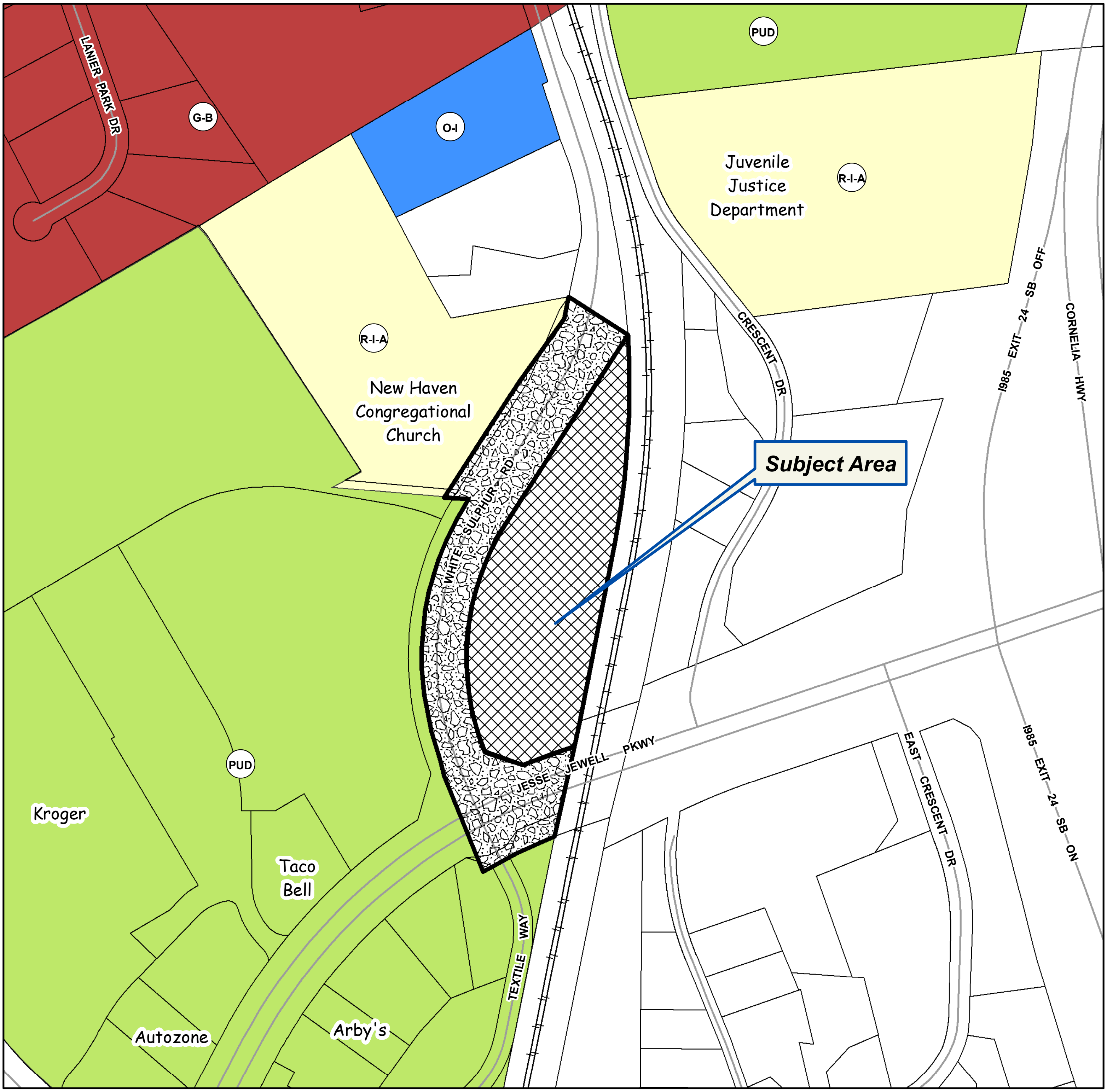
The effective date of this Ordinance shall be upon approval by the governing authority of the City of Gainesville, Georgia.

**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

**Denise O. Jordan, City Clerk**




**Applicant:**

KEEL PROPERTY MANAGEMENT, LLC

ANNEXATION REQUEST

Gainesville, Georgia
Since 1821
COMMUNITY DEVELOPMENT

**Request:**
Annex 6.32+/- acres with General Business (G-B) zoning for restaurant and retail uses

**Subject Area Address:**
0 White Sulphur Road

Meeting: 7/11/2017

Prepared: 5/30/2017

**Gainesville Community Development Department**

Subject Area

Right of Way to be Annexed

N

0 210 420 630 840 Feet

1 " = 350 '

**Tax Parcel:** 09-123-000-008


**Applicant:**

KEEL PROPERTY MANAGEMENT, LLC

ANNEXATION REQUEST

Gainesville, Georgia
Since 1821
COMMUNITY DEVELOPMENT

**Request:**

Annex 6.32+/- acres with General Business (G-B) zoning for restaurant and retail uses

**Subject Area Address:**

0 White Sulphur Road

Meeting: 7/11/2017

Prepared: 5/30/2017

**Gainesville Community Development Department**

Subject Area

Aerial from 2015

N

0 210 420 630 840 Feet

1 " = 350 '

**Tax Parcel:** 09-123-000-008

ANNEXATION and REZONING APPLICATION NARRITIVE

PROPOSED

# NEW HOLLAND CROSSING

G-B DEVELOPMENT

BY

KEEL PROPERTY MANAGEMENT, LLC

## Introduction

The applicant is requesting annexation into the city of Gainesville for a G-B zoned commercial development at the corner of White Sulphur Road and Jesse Jewell Parkway. The property is currently undeveloped in Hall County with an AR-III and H-B zoning. The development will include annexing in the existing right-of-way along White Sulphur Road. The development covers 6.32-acres. Proposed uses planned for the development are restaurants and service businesses.

## Existing Site Description

The site is located on the north east corner of White Sulphur Road and Jesse Jewell Parkway. The remaining boundary of the property abuts rail road right of way to the east.

Currently the site is undeveloped lightly wooded hilly terrain.

## Proposed Site Description

The proposed New Holland Crossing will be anchored by a Fazoli's restaurant. There will be two additional parcels created for future restaurant or service business establishments. Access to these facilities will be off of White Sulphur Road due to the topography of the property. This will allow traffic flow onto Jesse Jewell Parkway at the signaled intersection with White Sulphur Road.

The buildings shall be brick, stone, stucco or masonry finish on all sides visible from the public street and will comply with the Gateway Corridor requirements.

## Buffers and Landscaping

No buffers are proposed for this development because the adjacent properties are public street right of ways or rail road right of ways. A 40-foot building setback is proposed along the street frontages. These frontages will also have a 10 landscaping buffer. The Gateway Corridor requirements will be met for the landscaping.

