



City of Gainesville Agenda Item Report

File Number: 2023-70

Agenda Date: February 2, 2023

Department: City Attorney

Title: 2023-70 Residential Rental Unit Permit Program (B)

Department: Office of the City Attorney

Description: Ordinance No. 2023-70: An ordinance of the City of Gainesville, Florida, amending the Residential Rental Unit Permits program by amending Section 2-339 – *Applicable Codes and Ordinances* and by amending Chapter 14.5, Article I titled “Residential Rental Unit Permits”; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

Fiscal Note: N/A

Explanation: This ordinance will amend the Residential Rental Unit Permit Program by amending Section 2-339 – *Applicable Codes and Ordinances* and by amending Chapter 14.5, Article I titled “Residential Rental Unit Permits.” On September 17, 2020, the City Commission adopted the Residential Rental Unit Permit Program, as since amended, to eliminate substandard residential rental units by creating a permit and inspection program that requires all regulated residential rental units within the City to meet certain minimum property maintenance and energy efficiency standards. The purpose of this ordinance is to provide clarity and improve upon issues that have been learned since the City’s implementation of the program.

This ordinance requires two hearings and will become effective immediately upon adoption at second reading.

Strategic Connection: N/A

Recommendation: The City Commission adopt the proposed ordinance.

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ORDINANCE NO. 2023-70

An ordinance of the City of Gainesville, Florida, amending the Residential Rental Unit Permits program by amending Section 2-339 – *Applicable Codes and Ordinances* and by amending Chapter 14.5, Article I titled “Residential Rental Unit Permits”; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

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, 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, on September 17, 2020, the City Commission adopted a Residential Rental Unit Permit Program, as since amended, to eliminate substandard residential rental units by creating a permit and inspection program that requires all regulated residential rental units within the City to meet certain minimum property maintenance and energy efficiency standards; and

WHEREAS, the purpose of the amendments to the City’s Residential Rental Unit Permit Program as provided by this ordinance is to address certain provisions to provide clarity and improve upon issues that have been learned since the City’s implementation of the program; and

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

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

26 **WHEREAS**, the public hearings were held pursuant to the published notice described at which
27 hearings the parties in interest and all others had an opportunity to be and were, in fact heard;
28 and

29 **WHEREAS**, the City Commission has reviewed the recommended amendments as provided
30 herein and has determined that they serve a valid public purpose and are in the best interest of
31 the public health, safety, and general welfare of the City and its residents.

32 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**
33 **FLORIDA:**

34 **SECTION 1.** Section 2-339. – *Applicable Codes and Ordinances* of the Code of Ordinances is
35 amended as follows. Except as amended herein, the remainder of Section 2-339 remains in full
36 force and effect.

37 **Chapter 2 – ADMINISTRATION**

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39 **ARTICLE V. – BOARDS**

40

41 **DIVISION 6. – CIVIL CITATIONS**

42

43 **Sec. 2-339. – Applicable codes and ordinances.**

Section	Description	Class	Penalty
14.5-3 <u>Article I of Chapter 14.5</u>	Not having a residential rental unit permit <u>Violations of the Residential Rental Unit Permit program</u>	II	\$250.00

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46 **SECTION 2.** Article I titled “Residential Rental Unit Permits” within Chapter 14.5 of the Code
47 of Ordinances is amended as follows. Except as amended herein, the remainder of Chapter 14.5
48 remains in full force and effect.

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49 **Chapter 14.5 – MISCELLANEOUS BUSINESS REGULATIONS**

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51 **ARTICLE I. - RESIDENTIAL RENTAL UNIT PERMITS**

52

53 **Sec. 14.5-1. Purpose and intent.**

54 The purpose and intent of this article is to eliminate substandard residential rental units by
55 creating a permit and inspection program that requires all regulated residential rental units
56 within the city to meet minimum property maintenance and energy efficiency standards.

57

58 **Sec. 14.5-2. Definitions.**

59 Throughout this article, the following words and phrases have the meanings defined below unless
60 the text of the article or section in which used clearly indicates otherwise. Any word or phrase
61 used in this article that is not defined below will have the common dictionary meaning most
62 appropriate to the context in which such word or phrase is used.

