



## City of Gainesville Agenda Item Report

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**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.

**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.

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

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

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

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

## **Chapter 2 – ADMINISTRATION**

### **ARTICLE V. – BOARDS**

#### **DIVISION 6. – CIVIL CITATIONS**

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

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

**SECTION 2.** Article I titled “Residential Rental Unit Permits” within Chapter 14.5 of the Code of Ordinances is amended as follows. Except as amended herein, the remainder of Chapter 14.5 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**

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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.

63  
64 *Living standards* means those property maintenance and energy efficiency standards set forth in  
65 section 14.5-4.

66  
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.

73  
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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**Sec. 14.5-3. Annual residential rental unit permits.**

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

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

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119 **Sec. 14.5-4. Living standards.**

120 (a) *Property maintenance:* An owner shall ensure that eEach regulated unit under the owner's  
121 authority ~~must~~ meets all requirements of article II titled "Property Maintenance Code" of  
122 chapter 13 of the City Code of Ordinances.

123 (b) *Energy efficiency:* An owner shall ensure that eEach regulated unit under the owner's  
124 authority ~~must~~ meets the following energy efficiency requirements:

- 125 (1) Attic insulated to a minimum of R-19 and then a minimum of R-30 by 12:01 a.m. on  
126 October 1, 2026.
- 127 (2) Attic access is weather stripped and insulated to a minimum of R-30.
- 128 (3) All visible duct joints sealed using mastic or a combination of mastic and fiberglass mesh  
129 tape, pressure sensitive foil tape (UL181AP), or heat sensitive foil tape (UL 181AH), and  
130 all ducts insulated to a minimum of R-4 with appropriate commercially available  
131 insulation material.
- 132 (4) Fireplace chimneys that are in working condition must have working dampers, doors,  
133 or closures. Fireplaces that are not in working condition and are sealed to prevent use  
134 do not have to meet these requirements.
- 135 (5) Plumbing system is free of visible leaks.
- 136 (6) All showerheads must be 2.5 gal/min flow rate or less, as evidenced by imprinting on  
137 the showerhead or documentation maintained by the owner.
- 138 (7) All faucets must have aerators with a 2.5 gal/min flow rate or less, as evidenced by  
139 documentation maintained by the owner.
- 140 (8) All toilets must be 3 gal/flush or less (use of a volume reduction device to achieve this  
141 is acceptable) and 1.6 gal/flush or less by 12:01 a.m. on October 1, 2026.
- 142 (9) Water heater(s) have a visible and properly functioning temperature/pressure relief  
143 valve (TPRV).
- 144 (10) Water heater pipes insulated for the first three feet from the unit (excepting gas units)  
145 with appropriate commercially available insulation.
- 146 (11) All visible exterior water lines not in enclosed space must be insulated with appropriate  
147 commercially available insulation.
- 148 (12) HVAC system(s) must have maintenance performed by a currently licensed HVAC or  
149 mechanical contractor at least once within the past 24 months, as evidenced by  
150 documentation maintained by the owner, and have a filter installed that is  
151 appropriately sized for the system(s) and regularly changed according to the  
152 manufacturer's recommendation.
- 153 (13) Programmable thermostat connected to HVAC system by 12:01 a.m. on October 1,  
154 2026.

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

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

- (a) The City will conduct compliance inspections on a four-year rolling cycle, with the goal that each regulated unit will be inspected at least once every four years for compliance with this article. In addition, with every other compliance inspection, the city will prepare and provide to the owner a U.S. Department of Energy Home Energy Score for the regulated unit. ~~Inspections may also be conducted more frequently or as a result of a complaint received by the city.~~ Notwithstanding the foregoing, the city will investigate complaints filed under the property maintenance code in accordance with the provisions ~~therein~~ provided in article II of chapter 13 of the Code of Ordinances. The owner should complete and maintain the city-provided self-inspection checklist prior to any city inspections, as the checklist provides guidance as to the areas that will be inspected.
- (b) Written notice of an inspection will be provided via certified mail to the owner and posted at the regulated unit at least seven calendar days prior to the city conducting the inspection. Inspections will take place at a reasonable time during regular business hours. If the unit is not occupied, the owner shall give consent and shall be present at the time of the inspection. If the unit is occupied, an occupant shall give consent and shall be present at the time of the inspection. If the owner or occupant (as applicable) refuse to consent to the inspection, the city may obtain an inspection warrant pursuant to F.S. § 933.20 et seq., prior to conducting the inspection.

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

- (a) ~~Enforcement. Failure to meet living standards. If upon inspection the city manager or designee has reasonable grounds to believe that a regulated unit does not meet the living standard(s) If an owner or any associated regulated unit is in violation of this article according to the reasonable discretion of the city, the city will pursue the enforcement procedure set forth in division 6 or division 8 (as applicable) within article V of chapter 2 of the Code of Ordinances. In addition, if living standard violation(s) are not corrected and such violation(s) constitute a health, safety, or welfare hazard to the occupant, the city manager or designee may revoke the permit. The City will not take any enforcement action against an occupant or any action that prevents an occupant's ongoing occupancy of a regulated unit, but the owner may be subject to liability in accordance with division 6 or division 8 (as applicable) within article V of chapter 2 of the Code of Ordinances. A permit may not be issued, renewed, or transferred for a unit with uncorrected living standard violations. Any fines imposed by any enforcement proceedings will stop accruing, and be calculated as due and payable to the city, upon the date of occurrence of any of the following events:~~
- (1) The owner or a regulated unit is no longer in violation of this article; or
- (2) The regulated unit has been relinquished by the owner by sale, foreclosure, or other action that dispossesses the owner of title to the regulated unit.

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

- (1) The hardship is due to unique building or site characteristics with an explanation of why the living standard cannot be met;
- (2) The owner did not create the hardship by taking actions that makes the property unable to meet the living standard; and
- (3) There are no feasible alternatives for compliance. Examples of extraordinary hardship may include, but are not limited to, where there is insufficient space or the presence of attic flooring will not allow the installation of the required insulation or where the wastewater line serving the unit prevents the installation of a low flush toilet. Cost or inconvenience are not considered extraordinary hardships.

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

- ~~(1) A permit is obtained for the regulated unit;~~
- ~~(2) The regulated unit is no longer occupied in violation of this article;~~
- ~~(3) The regulated unit has been relinquished by the owner by sale, foreclosure, or other action that dispossesses the owner of title to the regulated unit; or~~
- ~~(4) The permit year for which the fines accrued ends.~~

**SECTION 3.** It is the intent of the City Commission that the provisions of Sections 1 and 2 of this ordinance become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the sections and paragraphs of the Code of Ordinances may be renumbered or 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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243 \_\_\_\_\_  
244 HARVEY L. WARD  
245 MAYOR

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246 Attest: Approved as to form and legality:

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248

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250 \_\_\_\_\_  
251 OMICHELE D. GAINEY  
252 CITY CLERK

\_\_\_\_\_

DANIEL M. NEE  
INTERIM CITY ATTORNEY

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

254

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