## Water, Sewer, Storm Water

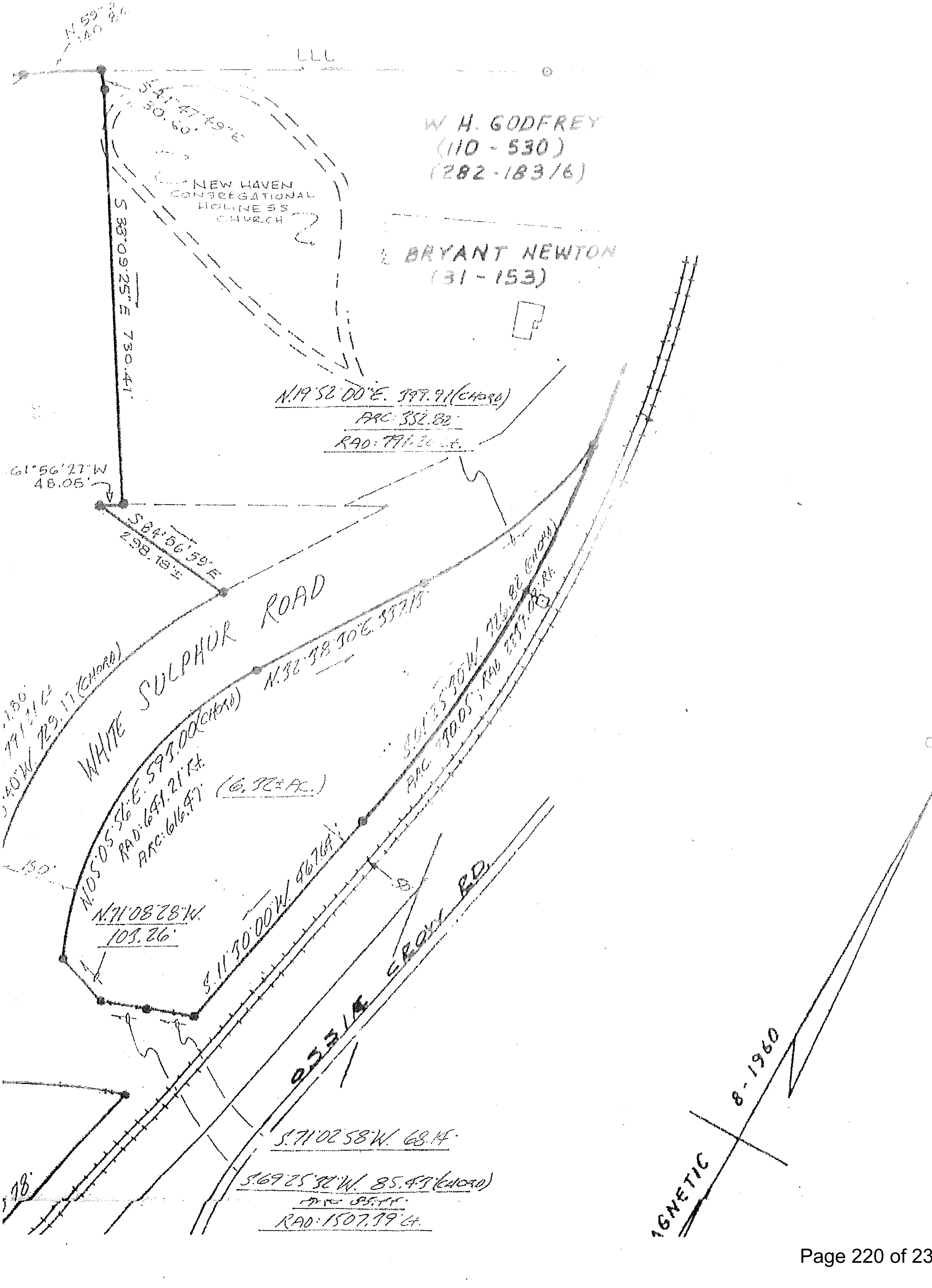
The City of Gainesville currently serves the property with water service. Sanitary sewer is approximately 1,300 feet down Jesse Jewell Parkway. A gravity outfall line will be constructed by the developer to serve the property. All necessary storm water treatment as required by the city will be established when the development is constructed.

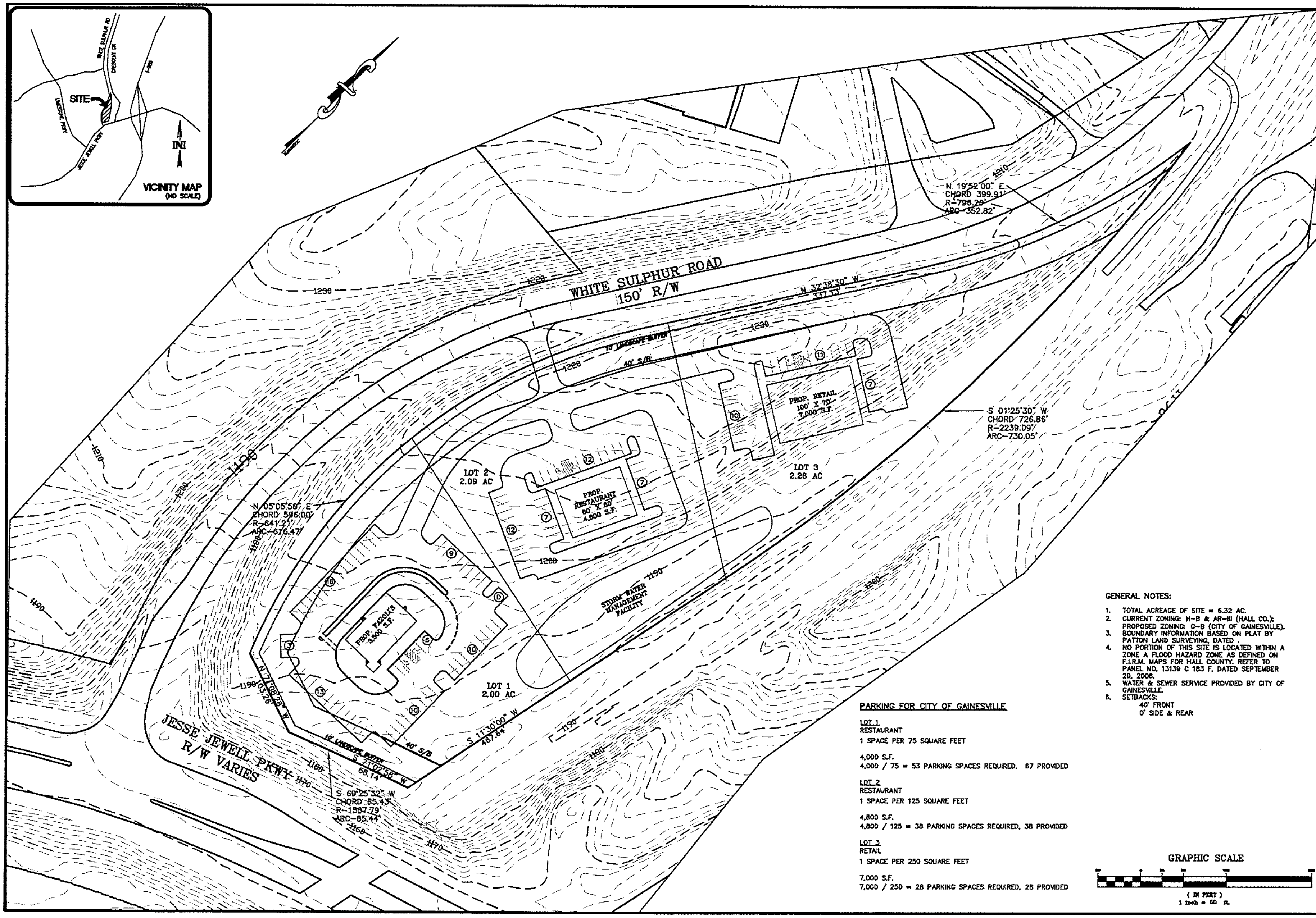
## Comprehensive Land Use Plan

The Future Land Use Plan calls for this parcel to be Commercial development. This is exactly what is proposed for this development.

