



**Mayor/Council Meeting Agenda
Tuesday, September 20, 2022, 5:30 PM
Public Safety Complex, Municipal Court Room
701 Queen City Parkway, Gainesville, GA 30501
Mayor or Mayor Pro Tem Presides**

INVOCATION:

PLEDGE OF ALLEGIANCE:

PRESENTATIONS / RECOGNITIONS

- A. Proclamation: Constitution Week
- B. Proclamation: Attendance Awareness Month

COUNCIL ANNOUNCEMENTS:

PUBLIC COMMENTS: (20 minutes maximum)

CONSENT AGENDA:

Minutes

- A. September 1, 2022 Work Session
- B. September 6, 2022 Mayor/Council Meeting

Resolutions

- A. BR-2022-53 Modify Boundaries Related to the Downtown Dining District
- B. BR-2022-54 Old Oakwood Road Service and Development Agreement

GENERAL LEGISLATION:

- A. Ordinance 2022-30 Amend Section 3-5-7 Entitled Criminal Trespass in Public Parking Lots
- B. Ordinance 2022-31 Amend Chapter 6-4 and Section 1-7-2 Related to Alcoholic Beverages

RESOLUTION(S):

- A. BR-2022-55 Intergovernmental Agreement Securing the Series 2022A Bonds and Series 2022B Bonds
- B. BR-2022-56 Plan of Finance for The Coop and The Boathouse

CITY MANAGER ISSUES:

CITY ATTORNEY ISSUES:

CITY CLERK ISSUES

EXECUTIVE SESSION:

ADJOURNMENT:

Final: Friday, September 16, 2022, 2:45 PM



CITY OF GAINESVILLE

Mayor/Council Agenda Request

Item Created: August 15, 2022
Date Submitted: September 16, 2022
Final Approval Date: September 20, 2022
Presenter: Samuel Couvillon
Item of Business: Proclamation: Constitution Week
Meeting Date: September 20, 2022

Purpose of Request:

To support the Colonel William Chandler Chapter of the Daughters of the American Revolution as they continue to acknowledge and promote the observance of the signing of the Constitution of the United States.

Facts & Issues / History & Background:

2022 marks the 235th Anniversary of the signing of the U. S. Constitution.

Attendees include:

- Carolyn Launer, Regent, Colonel William Chandler Chapter
- Anne Stimson, Constitution Week Chair
- Margaret Whalen, Constitution Week Committee
- Jeff Whalen

Department Recommendation:

N/A

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget? No

Amount Requested:

Sources of Funds:

Finance Comments:

Administrative Comments:

Attachments:

1. Proclamation: Constitution Week 2022



PROCLAMATION

- WHEREAS,** *in 1955 the President General of the Daughters of the American Revolution, Gertrude S. Carraway, adopted a project to promote the observance of the U.S. Constitution with a memorial week beginning on the anniversary of the signing of this document, September 17th; and*
- WHEREAS,** *Constitution Week was officially declared by President Eisenhower on August 2, 1956, the culmination of a proposal the Daughters of the American Revolution sent through Senator William F. Knowland of California; and*
- WHEREAS,** *locally, the Colonel William Candler Chapter of the National Daughters of the American Revolution will proudly celebrate and promote the two hundred and thirty third Anniversary of the signing of the Constitution of the United States; and*
- WHEREAS,** *this 235th Anniversary of the Constitution provides a historic opportunity for all Americans to reflect on the rights and privileges of citizenship incorporated within its framework, and to learn about and celebrate the achievements of our founding forefathers and foremothers throughout the year.*

NOW, THEREFORE, BE IT RESOLVED, *that I, W. Samuel Couvillon, Mayor and the Gainesville City Council, do hereby proclaim September 17-23, 2022 to be*

“Constitution Week”

rededicating ourselves to our country and the support and defense of our Constitution and to a greater involvement in responsible citizenship.

Presented this 20th day of September, 2022

W. Samuel Couvillon, Mayor
City of Gainesville



CITY OF GAINESVILLE

Mayor/Council Agenda Request

Item Created: September 8, 2022
Date Submitted: September 8, 2022
Final Approval Date: September 20, 2022
Presenter: Mayor Couvillon
Item of Business: Proclamation: Attendance Awareness Month
Meeting Date: September 20, 2022

Purpose of Request:

Focus on reducing absenteeism and addressing the factors that cause students to miss school. We recognize that we must work together to engage students and families and send the message that learning must continue, whether students participate in person, remotely or through blended approaches.

Facts & Issues / History & Background:

Attendees include:

- Annaliza Thomas, Executive Director of Hall County Family Connection Network
- Teigha Snowden, Director of Advocacy United Way of Hall County

Department Recommendation:

N/A

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget? No

Amount Requested:

Sources of Funds:

Finance Comments:

Administrative Comments:

Attachments:

1. Proclamation: Attendance Awareness Month



PROCLAMATION

WHEREAS the Covid-19 pandemic and other crises have eroded positive conditions for learning and created an absenteeism crisis; and

WHEREAS chronic absence, missing 10% or more of school, alerts schools, community partners and families that one or more positive conditions for learning are not in place; and

WHEREAS students are more likely to attend school when positive conditions for learning are in place; and

WHEREAS reducing absenteeism requires taking a comprehensive approach that begins with prevention and early intervention, and adopting trauma-informed approaches rather than responding with punitive action; and

WHEREAS improving attendance and reducing absenteeism takes schools, families and community partners working together; and

WHEREAS partnering with students and families to monitor attendance as well as understand and address barriers to attendance requires building and sustaining relationships and regular communications with families; and

WHEREAS taking attendance daily in a consistent manner is essential to identifying when students begin to miss too much school.

NOW, THEREFORE, BE IT RESOLVED, that I, W. Samuel Couvillon, Mayor and the Gainesville City Council, do hereby proclaim September to be

“Attendance Awareness Month”

and we hereby commit to focusing on reducing absenteeism and addressing the factors that cause students to miss school. We recognize that we must work together to engage students and families and send the message that learning must continue, whether students participate in person, remotely or through blended approaches.

Presented this 20th day of September, 2022

W. Samuel Couvillon, Mayor
City of Gainesville



CITY OF GAINESVILLE

Mayor/Council Agenda Request

Item Created: July 29, 2022
Date Submitted: September 14, 2022
Final Approval Date: September 16, 2022
Presenter: Denise Jordan, City Clerk
Item of Business: September 1, 2022 Work Session
Meeting Date: September 20, 2022

Purpose of Request:

The purpose of this request is to allow the governing body to approve the minutes from the referenced meeting.

Facts & Issues / History & Background:

Draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

Department Recommendation:

Approve the minutes accepting edits as presented.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget? No

Amount Requested:

Sources of Funds:

Finance Comments:

Administrative Comments:

Attachments:

None



CITY OF GAINESVILLE

Mayor/Council Agenda Request

Item Created: July 29, 2022
Date Submitted: September 15, 2022
Final Approval Date: September 15, 2022
Presenter: Denise Jordan, City Clerk
Item of Business: September 6, 2022 Mayor/Council Meeting
Meeting Date: September 20, 2022

Purpose of Request:

The purpose of this request is to allow the governing body to approve minutes from the referenced meeting.

Facts & Issues / History & Background:

Draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

Department Recommendation:

Approve the minutes accepting edits as presented.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget? No

Amount Requested:

Sources of Funds:

Finance Comments:

Administrative Comments:

Attachments:

None



CITY OF GAINESVILLE

Mayor/Council Agenda Request

Item Created: September 15, 2022
Date Submitted: September 15, 2022
Final Approval Date: September 15, 2022
Presenter: Bryan Lackey, City Manager
Item of Business: BR-2022-53 Modify Boundaries Related to the Downtown Dining District
Meeting Date: September 20, 2022

Purpose of Request:

The purpose of this request is to modify the Downtown Dining District boundaries to include the Midland Greenway and associated parks.

Facts & Issues / History & Background:

Department Recommendation:

Adopt the resolution.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget? No

Amount Requested:

Sources of Funds:

Finance Comments:

Administrative Comments:

Attachments:

1. BR-2022-53 Modify Boundaries Related to Downtown Dining District
2. Attachment: Downtown Dining District Map 09122022
3. Backup Material: Downtown Dining District Map - Outline of Midland Expansion

RESOLUTION BR-2022-53

Modify Boundaries Related to the Downtown Dining District

WHEREAS, Section 6-4-87(f)1 entitled Alcoholic Beverages of the Code of Ordinances of the City of Gainesville, Georgia states that the area of the Downtown Dining District will be set by resolution of the governing body for the City of Gainesville; and

WHEREAS, the governing body established the boundaries of the Downtown Dining District in resolution BR-2022-18; and

WHEREAS, the governing body will from time to time, review all areas and make changes as needed; and

WHEREAS, it has been determined that the boundaries of the Downtown Dining District need to be modified from those established in BR-2022-18; and

WHEREAS, the governing body has reviewed the attached map and would like to amend the Downtown Dining District to reflect the modified area.

NOW, THEREFORE, BE IT RESOLVED THAT the governing body for the City of Gainesville hereby approves the area on the attached Downtown Dining District Map, of which this area shall be in effect until further resolution of the governing body.

Adopted this ____ day of _____, 2022.

W. Samuel Couvillon, 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.

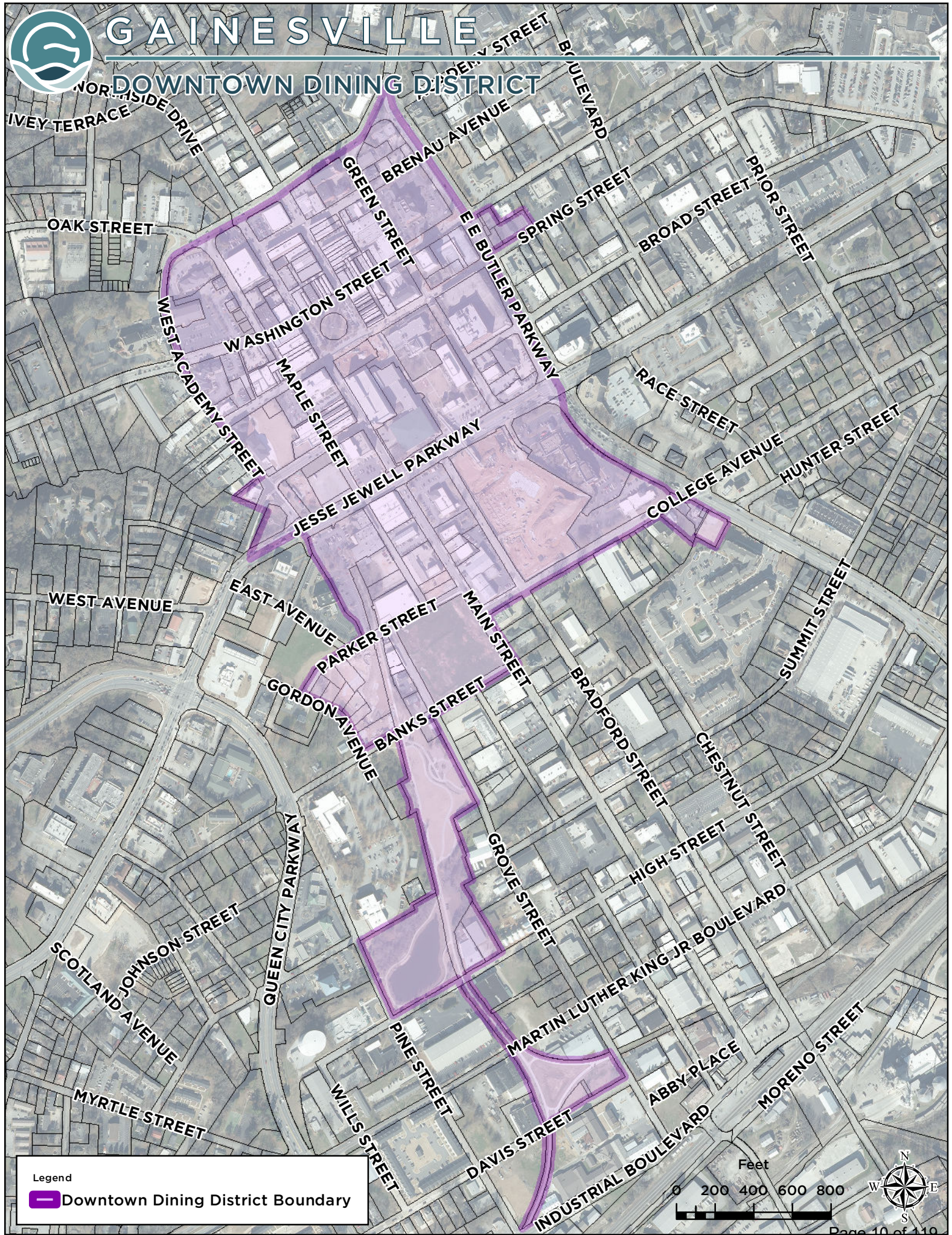
ATTEST:

