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**ORDINANCE NO. 2024-834**

**An ordinance of the City of Gainesville, Florida, amending Article V of Chapter 23 of the Code of Ordinances relating to obstructions and prohibited activities on public property and rights-of-way, including public camping or sleeping; amending Section 2-339 of the Code of Ordinances providing for enforcement; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.**

**WHEREAS**, the City of Gainesville, Florida (“City”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and the Municipal Home Rule Powers Act; and

**WHEREAS**, the Municipal Home Rule Powers Act, Chapter 166, *Florida Statutes*, secures for municipalities the broad exercise of home rule powers granted by Article VIII, Section 2 of the Florida Constitution, including the exercise of any power for municipal purposes not expressly prohibited by law; and

**WHEREAS**, Section 125.0231, *Florida Statutes*, provides that Florida counties and municipalities may not authorize or otherwise allow any person to regularly engage in public camping or sleeping on any public property, including but not limited to, any public building or its grounds and any public right-of-way under the jurisdiction of the county or municipality; and

**WHEREAS**, the City Commission has determined that, in consideration of Section 125.0231, *Florida Statutes*, the changes to the Code of Ordinances as provided in this ordinance serve a valid public purpose and are in the best interest of the public health, safety, and general welfare of the City; and

1   **WHEREAS**, at least ten days' notice has been given once by publication in a newspaper of general  
 2   circulation notifying the public of this proposed ordinance and of public hearings to be held by  
 3   the City Commission; and

4   **WHEREAS**, the public hearings were held pursuant to the published notice described at which  
 5   hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

6   **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**  
 7   **FLORIDA:**

8   **SECTION 1.** Article V of Chapter 23 of the Code of Ordinances of Gainesville, Florida, is hereby  
 9   amended to read as follows. Except as amended herein, the remainder of Chapter 23 remains  
 10   in full force and effect.

11   **ARTICLE V. – PUBLIC PROPERTY AND RIGHTS-OF-WAY OBSTRUCTIONS AND PROHIBITED**  
 12   **ACTIVITIES**

13   **Sec. 23-104. - Definitions.**

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

17   ***Obstruct*** means to impede, block, hinder, stifle, retard, restrain, interfere, repair, dig, excavate,  
 18   or intermeddle with movement of vehicular or pedestrian traffic.

19   ***Public camping or sleeping*** means: (a) lodging or residing overnight in a temporary outdoor  
 20   habitation used as a dwelling or living space and evidenced by the erection of a tent or other  
 21   temporary shelter, the presence of bedding or pillows, or the storage of personal belongings; or  
 22   (b) lodging or residing overnight in an outdoor space without a tent or other temporary shelter.

23   Public camping or sleeping does not include: (a) lodging or residing overnight in a motor vehicle  
 24   that is registered, insured, and located in a place where it may lawfully be; or (b) camping for  
 25   recreational purposes on property designated for such purposes.

26   ***Public property*** means properties and facilities, including public buildings and their grounds,  
 27   that are owned and operated by the city.

28   ***Right-of-way*** means any land of which the city has jurisdiction or control that has been  
 29   dedicated, deeded, used, or to be used for a public ways, public highways, streets, alleys,

1 sidewalks, thoroughfares, medians, ~~or~~ walkways, access for ingress or egress, or other public  
 2 purpose. ~~of which the city has jurisdiction.~~

3 **Site plan** means a graphic depiction of the work location and proposed project. The level of  
 4 detail required shall be commensurate with the nature and extent of the work, subject to  
 5 acceptance by the public works director or designee.

6 **Sec. 23-105. - Applicability.**

7 (a) It shall be is unlawful for any person or entity to obstruct any public property or right-of-  
 8 way in the City of Gainesville, including temporarily obstructing the general movement of  
 9 vehicular or pedestrian traffic and including any digging or excavation in the public rights-of-  
 10 way, without first obtaining a permit or written authorization from the city manager or  
 11 designee public works department. All obstructions within any public property or right-of-  
 12 way not permitted in accordance with this article are hereby declared to be nuisances and  
 13 shall be abated and removed in accordance with this article law.

14 (b) It is unlawful for any person or entity to engage in any public camping or sleeping on any  
 15 public property or right-of-way.

