



MEMORANDUM

Office of the City Attorney

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TO: Mayor and City Commission

DATE: January 28, 2008

FROM: City Attorney

FIRST READING

SUBJECT: Ordinance No. 0-07-74

An ordinance of the City of Gainesville amending Chapter 13, Article II. Housing Code of the City of Gainesville, relating to energy efficiency requirements; amending Section 13-16 to provide findings of fact and declaration of necessity; amending Section 13-19 to provide definition(s); adding Section 13-99 energy efficiency requirements; providing for enforcement; providing directions to the codifier; providing a severability clause; providing a repealing clause; and, providing an effective date in accordance with the schedule provided herein.

Recommendation: The City Commission adopt the proposed ordinance.

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

The City Commission referred the issue of energy efficiency standards and requirements to the Community Development Committee on December 12, 2005 as part of the report made by the Affordable Housing Coalition. On June 1, 2006, GRU staff presented a list of potential energy efficiency and conservation standards be incorporated into the Housing Code. The City's Minimum Housing Code applies to every building used or intended to be used as a dwelling. If the City chooses to incorporate energy efficiency standards, all new and existing occupied dwellings (tenant occupied and owner occupied) will be required to comply.

The Community Development Committee members and staff investigated a variety of options and have concluded that issues of the building envelope are the most common problem with ensuring energy efficiency of residential structures. In 2006, GRU conducted a survey of low-income homes which showed that 89% of homes surveyed had inadequate levels of insulation in the attic. Adding insulation will reduce the amount of heat loss and reduce the energy needed to maintain a comfortable temperature. It was determined that the requirement for R-19 insulation in the attic of residential structures was an effective method to improve energy efficiency. GRU offers a rebate to defer the cost of R-19 insulation and a low interest loan for energy efficient improvements in owner-occupied homes. The City Commission directed that incorporation of R-19 insulation into the Housing Code should be completed after the low interest loan is available. The low interest loan became available in July 2007.

This ordinance provides owners of dwellings a one-year period to come into compliance prior to beginning enforcement. GRU will conduct training for City Code Enforcement staff before enforcement begins, if necessary. Code Enforcement will continue checking structures for Minimum Housing Code compliance at the current enforcement level, adding the R-19 insulation requirement to all inspections.

On July 23, 2007, the City Commission by a vote of 5-0 directed the City Attorney to draft and the Clerk of the Commission to advertise an ordinance to incorporate R-19 insulation in the attic as a Minimum Housing Code requirement.

FISCAL NOTE

No additional code enforcement officers are proposed at this time. Enforcement of this standard will be incorporated into existing Minimum Housing Code inspection procedures. Funding for the code enforcement training, R-19 insulation rebate and the low interest loan are included in the GRU budget.

CITY ATTORNEY MEMORANDUM

This ordinance requires two public hearings. If the ordinance passes on the first reading, second and final reading will be held on February 11, 2008.

Prepared by: Nicolle M. Shalley
Nicolle M. Shalley
Assistant City Attorney II

Approved and
Submitted by: Marion I. Radson
Marion I. Radson
City Attorney

MJR:NMS/sw

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ORDINANCE NO. _____
0-07-74

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4 **An ordinance of the City of Gainesville amending Chapter 13,**
5 **Article II. Housing Code of the City of Gainesville, relating to**
6 **energy efficiency requirements; amending Section 13-16 to provide**
7 **findings of fact and declaration of necessity; amending Section 13-**
8 **19 to provide definition(s); adding Section 13-99 energy efficiency**
9 **requirements; providing for enforcement; providing directions to**
10 **the codifier; providing a severability clause; providing a repealing**
11 **clause; and, providing an effective date in accordance with the**
12 **schedule provided herein.**

13
14 **WHEREAS,** the City of Gainesville through Gainesville Regional Utilities (GRU) is the
15 provider of electric power and natural gas for heating to residents within the City limits and in the GRU
16 service of Alachua County, and as such has a significant and legitimate governmental interest in
17 mandating energy efficiency; and

18 **WHEREAS,** the Gainesville City Commission requested that GRU staff develop programs to
19 achieve maximum energy efficiency to help reduce residents energy consumption; and

20 **WHEREAS,** GRU conducted a survey of low income homes in 2006 to determine, among
21 other things, the primary causes of energy inefficiency in residential dwellings in low income census
22 areas; and

23 **WHEREAS,** the 2006 GRU survey results indicated that 89% of homes sampled had
24 inadequate levels of insulation; and;

25 **WHEREAS,** the GRU survey indicated that 65.6% of respondents homes were constructed
26 more than 20 years ago and industry data indicates effectiveness of attic insulation deteriorates after 20
27 years; and

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1/3/08

1 **WHEREAS**, the Florida Building Code energy efficiency standards have required a minimum
2 of R-19 insulation in the attic for new residential construction since 1980; and

3 **WHEREAS**, GRU data indicates that 56% of an average GRU residential customer bill is used
4 for space heating and cooling costs; and

5 **WHEREAS**, adding adequate insulation is a significant measure that reduces heating and
6 cooling costs, to help postpone the need for additional generating capacity, and to limit
7 contributions of pollutants in the atmosphere; and

8 **WHEREAS**, the Community Development Committee, a standing committee of the
9 Gainesville City Commission considered the survey and industry data presented and received a report
10 from the Alachua County Affordable Housing Commission, outlining recommendations for improving
11 energy efficiency in housing stock, and after deliberation and public input, recommended the
12 establishment of minimum standards for attic insulation in all occupied residential dwellings; and

13 **WHEREAS**, at least ten (10) days notice prior to adoption has been given once by publication
14 in a newspaper of general circulation notifying the public of this proposed ordinance and of the Public
15 Hearings in the City Commission Auditorium in City Hall, City of Gainesville; and

16 **WHEREAS**, the Public Hearings were held pursuant to the published notices described
17 above at which hearings in the parties in interest and all others had an opportunity to be and were,
18 in fact, heard.