Denise O. Jordan, City Clerk



GAINESVILLE

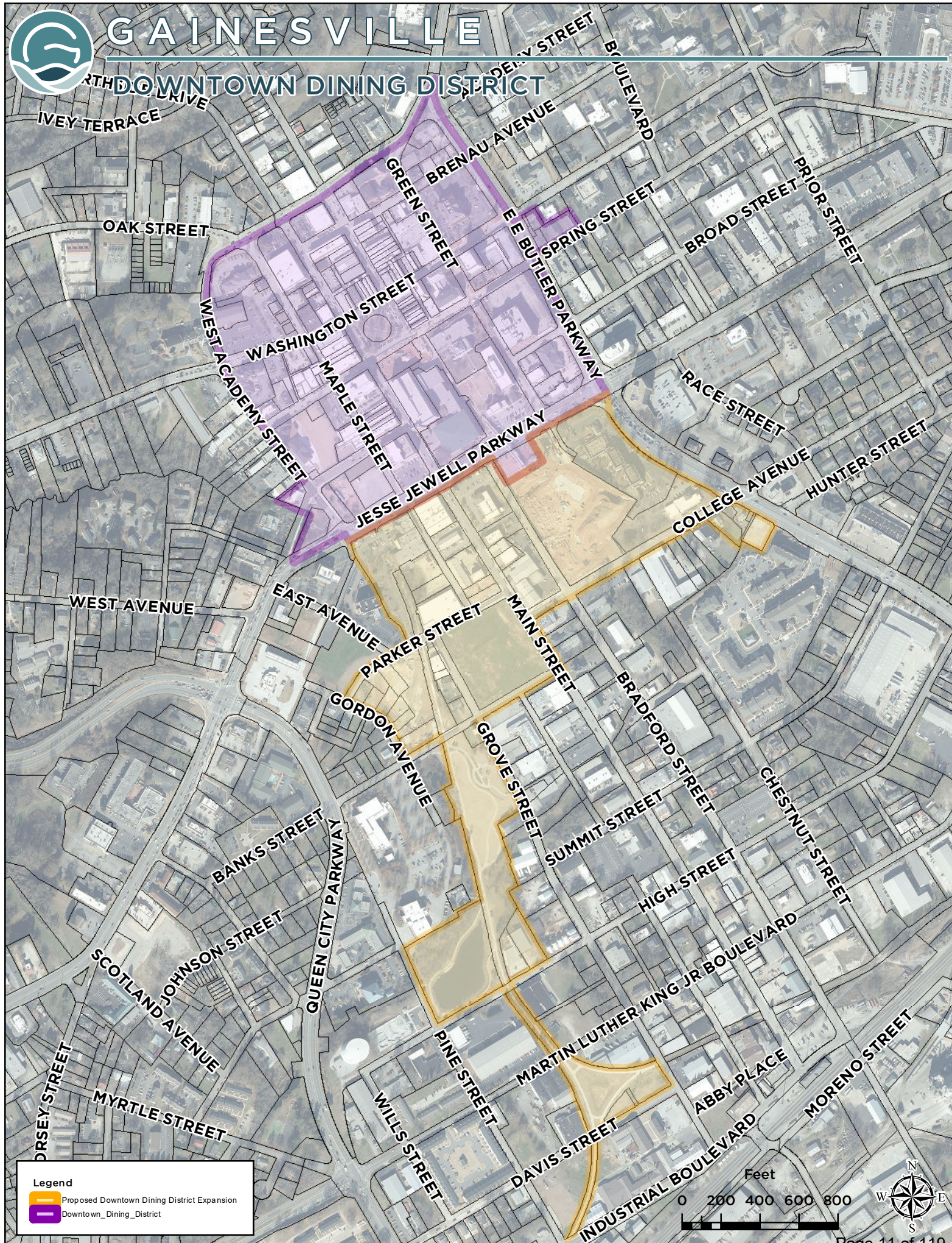
DOWNTOWN DINING DISTRICT





GAINESVILLE

DOWNTOWN DINING DISTRICT





CITY OF GAINESVILLE

Mayor/Council Agenda Request

Item Created: September 15, 2022
Date Submitted: September 15, 2022
Final Approval Date: September 15, 2022
Presenter: Bryan Lackey, City Manager
Item of Business: BR-2022-54 Old Oakwood Road Service and Development Agreement
Meeting Date: September 20, 2022

Purpose of Request:

The purpose of this request is to authorize execution of an intergovernmental agreement.

Facts & Issues / History & Background:

Development is planned for property located within both the City of Gainesville and the City of Oakwood. The proposed resolution authorizes the execution of an intergovernmental agreement that outlines the terms and conditions.

Department Recommendation:

Adopt the resolution.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget? No

Amount Requested:

Sources of Funds:

Finance Comments:

Administrative Comments:

Attachments:

1. BR-2022-54 Old Oakwood Road Service and Development Agreement
2. Attachment: Oakwood Road Service and Development Agreement

RESOLUTION BR-2022-54

OLD OAKWOOD ROAD SERVICE AND DEVELOPMENT AGREEMENT

WHEREAS, Gainesville and Oakwood are Georgia municipalities located within Hall County, Georgia; and

WHEREAS, a development is planned on real property located in both Gainesville and Oakwood on three parcels described in the attached Gainesville and Oakwood Rd Service and Development Agreement; and

WHEREAS, Gainesville and Oakwood wish to outline the terms and conditions under which Gainesville and Oakwood will cooperate to provide needed services to the property described in the attached Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT the governing body for the City of Gainesville hereby authorizes the Mayor, City Manager and/or City Attorney to execute the attached Agreement by and between City of Gainesville, Georgia and City of Oakwood and any other documents necessary to effectuate the provisions of said Agreement.

Adopted this _____ day of _____, 2022.

W. Samuel Couvillon, 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

GAINESVILLE AND OAKWOOD OLD OAKWOOD RD SERVICE AND
DEVELOPMENT AGREEMENT

This Intergovernmental Agreement (“Gainesville and Oakwood Old Oakwood Rd Service and Development Agreement” or “this Agreement”) is made effective as of the last date on which this Agreement has been executed by both parties as indicated under the signature lines for each of the parties (“Effective Date”), by and between the City of Gainesville, Georgia, a municipal corporation, by and through its duly authorized governing body (“Gainesville”) and the City of Oakwood, Georgia, a municipal corporation, by and through its duly authorized governing body (“Oakwood”). The purpose of this Agreement is to set forth the responsibilities and obligations of the parties as such concern the annexation of and administration of the development of three parcels of property located at 0 Old Oakwood Rd., Gainesville, Georgia (tax parcel 08024 005363) (the “City of Gainesville Parcel”), 2950 Old Oakwood Rd., Gainesville, Georgia (tax parcel 08025 000003) (“2950 Oakwood”) and 2958 Old Oakwood Rd., Gainesville, Georgia (tax parcel 08025 000003A) (“2958 Oakwood”, and together with 2950 Oakwood, collectively, the “City of Oakwood Parcel”; the City of Gainesville Parcel and the City of Oakwood Parcel, collectively, the “Property”) and the delivery and administration of services in, along and adjacent to said Property to be served by Gainesville and Oakwood jointly.

WHEREAS, Gainesville and Oakwood have previously agreed to service delivery areas pursuant to the Local Government Service Delivery Strategies Act, O.C.G.A. §36-70-20, et seq. (hereinafter referred to as “The Service Delivery Act”); and

WHEREAS, it is the policy of Gainesville and Oakwood to pursue opportunities to avoid duplication of services and to provide efficient and cost-effective services to their respective citizens; and

WHEREAS, the efficient management and delivery of services in and along Old Oakwood Road involves properties that are located both in Gainesville and in Oakwood, yet said properties are in separate service delivery areas developed in accordance with The Service Delivery Act; and

WHEREAS, Gainesville and Oakwood recognize that this is an opportunity for the two cities to cooperate and jointly facilitate the development of the Property which straddles municipal boundaries and separate municipal service delivery areas; and

WHEREAS, Gainesville has received an application for zoning amendment from CA Industrial Holdings, LLC requesting to amend the PUD zoning to allow 210,000 s.f. of industrial space on the City of Gainesville Parcel (the “Zoning Amendment Application”); and

WHEREAS, this Agreement outlines the terms and conditions under which Gainesville and Oakwood will cooperate to provide the needed services to the Property in accordance with The Service Delivery Act including, but not limited to, plan reviews, approval of extensions of water and sewer services to the Property and connection in the service delivery areas as provided therein, as well as the collection of fees and expenses involved in the development and improvement of the

Property; and

WHEREAS, the parties may enter into specific amendments to this Agreement which will provide additional terms, actions, rights, privileges and responsibilities in order to provide services to the Property;

NOW THEREFORE, Gainesville and Oakwood agree as follows:

-1-

Service Delivery Areas. The parties hereto agree that the sewer service delivery areas for Oakwood and Gainesville are as set forth in the attached map (Exhibit "A") adopted pursuant to The Service Delivery Act and that the City of Gainesville Parcel is within the municipal boundaries of Gainesville and within the Gainesville sewer service delivery area under The Service Delivery Act. The parties further agree that the City of Oakwood Parcel is currently located within the municipal boundaries of Oakwood and within the Oakwood sewer service delivery area adopted in accordance with The Service Delivery Act. The parties hereto agree that the zoning for the Property shall remain unchanged and shall be developed in accordance with the unified design standards and construction criteria and any and all other regulations of Gainesville, with the exception of the change in PUD condition for square footage which is pending zoning amendment approval with Gainesville as reflected in the Zoning Amendment Application. Nothing in this Agreement shall be construed so as to grant approval of the Zoning Amendment Application prior to the Application moving through the public hearing process in compliance with local and state law. Any requirement or regulation that would affect the development of the City of Gainesville Parcel shall also apply to the City of Oakwood Parcel and shall override any and all regulations pertaining thereto by Oakwood.

-2-

Gainesville shall administer all manner of development activities including, but not limited to, plan review, landscape plan review, building inspections and compliance with any and all other regulations which may apply to development of the Property as an industrial development.

-3-

As the Property totals 28.644 acres, 11.369 acres of which will be in Oakwood, Georgia and 17.275 acres are in Gainesville, the parties agree that all fees, taxes and expenses (except as set forth below) shall be divided between the two municipalities with Oakwood receiving 39.7% and Gainesville receiving 60.3%.

1. With regard to development fees, Gainesville shall assess its standard fees on the Property as outlined herein. To the extent that Gainesville performs an activity such as plan review fully and without the assistance of Oakwood, then Gainesville shall retain the fees which are applicable to plan review.
2. Likewise, as far as building inspections go, should Gainesville conduct all building

inspections with regard to the development of the Property, then Gainesville shall retain the fees for doing so.

3. Gainesville shall collect Gainesville and any other applicable development impact fees for only that development located within the municipal limits of the City of Gainesville, Georgia in accordance with the Gainesville fee schedule.
4. With regard to the provision of sewer, Oakwood shall provide 39.7% of the sewer treatment capacity from its reserve within the Gainesville sewer treatment facility and Gainesville shall provide 60.3% of the sewer treatment capacity. Each shall be entitled to their percentage share of the fees paid to reserve said sewer capacity which shall be paid out to the city providing that capacity in the required amounts.

-4-

Taxes. The tax bills for the Property shall be annually submitted by Gainesville and with payments due directly to Gainesville. Oakwood shall be entitled to 39.7% of the taxes paid, and Gainesville shall be entitled to the remaining 60.3% of the taxes paid. Gainesville shall remit the Oakwood portion within 30 days of receipt thereof.

-5-

Business License. As Gainesville has been designated the primary municipality responsible for the collection of fees and taxes, Gainesville shall be entitled to issue the business license for the ~~Property~~ and to collect and retain said sums paid.

-6-

Oakwood acknowledges and agrees for Gainesville to continue to operate and provide services in accordance with The Service Delivery Act, and to expend costs which would be shared on a percentage basis by Oakwood. Oakwood acknowledges and agrees for Gainesville to provide full service to the development as if it were fully within Gainesville.

-7-

The term of this Agreement shall commence as of the date of execution of the Agreement by the last party to sign and shall continue unless terminated in accordance with the provisions of the within paragraph for a term of 50 years from the date of execution hereof. The parties shall have the right to terminate this Agreement upon mutual agreement and each shall have the right to terminate upon the breach of the provisions of this Agreement by the other party if not corrected within 30 days of written notice thereof. Termination shall relieve the parties of further performance under the Agreement but notice of termination shall not relieve either party of obligations undertaken prior to receipt of such notice of termination if such obligations have not been fully discharged.

