

29 *Controlled substance* shall have the same meaning as stated in F.S. §§ 893.02 and 893.138
30 and any other applicable provision of general law, as may be amended from time to time.
31 Further, as used in this section, "controlled substance" includes any substance sold in lieu of a
32 controlled substance in violation of F.S. § 817.563 or any imitation controlled substance defined
33 in F.S. § 817.564.

34 *Operator* shall mean the person operating a place or premises subject to this article. The
35 term "operator" includes, but is not limited to, owners, managers, tenants, subtenants, and
36 persons having operational control over the place or premises.

37 *Owner* shall mean the owner of the real property upon which the place or premises is
38 located. ~~that is alleged to be a public nuisance.~~ In cases where the owner and the operator are the
39 same person, the terms "owner" and "operator" are used interchangeably.

40 *Place or premises* shall mean the land and its appurtenances, structures and fixtures thereon,
41 as such land is described or contained in a deed or instrument of conveyance and recorded in the
42 official records of Alachua County.

43 *Public nuisance* shall mean the conduct described in section 16-94 of this article.

44 *Recurring public nuisance* shall mean a second or other additional occurrence of a public
45 nuisance during the effective term of an order entered by the nuisance abatement board.

46 *Respondent* means the owner, operator, and any other person against whom a complaint is
47 brought pursuant to this article.

48 *Special magistrate* shall mean the person retained by the city pursuant to section 2-391 to
49 conduct quasi-judicial hearings under this article.

50 **Sec. 16-94. Declaration of public nuisance.**

51 For the purpose of this article the following are declared to be public nuisances may be
52 declared to be a public nuisance, and such nuisances and may be abated pursuant to the
53 procedures provided in this article:

54 1. Any structure or portion thereof, as defined in F.S. § 810.011, or any piece, parcel, tract,
55 or plot of land or portion thereof, which has been used:

56 ~~(1) On more than two occasions within a six-month period as the site of the unlawful sale,~~
57 ~~delivery, manufacture, or cultivation of any controlled substance. It shall be prima facie evidence~~
58 ~~that violations are occurring where an arrest for a violation of any of the provisions of F.S. Ch.~~

59 ~~893, or any federal narcotics law has been made within 30 days, prior to the issuance of notice,~~
60 ~~in accordance with this article;~~

61 ~~(2) On one occasion as the site of the unlawful possession of a controlled substance, where~~
62 ~~such possession constitutes a felony and that has been previously used on more than one~~
63 ~~occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled~~
64 ~~substance;~~

65 ~~(3) On more than two occasions within a six-month period as the site of a violation of F.S.~~
66 ~~Ch. 796, relating to prostitution and prostitution-related activity. It shall be prima facie evidence~~
67 ~~that violations are occurring where an arrest for a violation of any of the unlawful activities set~~
68 ~~forth in F.S. Ch. 796, has been made within 30 days, prior to the issuance of notice, in~~
69 ~~accordance with this article;~~

70 ~~(4) On more than two occasions within a six-month period by a criminal street gang for the~~
71 ~~purpose of conducting a pattern of criminal street gang activity as defined by F.S. § 874.03; and~~

72 ~~(5) On more than two occasions within a six-month period as the site of a violation of F.S. §~~
73 ~~812.019 relating to dealing in stolen property.~~

74 (a) On more than two occasions within a 6-month period, as the site of a violation of F.S.
75 § 796.07;

76 (b) On more than two occasions within a 6-month period, as the site of the unlawful sale,
77 delivery, manufacture, or cultivation of any controlled substance;

78 (c) On one occasion as the site of the unlawful possession of a controlled substance, where
79 such possession constitutes a felony and that has been previously used on more than

80 one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of
81 any controlled substance;

82 (d) By a criminal gang for the purpose of conducting criminal gang activity as defined by
83 F.S. § 874.03;

84 (e) On more than two occasions within a 6-month period, as the site of a violation of F.S.
85 § 812.019 relating to dealing in stolen property;

86 (f) On two or more occasions within a 6-month period, as the site of a violation of F.S.
87 chapter 499; or

88 (g) On more than two occasions within a 6-month period, as the site of a violation of any
89 combination of the following:

90 (1) F.S. § 782.04, relating to murder;

91 (2) F.S. § 782.051, relating to attempted felony murder;

92 (3) F.S. § 784.045(1)(a)2., relating to aggravated battery with a deadly weapon; or

93 (4) F.S. § 784.021(1)(a), relating to aggravated assault with a deadly weapon without
94 intent to kill.

95 **Section 2.** It is the intention of the City Commission that the provisions of Section 1
96 of this Ordinance shall become and be made a part of the Charter and the Code of Ordinances of
97 the City of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
98 renumbered or relettered in order to accomplish such intentions.

99 **Section 3.** If any word, phrase, clause, paragraph, section or provision of this ordinance
100 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
101 finding shall not affect the other provisions or applications of this ordinance that can be given

102 effect without the invalid or unconstitutional provision or application, and to this end the
103 provisions of this ordinance are declared severable.

104 **Section 4.** All ordinances or parts of ordinances in conflict herewith are to the extent of
105 such conflict hereby repealed.

106 **Section 5.** This ordinance shall become effective immediately upon adoption.

107 **PASSED AND ADOPTED THIS ____ DAY OF _____, 2024.**

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HARVEY L. WARD, JR.
MAYOR

ATTEST:

Approved as to form and legality

KRISTEN J. BRYANT
CITY CLERK

DANIEL M. NEE
CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2024.

This ordinance passed on second reading this ____ day of _____, 2024.