19 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
20 **CITY OF GAINESVILLE, FLORIDA:**

21 **Section 1.** The aforementioned findings are adopted by the City Commission of the City of

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1/3/08

1 Gainesville, Florida.

2 **Section 2.** Section 13-16 of the City of Gainesville Code of Ordinances is hereby amended to read
3 as follows:

4 **Sec. 13-16. Findings of fact and declaration of necessity.**

5 The city commission finds the following:

6 (1) *Existence of conditions.* Premises exist within the city containing blighted dwellings or other
7 structures intended for human habitation, and such dwellings or other structures are blighted
8 because of faulty design or construction or failure to keep them in a proper state of repair or lack
9 of proper sanitary facilities or lack of adequate heat, insulation, light or ventilation, or improper
10 management or any combination of these factors as a result of which such buildings or
11 structures have become deteriorated, dilapidated, neglected, energy inefficient, overcrowded
12 with occupants or unsanitary as to be unfit for human habitation, thereby imperiling the health,
13 safety or welfare of the occupants thereof or the inhabitants of the surrounding area.

14 (2) *Results if conditions uncorrected.* Such blighted premises, dwellings and other blighted
15 buildings or other structures contribute to the development of, or increase in, disease, infant
16 mortality, crime and juvenile delinquency; conditions existing on such blighted premises cause
17 a drain upon public revenue and impair the efficient and economical exercise of governmental
18 functions in such areas; and conditions existing on such blighted premises necessitate excessive
19 and disproportionate expenditure of public funds for public health, public safety, crime
20 prevention, fire protection, environmental mitigation for energy production, energy generation
21 or purchase, and other public services.

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1/3/08

1 (3) *Necessity to protect public health, safety and welfare.* The enactment of this chapter is
2 necessary to protect the public health, safety and welfare of the people of the city by establishing
3 minimum standards governing the facilities, utilities, occupancy, repair and maintenance of
4 buildings and grounds used for human habitation. This chapter is declared to be remedial and
5 essential to the public interest and welfare, and to this extent it is intended that this housing
6 code be liberally construed to effectuate the purposes stated herein.

7 **Section 3.** Section 13-19 of the City of Gainesville Code of Ordinances is hereby amended to add
8 the following definition to the list of definitions:

9 *R-19 insulation shall mean home insulation material labeled by the manufacturer, in*
10 *accordance with federal law, as having a thermal resistance rating (an R-value) of R-19.*

11 **Section 4.** Chapter 13, Article II. Housing Code, of the City of Gainesville Code of Ordinances is
12 hereby amended to add a new Section 13-99. Energy Efficiency Requirements, to read as follows:

13 **Sec. 13-99. Energy Efficiency Requirements.**

14 (a) *Attic Insulation.* All accessible attic areas over the heated or cooled space of an
15 occupied dwelling shall contain a minimum of R-19 insulation. The R-19 insulation shall be
16 installed in accordance with the manufacturer's instructions. Eave vents in the attic shall not be
17 blocked as a result of installation of the R-19 insulation. Where the ceiling structure will not support
18 the weight of R-19 insulation, the owner may provide a written statement attesting to same to the
19 enforcing official and upon inspection and verification by the enforcing official, the R-19 insulation
20 requirement shall be deemed impracticable and shall be waived by the enforcing official.

21 (b) Violation of the R-19 insulation requirement shall be considered a minor violation.

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1 **Section 5.** It is the intention of the City Commission that the provisions of Sections 2, 3, and 4 of
2 this Ordinance shall become and be made a part of the Code of Ordinances of the City of
3 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or
4 relettered in order to accomplish such intentions.

5 **Section 6.** All ordinances in conflict herewith are to the extent of such conflict hereby repealed.

6 **Section 7.** If any word, phrase, clause, paragraph, section or provision of this ordinance or the
7 application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall
8 not affect the other provisions or applications of the ordinance which can be given effect without the
9 invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance
10 are declared severable.

11 **Section 8.** This ordinance shall take effect upon adoption; however, owners of all affected dwellings
12 will have one calendar year to come into compliance and therefore notices of violation of this
13 ordinance will not be issued until after 12:01 A.M. on February 12, 2009.

14 **PASSED AND ADOPTED** this ____ day of February, 2008.

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16
17 _____
18 PEGEEN HANRAHAN
19 MAYOR

20 ATTEST:

Approved as to form and legality

21
22 _____
23 Kurt M. Lannon
24 Clerk of the Commission

Marion J. Radson
City Attorney

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26 This Ordinance passed on first reading this ____ day of January, 2008.

27 This Ordinance passed on second reading this ____ day of February, 2008.