-8-

No party hereto shall, without written consent of the other, sign or transfer this Agreement or any rights or obligations hereunder.

-9-

This Agreement contains the sole and entire agreement of the parties with respect to the subject matter contemplated hereunder and no representation, inducement, promise or agreement between the parties not incorporated herein shall be of any force or effect. Any amendment to this Agreement shall be in writing and executed by the parties.

-10-

This Agreement and all amendments hereto shall be governed and construed under the laws of the State of Georgia.

-11-

If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, such provision, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall be deemed severable, and the remainder hereof shall not be affected thereby, and each term, covenant, or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

-12-

Any notice or communications hereunder shall be in writing and shall be deemed to have been delivered when deposited in the United States Mail, registered or certified, addressed as follows:

City of Gainesville
P.O. Box 2496
Gainesville, GA 30503

City of Oakwood
P.O. Box 99
Oakwood, GA 30566

or to such other address as either party may designate for itself by written notice to the other given from time to time in the manner herein provided.

-13-

The failure of any party to exercise any right given hereunder or to insist upon strict compliance with any term, condition or covenant specified herein shall not constitute a waiver of such party's right to exercise such right or to demand strict compliance with any such term, condition or covenant under this Agreement.

-14-

Time is of the essence with respect to this Agreement.

-15-

This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. The Mayor of the City of Gainesville, as attested to by the City Clerk of Gainesville, and approved as to form by the City Attorney of Gainesville are hereby authorized to sign such documents as are necessary to effectuate the provisions of this Agreement. The [Mayor] of the City of Oakwood, as attested to by the [City Clerk] of Oakwood, and approved as to form by the [City Attorney] of Oakwood are hereby authorized to sign such documents as are necessary to effectuate the provisions of this Agreement.

-16-

As the majority of the Property is located within Gainesville, both Gainesville and Oakwood agree that the Gainesville Police Department shall have authority and jurisdiction over the Property to provide police services, including but not limited to the power to investigate criminal offenses, issue citations, and take such other action as necessary to provide police services on all areas of the Property, whether such areas are located in Gainesville or Oakwood. The Gainesville and Oakwood police departments shall work together to provide police services, pursuant to mutual aid agreements as previously agreed to between the parties hereto.

[Remainder of page intentionally left blank; signatures follow.]

IN WITNESS WHEREOF, the parties have set their hand and seal as of the date and year above written.

APPROVED AS TO FORM

CITY OF GAINESVILLE

Abbott S. Hayes, Jr.
Hulsey, Oliver & Mahar, LLP
City Attorney

By: _____
W. Samuel Couvillon
Mayor

Date: _____

Date: _____

Attest: _____
Denise O. Jordan, City Clerk

CITY SEAL

APPROVED AS TO FORM

CITY OF OAKWOOD

Donald T. Hunt
Hunt & Taylor Law Group, LLC
City Attorney

By: _____
Lamar Scroggs
Mayor

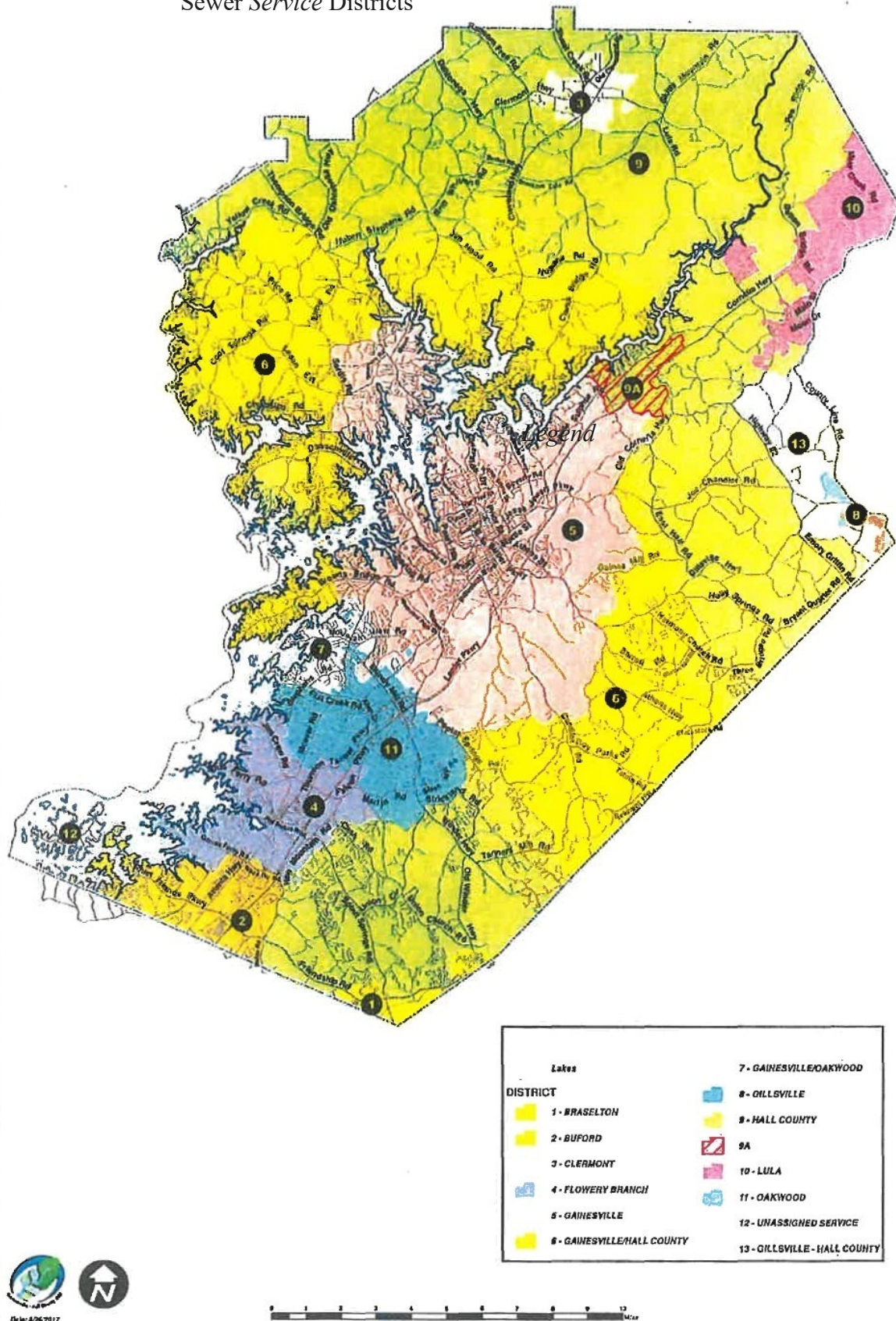
Date: _____

Date: _____

Attest: _____
Mai Chang, City Clerk

CITY SEAL

Sewer Service Districts





CITY OF GAINESVILLE

Mayor/Council Agenda Request

Item Created: September 15, 2022
Date Submitted: September 15, 2022
Final Approval Date: September 15, 2022
Presenter: Jay Parrish, Chief of Police
Item of Business: Ordinance 2022-30 Amend Section 3-5-7 Entitled Criminal Trespass in Public Parking Lots
Meeting Date: September 20, 2022

Purpose of Request:

To establish an Ordinance to aid Public Safety Officials with security in City owned Parking lots and decks.

Facts & Issues / History & Background:

With the success of the revitalization of downtown Gainesville, comes more people enjoying our downtown with some staying later into the evening and at times lingering in the City owned lots and decks.

Department Recommendation:

Approval of the Ordinance.

Department Director:

Jay Parrish

If funding is involved, are funds approved within the current budget? No

Amount Requested:

Sources of Funds:

Finance Comments:

Administrative Comments:

Attachments:

1. Ordinance 2022-30 Amend Section 3-5-7 Entitled Criminal Trespass Public Parking Lots
2. Backup Information: Gainesville Proposed Signage Criminal Trespass in Public Parking Lots

Passed: _____

AN ORDINANCE

No. 2022-30

AN ORDINANCE TO AMEND SECTION 3-5-7 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 3-5-7 of the Code of Ordinances of the City of Gainesville, Georgia is hereby amended to read as follows:

Sec. 3-5-7. Criminal Trespass in Public Parking Lots

- (a) Any person who knowingly and without authority remains in a public parking lot, after receiving notice from a municipal officer or other authorized representative of the City to depart, shall be guilty of criminal trespass in a public parking lot.
- (b) A public parking lot is any property owned by the City and/or the Gainesville Redevelopment Authority, which is used for the parking of motor vehicles and specifically includes parking decks owned by the City and/or the Gainesville Redevelopment Authority.
- (c) For purposes of this ordinance, a person shall be guilty of criminal trespass in a public parking lot regardless of whether the person remains inside or outside a motor vehicle, after receiving notice from a municipal officer or other authorized representative of the City to depart.
- (d) Any person found guilty of violating this ordinance shall be punished as prescribed by 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

ORDINANCE NO. 2022-30

SECTION IV.

The effective date of this ordinance shall be upon approval by the governing body of the City of Gainesville, Georgia.

W. Samuel Couvillon, 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 ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

Denise O. Jordan, City Clerk

Proposed Signage:

This parking [lot/deck] shall be used solely for the parking motor vehicles by persons who are conducting lawful business and/or patronizing businesses in the surrounding area. Any person who remains in this parking [lot/deck] after being asked to depart shall be in violation of City of Gainesville Ordinance Sec. 3-5-7, Criminal Trespass in Public Parking Lots.



CITY OF GAINESVILLE

Mayor/Council Agenda Request

Item Created: September 15, 2022
Date Submitted: September 15, 2022
Final Approval Date: September 15, 2022
Presenter: Angela Sheppard, Assistant City Manager
Item of Business: Ordinance 2022-31 Amend Chapter 6-4 and Section 1-7-2 Related to Alcoholic Beverages
Meeting Date: September 20, 2022

Purpose of Request:

The purpose of this request is to amend Chapter 6-4 entitled Alcoholic Beverages and Section 1-7-2 entitled Recreation & Parks to remove conflicts regarding the Downtown Dining District.

Facts & Issues / History & Background:

Department Recommendation:

Approve the ordinance.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget? No

Amount Requested:

Sources of Funds:

Finance Comments:

Administrative Comments:

Attachments:

1. Ordinance 2022-31 Amend Chapter 6-4 and Section 1-7-2 Regarding Alcoholic Beverages
2. Redline Version - 2022 Alcohol Ordinance Update
3. Summary of Ordinance Changes

Passed: _____

AN ORDINANCE

No. 2022-31

AN ORDINANCE TO AMEND SECTIONS 6-4-2, 6-4-63, 6-4-82, 6-4-83, 6-4-84, 6-4-87 AND 1-7-2 OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE; 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 6-4-2 of the Code of Ordinances of the City of Gainesville, Georgia is hereby amended to read as follows:

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.

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- (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* mean any alcoholic beverage obtained by distillation or containing more than twenty- four (24) percent alcohol by volume.
- (l) *Distillery* means a facility that manufactures distilled spirits.
- (m) *Downtown Pub/Wine Lounge* means an establishment which is located within a downtown dining district as defined by Section 6-4-87(f)(1) that may sell beer and/or wine as set forth in Section 6-4-84(a).
- (n) *Establishment* means any physical location or section thereof for the operation of a business.
- (o) *Food caterer* means any person who holds a valid business license and for consideration, prepares food for consumption off the premises.
- (p) *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.”
- (q) *Georgia Farm Winery* means a farm winery which is licensed by the state to manufacture wine in Georgia.
- (r) *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.

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- (s) *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.
- (t) *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.
- (u) *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.
- (v) *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.
- (w) *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).
- (x) *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.
- (y) *Managed Amenity Area* means an area that is developed for the active or passive recreation and enjoyment of the residents and guests of a housing development within the common gathering space boundaries of the housing development and may include landscaped open space areas, patios, balconies, communal lounges and/or meeting space, swimming pools, grilling areas, recreation facilities and any other area which may be open to residents and guests of residents and is intended to be used for common gathering space.
- (z) *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.
- (aa) *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

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3. In the case of wine, any vintner
- (bb) *Minor* means any person less than twenty-one (21) years of age.
- (cc) *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.
- (dd) *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.
- (ee) *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, though, 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.
- (ff) *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.
- (gg) *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.
- (hh) *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.