## Conclusion

It is therefore concluded that this development is in keeping with the comprehensive plan, is well located for access to the major arterial road of Jesse Jewell Parkway, and has been conceived and planned with compatibility to the neighborhood. Keel Property Management, LLC. respectfully requests that this development be approved as submitted.


W. H. GODFREY
(110 - 530)
(282 - 183/6)
NEW HAVEN CONGREGATIONAL HOLINESS CHURCH
BRYANT NEWTON
(31 - 153)
S 41°47'49" E
30.60'
S 33°09'25" E 730.41'
N.19°52'00"E. 397.91(CHORD)
ARC: 352.82'
RAD: 791.30 Ct.
61°56'27" W
48.05'
S 84°56'59" E
298.19'±
WHITE SULPHUR ROAD
N.32°38'30"E. 337.13
(6.72±AC.)
N.05°05'56"E. 593.00(CHORD)
RAD: 641.21 Ft.
ARC: 616.47
N.71°08'28"W.
103.26'
S.11°30'00"W. 467.64'
2331A
MAGNETIC
8-1960
S.71°02'58"W. 68.14'
S.69°25'32"W. 85.43(CHORD)
RAD: 1507.19 Ct.




GENERAL NOTES:

1. TOTAL ACREAGE OF SITE = 6.32 AC.
2. CURRENT ZONING: H-B & AR-III (HALL CO.); PROPOSED ZONING: G-B (CITY OF GAINESVILLE).
3. BOUNDARY INFORMATION BASED ON PLAT BY PATTON LAND SURVEYING, DATED .
4. NO PORTION OF THIS SITE IS LOCATED WITHIN A ZONE A FLOOD HAZARD ZONE AS DEFINED ON F.I.R.M. MAPS FOR HALL COUNTY. REFER TO PANEL NO. 13139 C 183 F, DATED SEPTEMBER 29, 2006.
5. WATER & SEWER SERVICE PROVIDED BY CITY OF GAINESVILLE.
6. SETBACKS:
   40' FRONT
   0' SIDE & REAR

PARKING FOR CITY OF GAINESVILLE

LOT 1
RESTAURANT
1 SPACE PER 75 SQUARE FEET

4,000 S.F.
4,000 / 75 = 53 PARKING SPACES REQUIRED, 67 PROVIDED

LOT 2
RESTAURANT
1 SPACE PER 125 SQUARE FEET

4,800 S.F.
4,800 / 125 = 38 PARKING SPACES REQUIRED, 38 PROVIDED

LOT 3
RETAIL
1 SPACE PER 250 SQUARE FEET

7,000 S.F.
7,000 / 250 = 28 PARKING SPACES REQUIRED, 28 PROVIDED



Seal

MYERS & CO.
civil engineers
P.O. BOX 634
GAINESVILLE, GA 30503
770-297-9793
rd@myers-and-co.com

Project Description
NEW HOLLAND CROSSING
TAX PARCEL #09123 000008
LAND LOT 133, 9th DISTRICT
JESSE JEWELL PARKWAY
HALL COUNTY, GEORGIA

DATE 5/25/17
JOB NO. 17-09
Sheet Title
REZONING PLAN
Revisions
SHEET RZ-1

# Fazoli's® Real Estate Development Guidelines



Fazoli's® offers flexible footprints :

- 2,800 Sqft freestanding unit
- 2,400 Sqft end cap unit
- 600 Sqft non-traditional unit (malls, airports, colleges, military bases)

FAZOLI'S®

fast. fresh. italian.

# Fazoli's® Real Estate Development Guidelines

*Fazoli's, America's largest premium Italian quick-service restaurant chain, is expanding nationally. With a menu of freshly prepared Italian entrees, salads and oven-baked sandwiches, a new service style featuring table service, and a contemporary restaurant design, Fazoli's is well positioned for growth.*

2,800 Sqft
Freestanding Unit

2,400-2,800 Sqft
End Cap Unit

600 Sqft
Non-Traditional Unit
Airport, College, Malls

## GENERAL TRADE AREA GUIDELINES

- Urban and suburban with strong residential and daytime population
- Preferred generators include residential, office, retail, university, recreation, and hospitals

## GENERAL SITE GUIDELINES

- Freestanding buildings, urban storefronts, and shopping center end cap
- Space requirements of approximately 2,400 – 2,800 Sqft
- Drive-thru window is a requirement
- Italian food exclusivity preferred
- Building exterior to allow signage; pylon road sign preferred, tenant panel on shared road sign at a minimum
- Excellent visibility, parking, and access

## UTILITY REQUIREMENTS

| | Gas (BTUs) | Electric (Amps) | Notes |
|---|---|---|---|
| Rest. Equipment | 110,000 | 600 | Includes 2 conveyer ovens |
| Hot Water Heater | 175,000 | inc. | |
| HVAC | 550,000 | inc. | 18-20 tons of HVAC |
| Total | 835,000 | 600 | |

## DEMOGRAPHIC REQUIREMENTS

| Occasion Base / (Variable) | Suburban Trade Areas Minimum Level | Small Town Trade Area (Pop<50k & HH<15k) Minimum Level |
|---|---|---|
| **Home Occasions (5-mile)** | | |
| Population 2007 | 135,000 | 33,000 |
| Household 2007 | 50,000 | 13,000 |
| Median HH Income | $50,000 | $40,000 |
| Pop w/$50k + Income | 50% | 40% |
| **Work Occasions (5-mile)** | | |
| Total Employees | 85,000 | 20,000 |
| Total White Collar | 54,000 | 14,000 |
| **Work Occasions (1-mile)** | | |
| Total Employees | 7,500 | 3,500 |
| Total White Collar | 4,600 | 2,000 |
| **Retail Occasions (1-mile)** | | |
| Total GLA (25-mile) | 250,000 | 150,000 |
| Total GLA (50-mile) | 750,000 | 475,000 |
| Total GLA (100-mile) | 1,100,000 | 650,000 |

FAZOLI'S®

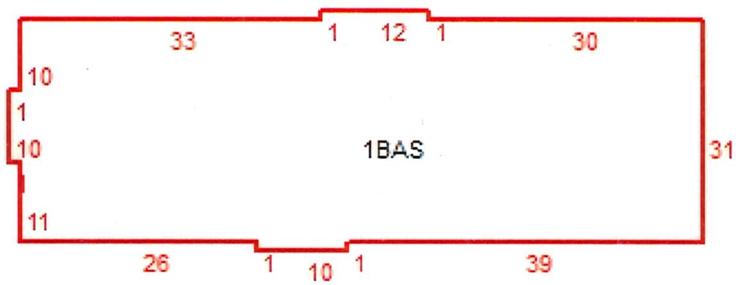
fast. fresh. italian.