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64 *Living standards* means those property maintenance and energy efficiency standards set forth in
65 section 14.5-4.

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67 *Occupant* means any person age 18 or older who resides in a regulated residential rental unit.

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69 *Owner* means a person who or entity which alone, jointly, or severally with others, or in a
70 representative capacity (including, without limitation, an authorized agent, attorney, executor,
71 personal representative, or trustee), has legal or equitable title to a regulated residential rental
72 unit.

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74 *Regulated residential rental unit (or regulated unit)* means a condominium, co-op, timeshare,
75 quadraplex, triplex, duplex, or single-family dwelling that is not occupied by the owner and that
76 is rented (whether for free, for charitable purposes, or in exchange for money or other
77 consideration) in whole or in part (such as a room) to a person unrelated to the owner, for periods
78 of at least 30 consecutive days or one calendar month (whichever is less). This definition expressly
79 excludes public lodging establishments regulated by the state pursuant to F.S. Pt. I of Ch. 509,
80 and dormitories.

81

82 *Unrelated to the owner* means any person who is not interrelated to the owner as a spouse,
83 domestic partner, child, stepchild, foster child, parent, stepparent, foster parent, brother, sister,
84 grandparent, grandchild, aunt, uncle, niece, nephew, father-in-law, mother-in-law, son-in-law,
85 daughter-in-law, sister-in-law, brother-in-law, legal guardian, or domestic servant, as evidenced
86 by written documentation of such relationship.

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88 **Sec. 14.5-3. Annual residential rental unit permits.**

89 Each regulated unit must have a current annual permit. Each owner shall make application for a
90 permit at least ten business days prior to allowing an occupant to reside in a regulated unit. Each
91 annual permit issued by the city is valid from October 1 (or date of issuance) to September 30 of
92 the following year. In the event of a change in ownership of a regulated unit, the permit may be
93 transferred to the new owner subject to a new application and payment of the permit fee set
94 forth in Appendix A. Renewal permit applications must be submitted on or before October 1 of
95 each year. ~~A permit may not be issued, renewed, or transferred for a unit with uncorrected living~~
96 ~~standard violations.~~ The owner shall submit a completed permit application (for the initial permit,
97 each renewal, and any transfer), on the form provided by the city, that includes all of the
98 following requirements:

- 99 (a) A confirmation by the owner that they will provide each occupant with a complete copy (hard
100 copy or electronic copy) of the following documents prior to the signing of the lease or other
101 written document granting occupancy, or prior to occupancy if there is no written document
102 between the occupant and the owner: the current version of the "Florida's Landlord/Tenant
103 Law" brochure prepared by the Florida Department of Agriculture and Consumer Services;
104 the current version of the "Tenant Bill of Rights and Responsibilities" prepared by the city,
105 which must include the minimum standards in the current version of the city-provided self-
106 inspection checklist; and the most recent U.S. Department of Energy Home Energy Score for
107 the regulated unit prepared by the city and provided to the owner. In addition, the owner
108 shall maintain on file, and allow the city to inspect same upon request, a receipt signed by
109 each occupant confirming they received the above documents prior to signing a lease (or
110 other written document) or prior to commencing residency, whichever is applicable, in the
111 regulated unit.
- 112 (b) The name, mailing address, email address, and telephone number of the owner to receive
113 communications from the city concerning the permit and this article, or alternatively, the
114 owner may provide the name, mailing address, email address, and telephone number of an
115 agent physically located within Alachua County whom the owner has authorized to receive
116 communications from the city concerning the permit and this article.
- 117 (c) Payment of the permit fee set forth in Appendix A, Schedule of fees, rates and charges.

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Sec. 14.5-4. Living standards.

