

LEGISLATIVE #

140292A

ORDINANCE NO. 140292

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances related to landlord permits by amending Section 2-377 – Applicability; jurisdiction; amending Chapter 14.5 – Miscellaneous Business Regulations, Article I. – Landlord Permits; amending Appendix A. – Schedule of Fees, Rates and Charges; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, notice was given as required by law that the text of the City of Gainesville Code of Ordinances be amended; and

WHEREAS, at least ten (10) 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 in the City Hall Auditorium located on the first floor of City Hall in the City of Gainesville; and

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

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

Section 1. Chapter 2 – Administration, Article V – Boards, Commissions and Committees, Division 8 – Code Enforcement Board; Special Magistrate, Section 2-377 – Applicability; jurisdiction of the Code of Ordinances is amended as follows. Except as amended herein, the remainder of Chapter 2, Article V, Division 8 remains in full force and effect.

(a) The Gainesville Code Enforcement Board shall have jurisdiction to hear and decide cases in which violations are alleged of any provisions of the following provisions of this Code of Ordinances as they may exist or may hereafter be amended by ordinance:

- (1) Chapter 6, Article II, "Building Code;"
(2) Chapter 6, Article III, "Electrical Code;"
(3) Chapter 6, Article IV, "Plumbing Code;"
(4) Chapter 6, Article V, "Gas Code;"

- 1 (5) Chapter 6, Article VI, "Mechanical Code;"
- 2 (6) Chapter 6, Article VII, "Swimming Pools;"
- 3 (7) Chapter 6, Article IX, "Downtown Minimum Property Standards;"
- 4 (8) Chapter 10, "Fire Prevention and Protection;"
- 5 (9) Chapter 13, "Housing and Commercial Building Codes;"
- 6 (10) Chapter 16, Article II, "Dangerous Building and Hazardous Land Code;"
- 7 (11) Chapter 16, Article III, "Perilous Land Code;"
- 8 (12) Chapter 16, Article IV, "Mosquito Breeding Grounds;"
- 9 (13) Chapter 23, "Streets, Sidewalks and Other Public Places;"
- 10 (14) Chapter 25, Article III, "Business Tax;"
- 11 (15) Chapter 26, Article III, Division 5, "Abandoned, Wrecked, Nonoperating Vehicles;"
- 12 (16) Chapter 27, Article III, "Solid Waste Disposal;"
- 13 (17) Chapter 27, Article IV, Sections 27-180 through 27-182.2, "Sewerage;"
- 14 (18) Chapter 30, "Land Development Code;"
- 15 (19) Chapter 14.5, Article I, "Landlord Permits;"
- 16 ~~(19)~~(20) Chapter 14.5, Article II, "Merchandising of Tobacco Products."

17
 18 (b) Any alleged violation of the aforesaid provisions may also be enforced in any court of
 19 competent jurisdiction.

20
 21
 22 **Section 2.** Chapter 14.5 – *Miscellaneous Business Regulations*, Article I. – *Landlord*

23 *Permits* of the Code of Ordinances is amended as follows. Except as amended herein, the
 24 remainder of Chapter 14.5 – *Miscellaneous Business Regulations*, Article I. – *Landlord Permits*
 25 remains in full force and effect.

26 **Sec. 14.5-1. - Landlord permits.**

27
 28 (a) Definitions. Unless otherwise specified in this article, "days" shall mean calendar days
 29 and "notice" shall mean written notice that is made in the same manner as provided in
 30 Section 162.12, F.S.

31 ~~(a)~~(b) Application/for permit; issuance of permit. The owner(s) of a dwelling unit, as defined
 32 in section 30-23, that is located within a district designated in section 30-57 shall obtain a
 33 landlord permit prior to allowing the occupancy of that dwelling unit by any person
 34 ~~unrelated to the owner~~, whether or not for consideration. Landlord permits shall be valid
 35 from August 1, or the date of issuance, through July 31, ~~unless revoked.~~ The owner(s) of
 36 the dwelling unit or the owner's agent shall submit a written application for a permit on a
 37 form provided by the city. The application for the landlord permit shall be in writing on a
 38 form provided [by] the city, and may be submitted by any owner of the dwelling unit or
 39 any agent of an owner of the dwelling unit. Upon receipt of a completed application, the
 40 city manager or designee shall issue a landlord permit for the dwelling unit provided each
 41 of the following conditions are met:

- 1 (1) The application is accompanied by payment of the ~~regulatory permit~~ fee set forth in
- 2 Appendix A; ~~and~~
- 3 (2) The owner(s) and the dwelling unit are in compliance with all provisions of this
- 4 article; and
- 5 (3) The application for the landlord permit provides the correct street address for the
- 6 dwelling unit.