**Contact**

Sam Nelson
V.P. Franchise Recruitment & Development
sam.nelson@fazolis.com
859.825.6252

Perry Pelton
Director Real Estate
perry.pelton@fazolis.com
913.669.1294

Fazoli's Franchising Systems, LLC
2470 Palumbo Drive Lexington, KY 40509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# CITY OF GAINESVILLE

## WORKSESSIONREQUEST

**Date Submitted**: 7/14/2017

**Presenter**: Matt Tate

**Item of Business**: **Public Hearing Item for the August 1, 2017 Council Meeting**
Request from **Will & McCay Crumley** to rezone a 0.308± acre tract located on the north side of Park Street and northeast of the intersection of Park Street and Boulevard (a/k/a **523 Park Street**) from Residential-II (R-II) to Residential-I (R-I). **Ward Number: Two.** Tax Parcel Number(s): 01-038-003-015. **Request: Single-family home.**

**Meeting Date**: 7/27/2017

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**Purpose of Request**:
The applicant is proposing to rezone the subject property for the existing single-family use. The applicant intends to keep the property as single-family. The request would effectively downzone the property so that any future non-single-family uses would be required to provide a buffer adjacent to the subject property. The subject property contains a one-story, single-family home and a detached building. The property has road frontage along Park Street. The surrounding uses include single-family homes, multi-family apartments, professional offices and Brenau University.

**History/Background**:

**Facts & Issues for Consideration**:

**Department Recommendation**:
Planning staff recommended approval of the request.

The Planning and Appeals Board recommended approval of the request.

See the PAB Recommendation Report for details and excerpts from the PAB meeting minutes.

SAMPLE MOTIONS

Approve Rezoning
I move to approve first reading of an ordinance to rezone the subject property from Residential-II to Residential-I.

Denial
I move to deny the rezoning request.

**Department Director**:
Rusty Ligon

---

**If funding is involved, are funds approved within the current budget?**
N/A

**Amount Requested**: **Source of Funds**:

**Finance Comments**:

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**Administrative Comments:**

---

ATTACHMENTS:

| | Description | Type |
|---|---|---|
| 🗋 | Legal Ad | Legal Ad |
| 🗋 | PAB Recommendation Report | Report |
| 🗋 | Proposed Rezoning Ordinance | Ordinance |
| 🗋 | Location Maps | Backup Material |
| 🗋 | Narrative | Backup Material |
| 🗋 | Plat | Backup Material |

**COMBINED LEGAL AD**
**Gainesville Planning and Appeals Board**
**Gainesville City Council**

**Publish Sunday, June 25, 2017**
THE TIMES

## NOTICE OF PLANNING AND APPEALS BOARD PUBLIC HEARING

Notice is hereby given that the **Gainesville Planning and Appeals Board** will conduct a public hearing on **Tuesday, July 11, 2017** at **5:30 p.m.** in the **Gainesville Justice Center** (Municipal Courtroom at the Public Safety Complex), 701 Queen City Parkway in midtown Gainesville on the following requests:

1) Request from **Keel Property Management, LLC** to annex a 6.32± acres tract located on the northeast side of the intersection of Jesse Jewell Parkway and White Sulphur Road (a/k/a **0 White Sulphur Road**), and to establish zoning as General Business (G-B).
   Ward Number: Two
   Tax Parcel Number(s): 09-123-000-008
   Request: Restaurant and retail uses

2) Request from **Will & McCay Crumley** to rezone a 0.308± acre tract located on the north side of Park Street and northeast of the intersection of Park Street and Boulevard (a/k/a **523 Park Street**) from Residential-II (R-II) to Residential-I (R-I).
   Ward Number: Two
   Tax Parcel Number(s): 01-038-003-015
   Request: Single-family home

## NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE GAINESVILLE ZONING MAP

Notice is hereby given that the **Gainesville City Council** will conduct a public hearing on **Tuesday, August 1, 2017** at **5:30 p.m.** in the **Gainesville Justice Center** (Municipal Courtroom at the Public Safety Complex), 701 Queen City Parkway in midtown Gainesville on the following requests:

1) Request from **Keel Property Management, LLC** to annex a 6.32± acres tract located on the northeast side of the intersection of Jesse Jewell Parkway and White Sulphur Road (a/k/a **0 White Sulphur Road**), and to establish zoning as General Business (G-B).
   Ward Number: Two
   Tax Parcel Number(s): 09-123-000-008
   Request: Restaurant and retail uses

2) Request from **Will & McCay Crumley** to rezone a 0.308± acre tract located on the north side of Park Street and northeast of the intersection of Park Street and Boulevard (a/k/a **523 Park Street**) from Residential-II (R-II) to Residential-I (R-I).
   Ward Number: Two
   Tax Parcel Number(s): 01-038-003-015
   Request: Single-family home

Additional information is available from the Community Development Department, Planning Division, by calling 770-531-6570.

NOTE: In accordance with Georgia law, anyone who wishes to express opposition to the proposed zoning action, and has made, within two years immediately preceding the filing of the proposed zoning action, campaign contributions aggregating $250 or more to a local government official who will consider the application, shall file a disclosure of contribution(s) with the Planning Division at least five (5) days prior to the first reading of the proposed zoning action by the City Council. (OCGA § 36-67A-3 3 {c})

**GAINESVILLE PLANNING and APPEALS BOARD**
**RECOMMENDATION**

**Applicant and Property Owner**............................... Will & McCay Crumley
**Location**.................................................................... 523 Park Street
**Request**..................................................................... Rezone from R-II to R-I
**Size** .......................................................................... 0.308± acre
**Ward**.......................................................................... Two
**Proposed Use**.......................................................... Single-family home
**Planning Division Staff Recommendation** ............. **Approval**
**Planning and Appeals Board Recommendation**.... **Approval**
**Date**........................................................................... July 11, 2017

---

## ▪ ***Applicant's Proposal and Background Information***

The applicant is proposing to rezone the subject property from Residential-II (R-II) to Residential-I (R-I) for the existing single-family use. The applicant intends to keep the property as single-family which is currently occupied by the applicant. The request would effectively downzone the property so that any future non-single-family uses would be required to provide a buffer adjacent to the subject property. The subject property contains a one-story, single-family home and a detached building. The property has road frontage along Park Street. The surrounding uses include single-family homes, multi-family apartments, professional offices and Brenau University.
.

## ▪ ***Adjacent Land Use and Zoning***

| Location | Use | Zoning |
|---|---|---|
| North | Norton Agency office | Residential and Office (R-O) |
| South | Residential Duplex, Vacant home | Residential-II (R-II) |
| East | Single-family home | Residential-II (R-II) |
| West | Norton Agency office, Single-family home | Residential-II (R-II) and Residential and Office (R-O) |

Other surrounding uses include single-family homes, multi-family apartments, and various professional office uses and the Brenau University campus.