- (a) *Property maintenance:* An owner shall ensure that eEach regulated unit under the owner's authority ~~must~~ meets all requirements of article II titled "Property Maintenance Code" of chapter 13 of the City Code of Ordinances.
- (b) *Energy efficiency:* An owner shall ensure that eEach regulated unit under the owner's authority ~~must~~ meets the following energy efficiency requirements:
 - (1) Attic insulated to a minimum of R-19 and then a minimum of R-30 by 12:01 a.m. on October 1, 2026.
 - (2) Attic access is weather stripped and insulated to a minimum of R-30.
 - (3) All visible duct joints sealed using mastic or a combination of mastic and fiberglass mesh tape, pressure sensitive foil tape (UL181AP), or heat sensitive foil tape (UL 181AH), and all ducts insulated to a minimum of R-4 with appropriate commercially available insulation material.
 - (4) Fireplace chimneys that are in working condition must have working dampers, doors, or closures. Fireplaces that are not in working condition and are sealed to prevent use do not have to meet these requirements.
 - (5) Plumbing system is free of visible leaks.
 - (6) All showerheads must be 2.5 gal/min flow rate or less, as evidenced by imprinting on the showerhead or documentation maintained by the owner.
 - (7) All faucets must have aerators with a 2.5 gal/min flow rate or less, as evidenced by documentation maintained by the owner.
 - (8) All toilets must be 3 gal/flush or less (use of a volume reduction device to achieve this is acceptable) and 1.6 gal/flush or less by 12:01 a.m. on October 1, 2026.
 - (9) Water heater(s) have a visible and properly functioning temperature/pressure relief valve (TPRV).
 - (10) Water heater pipes insulated for the first three feet from the unit (excepting gas units) with appropriate commercially available insulation.
 - (11) All visible exterior water lines not in enclosed space must be insulated with appropriate commercially available insulation.
 - (12) HVAC system(s) must have maintenance performed by a currently licensed HVAC or mechanical contractor at least once within the past 24 months, as evidenced by documentation maintained by the owner, and have a filter installed that is appropriately sized for the system(s) and regularly changed according to the manufacturer's recommendation.
 - (13) Programmable thermostat connected to HVAC system by 12:01 a.m. on October 1, 2026.

155 (14) Wall, window, or other single room or small space cooling units in good repair, property
156 secured and air-sealed, and with a filter installed that is appropriately sized for the
157 unit(s).

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159 **Sec. 14.5-5. Education; inspections.**

160 (a) The City will conduct compliance inspections on a four-year rolling cycle, with the goal that
161 each regulated unit will be inspected at least once every four years for compliance with this
162 article. In addition, with every other compliance inspection, the city will prepare and provide
163 to the owner a U.S. Department of Energy Home Energy Score for the regulated unit.
164 ~~Inspections may also be conducted more frequently or as a result of a complaint received by~~
165 ~~the city.~~ Notwithstanding the foregoing, the city will investigate complaints filed under the
166 property maintenance code in accordance with the provisions ~~therein~~ provided in article II of
167 chapter 13 of the Code of Ordinances. The owner should complete and maintain the city-
168 provided self-inspection checklist prior to any city inspections, as the checklist provides
169 guidance as to the areas that will be inspected.

170 (b) Written notice of an inspection will be provided via certified mail to the owner and posted at
171 the regulated unit at least seven calendar days prior to the city conducting the inspection.
172 Inspections will take place at a reasonable time during regular business hours. If the unit is
173 not occupied, the owner shall give consent and shall be present at the time of the inspection.
174 If the unit is occupied, an occupant shall give consent and shall be present at the time of the
175 inspection. If the owner or occupant (as applicable) refuse to consent to the inspection, the
176 city may obtain an inspection warrant pursuant to F.S. § 933.20 et seq., prior to conducting
177 the inspection.