7 ~~(b)~~(c) *Exemption.* This section does not apply if the dwelling unit is occupied by: a) the
 8 owner(s) as a permanent place of residence, as evidenced by an existing homestead
 9 exemption or a filed application for a homestead exemption, or b) no persons other than
 10 the following family members of the owner(s): spouse, domestic partner, child, stepchild,
 11 foster child, parent, stepparent, foster parent, brother, sister, grandparent, niece, nephew,
 12 father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, or
 13 legal guardian, as evidenced by written documentation of such relationship. The provisions
 14 of this section do not apply if the dwelling unit is occupied by less than three persons 18
 15 years of age or older, one of whom is the owner, and the children of the owner or the other
 16 person.

17 ~~(e)~~(d) *Payment; late payment.* The applicable permit fee is specified in Appendix A. The city
 18 shall bill each applicant or holder of a landlord permit for the annual fee, once the city
 19 manager or designee determines that all requirements for the permit have been met. If
 20 payment is not received on the due date, an extra fee shall be due and payable as specified
 21 in Appendix A. If payment is not received on or before the due date specified in Appendix
 22 A within the time frames specified in Appendix A, the late fee specified in Appendix A
 23 shall be due and payable and the city manager or designee may refer the account to a
 24 collection agency. If the collection agency does not collect the amount due within 90 days
 25 of the referral, or if the city manager or designee decides not to refer the account to a
 26 collection agency, the applicant or permit holder shall be subject to notice of citation for
 27 violation of this article and code enforcement proceedings before the code enforcement
 28 board, or the case can be referred to the city attorney to pursue resolution in a court of
 29 competent jurisdiction.

30 ~~(d)~~(e) *Failure to apply for permit.* If the city manager or designee has reasonable cause to
 31 believe that a dwelling unit is occupied without a permit in violation of this article, the
 32 owner(s) of the property shall be given notice that the owner(s) shall, within 30 days of the
 33 date notice was given, either: a) provide evidence that a permit is not required, or b)
 34 submit a permit application. that a permit is required and that an application must be filed
 35 with the city within 30 days of the notice. If an application is not received on the due date,
 36 an extra fee shall be charged for the permit as specified in Appendix A. Failure to apply,
 37 or either provide evidence that a permit is not required, or submit a permit application
 38 within 30 days of the date notice was given the time frames specified in Appendix A shall
 39 subject the owner(s) to citation a notice of for violation of this article and code
 40 enforcement proceedings before the code enforcement board. Fines imposed by the code
 41 enforcement-proceedings shall stop accruing, and be calculated as due and payable to the
 42 city, upon the date of occurrence of any of the following events: board shall cease at any
 43 time any one or more of the following events occur:

- 44 (1) A valid landlord permit is obtained for the subject property;

1 (2) The subject property is no longer occupied in violation of this article; owner ceases to
 2 rent the subject property.

3 (3) The subject property has been relinquished by the owner(s) by sale, foreclosure, etc.,
 4 or other action that which dispossesses the owner(s) of title to the property; or

5 (4) The landlord permit year for which the owner(s) is in arrears ends.

6 ~~Fees and fines accruing up to the date of the occurrence of any of the events are still due and~~
 7 ~~owing to the city.~~

8 ~~(e)(f) Requirements of permit applicant. Certifications of applicant for permit.~~ The applicant
 9 for a landlord permit shall comply with the following requirements. ~~will be required to~~
 10 ~~make the following certifications.~~ Failure to comply with any of the following
 11 requirements certifications shall be grounds for revocation of the permit ~~for that unit~~, as
 12 described in section 14.5-3 or denial of a permit as described in section 14.5-4.

