1	ORDINANCE NO. 2023-866		
2 3 4 5 6 7 8	An ordinance of the City of Gainesville, Florida, amending Sections 16-93 and 16-94 of Chapter 16 of the Code of Ordinances, Applicable codes and ordinances, to update the Code to conform to the state statutes for the abatement of nuisances; providing a severability clause; providing a repealing clause; and providing an immediate effective date.		
9	WHEREAS, on September 14, 2023, the City Commission gave direction to the City		
10	Attorney to revise the Code of Ordinances; and		
11	WHEREAS, at least ten (10) days' notice has been given once by publication in a		
12	newspaper of general circulation notifying the public of this proposed ordinance and of public		
13	hearings; and		
14	WHEREAS, the public hearings were held pursuant to the notice described above at which		
15	hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.		
16	NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE		
17	CITY OF GAINESVILLE, FLORIDA:		
18	Section 1. Article V, Sections 16-93 and 16-94 of Chapter 16 of the Code of Ordinances		
19	are amended to read as follows. Except as amended herein, the remainder of Section 16 shall		
20	remain in full force and effect.		
21	Chapter 16 – NUISANCES		
22	ARTICLE V. – PUBLIC NUISANCE ABATEMENT		
23	Sec. 16-93. Definitions.		
24 25	The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:		
26	Complainant shall mean the City of Gainesville.		
27 28	A complaint may be filed with the city by a resident of the city or any occupant of real property within the city who is aggrieved by an alleged nuisance.		

Controlled substance shall have the same meaning as stated in F.S. §§ 893.02 and 893.138
 and any other applicable provision of general law, as may be amended from time to time.
 Further, as used in this section, "controlled substance" includes any substance sold in lieu of a controlled substance in violation of F.S. § 817.563 or any imitation controlled substance defined in F.S. § 817.564.
 Operator shall mean the person operating a place or premises subject to this article. The term "operator" includes, but is not limited to, owners, managers, tenants, subtenants, and

term "operator" includes, but is not limited to, owners, managers, tenants, subtenants, and persons having operational control over the place or premises.

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

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

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

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

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

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

## Sec. 16-94. Declaration of public nuisance.

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

36

37

38

39

40 41

42 43

44

45

46

47

48

49

50

- Any structure or portion thereof, as defined in F.S. § 810.011, or any piece, parcel, tract,
- 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,
55	675, of any federal nateotics law has been made within 50 days, prior to the issuance of notice,
60	in accordance with this article;

61

62

63

64

65

66

67

68

69

72

73

- (2) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- (3) On more than two occasions within a six-month period as the site of a violation of F.S. Ch. 796, relating to prostitution and prostitution related activity. It shall be prima facie evidence that violations are occurring where an arrest for a violation of any of the unlawful activities set forth in F.S. Ch. 796, has been made within 30 days, prior to the issuance of notice, in 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
  - (5) On more than two occasions within a six-month period as the site of a violation of F.S. § 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.

  § 796.07;
- (b) On more than two occasions within a 6-month period, as the site of the unlawful sale,
   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	<u>F.S. § 874.03;</u>			
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	<b>Section 2</b> . 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.		
108					
109 110 111		HARVEY L. WARD, JR. MAYOR			
112 113 114 115 116 117	ATTEST:	Approved as to form and legality			
118 119 120	KRISTEN J. BRYANT CITY CLERK	DANIEL M. NEE CITY ATTORNEY			
121 122	This ordinance passed on first reading this _	day of	, 2024.		
123 124	This ordinance passed on second reading th	is day of	, 2024.		