## ▪ ***Other Departmental Comments***

There were no other departmental comments regarding this request.

## ▪ ***Zoning History***

*The following zoning actions have taken place in the immediate area during the last ten years:*

**2017 –** A request by Brightstone Transitions to amend a Planned Unit Development (P-U-D) zoning on a $0.50^{\pm}$ acre tract located at 446 Green Street was approved with conditions for a group home and office.

**2017 –** A request by W.L. Norton Agency Inc., to rezone a $0.42^{\pm}$ acre tract located at 418 Boulevard NE from Residential-II (R-II) to Residential and Office (R-O) was approved by the Planning and Appeals Board and is pending a final vote by City Council.

**2015 –** A request by Hands on Healing, Inc. for a Special Use for a therapeutic massage and exercise therapy office located at 431 Green Street within Residential and Office (R-O) zoning was approved with one condition.

**2014 –** A request by Gerald Darby and Bobby Norris for a Special Use for an antique gallery and residence located at 756 Green Street within Residential and Office (R-O) zoning was approved with one condition.

**2012 –** A request by The Norton Agency Insurance, LLP to rezone a $0.61^{\pm}$ acre tract located at 424 Boulevard NE from Residential-II (R-II) to Residential and Office (R-O) was approved with conditions for a professional office.

**2012 –** A request by Dennis & Jill Momper to rezone a $0.51^{\pm}$ acre tract located at 430 Prior Street NE from Residential-II (R-II) to Residential and Office (R-O) was approved with conditions for a professional office.

**2010 –** A request by Autumn Leaves Assisted Living Corporation located at 756 Green Street for a Special Use on a $0.61^{\pm}$ acre tract within a Residential and Office (R-O) zoning district for an assisted living facility was conditionally approved.

**2010 –** A request by Harold A. Hinchman to rezone a $1.89^{\pm}$ acres tract located at 1050 Park Street NE from Residential-I (R-I) to Residential-II (R-II) with a special use was denied for a group home for men.

**2008 –** A request by Brenau University located at 326 and 352 Boulevard NE for a Special Use on a $1.44^{\pm}$ acres tract within Office and Institutional (O-I) zoning district for dormitories was approved with conditions.

**2007 –** A request by Parkberry Development, LLC to rezone a $2.49^{\pm}$ acres tract located at 535, 543 and 557 Mulberry Lane; and 819 and 825 Park Street from Residential-I (R-I) to Planned Unit Development (P-U-D) was denied for residential townhomes.

- ***Staff Analysis***

**(1) Is the proposed use suitable in view of the zoning and development of adjacent and nearby property?**

The subject property is adjacent to single-family homes, multi-family residential, professional offices and the Brenau campus. These properties are zoned Residential-II (R-II), Residential and Office (R-O) and Office and Institutional (O-I). While the proposed Residential-I (R-I) zoning could be considered spot zoning, the property has historically been used for single-family purposes which is compatible with the existing and proposed zoning. Therefore, it appears that the proposed rezoning request is suitable.

**(2) Will the proposed use adversely affect the existing use or usability of adjacent or nearby property?**

The proposed use will remain as single-family residential and should have minimal impacts on the adjacent properties. As a result of downzoning the subject property, there will be more stringent setback/buffer requirements (20-feet in width) placed on the adjacent Residential-II (R-II) and Residential and Office (R-O) zoned properties which could encumber future development of these properties. However, a buffer reduction of 10-feet may be granted if a minimum 8-foot tall, opaque structural buffer is provided.

**(3) Is the proposed use compatible with the purpose and intent of the Comprehensive Plan?**

It is staff's opinion that the proposal is consistent with the Comprehensive Plan. The Future Development Map for the City of Gainesville places the subject property within the *Low-Medium Residential* land use category which includes areas containing or planned for single-family detached or semi-detached housing at densities ranging from two to four dwelling units per acre with only limited light office use allowed, such as a home office.

According to the Character Area map for the City of Gainesville, the subject property is located within the *Traditional Neighborhoods* Character Area specifically within the *Northern Neighborhoods subarea*. The vision for this area anticipates minimal change, and primary issues within this subarea include incompatible infill development and the threat of encroaching urban sprawl. Commercial encroachment should be minimized and should respect and mirror the small scale of the surrounding neighborhoods, while the purity of the landscape and quality of housing should be preserved. The area is not a primary destination for business; however neighborhood serving business development is encouraged. Land uses allowed include low-density and medium-density residential, and mixed-use / commercial.

**(4) Are there substantial reasons why the property cannot or should not be used as currently zoned?**

The property, as currently zoned, allows for numerous residential uses including single-family, duplex, townhomes, condominiums and apartments. Given the size and shape of the property it is conceivable that the property could be developed as a residential two-family duplex.

The applicant wishes to rezone the subject property to Residential-I (R-I) which would downzone the property for single-family purposes. The purpose of the request is to provide for additional protection against adjacent non-single-family development.

**(5) Will the proposed use cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sewer utilities, and police or fire protection?**

The subject property currently utilizes various City services; including police and fire protection and utilities. Gainesville Fire Station #2 located off of Holly Drive is located approximately one mile from the subject property. The existing home has minimal load on water and sanitary sewer services and impacts to police and fire protection are minimal.

**(6) Is the proposed use supported by new or changing conditions not anticipated by the Comprehensive Plan or reflected in the existing zoning on the property or surrounding properties?**

Many of the existing homes within the immediate area have been renovated for single-family residential purposes and for professional office space over the past 30+ years. Much of this is due to the emerging Brenau Campus, Northeast Georgia Medical Center and nearby downtown central business district. The proposed rezoning request appears to be consistent with the Comprehensive Plan and the surrounding mixture of residential and non-residential land uses.

**(7) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?**

The existing use of the property will remain as single-family which is appropriate for the proposed zoning of Residential-I (R-I). Therefore, the proposed rezoning request appears to promote a reasonable balance between the interests of the City, the property owner, and neighboring residents and property owners.

- ***Staff Recommendation***

The Planning Division staff is recommending **approval** of this rezoning request with **R-I zoning**, based on the Comprehensive Plan and the surrounding residential and non-residential land uses.

---

**Excerpts from the July 11, 2017 PAB Meeting Minutes**

**Applicant Presentation: Will Crumley,** 523 Park Street, stated that down-zoning is an odd thing and not seen very often. However, he and his wife felt it was the best way to protect their property value in a neighborhood that is changing. He stated that several businesses were moving into the area and the rezoning would be best for their interest.