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179 **Sec. 14.5-6. Enforcement and penalties.**

180 (a) ~~Enforcement. Failure to meet living standards. If upon inspection the city manager or~~
181 ~~designee has reasonable grounds to believe that a regulated unit does not meet the living~~
182 ~~standard(s) If an owner or any associated regulated unit is in violation of this article according~~
183 ~~to the reasonable discretion of the city, the city will pursue the enforcement procedure set~~
184 ~~forth in division 6 or division 8 (as applicable) within article V of chapter 2 of the Code of~~
185 ~~Ordinances. In addition, if living standard violation(s) are not corrected and such violation(s)~~
186 ~~constitute a health, safety, or welfare hazard to the occupant, the city manager or designee~~
187 ~~may revoke the permit. The City will not take any enforcement action against an occupant or~~
188 ~~any action that prevents an occupant's ongoing occupancy of a regulated unit, but the owner~~
189 ~~may be subject to liability in accordance with division 6 or division 8 (as applicable) within~~
190 ~~article V of chapter 2 of the Code of Ordinances. A permit may not be issued, renewed, or~~
191 ~~transferred for a unit with uncorrected living standard violations. Any fines imposed by any~~
192 ~~enforcement proceedings will stop accruing, and be calculated as due and payable to the city,~~
193 ~~upon the date of occurrence of any of the following events:~~

194 (1) The owner or a regulated unit is no longer in violation of this article; or

195 (2) The regulated unit has been relinquished by the owner by sale, foreclosure, or other
196 action that dispossesses the owner of title to the regulated unit.

197 (b) *Extraordinary hardship.* Any owner who cannot comply with a particular living standard may
198 request an extraordinary hardship exception from the city manager or designee. The owner
199 shall have the burden of demonstrating the existence of an extraordinary hardship by
200 submittal of an application that sets forth facts demonstrating:

201 (1) The hardship is due to unique building or site characteristics with an explanation of why
202 the living standard cannot be met;

203 (2) The owner did not create the hardship by taking actions that makes the property unable
204 to meet the living standard; and

205 (3) There are no feasible alternatives for compliance. Examples of extraordinary hardship
206 may include, but are not limited to, where there is insufficient space or the presence of
207 attic flooring will not allow the installation of the required insulation or where the
208 wastewater line serving the unit prevents the installation of a low flush toilet. Cost or
209 inconvenience are not considered extraordinary hardships.

210 ~~(c) *Failure to apply for permit.* If the city manager or designee has reasonable grounds to believe~~
211 ~~that a regulated unit is occupied without a permit in violation of this article, the owner shall~~
212 ~~be sent a permit application and the owner shall, within 30 days of the date the permit~~
213 ~~application was sent, either: a) provide evidence that a permit is not required, or b) submit a~~
214 ~~complete permit application. Failure to either provide evidence that a permit is not required~~
215 ~~or submit a complete permit application within 30 days of the date the application was sent~~
216 ~~will subject the owner(s) to a civil citation and/or the city may seek injunctive relief to prevent~~
217 ~~the unit from being rented. Fines imposed by any enforcement proceedings will stop~~
218 ~~accruing, and be calculated as due and payable to the city, upon the date of occurrence of~~
219 ~~any of the following events:~~

220 ~~(1) A permit is obtained for the regulated unit;~~

221 ~~(2) The regulated unit is no longer occupied in violation of this article;~~

222 ~~(3) The regulated unit has been relinquished by the owner by sale, foreclosure, or other~~
223 ~~action that dispossesses the owner of title to the regulated unit; or~~

224 ~~(4) The permit year for which the fines accrued ends.~~

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

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

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

230 relettered in order to accomplish such intent.

231 **SECTION 4.** If any word, phrase, clause, paragraph, section, or provision of this ordinance or
232 the application hereof to any person or circumstance is held invalid or unconstitutional, such
233 finding will not affect the other provisions or applications of this ordinance that can be given
234 effect without the invalid or unconstitutional provision or application, and to this end the
235 provisions of this ordinance are declared severable.

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

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

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240 **PASSED AND ADOPTED** this _____ day of _____, 2023.

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HARVEY L. WARD

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MAYOR

245

246 Attest:

Approved as to form and legality:

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249

OMICHELE D. GAINEY

DANIEL M. NEE

250 CITY CLERK

INTERIM CITY ATTORNEY

251

252

253 This ordinance passed on first reading this _____ day of _____, 2023.

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255 This ordinance passed on second reading this _____ day of _____, 2023.