13 ~~(1) Prior to allowing occupancy of the dwelling unit covered by the permit, the owner or~~
 14 ~~agent provided each tenant with a copy of:~~ The applicant shall certify that he/she has
 15 provided each occupant of the subject dwelling unit with a copy of:

16 a. ~~F.S. ch. Chapter~~ 83, pt. II, F.S., entitled "Residential Tenancies";

17 b. Chapter 14.5, Article I of this Code, entitled "Landlord Permits"; and

18 c. A pamphlet prepared by the city containing guidelines for rentals in residential
 19 neighborhoods.

20 (2) The applicant shall certify that, in the event the city provides notice to the property
 21 ~~owner or agent~~ of repeated violations of certain ordinances occurring at the dwelling
 22 unit, as provided in section 14.5-2, the applicant owner or agent will pursue all lawful
 23 remedies available under ~~F.S. § Section~~ 83.56, F.S., regarding termination of the rental
 24 agreement due to the tenant's failure to comply with ~~F.S. ch. Chapter~~ 83, F.S., the
 25 provisions of the lease or this Code.

26 (3) The applicant shall certify that he/she is the fee simple owner of the dwelling unit or
 27 the agent of the fee simple owner of the dwelling unit.

28 (4) ~~The applicant owner has provided the city with an agent as required by subsection~~
 29 ~~14.5-2(a), if applicable.~~ The applicant shall provide the name, address, and telephone
 30 number of a contact person who resides within Alachua County to receive
 31 communications from the city concerning the permit.

32 (5) The applicant shall maintain a list of the names of occupants in each dwelling unit, and
 33 such lists shall be made available to the city in a reasonable amount of time upon
 34 request.

35 ~~(f) Definitions. Unless otherwise specified in this article, "Days" shall mean calendar days and~~
 36 ~~"Notice" shall mean written notice (1) delivered by certified mail, return receipt requested,~~
 37 ~~to the last known address of the owner or agent, or (2) posted at the dwelling unit, in the~~
 38 ~~event delivery cannot be made by the method specified in (1).~~

39 (g) If owner(s) sells the property for which a valid permit has been issued, the new owner(s)
 40 shall submit a permit application and otherwise meet the requirements of this article, and has
 41 the option of either: a) paying the permit fee for transfers of a permit as set forth in Appendix

1 A, which permit shall be transferred with any outstanding points accumulated per section
2 14.5-2, or b) paying the permit fee for a new permit as set forth in Appendix A, which permit
3 shall have no accumulated points.
4
5

6 **Sec. 14.5-2. – Points assessed on permit. ~~Requirements of owner.~~**
7

8 ~~(a) *Appointment of agent.* Any owner who resides, either at the time of procuring a permit or~~
9 ~~after having procured a permit, outside of Alachua County shall appoint an agent contact~~
10 ~~person who resides within the county for the purpose of receiving notices from the city~~
11 ~~concerning the permit. The owner shall notify the city in writing of the name, address, and~~
12 ~~telephone number of the agent.~~

13 ~~(b) *List of tenants.* The owner or agent shall maintain a list of the names of tenants in each~~
14 ~~dwelling unit. Such lists shall be available to the city upon reasonable notice.~~

15 ~~(c)~~(a) *Violations; warnings; points.* When a dwelling unit regulated by this article is the
16 subject of Rental units where there are repeated warnings of violation and/or adjudication
17 of guilt, finding of guilt with adjudication withheld, waiver of right to contest the
18 violation, or pleas of no contest (including, but not limited to, payment of fine) of the
19 following city ordinances:

- 20 (1) Noise ordinances (chapter 15 of the Code of Ordinances),
- 21 (2) Animal control ordinances (chapter 5 of the Code of Ordinances),
- 22 (3) Solid waste ordinances (article III of chapter 27 of the Code of Ordinances),
- 23 (4) The provisions of section 30-57 concerning habitation by more than one family,
- 24 (5) Yard parking ordinance (subsection 30-56(c)(4) of the Code of Ordinances),
- 25 (6) Sections 13-171 (related to insects, storage, trash and yard maintenance), or
- 26 (7) Section 13-181 (related to hazardous conditions).