**FAVOR:** None

**OPPOSE:** None

**Planning and Appeals Board Comments:** None

**There was a motion to recommend approval of the request to rezone the subject property from Residential-II (R-II) to Residential-I (R-I).**

Motion made by Vice-Chair Fleming
Motion seconded by Board Member Martin
**Vote – 5 favor, 2 absent (Rucker, Delgado)**

First Reading: ________________
Passed: ________________

**AN ORDINANCE**

**No. 2017-**

**AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF GAINESVILLE, GEORGIA, BY CHANGING THE ZONING ON A 0.308± ACRE TRACT LOCATED ON THE NORTH SIDE OF PARK STREET AND NORTHEAST OF THE INTERSECTION OF PARK STREET AND BOULEVARD (A/K/A 523 PARK STREET) FROM RESIDENTIAL-II (R-II) TO RESIDENTIAL-I (R-I); REPEALING CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**(Amendment to Zoning Map)**

**BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:**

**SECTION I.**

That from and after the passage of this Ordinance the following described lands shall be zoned and so designated on the Zoning Map of the City of Gainesville as **Residential-I (R-I).**

**Legal Description**

All that tract or parcel of land lying and being in the City of Gainesville, Hall County, Georgia, being more particularly described as follows:

BEGINNING at corner fence on the line at Cliff Porter (formerly W.E. Hosch) lot on North side of Park Street, and running thence Easterly along Park Street 69 feet to line of H.L Gaines (Formerly R.O. Smith) lot; thence in a northerly direction along Gaines line to corner of fence; thence north along said fence/line 143 feet, more or less, to line of C.R. Frierson (formerly W.A. Mitchell); thence west along C.R. Frierson's line 60 feet to line of Frank Rogers (Formerly A.D. White) lot; and thence Southerly along said Rogers line and Porter 210 feet, more or less, to beginning corner on Park Street.

Said property currently being known as 523 Park Street, Gainesville, Georgia, according to the present system of numbering of Hall County, Georgia, and being known as Map and Parcel No. 01038 003015 according to the Hall County Tax Assessor's office.

Being the same property conveyed from C.T. Tanner and Mrs. C.R. Frierson to Will D. Strickland by deed dated November 12, 1940, recorded in Deed Book 85, page 235 Hall County, Georgia real estate records.

Being the same property conveyed from Will D. Strickland to H.A. Kelley and Mrs. Alberta Kelley dated September 4, 1952, recorded in Deed Book 136, Page 444, Hall County, Georgia real estate records.

Being the same property conveyed from Mrs. Alberta Mashburn Kelley, individually and as Executrix of the Last Will and Testament of Hiram Ansel Kelley, Deceased, to Robert Moore and Lucy Moore by Warranty Deed dated June of 1974, recorded in Deed Book 549, Page 448, Hall County, Georgia real estate records.

Said Property being the same property conveyed from Karen Sewell Moore Moore to William S. Crumley and McCay D. Mercer by Warranty Deed dated June of 2014.

**SECTION II.**

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

**SECTION III.**

If any portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

**SECTION IV.**

This Ordinance is enacted as an amendment to the Code of the City of Gainesville, Georgia, and is to be codified as a part of Section 9-1-1-5.

**SECTION V.**

The effective date of this Ordinance shall be upon approval by the governing body of the City of Gainesville, Georgia.