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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 or distillery, an adjacent outdoor area, contained on the same property utilized by the licensee. If the adjacent outdoor area is a parking lot that is shared and utilized by more than one business, the outdoor consumption area must be controlled to limit public access.
 8. In the case of a temporary limited license permit holder, the sidewalk café, deck, lawn and parking lot adjacent to the licensed premises during the hours for which the temporary limited license is valid. In the case of a parking lot that is shared and utilized by more than one business, the outdoor consumption area must be controlled to limit public access.
- (ii) *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.
- (jj) *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.
- (kk) *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.
- (ll) *Resident* means a person whose primary residence is within the territorial limits of the county.
- (mm) *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,

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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.

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

SECTION II.

Section 6-4-63 of the Code of Ordinances of the City of Gainesville, Georgia is hereby amended to add subsections (b)(4) and (b)(5) to read as follows:

- 4. For establishments that do not sell gas, but sell food prepared fresh on the premises daily, hold the applicable food permits, hold a consumption on premise license for beer and/or wine only and meet the criteria outlined in Section 6-4-83, with the exception of Section 6-4-83 (4).
- 5. For a Downtown Pub/Wine Lounge as outlined in Section 6-4-84.

SECTION III.

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Subsections (a) and (c) of Section 6-4-82 of the Code of Ordinances of the City of Gainesville, Georgia are hereby amended to read as follows:

- (a) Restaurants that sell distilled spirits 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 apply to distilled spirits only and be determined on a calendar quarter basis by review of the monthly report submitted by each licensee.
- (c) In the event food sales fall below fifty (50) percent of the distilled spirits sales of the licensee for one quarter, 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.

SECTION IV.

Section 6-4-83 of the Code of Ordinances of the City of Gainesville, Georgia is hereby amended to delete subsection (5) and to relabel subsection (6) as subsection (5).

SECTION V.

Section 6-4-84 of the Code of Ordinances of the City of Gainesville, Georgia is hereby amended to read as follows:

Sec. 6-4-84. – Volume ratio select exemptions.

- (a) A Downtown Pub/Wine Lounge may obtain a consumption on premises license subject to the following conditions:
 - 1. The sale of alcoholic beverages shall be limited to beer and/or wine only.
 - 2. Hours of sale shall be in accordance with the provisions of Section 6-4-81.
 - 3. To qualify for a license, an establishment must be open to the public at least five days a week for a minimum of 32 hours per week.
 - 4. Prepared or packaged food may be offered as an amenity. There shall be no requirement to maintain a commercial kitchen.
 - 5. No gaming devices, including coin-operated amusement machines shall be permitted.
 - 6. The consumption on the premises license provided for a Downtown Pub/Wine Lounge shall be exempted from the food sale requirements provided for in Section 6-4-82.
 - 7. A Downtown Pub/Wine Lounge may also seek the issuance of a package license.
- (b) A Managed Amenity Area may obtain a consumption on premises license subject to the following conditions:

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1. Hours of sale shall be in accordance with the provisions of Section 6-4-81.
2. Liquor sales shall be prohibited on Sunday in accordance with O.C.G.A. § 3-3-7.
3. The consumption on the premises license provided for a Managed Amenity Area shall be exempted from the food sale requirements provided for in Section 6-4-82.
4. Must be in compliance with all other applicable provisions of this Chapter.

SECTION VI.

Subsection (f)(4) of Section 6-4-87 of the Code of Ordinances of the City of Gainesville, Georgia is hereby amended to read as follows:

4. It shall be unlawful within a downtown dining district for any person to drink, attempt to drink or possess any alcoholic beverage in a can, glass or metal container, on the streets, sidewalks, rights-of-way, parking lots and parking decks, whether public or private. This section shall not prohibit the possession of containers of alcoholic beverages with unbroken seals.

SECTION VII.

Subsection (5) of Section 1-7-2 of the Code of Ordinances of the City of Gainesville, Georgia is hereby amended to read as follows:

(5) Sell, possess or consume alcoholic beverages on park property that is not otherwise licensed for the sale of alcoholic beverages unless an official request has been made to and approved by the parks and recreation board and upon approval thereof the requestor shall make application to the city manager or designee for the applicable permits for the event as specified in Chapter 6-4 of this Code. This Section shall not apply to the consumption of alcoholic beverages within a downtown dining district, as established by the governing body of the City in accordance with Section 6-4-87 (f).

SECTION VIII.

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

SECTION IX.

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.

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SECTION X.

The effective date of this ordinance shall be upon approval by the governing body of the City of Gainesville, Georgia.

W. Samuel Couvillon, 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 ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

Denise O. Jordan, City Clerk

Alcoholic Beverage Ordinance

Chapter 6~4

Adopted: 2.2.21

Revised 9.15.22

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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.
- (l) *Distillery* means a facility that manufactures distilled spirits.

(m) *Downtown Pub/Wine Lounge* means an establishment which is located within a downtown dining district as defined by 6-4-87(f)(1) that may sell beer and/or wine as set forth in Section 6-4-84(a).

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

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

~~(o)~~(p) *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."

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

~~(q)~~(r) *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.

~~(r)~~(s) *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.

~~(s)~~(t) *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.

~~(t)~~(u) *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.

~~(u)~~(v) *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.

~~(v)~~(w) *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).

~~(w)~~(x) *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.

(y) *Managed Amenity Area* means an area that is developed for the active or passive recreation and enjoyment of the residents and guests of a housing development within the common gathering space boundaries of the housing development and may include landscaped open space areas, patios, balconies, communal lounges and/or meeting space, swimming pools, grilling areas, recreation facilities and any

other area which may be open to residents and guests of residents and is intended to be used for common gathering space.

~~(x)~~(z) *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.

~~(y)~~(aa) *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

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

~~(aa)~~(cc) *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.

~~(bb)~~(dd) *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.

~~(cc)~~(ee) *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.

~~(dd)~~(ff) *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.

~~(ee)~~(gg) *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.

~~(ff)~~(hh) *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 or distillery, an adjacent outdoor area, contained on the same property utilized by the licensee. If the adjacent outdoor area is a parking lot that is shared and utilized by more than one business, the outdoor consumption area must be controlled to limit public access.
8. In the case of a temporary limited license permit holder, the sidewalk café, deck, lawn and parking lot adjacent to the licensed premises during the hours for which the temporary limited license is valid. In the case of a parking lot that is shared and utilized by more than one business, the outdoor consumption area must be controlled to limit public access.

~~(gg)~~(ii) *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.

~~(hh)~~(jj) *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.

~~(ii)~~(kk) *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.

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

~~(kk)~~(mm) *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.

~~(jj)~~(nn) *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.

~~(mm)~~(oo) *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.

~~(nn)~~(pp) *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.

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

~~(pp)~~(rr) *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 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 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, an 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 change of location 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, 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. MANUFACTURERS

Sec. 6-4-20. Malt Beverage.

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.

Sec. 6-4-21. Wine.

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. 6-4-22. Distilled Spirits.

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

Sec. 6-4-23. – 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:

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 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 11:00 a.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 may be made available. No individual shall be allowed to sample more than a total of forty-eight (48) ounces of malt beverages per day.
6. Samples of wine may be made available. No individual shall be allowed to sample more than a total of twenty-four (24) ounces per day.
7. Individuals may sample both beer and wine, however no individual shall be allowed to sample a total combination of more than forty-eight (48) ounces per day.
8. 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 in the following circumstances:
 1. 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.
 2. For drinks consumed within a patio/outdoor area that has been approved by the City and meets the requirements as stated in Section 6-4-89.
 3. For samples provided by a representative or salesperson of a manufacturer or in accordance with O.C.G.A. § 3-3-26.
 4. For establishments that do not sell gas, but sell food prepared fresh on the premises daily, hold the applicable food permits, hold a consumption on premise license for beer and/or wine only and meet the criteria outlined in Section 6-4-83, with the exception of Section 6-4-83 (d).
 - 3.5. For a Downtown Pub/Wine Lounge as outlined in Section 6-4-84.

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 11:00 a.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, except for samples provided by a representative or salesperson of a manufacturer or wholesaler in accordance with O.C.G.A. § 3-3-26.

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 11:00 a.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 that sell distilled spirits 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 apply to distilled spirits only and 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. In the event monthly reports are delinquent for three consecutive months, a fee of \$100 shall be levied and the licensee shall be placed on probation for a six-month period, which period shall commence on the 21st day of the month following the third consecutive delinquency. If monthly reports are delinquent while the licensee is on probation, then the city manager or designee may give the licensee notice to show cause at a hearing before an administrative hearing officer ~~as to why the license should not be revoked or suspended in accordance with section 6-4-11.~~
- (c) In the event food sales fall below fifty (50) percent of the distilled spirits sales~~business volume~~ of the licensee for one quarter, 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) No individual shall be allowed to consume more than forty-eight (48) ounces of malt beverages per day or more than a total of twenty-four (24) ounces of wine per day. Individuals may consume both beer and wine, but shall not consume a total combination of more than forty-eight (48) ounces per day.
- (c) 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.
- (d) 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.

~~(e) —No alcoholic beverages shall be served on Sunday.~~

~~(f)~~(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. Reserved-Volume Ratio Select Exemptions.

(a) A Downtown Pub/Wine Lounge may obtain a consumption on premises license subject to the following conditions:

1. The sale of alcoholic beverages shall be limited to beer and/or wine only.
2. Hours of sale shall be in accordance with the provisions of Section 6-4-81.
3. To qualify for a license, an establishment must be open to the public at least five days a week for a minimum of 32 hours per week.
4. Prepared or packaged food may be offered as an amenity. There shall be no requirement to maintain a commercial kitchen.
5. No gaming devices, including coin-operated amusement machines shall be permitted.
6. The consumption on the premises license provided for a Downtown Pub/Wine Lounge shall be exempted from the food sale requirements provided for in Section 6-4-82.
7. A Downtown Pub/Wine Lounge may also seek the issuance of a package license.

(b) A Managed Amenity Area may obtain a consumption on premises license subject to the following conditions:

1. Hours of sale shall be in accordance with the provisions of Section 6-4-81.
2. Liquor sales shall be prohibited on Sunday in accordance with O.C.G.A. § 3-3-7.
3. The consumption on the premises license provided for a Managed Amenity Area shall be exempted from the food sale requirements provided for in Section 6-4-82.
4. Must be in compliance with all other applicable provisions of this Chapter.

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, art shop, or when contained in a 16 ounce clear plastic cup within the Downtown Dining District and when authorized by the business establishment.
- (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 establishments that have an approved patio/open area under section 6-4-89, provided that all outdoor activities are contained within the approved patio/open area.
 - 5. For an open air café as defined by this chapter.
 - 6. Beverages for consumption at a publicly owned or privately owned golf course.
 - 7. For the carrying out of a partially consumed bottle of wine as defined in Section 6-4-88.
 - 8. When a temporary limited license has been issued, provided that the person consuming or possessing an alcoholic beverage remains on the licensed premises as defined in Section 6-4-2(ff)(8).
 - 9. For a Downtown Dining District as defined by this chapter.
 - 10. For home deliveries made in compliance with O.C.G.A. § 3-3-10.
- (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 a valid alcohol license 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 two such alcoholic beverage from the licensed premises at a time.

3. Within a Downtown Dining District, no unsealed container in which an alcoholic beverage is carried and consumed shall exceed sixteen (16) fluid ounces in size.
4. It shall be unlawful within a Downtown Dining District for any person to drink, attempt to drink or possess any alcoholic beverage in a can, glass or metal container, on the streets, sidewalks, rights-of-way, ~~and/or~~ parking lots and parking decks, whether public or private. This section shall not prohibit the possession of containers of alcoholic beverages with unbroken seals.
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 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 may be made by a licensed consumption on premises establishment or an establishment licensed to sell growlers 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 and allow for public ingress/egress. 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.
 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. If the patio/open area is within a multi-tenant development, the applicant must submit a letter of approval from the property owner.
- (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.
- (f) Sidewalk cafés approved pursuant to Chapter 6-13 are exempt from this section.
- (g) Licensed consumption on premises establishments located within the City's Midtown Tax Allocation District, as adopted by Ordinance 2006-53, are exempt from subsection (b) of 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 4:00 p.m. and 8:00 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 alcohol for consumption on the premises or a retail dealer licensed to sell only malt beverages and/or wine by the package where 75% of total annual retail sales of the business are from beer or wine sales by the package and/or from charges for samples of beer or wine, may apply for a temporary limited license to allow for the sale of alcohol by the drink for consumption on the premises.
 - 1. Applications for the temporary limited license shall be made by the licensee 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 allow for outdoor consumption on the premises during an event and shall be valid for one calendar day for the specific event as set forth in the application. For the

purposes of this section, a calendar day for which the temporary limited license is granted will extend to 1:30 a.m.