16 **Sec. 23-106. - Exemptions.**

17 The requirements of this article ~~shall~~ do not apply to the following:

18 (a) Any person or entity that obstructs a right-of-way pursuant to another city permit that  
 19 authorizes the obstruction within the right-of-way, including but not limited to parades,  
 20 filming, news racks, sidewalk cafes, or special events.

21 ~~(b) Right-of-way obstructions anticipated to last for less than one hour.~~

22 (be) Right-of-way obstructions made by any person or entity in response to a natural disaster,  
 23 man-made disaster, or similar emergency.

24 ~~(cd)~~ Right-of-way obstructions made by any utility use of the right-of-way, which shall be  
 25 regulated and permitted under chapter 23, article VI of the Code of Ordinances.

26 (de) Right-of-way obstructions made by any person or entity ~~the city, its agents, or contractors~~  
 27 performing work on behalf of the city at the direction of the city manager or designee,  
 28 unless the public works department notifies the person or entity ~~city's agent or contractor~~  
 29 that a written permit is required due to past performance. The public works department  
 30 shall be notified in the event of a disruption of pavement, sidewalks, hardscape, or planted  
 31 landscaping.

32 **Sec. 23-107. - Review procedures and criteria.**

33 Applications for a permit under this article shall be submitted in a form approved by the public  
 34 works department, and shall be submitted together with any applicable application fees. The  
 35 public works department shall approve and issue permits for right-of-way obstructions no later  
 36 than 15 calendar days after receiving a complete application, provided the application meets all  
 37 of the requirements and conditions provided in this section. The public works director or  
 38 designee may issue permits under this article for a total duration or applicable hours that, in

1 the public works director or designee's sole discretion, is most appropriate for the particular  
2 situation and is most protective of the public health, safety, and welfare.

3 (a) *Site plan and MOT plan.* The applicant shall submit a site plan and maintenance-of-traffic  
4 (MOT) plan in compliance with the requirements of the Federal Highway Administration and  
5 the Florida Department of Transportation. The site plan shall indicate the exact location of  
6 the right-of-way to be obstructed, the estimated duration of the obstruction, the safety  
7 measures that will be used to protect the public health and safety, and the reason for the  
8 obstruction.

9 (b) *Emergency contact.* The applicant must provide the phone number for an emergency  
10 contact who will be available 24 hours a day, if the work is anticipated to last longer than  
11 one day.

12 (c) *Police/fire rescue.* Before issuing a permit, the public works director or designee shall inform  
13 the city's police department and fire rescue department of the proposed obstruction. The  
14 public works director or designee shall deny the permit if either of those agencies  
15 determines the obstruction will be a danger to public health or safety.

16 (d) *Metered parking.* If metered parking spaces will be obstructed, then the applicant shall pay  
17 a fee at the time of application in an amount that the public works director or designee  
18 determines will compensate the city for the lost parking revenue, unless the city is  
19 otherwise prohibited by law from levying such a fee. This requirement does not apply to  
20 public agencies.

21 (e) *Waste.* Large tree limbs, tree butts, stumps, logs, plaster, earth, construction debris,  
22 industrial waste or other matter in bulk shall not be classified as trash and no person shall  
23 place or cause the same to be placed in the streets of the city or along the parkways  
24 adjacent to the street.

25 (f) *Cranes and mechanical equipment.* The use of cranes, hoists, and other mechanical  
26 apparatus within the right-of-way are subject to the following additional conditions and  
27 restrictions:

28 (1) The maximum duration for such apparatus to operate or be maintained in a right-of-way  
29 shall be 15 calendar days, unless extended by the public works director or designee for  
30 good cause shown.

31 (2) Full-tracked vehicles, including but not limited to bulldozers and skidsteers, shall not be  
32 off-loaded, on-loaded, walked, or operated in a paved city right-of-way.

33 (3) Fixed-tower cranes may only be permitted in the right-of-way if the public works  
34 director or designee finds that both of the following conditions are met:

35 a. No suitable alternative exists; and

36 b. Submission of sufficient plans and specifications to ensure that both the crane and  
37 its foundation are adequate, and that such use will not endanger the public health  
38 and safety.