______________________________

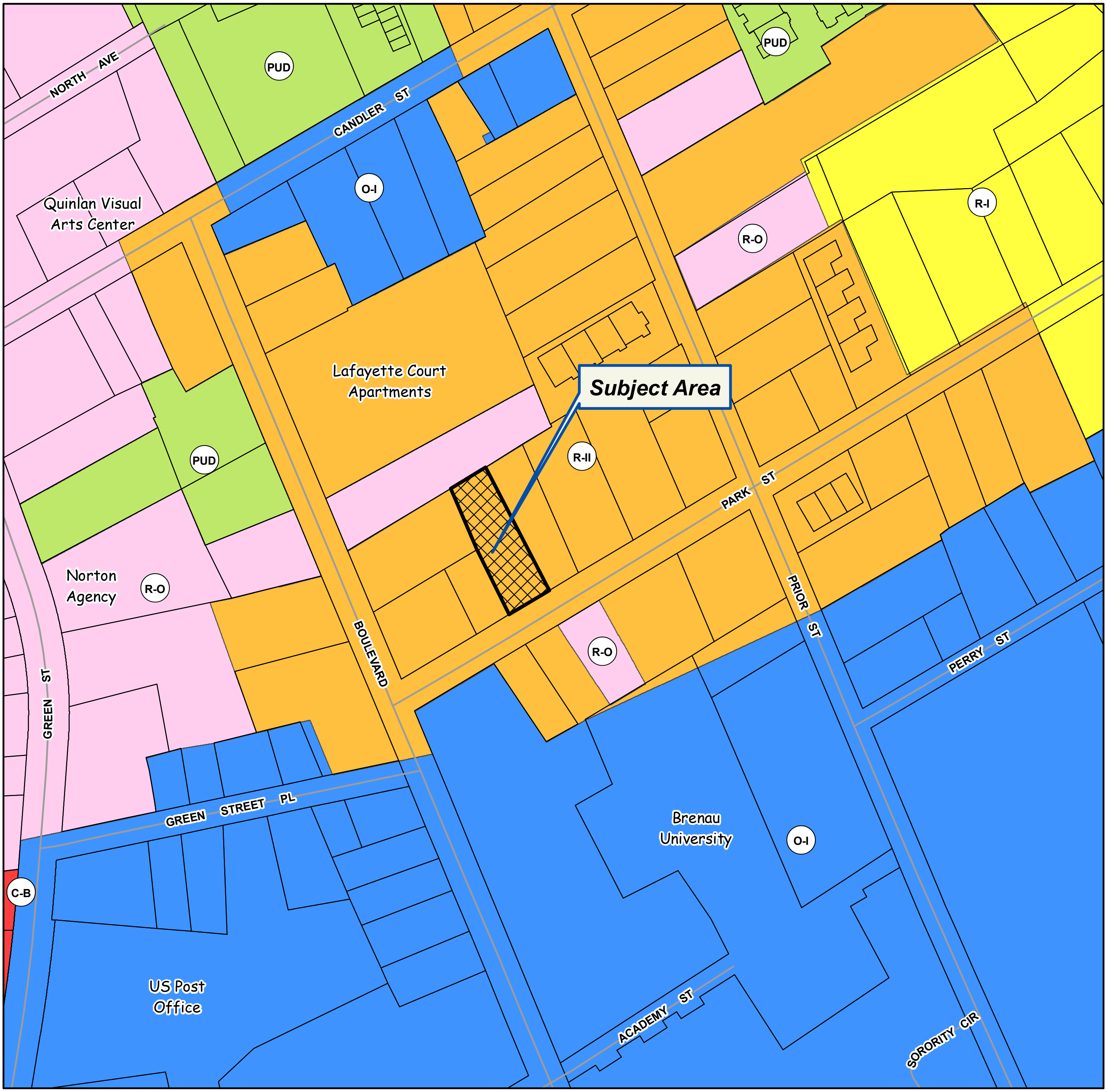
**C. Danny Dunagan, Jr., Mayor**

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

______________________________

**Denise O. Jordan, City Clerk**




**Applicant:**

WILL & MCCAY CRUMLEY

REZONING REQUEST

Gainesville, Georgia
Since 1821
COMMUNITY DEVELOPMENT

**Request:**
Rezone 0.308+/- acre tract from Residential-II (R-II) to Residential-I (R-I) for a single family home

**Subject Area Address:**
523 Park Street

Meeting: 7/11/2017

Prepared: 6/08/2017

**Gainesville Community Development Department**

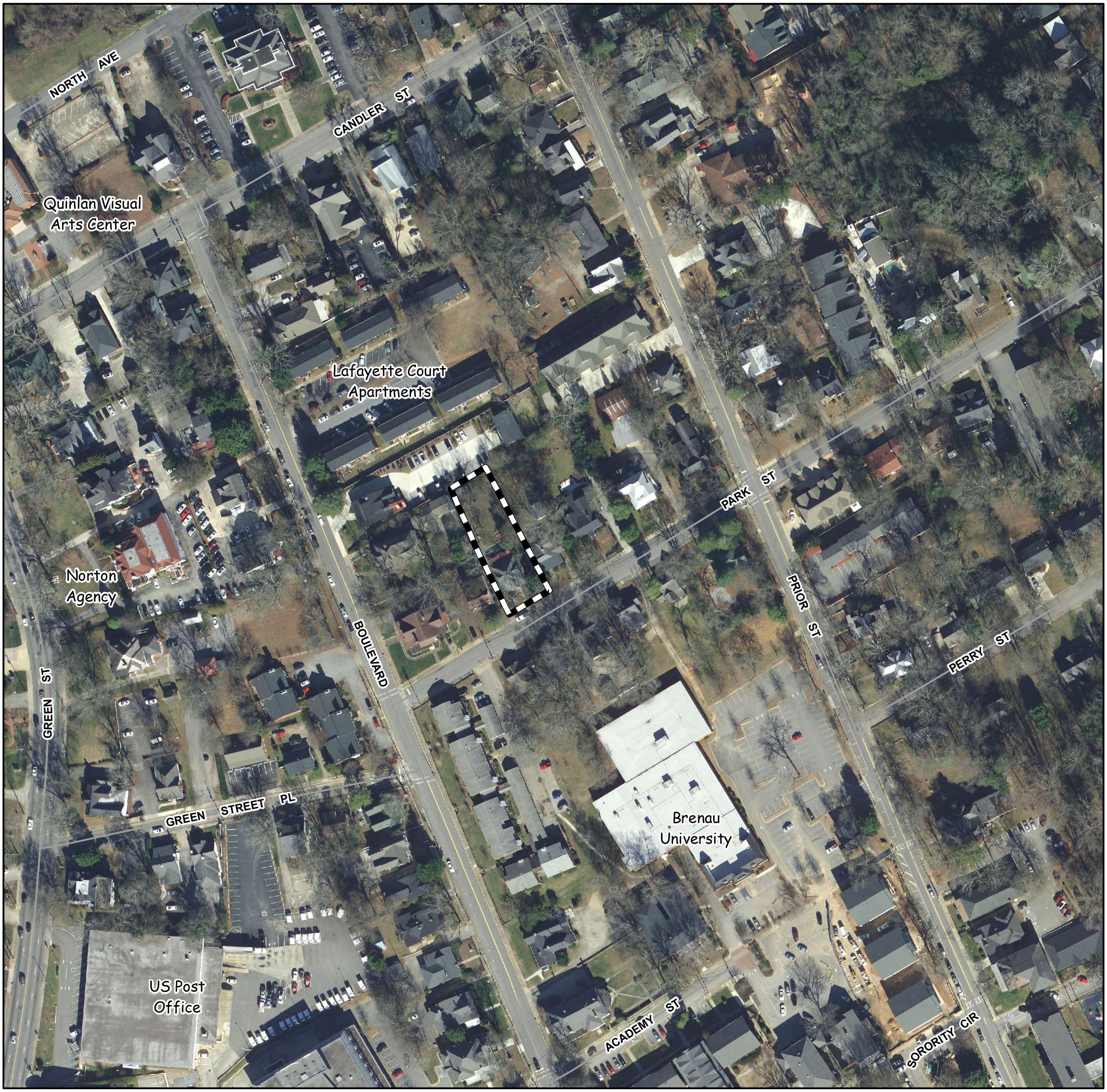
Subject Area

N

0 120 240 360 480 Feet

1 " = 200 '

**Tax Parcel:** 01-038-003-015




**Applicant:**

WILL & MCCAY CRUMLEY

REZONING REQUEST

**Request:**
Rezone 0.308+/- acre tract from Residential-II (R-II) to Residential-I (R-I) for a single family home

**Subject Area Address:**
523 Park Street

Meeting: 7/11/2017

Prepared: 6/08/2017

**Gainesville Community Development Department**

Subject Area

Aerial from 2015

N

0 120 240 360 480 Feet

1 " = 200 '

**Tax Parcel:** 01-038-003-015

**523 PARK STREET NARRATIVE**

I am requesting that the parcel located at 523 Park Street, Gainesville, Hall County, Georgia be rezoned from R-II to R-I. McCay and I have spent a significant amount of money and time renovating one of the oldest houses in one of the oldest neighborhoods in the City of Gainesville. This home has been meticulously renovated as a single family home and will remain a single family home for the foreseeable future. We have no intention of using the home as a multifamily unit, and as a single family home, in a historic neighborhood, this property should be afforded the protections of the R-I zoning.

## NOTES:

1.) THIS PLAT HAS BEEN DONE FOR THE USE AND PURPOSE OF THE CLIENT ASCRIBED AND CONTRACTED WITH BELOW. ALL OTHER PARTIES ARE SUBSEQUENTLY PUT ON NOTICE AS TO THE LIMITED DEGREE OF RELIANCE UPON THIS PLAT BY THIRD PARTIES.

2.) THE PUBLIC RECORDS REFERENCED ON THIS PLAT ARE ONLY THOSE USED AND/OR NECESSARY TO THE BOUNDARY OF THIS PROPERTY. THEY ARE NOT AND DO NOT CONSTITUTE A TITLE SEARCH.

3.) THE NORTH MERIDIAN SHOWN HEREON IS BASED ON PLAT REFERENCE (1).

4.) THE CURRENT OWNER OF THE PROPERTY SHOWN HEREON IS WILLIAM S. CRUMLEY AND MCCAY D. MERCER, TAX PARCEL # 01038 003015.

5.) EXISTING ZONING IS R2-RESIDENTIAL.