27 the landlord permit for the dwelling unit shall be subject to the ~~where the violation takes place at~~
28 a unit regulated by this article shall be grounds for the accumulation of points as follows:

29 ~~(1)~~a. For one or more written warnings given in any 24-hour period for violation of
30 one or more of the ordinances listed above, one point will be assessed on the
31 landlord permit for that unit. For each instance of adjudication of guilt, finding of
32 guilt with adjudication withheld, waiver of right to contest the violation, or plea of
33 no contest (including, but not limited to, payment of fine) for violation of any of
34 the ordinances listed above, two points will be assessed on the landlord permit for
35 that unit. However, to the extent more than one person is adjudicated guilty, found
36 guilty with adjudication withheld, waives the right to contest the violation or pleads
37 no contest for the same violations that occur within a 24-hour period, only two
38 points will be assessed on the landlord permit for that unit. For purposes of this
39 section, written warnings shall mean those warnings issued pursuant to civil
40 citation or code enforcement procedures, including stickers placed on vehicles
41 advising of violation of the yard parking ordinance.

42 ~~(2)~~b. After each point is assessed on a landlord permit for a unit, the city manager or
43 designee shall ~~will~~ send a written warning to the owner(s) or agent. Each warning

1 ~~shall will~~ specify which ordinance or ordinances have been violated and ~~shall will~~
 2 state that further warnings or violations ~~could~~ may lead to a revocation of the
 3 permit. ~~Each warning will be sent by regular mail to the last known address of the~~
 4 ~~owner or agent.~~

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 6 **Sec. 14.5-3. - Revocation of permit.**
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8 (a) Accumulation of six or more points on a permit ~~for a dwelling unit~~ during any three
 9 consecutive annual (i.e., August 1 through July 31) permit periods or failure to comply
 10 with ~~the certifications required in~~ subsection 14.5-1(e)(f), shall constitute a violation of
 11 this article; ~~subjecting the owner(s) to proceedings to revoke the permit as follows:-~~

12 ~~(b) Upon the accumulation of six or more points or failure to comply with certifications as~~
 13 ~~described in (a) above, the following procedure shall be followed:~~

14 (1) The city manager or designee shall ~~have cause to be served~~ written notice served to the
 15 owner(s) or agent to show cause why the permit should not be revoked. ~~Service shall~~
 16 ~~be deemed complete if personally delivered upon the owner or agent by any officer~~
 17 ~~authorized by law to serve process or a duly appointed law enforcement officer of the~~
 18 ~~city police department. The person serving process shall make proof of service within~~
 19 ~~the time during which the person served must respond to the process. If service cannot~~
 20 ~~be personally made within the city, then service may be made by notice.~~

21 (2) The owner(s) or agent shall have 15 days from the date of service to request a hearing
 22 to determine whether the permit should be revoked ~~contest the revocation of the~~
 23 ~~permit~~. The request shall be sent to the city manager by certified mail, return receipt
 24 requested. If such request is not timely made, the revocation shall take effect on the
 25 21st day after the date of service to show cause.

26 (3) Upon request for a hearing, a hearing shall be scheduled before the code enforcement
 27 board or special magistrate ~~the city attorney is authorized to arrange for the services of~~
 28 ~~a hearing officer to conduct the hearing and to prepare a recommended order.~~

29 (4) In conducting the hearing, the code enforcement board or special magistrate hearing
 30 officer shall have the power to administer oaths, issue subpoenas, compel the
 31 production of books, paper, and other documents, and receive evidence. All parties
 32 shall have an opportunity to respond, to present evidence and argument on all issues
 33 involved, to conduct cross-examination and submit rebuttal evidence, ~~to submit~~
 34 ~~proposed findings of facts and orders, to file exceptions to the hearing officer's~~
 35 ~~recommended order~~, and to be represented by counsel or other qualified representative.
 36 Hearsay evidence may be used for the purpose of supplementing or explaining other
 37 evidence, but it shall not be sufficient in itself to support a finding unless it would be
 38 admissible over objection in civil actions. The lack of actual knowledge of,
 39 acquiescence to, participation in, or responsibility for, a public nuisance at common
 40 law or a noxious use of private property on the part of the owner(s) or agent shall not
 41 be a defense by such owner(s) or agent.