- 1 (g) *Restoration of public rights-of-way.* Permittees shall immediately after right-of-way  
 2 obstructions restore the public rights-of-way to as good a condition as existed immediately  
 3 prior to commencement of the permitted obstruction. Restoration shall be completed in  
 4 accordance with applicable city standards. If such restoration is not performed in a  
 5 reasonable and satisfactory manner within 30 calendar days after the completion of the  
 6 obstruction, the city may after written notice to the permittee cause the restoration to be  
 7 made with the total cost being charged to and paid for by the permittee upon demand, and  
 8 the city may charge the costs against any security the permittee provided in accordance  
 9 with this article. For one year following completion of any work permitted under this  
 10 section, the permittee shall guarantee its restoration work and shall correct at its sole  
 11 expense any restoration work that does not satisfy the requirements of this article. Where  
 12 excavations or repairs are made in any hard-surfaced or brick-paved streets, all excavations  
 13 may be done by the city at its discretion, at the sole cost and expense of the applicant.
- 14 (h) *Indemnification.* Any person or entity receiving a permit under this article shall, at its sole  
 15 cost and expense, indemnify, hold harmless, and defend the city and its officers, employees,  
 16 and agents from all liabilities, damages, losses, claims, suits, causes of action, and costs or  
 17 expenses of any kind or nature, including but not limited to reasonable attorneys' fees, for  
 18 personal injury, death, property damage, or any other losses that arise from or are in any  
 19 way connected with the right-of-way obstruction, whether any act or omission complained  
 20 of is authorized, allowed, or prohibited by this article or any permit issued hereunder,  
 21 except to the extent that such claims are caused by the sole negligence of the city.
- 22 (1) The permittee shall undertake, at its sole expense, the defense of any such claims, even  
 23 if the claim is groundless, false, or fraudulent, and the permittee shall assume and  
 24 defend not only itself but also the city, provided the city shall retain the right to  
 25 participate by its own counsel and to select counsel of its own choosing.
- 26 (2) This indemnification obligation is not limited in any way by a limitation of the amount or  
 27 type of damages or compensation payable by or for the permittee under workers'  
 28 compensation, disability, or other employee benefit acts, or the acceptance of insurance  
 29 certificates required under this article, or the terms, applicability, or limitations of any  
 30 insurance held by the permittee. The city does not waive any rights against the  
 31 permittee that it may have by reason of this indemnification because of the city's  
 32 acceptance of permittee's insurance policies required under this article, and this  
 33 indemnification shall apply to all damages and claims for damages of any kind suffered  
 34 regardless of whether such insurance policies shall have been determined to be  
 35 applicable to any such damages or claims for damages.
- 36 (3) Nothing contained in this provision shall be interpreted as a waiver of the city's  
 37 sovereign immunity as provided in F.S. § 768.28, or as denying the city or permittee any  
 38 remedy or defense available at law.
- 39 (4) These indemnification requirements shall survive and be in full force and effect after  
 40 any termination or cancellation of any permit.

