

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
14.5-3 Article I of Chapter 14.5	Not having a residential rental unit permit <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.

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

49 **Chapter 14.5 – MISCELLANEOUS BUSINESS REGULATIONS**

50
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.

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.

68
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.

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.

118
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.

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

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 All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

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

PASSED AND ADOPTED this 2nd day of March, 2023.




HARVEY L. WARD
MAYOR

Attest:

Approved as to form and legality:



OMICHELE D. NATTIEL-WILLIAMS
CITY CLERK



DANIEL M. NEE
CITY ATTORNEY

This ordinance passed on first reading this 2nd day of February, 2023.

This ordinance passed on second reading this 2nd day of March, 2023.

LOCALiQ

The Gainesville Sun | The Ledger
Daily Commercial | Ocala StarBanner
News Chief | Herald-Tribune

PO Box 631244 Cincinnati, OH 45263-1244

PROOF OF PUBLICATION

Gville Clerk/Commission
Gville Clerk/Commission
200 E UNIVERSITY AVE
GAINESVILLE FL 32601

STATE OF FLORIDA, COUNTY OF ALACHUA

Before the undersigned authority personally appeared said legal clerk, who on oath says that he or she is of the legal clerk of the Gainesville Sun, a newspaper published at Gainesville in Alachua County, Florida; that the attached copy of advertisement, being a in the matter of in the Court, was published in said newspaper in the issues dated or by publication on the newspaper's website, if authorized, on:

01/23/2023

and that the fees charged are legal. Affiant further says that the Gainesville Sun is a newspaper published at Gainesville, in Alachua County, Florida, and that the said newspaper has heretofore been continuously published in said County, Florida, each and has been entered as periodicals matter at the post office in Gainesville, in Alachua County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before on 01/23/2023

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$196.80

Order No: 8340893

Customer No: 533856

PO #: 000387

of Copies:

1

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

ADVERTISEMENT NOTICE OF PROPOSED ENACT- MENT OF ORDINANCE BY CITY COMMISSION, GAINESVILLE, FLORIDA

Notice is hereby given that the proposed ordinance whose title appears below will be considered for First Reading on the 2nd day of February, 2023, at a Regular City Commission meeting and if passed on First Reading will be considered for Second Reading on the 16th day of February, 2023 at a Regular City Commission meeting. The meetings begin at 10:00 a.m. and the ordinance will be read as soon thereafter as may be heard. The meetings are scheduled to be held in the City Hall Auditorium, on the first floor of City Hall, 200 East University Avenue, Gainesville, Florida. Please visit the City's website or call 352-334-5015 to get the latest information on how to attend and participate in the meetings. A copy of said ordinance may be inspected by any member of the public at the office of the City Clerk on the first floor of City Hall during regular business hours located at 200 East University Avenue, Gainesville, Florida. On the dates mentioned above, all interested parties may participate in the meetings and be heard with respect to the proposed ordinance. If you have a disability and need an accommodation in order to participate in these meetings, please contact the Office of Equity and Inclusion at (352)334-5051 at least two business days in advance. TTY (Text Telephone Telecommunication Device) users please call 711 (Florida Relay Service). For Speech to Speech (STS) relay, please call 1-877-955-5334. For STS Spanish to Spanish relay, please call 1-877-955-8773. For STS Spanish to English relay, please call 1-844-463-9710.

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.

Note: All persons are advised that, if any person decides to appeal a decision of this body with respect to any matter considered at the above-referenced meeting or hearing, he/she will need a record of the proceedings and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Monday, January 23, 2023

Omichele D. Gainey
City Clerk

VICKY FELTY
Notary Public
State of Wisconsin



Omichele D. Nattiel-Williams
City Clerk

OFFICE OF THE CITY CLERK

I hereby certify that a true record of this Ordinance No. 2023-70 was made by me and filed in Ordinance Book No. _____ on this 7th day of March, 2023 and that the title of this ordinance was published in the Gainesville Sun.

Omichele D. Nattiel-Williams
City Clerk

www.gainesvillefl.gov
clerks@gainesvillefl.gov

352.334.5015 phone
352.334.2036 fax

200 E. University Avenue
Gainesville, FL 32601

P.O. Box 490, Station 18
Gainesville, FL 32627-0490