- 1 (5) If the code enforcement board or special magistrate hearing officer finds either: (a)
 2 the accumulation of the six points and the existence of a public nuisance at common
 3 law or noxious use of private property, or (b) the owner(s) failed to comply with ~~the~~
 4 ~~certifications as required in~~ subsection 14.5-1(e)(f), the code enforcement board or
 5 special magistrate hearing officer shall enter an ~~prepare a recommended~~ order revoking
 6 the permit.
- 7 (6) If the code enforcement board or special magistrate hearing officer finds no failure to
 8 comply with subsection 14.5-1(f) ~~the certifications exists~~, no public nuisance at
 9 common law or noxious use of private property exists, or that the owner(s) has
 10 recovered possession of the dwelling unit from the tenant(s) that caused the
 11 violation(s), the code enforcement board or special magistrate shall enter an ~~hearing~~
 12 ~~officer will prepare a recommended~~ order to dismiss the revocation action and
 13 ~~recommend which points, if appropriate any, should be to~~ rescinded points from the
 14 permit based upon the actions taken by the owner(s) landlord to seek compliance with
 15 the city's ordinances.
- 16 (7) The code enforcement board or special magistrate's ~~hearing officer's recommended~~
 17 order shall consist of findings of fact, conclusions of law and ~~recommended~~ relief. ~~The~~
 18 ~~hearing officer shall transmit the recommended order to the city manager and the~~
 19 ~~owner or agent. The owner or agent shall have 15 days from the date of the hearing~~
 20 ~~officer's order to submit written exceptions to the hearing officer's recommended order.~~
 21 ~~The city manager shall review such order and any written exceptions by the owner and~~
 22 ~~may set forth any deficiencies he/she finds with respect to the order. Said deficiencies~~
 23 ~~shall be limited to determinations that the findings were not based upon competent,~~
 24 ~~substantial evidence, or that the proceedings on which the findings were based did not~~
 25 ~~comply with the essential requirements of law. In reviewing such recommended order,~~
 26 ~~the city manager shall not have the power to receive or consider additional evidence~~
 27 ~~and shall not have the power to reject or modify the findings of fact or conclusions of~~
 28 ~~law contained in the recommended order. The city manager may remand the~~
 29 ~~recommended order along with the delineated deficiencies back to the hearing officer~~
 30 ~~for consideration of the deficiencies. The hearing officer shall address the deficiencies~~
 31 ~~in an addendum to the recommended order. The city manager shall then either: (a)~~
 32 ~~adopt the recommended order and addendum, if applicable, in its entirety; or (b) adopt~~
 33 ~~the findings of fact and conclusions of law in the recommended order and addendum,~~
 34 ~~if applicable, and reject or modify the recommended relief. The action of the city~~
 35 ~~manager shall be the final order of the city.~~
- 36 (8) ~~The city manager or designee shall provide n~~Notice of the final order shall be
 37 provided to the owner(s) within 15 days of the date of the final order.
- 38 (9) If the permit is revoked under these procedures, the owner(s) or agent shall have 15
 39 days from the date of the final order to commence proceedings to recover possession
 40 of the rental unit under state law from the tenant(s) that caused the violation(s), if not
 41 already done. The owner(s) or agent shall diligently pursue the process of eviction to
 42 completion. The owner(s) or agent shall provide copies of all documents provided to
 43 the tenant(s)tenants or filed with the court concerning the eviction process to the city
 44 manager or designee. If the owner(s) fails to comply with these provisions, or fails to

1 abide with the final order of the city, the city may cite the owner(s) for violation of
2 section 14.5-1 (renting without a landlord permit), or seek other available legal or
3 equitable relief.

4 (10) In addition to the above-described procedures, the city attorney is authorized to file
5 for injunctive relief to abate the public nuisance at common law or noxious use of
6 private property pursuant to law.