- 1 (i) *Insurance.* Permittees shall provide, pay for, and maintain satisfactory to the city the types  
 2 of insurance policies and coverage limits described here. Policies shall be issued by  
 3 companies authorized to do business in the State of Florida and shall have an A.M. Best,  
 4 latest edition, financial strength rating of at least A+ and financial size category of at least  
 5 VIII. All policies shall name the city as an additional insured with respect to all activities  
 6 under this article. At least 30 calendar days' advance written notice shall be given to the city  
 7 of any cancellation, intent not to renew, or reduction in the policy coverage, which notice  
 8 shall be sent by registered or certified mail. The city's risk management director may  
 9 reasonably raise or lower the amount of insurance required, and may allow a permittee to  
 10 be self-insured for one or more lines of insurance coverage.
- 11 (1) *Comprehensive general liability.* Commercial general liability insurance including  
 12 premises/operations; independent contractors; contractual liability;  
 13 products/completed operations; XCU coverage; and personal injury and property  
 14 damage coverage for limits of no less than \$1,000,000 per occurrence combined single  
 15 limit and \$2,000,000 in the aggregate.
- 16 (2) *Commercial automobile liability.* Commercial automobile liability coverage for all  
 17 owned, non-owned, and hired vehicles for limits of no less than \$1,000,000 per  
 18 occurrence combined single limit.
- 19 (3) *Worker's compensation and employer's liability.* Worker's compensation in an amount  
 20 not less than the statutory limit and employer's liability insurance with limits of not less  
 21 than \$1,000,000.
- 22 (4) *Commercial excess or umbrella liability.* Commercial excess or umbrella liability coverage  
 23 may be used in combination with primary coverage to achieve the required limits of  
 24 liability.
- 25 (j) *Security.* If any excavation is made within a public right-of-way, or if there is any risk of  
 26 damage or detriment to the premises of a public right-of-way, then the applicant shall  
 27 provide security to the city to ensure that the right-of-way is restored to the same or better  
 28 condition than existed when the permit was issued and to ensure payment for any damage  
 29 to public property or trash and debris removal as a result of such permit issuance.  
 30 Applicants shall provide security enforceable by and payable to the city, in any combination  
 31 of the types provided below, in an amount reasonably corresponding to the nature and  
 32 extent of the work to be performed within the right-of-way as determined by the public  
 33 works director or designee. An applicant who intends to apply for multiple permits in a  
 34 calendar year may provide the city with security in an amount acceptable to the public  
 35 works director or designee sufficient to adequately cover the estimated obstructions and  
 36 excavations to be performed during that calendar year. The deposit shall be used by the city  
 37 only in the event that the applicant fails to repair damage or remove trash and debris  
 38 resulting from the activity. The city shall return any cash deposit no later than 15 calendar  
 39 days after notice to the city of right-of-way obstruction completion unless there is damage  
 40 to city property or other costs incurred by the city, including but not limited to relining the

1 right-of-way to the same or better condition that existed when the permit was issued. This  
2 requirement does not apply to public agencies.

3 (1) *Surety bond.* A surety bond executed by a surety company authorized to do business in  
4 the State of Florida with a minimum rating of A-VII as rated by A.M. Best Company, Inc.  
5 The surety bond shall be approved by the city attorney as to form and legality, and shall  
6 provide the following: "This bond may not be canceled, or allowed to lapse, until 60  
7 calendar days after receipt by the City of Gainesville, by certified mail, return receipt  
8 requested, of a written notice from the issuer of the bond of intent to cancel or not to  
9 renew."

10 (2) *Letter of credit.* An irrevocable and unconditional letter of credit issued by a Florida  
11 bank, in a form and by a financial institution acceptable to the city attorney.

12 (3) *Cash deposit.* A cash deposit with the city, held in an account where interest earned on  
13 the cash deposit shall be for the account and to the credit of the person making such  
14 deposit.

15 (k) *Due care.* Permittees shall exercise due care and follow all safety practices required by  
16 applicable law or accepted industry practices when operating in accordance with a permit  
17 issued under this article, including the use of suitable barricades, flags, lights, flares, or  
18 other devices as are required by the Manual on Uniform Traffic Control Devices (FDOT) or  
19 any requirements of the city to protect the public.

20 (l) *Hazardous conditions.* If the city at any time reasonably determines that a permittee has  
21 caused a condition that is hazardous or harmful to the public health, safety, or welfare, the  
22 permittee, at its own expense and without liability to or recourse against the city, shall  
23 remedy all such conditions after being provided reasonable notice. If the city at any time  
24 reasonably determines that an emergency situation exists and the permittee is not  
25 immediately available or is unable to immediately provide the necessary remedy, then the  
26 city shall have the right to remedy the situation with the total cost being charged to and  
27 paid for by the permittee upon demand, and the city may charge the costs against any  
28 security the permittee provided in accordance with this article.

29 (m) *Compliance with law.* Permittees shall at all times be in full compliance with and abide by  
30 all applicable provisions of federal, state, or local laws, codes, and regulations, including but  
31 not limited to F.S. Ch. 556, as may be amended from time to time.

32 (n) *Right of inspection.* The city shall have the right to inspect any work as it finds necessary to  
33 ensure compliance with this article or any applicable law or regulation.

34 (o) *Police powers.* Any permit issued under this article shall be subject to the city's lawful  
35 exercise of its police power, and applicants and permittees shall comply with any  
36 requirements or policies that the city finds reasonably necessary to protect the public  
37 health, safety, and welfare, and the public works director or designee may establish  
38 reasonable conditions in the permit to protect the public health, safety, and welfare.