- (c) The hours and day of sale or distribution of alcoholic beverages at a licensed event shall be conducted in compliance with Section 6-4-81 of this chapter.
- (d) Any licensed retail dealer shall not be granted more than thirty (30) temporary limited licenses per calendar year and any licensed retail dealer shall not be granted more than four (4) per calendar month.
- (e) If a temporary limited license is issued prior to an event, revenue from food and alcohol sales that occur during the time the temporary limited license is valid may be exempt from the food volume ratio requirement stated in Section 6-4-82 of this chapter and from the sales volume ratio requirement stated in Section 6-4-83 of this chapter. If the temporary limited license holder chooses to have food and alcohol exempt from the food volume ratio requirement stated in Section 6-4-82, the food and alcohol sales that occur during the time the temporary limited license is valid, must be reported to the City on a separate report from the monthly sales report that is provided to the City. Any attempt to manipulate food or alcohol sales between days, times or reports may be cause for revocation of the retail dealer's alcohol license.
- (f) No temporary limited license shall be issued within any property zoned central business during any event that is sponsored or organized by the City of Gainesville, unless approved by the City.
- (g) 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 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, unless otherwise stated 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, except for private functions, shall be conducted in compliance with Section 6-4-81 of 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. This prohibition shall not be construed so as to prohibit the consumption of samples in accordance with section 6-4-63(b)(3).
- (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 twenty-four (24) 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. Home Delivery

Home delivery of alcoholic beverages, in accordance with O.C.G.A § 3-3-10, is allowed within the City. Any licensee engaged in home delivery shall comply with all State law and regulations.

Sec. 6-4-118. 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.

Summary of Changes Proposed to Section 6-4

September 2022

Section 6-4-63. No Consumption on Premises.

Allow markets that have a package license and meet the requirements below to also obtain a pouring license. The markets would not provide monthly reports.

(b) 4. For establishments that do not sell gas, but sell food prepared fresh on the premises daily, hold the applicable food permits, hold a consumption on premise license for beer and/or wine only and meet the criteria outlined in Section 6-4-83, with the exception of Section 6-4-83 (d).

Section 6-4-82. Food Volume Ratio for Restaurants.

Modifies the 50/50 requirement to apply to liquor sales only.

(a) Restaurants that sell distilled spirits 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 apply to distilled spirits only and be determined on a calendar quarter basis by review of the monthly report submitted by each licensee.

(c) In the event food sales fall below fifty (50) percent of the distilled spirits sales ~~business volume~~ of the licensee for one quarter, 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.

Section 6-4-83. Sales Volume Ratio for Select Businesses.

Allows alcohol sales on Sunday for businesses that fall under the 60/40 provision.

~~(e) No alcoholic beverages shall be served on Sunday.~~

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

Allowing the additional alcohol license types:

1. Downtown Pub/Wine Lounge defined in Section 6-4-2 as:

(m) Downtown Pub/Wine Lounge means an establishment which is located within a Downtown Dining District as defined by 6-4-87(f)(1) that may sell beer and/or wine as set forth in Section 6-4-84(a).

2. Managed Amenity Area defined in Section 6-4-2 as:

(y) *Managed Amenity Area* means an area that is developed for the active or passive recreation and enjoyment of the residents and guests of a housing development within the common gathering space boundaries of the housing development and may include landscaped open space areas, patios, balconies, communal lounges and/or meeting space, swimming pools, grilling areas, recreation facilities and any other area which may be open to residents and guests of residents and is intended to be used for common gathering space.

(a) A Downtown Pub/Wine Lounge may obtain a consumption on premises license subject to the following conditions:

1. The sale of alcoholic beverages shall be limited to beer and/or wine only.
2. Hours of sale shall be in accordance with the provisions of section 6-4-81.
3. To qualify for a license, an establishment must be open to the public at least five days a week for a minimum of 32 hours per week.
4. Prepared or packaged food may be offered as an amenity. There shall be no requirement to maintain a commercial kitchen.
5. No gaming devices, including coin-operated amusement machines shall be permitted.
6. The consumption on the premises license provided for a Downtown Pub/Wine Lounge shall be exempted from the food sale requirements provided for in Section 6-4-82.
7. A Downtown Pub/Wine Lounge may also seek the issuance of a package license.

(b) A Managed Amenity Area may obtain a consumption on premises license subject to the following conditions:

1. Hours of sale shall be in accordance with the provisions of Section 6-4-81.
2. Liquor sales shall be prohibited on Sunday in accordance with O.C.G.A. § 3-3-7.
3. The consumption on the premises license provided for a Managed Amenity Area shall be exempted from the food sale requirements provided for in Section 6-4-82.
4. Must be in compliance with all other applicable provisions of this Chapter.

Section 6-4-87. No Outside Consumption.

For subsection (f)(4) clarified it is unlawful to have cans, glass or metal containers in a parking deck.

4. It shall be unlawful within a Downtown Dining District for any person to drink, attempt to drink or possess any alcoholic beverage in a can, glass or metal container, on the streets, sidewalks, rights-of-way, ~~and/or~~ parking lots and parking decks, whether public or private. This section shall not prohibit the possession of containers of alcoholic beverages with unbroken seals.

Resolution to modify the parameters of the Downtown Dining District.

The Downtown Dining District would be expanded to include areas and parks along the Midland Greenway.

Chapter 1-7 Recreation & Parks

Modified Chapter 1-7 Recreation & Parks to allow alcohol on the Midland Greenway and associated parks within the Downtown Dining District 1-7-2 (5) so as to not conflict with the expanded boundaries of the Downtown Dining District.

It shall be unlawful for any person while in a city park to:

(5) Sell, possess or consume alcoholic beverages on park property that is not otherwise licensed for the sale of alcoholic beverages unless an official request has been made to and approved by the parks and recreation board and upon approval thereof the requestor shall make application to the city ~~marshal~~ manager or designee for the applicable permits for the event as specified in Chapter 6-4 of this Code. This Section shall not apply to the consumption of alcoholic beverages within a downtown dining district, as established by the governing body of the City in accordance with Section 6-4-87 (f).



CITY OF GAINESVILLE

Mayor/Council Agenda Request

Item Created: September 15, 2022
Date Submitted: September 20, 2022
Final Approval Date: September 20, 2022
Presenter: Bryan Lackey, City Manager
Item of Business: BR-2022-55 Intergovernmental Agreement Securing the Series 2022A Bonds and Series 2022B Bonds
Meeting Date: September 20, 2022

Purpose of Request:

The purpose of this request is for an intergovernmental contract securing the Series 2022A Bonds and Series 2022B Bonds.

Facts & Issues / History & Background:

The items for consideration are:

- Authorization the Financing of the projects.
- Authorization of the bonds.
- Acknowledgement of the Resolution.
- Authorization of the Contact.
- Authorization of the Official Statements.
- Authorization of the Disclosure Certificate.
- Authorization of the Cusodial Agreement.
- Authorization of Paying Agency Agreement.
- Validation of Bonds.
- Tax and Non-Arbitrage Certificate.
- General Authority.
- Actions Approved and Confirmed.
- Repealing Clause.
- Effective Date.

Department Recommendation:

Final details will be presented during the Council Meeting. The recommendation is to approve the terms of the resolution, along with authorizing the execution, delivery, and performance of the contract.

Department Director:

Jeremy Perry

If funding is involved, are funds approved within the current budget? No

Amount Requested:

Sources of Funds:

Finance Comments:

Administrative Comments:

Attachments:

1. BR-2022-55 - Intergovernmental Agreement Securing the Series 2022A Bonds and Series 2022B Bonds - DRAFT
2. Intergovernmental Contract Gainesville RDA 2022 - DRAFT

RESOLUTION BR-2022-55

A RESOLUTION AUTHORIZING, AMONG OTHER THINGS, THE EXECUTION OF AN INTERGOVERNMENTAL CONTRACT RELATING TO THE ISSUANCE OF THE GAINESVILLE REDEVELOPMENT AUTHORITY TAX-EXEMPT REVENUE BONDS (GAINESVILLE PROJECTS), SERIES 2022A AND GAINESVILLE REDEVELOPMENT AUTHORITY TAXABLE REVENUE BONDS (GAINESVILLE PROJECTS), SERIES 2022B

WHEREAS, the Gainesville Redevelopment Authority (the “Authority”) has heretofore been created pursuant to an Act of the General Assembly of the State of Georgia (Ga. Laws 1978 p. 4440 *et seq.*, as amended by Ga. Laws 1980 p. 2024 *et seq.*, as continued by Ga. Laws 1987 p. 3637 *et seq.* and as further amended by Ga. Laws 1999 p. 4697 *et seq.*, Ga. Laws 2009 p. 4105 *et seq.* and Ga. Laws 2019 p. 3918 *et seq.* (the “Act”)) and the Authority is now existing and operating and its members have been duly appointed and entered into their duties; and

WHEREAS, pursuant to the Act, the Authority has the power to (a) make contracts and to execute all instruments necessary or convenient ... and to contract with any municipalities of the State of Georgia, (b) acquire, construct, own, repair, add to, extend, improve, equip, operate, maintain and manage “projects”, (c) finance retail projects for private enterprises and finance parks and public improvements of all kinds for public or private use and (d) issue revenue bonds for the purpose of paying the cost of any project; and

WHEREAS, “project” is defined in the Act as any undertaking of the Authority in connection with the redevelopment, revitalization or development of urban, central city or other areas within the project areas; and

WHEREAS, pursuant to the Revenue Bond Law of the State of Georgia (O.C.G.A. Section 36-82-60, *et seq.*, as amended) (the “Revenue Bond Law”), the Authority and the City of Gainesville, Georgia (the “City”) have the power to (a) construct, reconstruct, improve, better and extend any “undertaking” (as defined in the Revenue Bond Law), (b) operate and maintain any undertaking and (c) issue revenue bonds to finance the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of any undertaking; and

WHEREAS, under the terms of the Revenue Bond Law, “undertaking” means and includes (a) parks, playgrounds and athletic fields, (b) buildings to be used for various types of sports and (c) buildings to be used for amusement purposes; and

WHEREAS, pursuant to Article IX, Section II, Paragraph III(a)(5) of the Constitution of the State of Georgia (the “Georgia Constitution”), the City has the power to provide parks, recreational areas, programs and facilities; and

WHEREAS, pursuant to O.C.G.A. Section 48-13-51(b)(2), the City has the power to collect a hotel-motel excise tax and to use the proceeds thereof for tourism product development, including meeting, convention exhibit and public assembly facilities; pursuant to the Revenue Bond Law, the City has the power to provide educational purposes; and pursuant to Section 1.13(z) of the City’s charter, the City has the power to provide public buildings; and

WHEREAS, pursuant to Article IX, Section II, Paragraph VII(a) of the Georgia Constitution and the Urban Redevelopment Law of the State of Georgia (O.C.G.A. Section 36-61-1, *et seq.*, as amended) (the “Urban Redevelopment Law”), the City has the power to acquire, construct, improve or modify, redevelop or rehabilitate, and to cause to be placed into operation and operated, “urban redevelopment projects”; and

RESOLUTION BR-2022-55

A RESOLUTION AUTHORIZING, AMONG OTHER THINGS, THE EXECUTION OF AN INTERGOVERNMENTAL CONTRACT RELATING TO THE ISSUANCE OF THE GAINESVILLE REDEVELOPMENT AUTHORITY TAX-EXEMPT REVENUE BONDS (GAINESVILLE PROJECTS), SERIES 2022A AND GAINESVILLE REDEVELOPMENT AUTHORITY TAXABLE REVENUE BONDS (GAINESVILLE PROJECTS), SERIES 2022B

WHEREAS, Article IX, Section III, Paragraph I(a) of the Constitution of the State of Georgia authorizes, among other things, any county, municipality or other political subdivision of the State to contract, for a period not exceeding fifty years, with another county, municipality or political subdivision or with any other public agency, public corporation or public authority for joint services, for the provision of services, or for the provision or separate use of facilities or equipment, provided that such contract deals with activities, services or facilities which the contracting parties are authorized by law to undertake or to provide; and

WHEREAS, the Authority proposes to issue its (a) Tax-Exempt Revenue Bonds (Gainesville Projects), Series 2022A (the "Series 2022A Bonds") in the aggregate principal amount of \$[Principal A] for the purpose of (i) financing a portion of (A) a multi-field recreation facility known as "The Coop" and (B) a building known as "The Boathouse" that will contain boating facilities, a conference center, City administrative offices and such other facilities as the City shall deem appropriate to be included therein and (ii) paying the costs of issuing the Series 2022A Bonds and (b) Taxable Revenue Bonds (Gainesville Projects), Series 2022B (the "Series 2022B Bonds" and together with the Series 2022A Bonds, the "Bonds") in the aggregate principal amount of \$[Principal B] for the purpose of (i) financing a portion of a certain retail space (together with The Coop and the Boathouse, the "Projects") and (ii) paying the costs of issuing the Series 2022B Bonds; and