## PLAT REFERENCES:

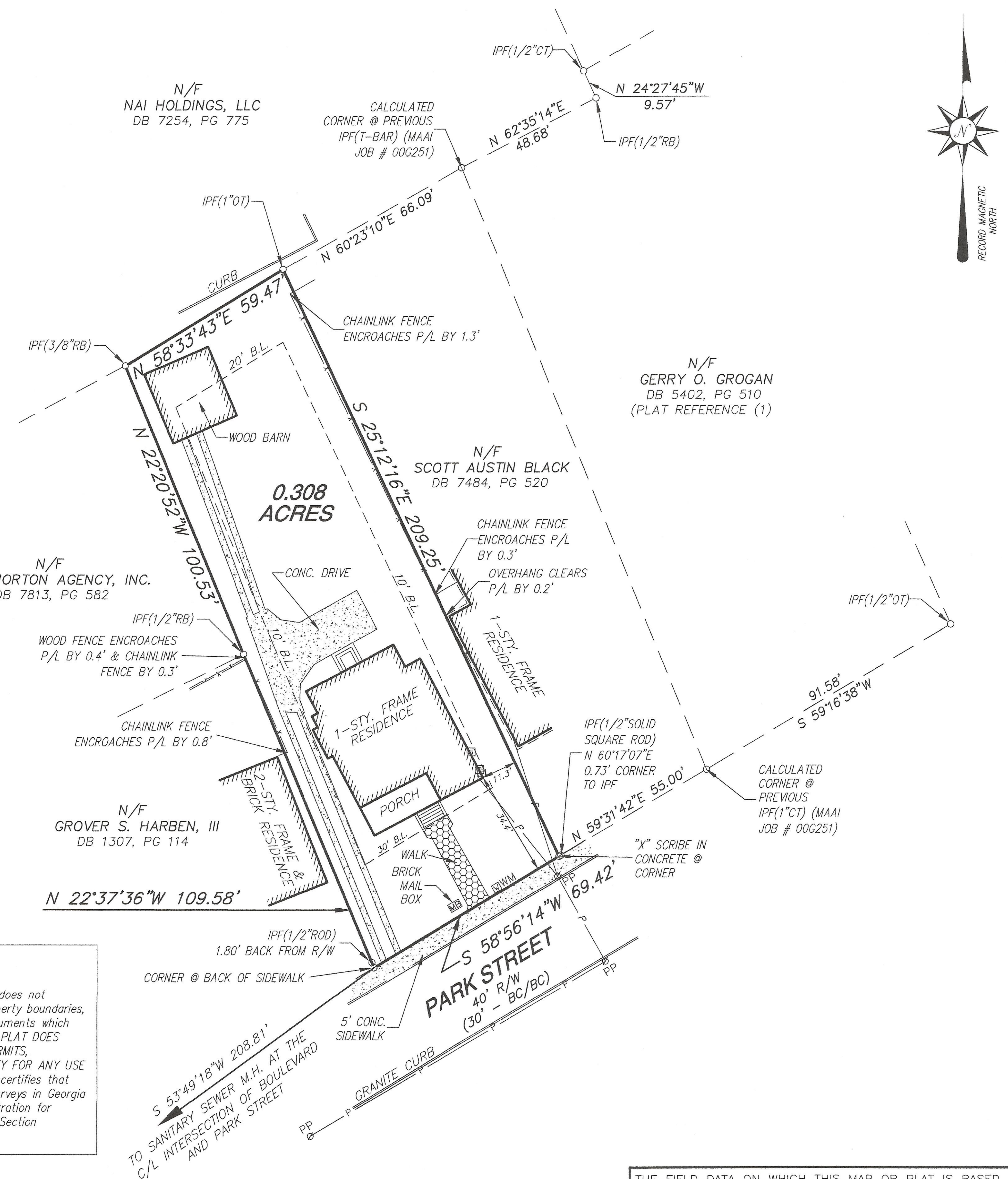
1.) SURVEY FOR SUNDERLAND & DIAZ, PREPARED BY MORELAND ALTOBELLI ASSOCIATES, INC., DATED 9-12-2000.

## DEED REFERENCES:

1.) WARRANTY DEED FROM KAREN SEWELL MOORE TO WILLIAM S. CRUMLEY AND MCCAY D. MERCER, RECORDED IN DEED BOOK 7393, PAGE 146, HALL COUNTY, GEORGIA RECORDS.

## FLOOD NOTE:

ACCORDING TO THE F.I.R.M. OF HALL COUNTY, PANEL NUMBER 13139C0187F, DATED SEPTEMBER 29, 2006, THIS PROPERTY IS NOT LOCATED IN A 100 YEAR FLOOD HAZARD ZONE.




### LEGEND

| | |
|---|---|
| IPF | IRON PIN FOUND |
| IPS | IRON PIN SET (1/2"REBAR) |
| OT | OPEN TOP PIPE |
| CT | CRIMP TOP PIPE |
| R/W | RIGHT OF WAY |
| P/L | PROPERTY LINE |
| C/L | CENTERLINE |
| LL | LAND LOT |
| LLL | LAND LOT LINE |
| N/F | NOW OR FORMERLY |
| DB | DEED BOOK |
| PB | PLAT BOOK |
| -X- | FENCE LINE |
| PP | POWER POLE |
| TP | TELEPHONE POLE |
| T | TRANSFORMER |
| -P- | OVERHEAD POWER |
| -T- | OVERHEAD TELEPHONE |
| -P/T- | OVERHEAD POWER & TELE |
| -UGP- | UNDERGROUND POWER |
| -UGT- | UNDERGROUND TELEPHONE |
| -G- | UNDERGROUND GAS |
| FH | FIRE HYDRANT |
| WM | WATER METER |
| WV | WATER VALVE |
| SSMH | SANITARY SEWER MANHOLE |
| CO | CLEANOUT |
| DI | DRAIN INLET |
| GI | GRATE INLET |
| CI | CURB INLET |
| YI | YARD INLET |
| JB | JUNCTION BOX |
| CMP | CORRUGATED METAL PIPE |
| RCP | REINFORCED CONCRETE PIPE |
| CPP | CORRUGATED PLASTIC PIPE |
| CIP | CAST IRON PIPE |
| DIP | DUCTILE IRON PIPE |

### SURVEYOR CERTIFICATION:

*This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.*

GEORGIA REGISTERED No. 2933 PROFESSIONAL LAND SURVEYOR SUSAN S. ANDERSON

30 0 30 60 90

GRAPHIC SCALE - FEET

THE FIELD DATA ON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 94,148 FEET AND AN ANGULAR ERROR OF 03 SECONDS PER ANGLE POINT, AND WAS ADJUSTED USING THE COMPASS RULE METHOD. THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 134,568 FEET.

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67. AUTHORITY O.C.G.A. SECS. 15-6-67, 43-15-4, 43-15-6, 43-15-19, 43-15-22.

TYPE OF EQUIPMENT: TOPCON GTS-313

ADDRESS: 523 PARK STREET N.E., GAINESVILLE, GEORGIA


**Moreland Altobelli Associates, Inc.**
Engineering * Planning * Landscape Architecture * Land Acquisition * Surveying
LSF000334, EXP.:6/30/2018
930 Interstate Ridge Drive Suite "F"
Gainesville, Georgia 30501
PHONE:(770)532-4021 FAX:(770)532-4023


MA

RETRACEMENT SURVEY FOR:

**WILLIAM S. CRUMLEY & MCCAY D. MERCER**

LAND LOT 148, 9th DISTRICT
CITY OF GAINESVILLE
HALL COUNTY, GEORGIA

SHEET 1 of 1 SHEETS

| | |
|---|---|
| VERTICAL SCALE: | N/A |
| HORIZONTAL SCALE: | 1" = 30' |
| DATE: | 5-11-2017 |
| DATE OF FIELD SURVEY: | 5-08-2017 |
| DRAWN BY: | SA |
| CHECKED BY: | DRJ |
| JOB NO.: | 17G217 |



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