- 1 (p) *Permit inactivity.* The permit may be revoked by the city if there is no activity performed by
- 2 the applicant at the location specified in the site plan for 15 consecutive calendar days after
- 3 the city provided the applicant with written notice of such inactivity.
- 4 (q) *Violations.* Upon providing written notice to any person or entity receiving a permit under
- 5 this article of a violation of any of the requirements or conditions of the permit, the permit
- 6 shall be revoked and become null and void if the permittee fails to cure the violation within
- 7 the reasonable cure period provided in the notice.

8 **Sec. 23-108. - Penalties.**

9 Any person who violates any provision of this article ~~shall~~ will be subject to ~~punishment~~

10 penalties as provided in section 1-9 or 2-339 of this Code of Ordinances. Each violation will be

11 considered a separate offense, which may be prosecuted separately. ~~In addition, the~~ The city

12 may seek any legal remedies available in law or equity.

13

14 **SECTION 2.** Section 2-339 of the Code of Ordinances is hereby amended to read as follows.

15 Except as amended herein, the remainder of Section 2-339 remains in full force and effect.

Section	Description	Class	Penalty
<u>Article V of Chapter 23</u>	<u>Public property and rights-of-way</u> <u>obstructions and prohibited activities</u>	<u>II</u>	<u>\$25.00</u>

16

17 **SECTION 3.** It is the intent of the City Commission that the provisions of Sections 1 and 2 of this

18 ordinance become and be made a part of the Code of Ordinances of the City of Gainesville,

19 Florida, and that the sections and paragraphs of the Code of Ordinances may be renumbered or

20 relettered in order to accomplish such intent.

21 **SECTION 4.** If any word, phrase, clause, paragraph, section, or provision of this ordinance or the

22 application hereof to any person or circumstance is held invalid or unconstitutional, such finding

23 will not affect the other provisions or applications of this ordinance that can be given effect

24 without the invalid or unconstitutional provision or application, and to this end the provisions of

25 this ordinance are declared severable.

Words ~~stricken~~ are deletions; words underlined are additions.



1 **SECTION 5.** All ordinances or parts of ordinances in conflict herewith are to the extent of such  
2 conflict hereby repealed.

3 **SECTION 6.** This ordinance will become effective immediately upon adoption.

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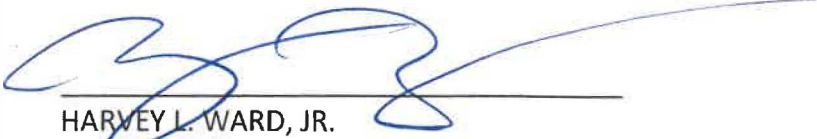
5 **PASSED AND ADOPTED** this 5th day of December, 2024.

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\_\_\_\_\_  
HARVEY L. WARD, JR.  
MAYOR

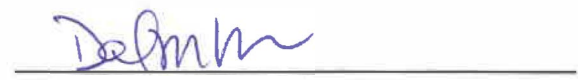
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11 Attest:

Approved as to form and legality:

12

  
\_\_\_\_\_  
KRISTEN J. BRYANT  
CITY CLERK

  
\_\_\_\_\_  
DANIEL M. NEE  
CITY ATTORNEY

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15 This ordinance passed on first reading this 21st day of November, 2024.

16 This ordinance passed on second reading this 5th day of December, 2024.

City of Gainesville

Office of the City Clerk



Kristen J. Bryant  
City Clerk

PO Box 490, Station 18  
Gainesville, Florida 32627

[BryantK1@gainesvillefl.gov](mailto:BryantK1@gainesvillefl.gov)


Office 352 334 5016 | Direct 352 393 8441

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STATE OF FLORIDA  
COUNTY OF ALACHUA

I hereby certify that a true record of this Ordinance No. 2024-834 was made by me and filed in Ordinance Book No. 99 on this 5<sup>th</sup> day of December, 2024 and that the title of this ordinance was published in the Gainesville Sun.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Gainesville, Florida this 5<sup>th</sup> day of December A.D., 2024

  
\_\_\_\_\_  
Kristen J. Bryant  
City Clerk