WHEREAS, the Authority and the City propose to enter into an Intergovernmental Contract, dated as of October 1, 2022 (the "Contract"), pursuant to which the Authority will agree to, among other things, issue the Bonds, and the City will agree to, among other things, (a) acquire, construct, equip and operate the Projects, (b) pay the Authority amounts sufficient to enable the Authority to pay the debt service on the Bonds (the "Contract Payments") and (c) levy an ad valorem property tax, unlimited as to rate or amount, on all property in the City subject to such tax in order to make such Contract Payments; and

WHEREAS, the Bonds will be issued by the Authority pursuant to a resolution adopted by the Authority on September 20, 2022 (the "Resolution"); and

WHEREAS, the Bonds will be secured by a first lien on the Contract, the Contract Payments and the moneys and investments in the funds created in the Resolution; and

WHEREAS, the City proposes to ratify the distribution of a Preliminary Official Statement, dated [POS Date] (the "Preliminary Official Statement") and a Notice of Sale and authorize the execution and distribution of an Official Statement, dated September 20, 2022 (the "Official Statement") related to the Bonds; and

WHEREAS, the City also proposes to execute a Continuing Disclosure Certificate, dated September 20, 2022 (the "Disclosure Certificate") in order to enable the Underwriter to comply with Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 (the "Rule"); and

RESOLUTION BR-2022-55

A RESOLUTION AUTHORIZING, AMONG OTHER THINGS, THE EXECUTION OF AN INTERGOVERNMENTAL CONTRACT RELATING TO THE ISSUANCE OF THE GAINESVILLE REDEVELOPMENT AUTHORITY TAX-EXEMPT REVENUE BONDS (GAINESVILLE PROJECTS), SERIES 2022A AND GAINESVILLE REDEVELOPMENT AUTHORITY TAXABLE REVENUE BONDS (GAINESVILLE PROJECTS), SERIES 2022B

WHEREAS, the City, the Authority and Regions Bank proposes to authorize the execution, delivery and performance of a Custodial Agreement, dated as of October 1, 2022 (the "Custodial Agreement"); and

WHEREAS, the City, the Authority and Regions Bank also proposes to authorize the execution, delivery and performance of a Paying Agency Agreement, dated as of October 1, 2022 (the "Paying Agency Agreement").

NOW, THEREFORE, BE IT RESOLVED by the governing body of the City, as follows:

Section 1. Authorization Financing of the Projects. The financing of the Projects as described above is hereby authorized.

Section 2. Authorization of Bonds. The issuance of the Bonds by the Authority is hereby authorized to the extent necessary.

Section 3. Acknowledgement of Resolution. The City hereby acknowledges the receipt and terms of the Resolution.

Section 4. Authorization of the Contract. The execution, delivery and performance of the Contract are hereby authorized. The Contract shall be executed by the Mayor or Mayor Pro-Tem. The Clerk may attest the same and the seal may be impressed thereon. The Contract shall be in substantially the same form attached hereto as Exhibit "A," subject to such changes, insertions and omissions as may be approved by the person executing the same, and the execution of the Contract shall be conclusive evidence of any such approval. The Contract is by this reference thereto spread upon the minutes.

Section 5. Authorization of Official Statements. The distribution of the Preliminary Official Statement and the Notice of Sale is hereby ratified and approved. The execution and delivery of the certificate deeming the Preliminary Official Statement final as required by the Rule are hereby ratified and approved. The execution and distribution of the Official Statement are hereby authorized. The Official Statement shall be executed by the Mayor or Mayor Pro-Tem. The Official Statement shall be in substantially the same form as the Preliminary Official Statement presented at this meeting and on file with the Clerk, subject to such changes, insertions and omissions as may be approved by the person executing the same, and the execution of the Official Statement shall be conclusive evidence of any such approval.

Section 6. Authorization of Disclosure Certificate. The execution, delivery and performance of the Disclosure Certificate are hereby authorized. The Disclosure Certificate shall be executed by the Mayor or Mayor Pro-Tem. The Clerk may attest the same and the seal may be impressed thereon. The Disclosure Certificate shall be in substantially the same form attached hereto as Exhibit "B," subject to such changes, insertions and omissions as may be approved by the person executing the same, and the execution of the Disclosure Certificate shall be

RESOLUTION BR-2022-55

A RESOLUTION AUTHORIZING, AMONG OTHER THINGS, THE EXECUTION OF AN INTERGOVERNMENTAL CONTRACT RELATING TO THE ISSUANCE OF THE GAINESVILLE REDEVELOPMENT AUTHORITY TAX-EXEMPT REVENUE BONDS (GAINESVILLE PROJECTS), SERIES 2022A AND GAINESVILLE REDEVELOPMENT AUTHORITY TAXABLE REVENUE BONDS (GAINESVILLE PROJECTS), SERIES 2022B

conclusive evidence of any such approval. The Disclosure Certificate is by this reference thereto spread upon the minutes.

Section 7. Authorization of Custodial Agreement. The execution, delivery and performance of the Custodial Agreement are hereby authorized. The Custodial Agreement shall be executed by the Mayor or Mayor Pro-Tem. The Clerk may attest the same and the seal may be impressed thereon. The Custodial Agreement shall be in substantially the same form attached hereto as Exhibit "C," subject to such changes, insertions and omissions as may be approved by the person executing the same, and the execution of the Custodial Agreement shall be conclusive evidence of any such approval. The Custodial Agreement is by this reference thereto spread upon the minutes.

Section 8. Authorization of Paying Agency Agreement. The execution, delivery and performance of the Paying Agency Agreement are hereby authorized. The Paying Agency Agreement shall be executed by the Mayor or Mayor Pro-Tem. The Clerk may attest the same and the seal may be impressed thereon. The Paying Agency Agreement shall be in substantially the same form attached hereto as Exhibit "D," subject to such changes, insertions and omissions as may be approved by the person executing the same, and the execution of the Paying Agency Agreement shall be conclusive evidence of any such approval. The Paying Agency Agreement is by this reference thereto spread upon the minutes.

Section 9. Validation of Bonds. The execution and filing of an answer in the validation proceedings for the Bonds are hereby ratified and approved.

Section 10. Tax and Non-Arbitrage Certificate. The Mayor, Mayor Pro-Tem or any officer of the City is hereby authorized to execute a tax and non-arbitrage certificate with respect to the Series 2022A Bonds in order to comply with Section 148 of the Internal Revenue Code of 1986, as amended.

Section 11. General Authority. The Mayor, Mayor Pro-Tem, officers, employees and agents of the City are hereby authorized, empowered and directed to do all such acts and things, including, but not limited to making covenants on behalf of the City and to execute all such documents and certificates as may be necessary to carry out the transactions contemplated by this Resolution.

Section 12. Actions Approved and Confirmed. All acts and doings of the Mayor, Mayor Pro-Tem, officers, employees and agents of the City which are in conformity with the purposes and intent of this Resolution are hereby authorized and approved.

Section 13. Repealing Clause. Any and all resolutions or parts of resolutions in conflict with this Resolution are hereby repealed.

Section 14. Effective Date. This Resolution shall take effect immediately upon its adoption.

RESOLUTION BR-2022-55

A RESOLUTION AUTHORIZING, AMONG OTHER THINGS, THE EXECUTION OF AN INTERGOVERNMENTAL CONTRACT RELATING TO THE ISSUANCE OF THE GAINESVILLE REDEVELOPMENT AUTHORITY TAX-EXEMPT REVENUE BONDS (GAINESVILLE PROJECTS), SERIES 2022A AND GAINESVILLE REDEVELOPMENT AUTHORITY TAXABLE REVENUE BONDS (GAINESVILLE PROJECTS), SERIES 2022B

Adopted this _____ day of _____, 2022.

W. Samuel Couvillon, 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

INTERGOVERNMENTAL CONTRACT

between

GAINESVILLE REDEVELOPMENT AUTHORITY

and

CITY OF GAINESVILLE, GEORGIA

Dated as of October 1, 2022

This document was prepared by:
Murray Barnes Finister LLP
Building 5, Suite 515
3525 Piedmont Road NE
Atlanta, GA 30305
(678) 999-0350

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Exhibit A- Form of Completion Certificate

INTERGOVERNMENTAL CONTRACT

THIS INTERGOVERNMENTAL CONTRACT is entered into as of October 1, 2022 (this “Contract”), by and between the GAINESVILLE REDEVELOPMENT AUTHORITY (the “Authority”), a body corporate and politic of the State of Georgia, and the CITY OF GAINESVILLE, GEORGIA (the “City”), a municipal corporation of the State of Georgia.

W I T N E S S E T H:

WHEREAS, the Authority has heretofore been created pursuant to an Act of the General Assembly of the State of Georgia (Ga. Laws 1978 p. 4440 *et seq.*, as amended by Ga. Laws 1980 p. 2024 *et seq.*, as continued by Ga. Laws 1987 p. 3637 *et seq.* and as further amended by Ga. Laws 1999 p. 4697 *et seq.*, Ga. Laws 2009 p. 4105 *et seq.* and Ga. Laws 2019 p. 3918 *et seq.* (the “Act”)) and the Authority is now existing and operating and its members have been duly appointed and entered into their duties; and

WHEREAS, pursuant to the Act, the Authority has the power to (a) make contracts and to execute all instruments necessary or convenient ... and to contract with any municipalities of the State of Georgia, (b) acquire, construct, own, repair, add to, extend, improve, equip, operate, maintain and manage “projects”, (c) finance retail projects for private enterprises and finance parks and public improvements of all kinds for public or private use and (d) issue revenue bonds for the purpose of paying the cost of any project; and

WHEREAS, “project” is defined in the Act as any undertaking of the Authority in connection with the redevelopment, revitalization or development of urban, central city or other areas within the project areas; and

WHEREAS, pursuant to the Revenue Bond Law of the State of Georgia (O.C.G.A. Section 36-82-60, *et seq.*, as amended) (the “Revenue Bond Law”), the Authority and the City have the power to (a) construct, reconstruct, improve, better and extend any “undertaking” (as defined in the Revenue Bond Law), (b) operate and maintain any undertaking and (c) issue revenue bonds to finance the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of any undertaking; and

WHEREAS, under the terms of the Revenue Bond Law, “undertaking” means and includes (a) parks, playgrounds and athletic fields, (b) buildings to be used for various types of sports and (c) buildings to be used for amusement purposes; and

WHEREAS, pursuant to Article IX, Section II, Paragraph III(a)(5) of the Constitution of the State of Georgia (the “Georgia Constitution”), the City has the power to provide parks, recreational areas, programs and facilities; and

WHEREAS, pursuant to O.C.G.A Section 48-13-51(b)(2), the City has the power to collect a hotel-motel excise tax and to use the proceeds thereof for tourism product development, including meeting, convention exhibit and public assembly facilities; pursuant to the Revenue

Bond Law, the City has the power to provide educational purposes; and pursuant to Section 1.13(z) of the City’s charter, the City has the power to provide public buildings, and

WHEREAS, pursuant to Article IX, Section II, Paragraph VII(a) of the Georgia Constitution and the Urban Redevelopment Law of the State of Georgia (O.C.G.A. Section 36-61-1, *et seq.*, as amended), the City has the power to acquire, construct, improve or modify, redevelop or rehabilitate, and to cause to be placed into operation and operated, “urban redevelopment projects”; and

WHEREAS, Article IX, Section III, Paragraph I(a) of the Constitution of the State of Georgia authorizes, among other things, any county, municipality or other political subdivision of the State to contract, for a period not exceeding fifty years, with another county, municipality or political subdivision or with any other public agency, public corporation or public authority for joint services, for the provision of services, or for the provision or separate use of facilities or equipment, provided that such contract deals with activities, services or facilities which the contracting parties are authorized by law to undertake or to provide; and

WHEREAS, the Authority proposes to issue its (a) Tax-Exempt Revenue Bonds (Gainesville Projects), Series 2022A (the “Series 2022A Bonds”) in the aggregate principal amount of \$[Principal A] for the purpose of (i) financing a portion of (A) a multi-field recreation facility known as “The Coop” and (B) a building known as “The Boathouse” that will contain boating facilities, a conference center, City administrative offices and such other facilities as the City shall deem appropriate to be included therein and (ii) paying the costs of issuing the Series 2022A Bonds and (b) Taxable Revenue Bonds (Gainesville Projects), Series 2022B (the “Series 2022B Bonds” and together with the Series 2022A Bonds, the “Bonds”) in the aggregate principal amount of \$[Principal B] for the purpose of (i) financing a portion of a certain retail space (together with The Coop and the Boathouse, the “Projects) and (ii) paying the costs of issuing the Series 2022B Bonds; and

WHEREAS, the Authority and the City propose to enter into this Contract, pursuant to which the Authority will agree to, among other things, issue the Bonds, and the City will agree to, among other things, (a) acquire, construct, equip and operate the Projects, (b) pay the Authority amounts sufficient to enable the Authority to pay the debt service on the Bonds (the “Contract Payments”) and (c) levy an ad valorem property tax, unlimited as to rate or amount, on all property in the City subject to such tax in order to make such Contract Payments; and

WHEREAS, the Bonds will be secured by a first lien on the Contract (except for the unassigned rights), the Contract Payments and the moneys and investments on deposit in the funds created in the resolution of the Authority adopted on September 20, 2022 (the “Resolution”).