7 (11) The final order of the city is subject to certiorari review in a court of competent
8 jurisdiction in Alachua County, Florida.
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11 **Section 3.** Appendix A – *Schedule of Fees, Rates and Charges* of the Code of

12 Ordinances is amended as follows. Except as amended herein, the remainder of Appendix A –
13 *Schedule of Fees, Rates and Charges* remains in full force and effect.

14 LAND DEVELOPMENT CODE:

15 (4) *Zoning*:

16 a. Landlord permit:

17 1. Initial applications:

18 a. Application and payment received within first half of permit year (on or
19 before January 31) and by due date specified on application/notice received
20 on time and payment received on or before 10 business days of city finding
21 all other permit requirements met204.75

22 ~~b. Application received 1 business day to 15 calendar days late or payment~~
23 ~~received after 10 business days but on or before 15 calendar days of city~~
24 ~~finding all other permit requirements met253.50~~

25 ~~c. Application received 16 to 30 calendar days late or payment received after~~
26 ~~15 business days but on or before 30 calendar days of city finding all other~~
27 ~~permit requirements met302.25~~

28 ~~d. Application received 31 to 60 calendar days late or payment received after~~
29 ~~30 calendar days but on or before 60 calendar days of city finding all other~~
30 ~~permit requirements met399.25~~

31 ~~e. Application received 61 to 90 calendar days late or payment received after~~
32 ~~60 calendar days but on or before 90 calendar days of city finding all other~~
33 ~~permit requirements met496.75~~

34 f.b. Application and payment received within second half of permit year
35 (between February 1st and July 31st) and by due date specified on
36 application/notice102.50 ~~Applications received between February 1st~~

and July 31st of the permit year, for properties for which the initial permit requirement manifest during that time period.

~~1. Application received on time and payment received on or before 10 business days of city finding all other permit requirements met102.50~~

~~2. Application received 1 business day to 15 calendar days late or payment received after 10 business days but on or before 15 calendar days of city finding all other permit requirements met151.00~~

~~3. Application received 16 to 30 calendar days late or payment received after 15 business days but on or before 30 calendar days of city finding all other permit requirements met199.75~~

~~4. Application received 31 to 60 calendar days late or payment received after 30 calendar days but on or before 60 calendar days of city finding all other permit requirements met297.00~~

~~5. Application received 61 to 90 calendar days late or payment received after 60 calendar days but on or before 90 calendar days of city finding all other permit requirements met394.25~~

2. Renewals: application and payment received on or before August 31.....204.75

a. ~~Payment received on or before August 31204.75~~

b. ~~Payment received after August 31 but on or before September 15253.50~~

c. ~~Payment received after September 15 but on or before October 1302.25~~

d. ~~Payment received after October 1 but on or before November 1399.25~~

e. ~~Payment received after November 1496.75~~

3. Transfers of permit to new owner(s)25.00

4. Multiple dwelling units: Where two or more dwelling units requiring a landlord permit are located on a single parcel of property and are owned by the same owner(s), one unit shall be subject to the full permit fee and each additional unit shall receive a 50% discount.

5. Late fee: A late fee of 25% of the permit fee shall be assessed when an application and full payment is not received by the due dates specified herein.

Section 4. It is the intent of the City Commission that the provisions of Sections 1 through 3 of this ordinance shall 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.

1 **Section 5.** If any word, phrase, clause, paragraph, section or provision of this ordinance
 2 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
 3 finding shall not affect the other provisions or applications of this ordinance that can be given
 4 effect without the invalid or unconstitutional provision or application, and to this end the
 5 provisions of this ordinance are declared severable.

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

8 **Section 7.** This ordinance shall become effective immediately upon adoption.

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10 **PASSED AND ADOPTED** this _____ day of _____, 2016.

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 LAUREN POE
 MAYOR

Attest:

Approved as to form and legality:

 KURT M. LANNON
 CLERK OF THE COMMISSION

 NICOLLE M. SHALLEY
 CITY ATTORNEY

This ordinance passed on first reading this _____ day of _____, 2016.

This ordinance passed on second reading this _____ day of _____, 2016.