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Authority and the City, hereto agree as follows:

ARTICLE I.

DEFINITIONS

Section 1.1. Definitions.

Capitalized terms used but not defined herein shall have the meanings assigned to them in the Resolution. The following words and terms shall have the following meanings unless the context or use clearly indicates another or different meaning or intent:

“Completion Date” means the date that the Projects are completed.

“Disclosure Certificate” means the written undertaking executed by the City in connection with the issuance of the Bonds as required by the Rule.

“Fiscal Agents” means the Paying Agent, Bond Registrar, Project Fund Custodian and Sinking Fund Custodian.

“Rule” means Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended.

ARTICLE II.

REPRESENTATIONS

Section 2.1. Representations by the Authority.

The Authority makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Authority is a body corporate and politic duly created and validly existing under the Constitution and laws of the State. The Authority is authorized and has the power to (i) adopt the Resolution and perform its obligations thereunder, (ii) issue, execute, deliver and perform its obligations under the Bonds and (iii) execute, deliver and perform its obligations under this Contract (items (i) through (iii) are collectively referred to herein as the “Authority Transactions”). The Resolution has been duly adopted and has not been modified or repealed. The Authority has duly authorized the Authority Transactions. The Resolution, the Bonds and this Contract are valid, binding and enforceable obligations of the Authority.

(b) No approval or other action by any governmental authority or agency or other person is required to be obtained by the Authority as of the date hereof in connection with the Authority Transactions; provided, however, no representation is given with respect to any “blue sky” laws.

(c) The Authority Transactions do not (i) violate the Act or the laws or Constitution of the State or any existing court order, administrative regulation, or other legal decree to which the Authority or its property is subject or (ii) constitute a breach of or a default under or any agreement, indenture, mortgage, lease, note or other instrument to which the Authority is a party or by which it or its property is subject.

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the Authority, threatened against or affecting the Authority (or, to the knowledge of the Authority, any meritorious basis therefor) (i) attempting to limit, enjoin or otherwise restrict or prevent the Authority from issuing the Bonds, (ii) contesting or questioning the existence of the Authority or the titles of the present officers of the Authority to their offices or (iii) wherein an unfavorable decision, ruling or finding would adversely affect the (1) enforceability of the Bonds, the Resolution or this Contract, (2) financial condition or results of operations of the Authority or (3) Authority Transactions.

(e) The Authority is not (i) in violation of the Act or the laws or Constitution of the State or any existing court order, administrative regulation, or other legal decree to which the Authority or its property is subject or (ii) in breach of or default under any agreement, indenture, mortgage, lease, note or other instrument to which the Authority is a party or by which it or its property is subject.

(f) The issuance of the Bonds is within the public purposes intended to be served by the Authority.

The Authority makes no representation or warranty with respect to the (a) condition or workmanship of any part of the Projects, (b) suitability of the Projects for the City's purposes, (c) sufficiency of the Bond proceeds to pay the costs of the Projects or (d) the financial condition of the City.

Section 2.2. Representations by the City.

The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a municipal corporation duly created and validly existing under the Constitution and laws of the State. The City is authorized to and has the power to (i) execute, deliver and perform its obligations under this Contract and (ii) acquire, construct, equip and operate the Projects (items (i) and (ii) are collectively referred to herein as the "City Transactions"). The City has duly authorized the City Transactions. This Contract is a valid, binding and enforceable obligation of the City.

(b) No approval or other action by any governmental authority or agency or other person is required to be obtained by the City as of the date hereof in connection with the City Transactions; provided, however, no representation is given with respect to any "blue sky" laws.

(c) The City Transactions do not (i) violate the City's Charter, the laws or Constitution of the State or any existing court order, administrative regulation, or other legal decree to which the City or its property is subject or (ii) constitute a breach of or a default under or any agreement, indenture, mortgage, lease, note or other instrument to which the City is a party or by which it or its property is subject.

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the City, threatened against or affecting the City (or, to the knowledge of the City, any meritorious basis therefor) (i) attempting to limit, enjoin or otherwise restrict or prevent the Authority from issuing the Bonds or the City from acquiring, constructing, equipping and operating the Projects, (ii) contesting or questioning the existence of the City or the titles of the present officers of the City to their respective offices or (iii) wherein an unfavorable decision, ruling or finding would adversely affect the (1) enforceability of this Contract, (2) financial condition or results of operations of the City or (3) City Transactions.

(e) The City is not (i) in violation of the City Charter, the laws or Constitution of the State or any existing court order, administrative regulation, or other legal decree to which the City or its property is subject or (ii) in breach of or default under any agreement, indenture, mortgage, lease, note or other instrument to which the City is a party or by which it or its property is subject.

The City makes no representation or warranty with respect to the financial condition of the Authority.

ARTICLE III.

ISSUANCE OF THE BONDS; APPLICATION OF BOND PROCEEDS

Section 3.1. Agreement to Issue Bonds.

The Authority agrees that it will validate and issue the Bonds. The Authority shall deliver a certified copy of the Resolution to the City promptly upon adoption thereof.

Section 3.2. Application of Bond Proceeds.

The proceeds from the sale of the Bonds shall be applied as provided in Article IV, Section 1 of the Resolution, and the City hereby approves the issuance of the Bonds and the application of proceeds.

ARTICLE IV.

COMMENCEMENT AND COMPLETION OF THE PROJECTS

Section 4.1. Agreement to Acquire, Construct and Equip the Projects.

The City shall be solely responsible for the acquisition construction and equipping of the Projects.

The City shall obtain all necessary approvals from any and all governmental agencies requisite to the acquisition, construction and equipping of the Projects. The Projects shall be acquired, constructed and equipped in compliance with all federal, state and local laws, ordinances and regulations applicable thereto. The City will take such action and institute such proceedings as it shall deem appropriate to assure that the acquisition, construction and equipping of the Projects will proceed in an efficient and workmanlike manner.

The City shall acquire, construct and equip the Projects with all reasonable dispatch and shall use its best efforts to cause the acquisition, construction and equipping of the Projects to be completed as soon as may be practical, delays incident to strikes, riots, acts of God or the public enemy beyond the reasonable control of the City excepted.

The City shall prepare the Requisitions required by the Resolution.

Section 4.2. Establishment of Completion Date.

The Completion Date shall be evidenced to the Project Fund Custodian and the Authority by a completion certificate signed by an Authorized City Representative substantially in the form attached hereto as Exhibit A

Section 4.3. In Event Bond Proceeds Insufficient.

The Authority does not make any warranty, either express or implied, that the proceeds derived from the sale of the Bonds will be sufficient to pay all the costs of the Projects. In the event that the proceeds derived from the sale of the Bonds are insufficient to pay all the costs of Projects intended to be financed with Bond proceeds, the City shall pay the remaining costs.

ARTICLE V.

EFFECTIVE DATE AND DURATION OF THIS CONTRACT; PAYMENT PROVISIONS; TAX LEVY AND LIENS

Section 5.1. Effective Date of this Contract; Duration of Contract Term.

This Contract shall become effective as of the execution and delivery of this Contract, and the obligations created by this Contract shall then begin, and, subject to the other provisions of this Contract, shall expire [_____], or if at said time and on said date all of the Bonds have not been paid in full then on such date as such payment shall have been made, but in no event in excess of 50 years from the date hereof.

Section 5.2. Contract Payments.

The City agrees to pay the Contract Payments at least one day before the applicable Interest Payment Date. The Authority has assigned the Contract Payments to the owners of the Bonds, and the City consents to such assignment. The Authority hereby directs the City to make the Contract Payments directly to the Sinking Fund Custodian. In the event the City should fail to make any of the Contract Payments, the item or installment so in default shall continue as an obligation of the City until the amount in default shall have been fully paid, and the City agrees to pay the same with interest thereon at the rate borne by the Bonds, to the extent permitted by law, from the date thereof.

Section 5.3. Prepayment of Contract Payments.

The City may prepay the Contract Payments in whole or in part at any time and may elect to apply such prepayments to redeem Bonds in accordance with the provisions of the Resolution.

Section 5.4. Obligations of City Hereunder Absolute and Unconditional.

The obligations of the City to make the Contract Payments and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional. Until such time as the principal of and interest on the Bonds outstanding under the Resolution shall have been paid in full or provision for the payment thereof shall have been made in accordance with the Resolution, the City (a) will not suspend or discontinue any Contract Payments except to the extent the same can be and have been prepaid, (b) will perform and observe all of its other agreements contained in this Contract and (c) will not terminate the Contract for any cause, including, without limiting the generality of the foregoing, failure of the City to complete the Projects, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Projects, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of Georgia or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Contract or the Resolution. Nothing contained in this Section shall be construed to release the Authority from the performance of any of the agreements on its part herein contained; and if the Authority should fail to perform

any such agreement, the City may institute such action against the Authority as the City may deem necessary to compel performance as long as such action shall not do violence to or adversely affect the agreements on the part of the City contained in the preceding sentence and to make the Contract Payments.

Section 5.5. Tax Levy to Pay Contract Payments.

The City covenants that it will (a) levy an ad valorem tax, unlimited as to rate or amount, on all property located within the City subject to such tax in the amounts necessary to make the Contract Payments and (b) make available and use for such Contract Payments all taxes levied and collected for that purpose. The City further covenants and agrees that it will, in its general revenue, appropriation, and budgetary measures whereby its tax funds or revenues and the allocation thereof are controlled or provided for, include sums sufficient to timely make the Contract Payments. The obligation of the City to pay the Contract Payments shall constitute a general obligation for which the full faith, credit, and taxing power of the City are pledged.

ARTICLE VI.

SPECIAL COVENANTS OF CITY

Section 6.1. Maintenance and Operation of the Projects.

The City shall maintain the Projects in good working order. The City shall operate the Projects or shall cause the Projects to be operated and shall pay all costs of operating the Projects or shall cause all costs of operating the Projects to be paid, including, without limitation, salaries, wages, employee benefits, the payment of any contractual obligations incurred pertaining to the operation of the Projects, cost of materials and supplies, rentals of leased property, real or personal, insurance premiums, audit fees, any incidental expenses and such other charges as may properly be made for the purpose of operating the Projects in accordance with sound business practice.

Section 6.2. Insurance.

The City shall insure the Projects or shall cause the Projects to be insured in accordance with the customary insurance practices of agencies and governmental authorities operating similar facilities. All insurance policies shall be obtained from reputable insurance companies licensed to do business in the State. If the City maintains general liability insurance with respect to the Projects, the Authority shall be named as an additional insured, unless the policy prohibits it.

Section 6.3. Fiscal Agents.

The City shall pay the Fiscal Agents their services under the Resolution.

Section 6.4. Indemnification.

To the extent permitted by law, the City hereby agrees to release the Authority from and to indemnify the Authority (and its members, officers and employees) for any and all liabilities and claims against the Authority arising from the issuance of the Bonds and the City's acquisition, construction, equipping and operation of the Projects, including without limitation, (a) any condition of the Projects, (b) any breach or default on the part of the City in the performance of any of its obligations under this Contract, (c) any act or negligence of the City or of any of its agents, contractors, servants, employees or licensees, (d) any act or negligence of any assignee or lessee of the City, or of any agents, contractors, servants, employees or licensees of any assignee or lessee of the City or (e) any material misstatement or omission in connection with the sale of the Bonds. Notwithstanding the foregoing, the City shall not be required to indemnify the Authority for its gross negligence or willful misconduct.

If any such claim is asserted, the Authority or any individual indemnified herein, as the case may be, will give prompt written notice to the City, and the City will promptly assume the defense thereof, including the employment of counsel and payment of all expenses of such defense, with full power to litigate, compromise or settle the same in its sole discretion; provided

that the Authority shall have the right to approve in writing all counsel engaged by the City to conduct such defense, which approval shall not be unreasonably withheld.

The Authority shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the City shall not be required to pay the fees and expenses of such separate counsel unless the separate counsel is employed with the approval of the City, or the Authority determines that it has defenses that are different from the City. The City shall not unreasonably withhold its approval of such separate counsel.

Notwithstanding anything in this Contract to the contrary, the provisions of this Section 6.4 shall survive the termination of this Contract.

Section 6.5. Continuing Disclosure.

The City shall comply with its obligations under the Disclosure Certificate; provided, however, a failure of the City to comply with its obligations under the Disclosure Certificate shall not constitute a default or an event of default and the only action that be taken hereunder is an action for specific performance.

ARTICLE VII.

SPECIAL COVENANTS OF AUTHORITY AND CITY

Section 7.1. Further Assurances and Corrective Instruments, Recordings and Filings.

The Authority and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Contract.

Section 7.2. Tax Covenants.

The Authority and the City agree to do all things necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Series 2022A Bonds and not to do anything that would adversely affect such exclusion.

Section 7.3. Compliance with Resolution.

The Authority and the City shall comply with all of its obligations under the Resolution.

Section 7.4. Assignments.

Except for the assignment of the Contract pursuant to the Resolution, this Contract may not be assigned, as a whole or in part, by the Authority. The Authority has assigned this Contract to the owners of the Bonds, and the City consents to such assignment.

This Contract may not be assigned, as a whole or in part, by the City without the consent of the Authority. No assignment shall relieve the City from primary liability for any obligations hereunder, and in the event of any such assignment the City shall continue to remain primarily liable for payment of the Contract Payments and for performance and observance of the other agreements on its part herein provided to be performed and observed by the City to the same extent as though no assignment had been made.

ARTICLE VIII.

EVENTS OF DEFAULT AND REMEDIES

Section 8.1. Events of Default Defined.

The following shall be “events of default” under this Contract and the terms “event of default” or “default” shall mean, whenever they are used in this Contract, any one or more of the following events:

(a) Failure by the City to make the Contract Payments; or

(b) Failure by the City or the Authority to observe and perform any covenant, condition or agreement of this Contract on its part to be observed or performed, other than as referred to in subsection (a) of this Section, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, shall have been given to the City or the Authority, as appropriate, by the non-defaulting party or the bondholders, unless the non-defaulting party and the bondholders shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the 30-day period, the non-defaulting party and the bondholders will not unreasonably withhold their consent to an extension of such time if it is possible to correct such failure and corrective action is instituted within the applicable period and diligently pursued until the default is corrected; or

(c) Any representation in this Contract shall be untrue.

(d) An “Event of Default” shall have occurred under the Resolution.

Section 8.2. Remedies on Default.

Whenever any event of default referred to in Section 8.1 hereof shall have happened and be existing, the non-defaulting party or the owner of any of the Bonds may take any action and pursue any remedy available under the Resolution and the laws of the State of Georgia, including, without limitation, bringing an action for specific performance. Notwithstanding the foregoing, the bondholders shall not have the right to accelerate the Bonds.

Section 8.3. No Remedy Exclusive.

No remedy herein conferred is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Contract or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to exercise any remedy reserved in this Article, it shall not be necessary to give any notice, other than such notice or notices as may be herein expressly required. Such rights and remedies as are given to the Authority hereunder shall also extend to the

bondholders, and the bondholders shall be deemed third party beneficiaries of all covenants and agreements herein contained.

Section 8.4. Agreement to Pay Attorneys' and Consultant's Fees and Expenses.

If an event of default shall occur hereunder and the non-defaulting party should employ attorneys or consultants or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the City or the Authority herein contained, the defaulting party agrees that it shall on demand therefor pay to the non-defaulting party or the bondholders the reasonable fee of such attorneys and consultants and such other reasonable expenses so incurred by the non-defaulting party and the bondholders.

Section 8.5. No Additional Waiver Implied by One Waiver.

If any agreement contained in this Contract should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE IX.

MISCELLANEOUS

Section 9.1. Notices.

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered, sent by a reputable overnight delivery service or mailed by registered or certified mail, return receipt requested, postage prepaid.

Section 9.2. Binding Effect.

This Contract shall inure to the benefit of and shall be binding upon the Authority and the City.

Section 9.3. Severability.

If any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 9.4. Third-Party Beneficiaries.

The owners of the Bonds secured by this Contract are third-party beneficiaries hereof.

Section 9.5. Amendments, Changes and Modifications.

This Contract may be amended, changed and modified without the consent of the owner of the Bonds to (a) cure any ambiguity or formal defect or omission in this Contract; (b) grant any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon bondholders by the City; (c) further expand or clarify the amounts required to be paid into the Sinking Fund and the timing thereof; (d) conform to supplements to the Resolution; or (e) make any other amendments, changes and modifications that in the opinion of counsel are not materially adverse to the interest of the bondholders. Any other amendments, changes and modification in this Contract will become effective only with the consent of the owners of a majority in aggregate principal amount of the Bonds secured hereby. In no event, however, may any such amendments, changes and modifications permit (a) the reduction of Contract Payments required to be made to ensure the payment of the Bonds and the other obligations secured by the Resolution; or (b) the reduction of the percentage of the principal amount of the Bonds required for consent to any such amendment, change or modification.

Section 9.6. Execution Counterparts.

This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.7. Captions.

The captions and headings in this Contract are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Contract.

Section 9.8. Law Governing Construction of Contract.

This Contract shall be governed by, and construed in accordance with, the laws of the State.

IN WITNESS WHEREOF, the Authority and the City have caused this Contract to be executed in their respective corporate names by their duly authorized officers and their respective seals to be hereunto affixed, all as of the date first above written.

**GAINESVILLE REDEVELOPMENT
AUTHORITY**

(Seal)

By: _____
Matt Nix, Chairman

Attest:

Joseph Homans, Secretary

CITY OF GAINESVILLE, GEORGIA

APPROVED AS TO FORM

Abbott S. Hayes, Jr.
Hulsey, Oliver & Mahar, LLP
City Attorney

(Seal)

By: _____
W. Samuel Couvillon, Mayor

Attest:

Denise O. Jordan, City Clerk

EXHIBIT A
COMPLETION CERTIFICATE

Regions Bank
Atlanta, Georgia

Gainesville Redevelopment Authority
Gainesville, Georgia

Re: Gainesville Redevelopment Authority Tax-Exempt Revenue Bonds (Gainesville Projects), Series 2022A and Gainesville Redevelopment Authority Taxable Revenue Bonds (Gainesville Projects), Series 2022B

To the Addressees:

The above-captioned bonds (the “Bonds”) were issued pursuant to a resolution adopted by the Gainesville Redevelopment Authority (the “Authority”) on August 9, 2022, as supplemented on September 20, 2022 (the “Resolution”). Capitalized terms used, but not defined herein, shall have the meanings assigned to them in the Resolution.

The undersigned Authorized City Representative hereby certifies as follows:

1. The Projects have been completed.
2. Except for amounts retained by the City to pay any costs of the Projects not then due and payable, all costs of labor, services, materials and supplies have been paid.

The foregoing certifications have been made without prejudice to any rights against third parties which exist at the date of this certificate or which may subsequently come into being.

[Include the following only if there are excess moneys in the Project Fund]

You are hereby directed to transfer all moneys in the Project Fund to the Sinking Fund.

CITY OF GAINESVILLE, GEORGIA

By: _____
Authorized City Representative



CITY OF GAINESVILLE

Mayor/Council Agenda Request

Item Created: September 15, 2022
Date Submitted: September 15, 2022
Final Approval Date: September 15, 2022
Presenter: Bryan Lackey, City Manager
Item of Business: BR-2022-56 Plan of Finance for The Coop and The Boathouse
Meeting Date: September 20, 2022

Purpose of Request:

To approve the Plan of Finance for the Benefit of the City of Gainesville.

Facts & Issues / History & Background:

The Gainesville Redevelopment Authority proposes a Plan of Finance for the benefit of the City of Gainesville, Georgia. Section 147(f) of the Internal Revenue Code of 1986, as amended, requires that the elected legislative body of the governmental unit, having jurisdiction over the issuer of tax-exempt bonds and over the area in which any facility financed with the proceeds of tax-exempt bonds is located, approve the issuance of the tax-exempt bonds (or any plan of finance related thereto) following a public hearing.

Department Recommendation:

The recommendation is to approve the Plan of Finance, including the issuance of the Bonds and the nature and location of The Coop and The Boathouse, to the extent required by Section 147(f) of the Internal Revenue Code of 1986.

Department Director:

Jeremy Perry

If funding is involved, are funds approved within the current budget? No

Amount Requested:

Sources of Funds:

Finance Comments:

Administrative Comments:

Attachments:

1. BR-2022-56 Plan of Finance for The Coop and The Boathouse

RESOLUTION BR-2022-56

PLAN OF FINANCE FOR THE COOP AND THE BOATHOUSE

WHEREAS, the Gainesville Redevelopment Authority (the “*Authority*”) proposes a plan of finance (the “*Plan of Finance*”) for the benefit of the City of Gainesville, Georgia (the “*City*”); and

WHEREAS, attached as **Exhibit A** is a copy of the Plan of Finance; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “*Code*”) requires that the elected legislative body of the governmental unit, having jurisdiction over the issuer of tax-exempt bonds and over the area in which any facility financed with the proceeds of tax-exempt bonds is located, approve the issuance of the tax-exempt bonds (or any plan of finance related thereto) following a public hearing; and

WHEREAS, the Authority has conducted the public hearing; and

WHEREAS, a notice of the intention of the Authority to hold the public hearing with respect to the Plan of Finance was published at least seven days prior to the public hearing in *The Times*, a newspaper of general circulation in the City; and

WHEREAS, the Authority provided the Mayor and City Council of the City of Gainesville (the “*City Council*”) a certificate regarding public hearing evidencing the fact that the public hearing and the notice complied with Section 147(f) of the Code; and

WHEREAS, the Authority has recommended and requested that the Mayor and City Council approve the Plan of Finance, including the issuance of the Bonds, as required by Section 147(f) of the Code; and

WHEREAS, the Authority issues its revenue bonds on behalf of the City; The Coop and The Boathouse (as defined in the Plan of Finance) are located in the City; and the Mayor and City Council constitute the elected legislative body of the City; and

WHEREAS, the Mayor and City Council is therefore the proper body to give the consent required by Section 147(f) of the Code.

NOW, THEREFORE, BE IT RESOLVED THAT the governing body, and IT IS HEREBY RESOLVED by the authority of the same, as follows:

Section 1. The Plan of Finance, including the issuance of the Bonds and the nature and location of The Coop and The Boathouse, is hereby approved to the extent required by Section 147(f) of the Code, as follows:

- (a) The Coop will be located at 2490 Old Cornelia Hwy, Gainesville, Georgia 30507. The Boathouse will be located at 3105 Clarks Bridge Road, Gainesville, Georgia 30506.
- (b) The City will be the initial owner and operator of The Coop and The Boathouse.
- (c) The maximum amount of Bonds that will be issued as part of the Plan of Finance is \$39,000,000.

Section 2. Such approval by the Mayor and City Council does not constitute an endorsement to a prospective purchaser of the Bonds or of the creditworthiness of the Borrower. The Bonds shall not constitute an indebtedness or obligation of the State of Georgia or the City, but will be

RESOLUTION BR-2022-56

PLAN OF FINANCE FOR THE COOP AND THE BOATHOUSE

payable solely from the revenues derived from a contract between the City and the Authority and pledged to the payment thereof.

Section 3. This resolution shall take effect immediately upon its adoption.

Adopted this _____ day of September, 2022.

W. Samuel Couvillon, 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"

RESOLUTION BR-2022-56

PLAN OF FINANCE FOR THE COOP AND THE BOATHOUSE

PLAN OF FINANCE

THE COOP AND THE BOATHOUSE

The Plan of Finance involves the issuance by Authority from time to time of up to \$39,000,000 in aggregate principal amount of its revenue bonds (the "*Bonds*"). The proceeds of the Bonds will be used to finance (i) a portion of (A) a multi-field recreation facility known as "The Coop" and (B) a building known as "The Boathouse" that will contain boating facilities, a conference center, City administrative offices and such other facilities as the City shall deem appropriate to be included therein and (ii) all or a portion of the costs of issuing the Bonds. The Coop will be located at 2490 Old Cornelia Hwy, Gainesville, Georgia 30507. The Boathouse will be located at 3105 Clarks Bridge Road, Gainesville, Georgia 30506. The City of Gainesville will be the owner and operator of The Coop and The Boathouse.

CITY CLERK'S CERTIFICATE

RESOLUTION BR-2022-56

PLAN OF FINANCE FOR THE COOP AND THE BOATHOUSE

The undersigned Clerk of the City of Gainesville, Georgia (the "City") DOES HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of a resolution adopted on September 20, 2022 by the Mayor and City Council (the "City Council") at a meeting duly called and assembled, which meeting was open to the public and at which a quorum was present and acting throughout, and that the original of the foregoing resolution appears of public record in the Minute Book of the City Council, which is in my custody and control.

GIVEN under my hand and the seal of the City, this 20th day of September, 2022.

(SEAL)

Denise O. Jordan, City Clerk