

ORDINANCE 020580

0-03-13

An ordinance of the City of Gainesville, Florida, creating and adding subsection 14.5-1(e) to the Code of Ordinances providing for certain certifications by an applicant for a landlord permit regarding action to terminate a lease; amending subsection 14.5.2(e) of the Code of Ordinances by creating a point system for the regulation of landlord permits, amending the list of ordinance violations that can lead to permit revocation; and making modifications to the notice and hearing process; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing effective dates.

WHEREAS, in response to concerns and complaints raised by owner-occupants of

17 houses in single-family neighborhoods, the City of Gainesville commissioned Duncan and
18 Associates to study the impacts of rentals of single-family houses in neighborhoods and make
19 recommendations to improve the conditions there (“the Study”); and

WHEREAS, the Study found that rentals account for a disproportionate number of

21 nuisance-type complaints; including noise, over-occupancy, parking and vision triangle
22 violations; and

23 **WHEREAS**, the Study found that regulatory ordinances to date have not been effective
24 in addressing the problems relating to these rentals; and

25 **WHEREAS**, the Study suggested adoption of a point system whereby landlord permits
26 may be revoked for repeated instances of warning, temporary compliance and repeated violation
27 of nuisance ordinances; and

28 **WHEREAS**, at least 10 days notice has been given once prior to adoption by publication

1 in a newspaper of general circulation notifying the public of this proposed ordinance and of a
2 Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

3 **WHEREAS**, a Public Hearing was held pursuant to the published notice described at
4 which hearing the parties in interest and all others had an opportunity to be and were, in fact,
5 heard;

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

8 **Section 1.** Subsection 14.5-1(e) is created and added to the Code of Ordinances, City of
9 Gainesville, to read as follows:

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

11 (e) *Certifications of applicant for permit.* The applicant for a landlord permit will be
12 required to make the following certifications. Failure to comply with the provisions of either of
13 these certifications shall be grounds for revocation of the permit for that unit, as described in sec.
14 14-5.2 below,

15 (1) Prior to executing a lease for the dwelling unit covered by the permit, applicant
16 will provide each tenant with a copy of

- 17 a. Chapter 83, Part II, Florida Statutes, entitled “Residential Tenancies”;
- 18 b. Chapter 14.5, Article I, Code of Ordinances, City of Gainesville, entitled
19 “Landlord Permits”; and
- 20 c. a pamphlet provided by the city containing guidelines for rentals in
21 residential neighborhoods.

(2) That in the event the city provides notice to the applicant (property owner or designated agent) of repeated violations of certain ordinances by a tenant or guests of a tenant of the dwelling unit, as provided in sec. 14.5-2 below, the applicant will pursue all lawful remedies available under § 83.56, Florida Statutes, regarding termination of the rental agreement due to the tenant's failure to comply with chapter 83, Fla. Stat, the provisions of the lease or the Gainesville Code of Ordinances.

7 **Section 2.** Subsection 14.5-2(e) of the Code of Ordinances, City of Gainesville, is amended to
8 read as follows:

9 Sec. 14-5.2. Requirements of permittee.

10 (e) Rental units where there are repeated violations of ordinances that adversely affect the
11 rights of nearby residents to the quiet enjoyment of their property constitute a public nuisance.
12 To this end, repeated warnings of violation and/or adjudication of guilt or pleas of no contest
13 (including, but not limited to, payment of fine) of the city's noise ordinances (chapter 15 of the
14 Code of Ordinances), animal control ordinances (Chapter 5 of the Code of Ordinances), solid
15 waste ordinances (Article III of Chapter 27 of the Code of Ordinances), the provisions of section
16 30-57 concerning habitation by more than one family, yard parking ordinance (section 30-
17 56(c)(4) of the Code of Ordinances), or sections 13-171 (related to insects, storage, trash and
18 yard maintenance) and 13-181 (related to hazardous conditions) of the housing code (Article II
19 of Chapter 13 of the Code of Ordinances) where the violation takes place at a unit regulated by
20 this article shall be grounds for the commencement of permit revocation proceedings as follows:
21 (1) After the first occurrence of one of the above violations, the city manager or

designee shall send a written warning to the permittee or agent. The warning will specify the ordinance that has been violated, and will state that any further violations of the above enumerated ordinances may result in revocation of the permit for that unit.

(2) The second occurrence of one of the above violations within one year of sending of the written warning provided in paragraph (1) shall constitute a violation of this section, subjecting the owner to revocation of permit.

(1) For one or more written warnings given in any 24-hour period for violation of one or more of the ordinances listed above, one point will be assessed on the landlord permit for that unit. For each instance of adjudication of guilt or plea of no contest for violation of any of the ordinances listed above, two points will be assessed on the landlord permit for that unit. For purposes of this section, written warnings shall mean those warnings issued pursuant to civil citation or code enforcement procedures, including stickers placed on vehicles advising of violation of the yard parking ordinance.

(2) After three points are assessed on a landlord permit for a unit, the city manager or designee will send a written warning to the permittee or agent. The warning will specify which ordinance or ordinances have been violated, and will state that further warnings or violations could lead to a revocation of the permit. No additional points will be assessed on the permit for the unit before this written warning is sent by mail or hand-delivered to the last known address of the permittee.

1 or agent. The City may, as a courtesy, also attempt to notify the permittee or agent by
2 e-mail or fax at the e-mail address or fax number provided to the City on the
3 application for permit; however, failure to so notify the permittee or agent shall not
4 affect the validity of the warning.

5 (3) Accumulation of six or more points on a landlord permit for a unit during a
6 twelve-month period commencing on August 1 and extending through the following
7 July 31 shall constitute a violation of this section and the certifications of the
8 applicant described above, subjecting the permittee to revocation of the permit. In
9 this event, the following procedure shall be followed:

10 a. The city manager is authorized to request a hearing officer from the
11 state division of administrative hearings or appoint another independent
12 person admitted to the practice of law in the State of Florida, and qualified
13 to act as a hearing officer, to conduct a hearing pursuant to this subsection.

14 b. Prior to the issuance of an order by the city manager, the hearing
15 officer shall give written notice of violation, and opportunity for a hearing,
16 to the permittee or agent of the unit wherein the public nuisance is being
17 conducted, maintained or permitted.

18 a. 1. Service of the written notice to show cause why the permit should
19 not be revoked of violation shall be deemed complete if personally delivered
20 upon the permittee or agent; and if the same cannot be delivered personally
21 within the city, then service shall be made on the permittee or designated

1 agent, and shall be deemed complete upon sending same by certified mail,
2 return receipt requested, to the last known address of the owner or agent.

3 b. 2. Any officer authorized by law to serve process or a duly appointed
4 law enforcement officer of the Gainesville Police Department may make
5 service of process. The person serving process shall promptly make proof of
6 service ~~by affidavit, and in any event~~ within the time during which the
7 person served must respond to the process. Failure to make proof of service
8 shall not affect the validity of the service.

9 c. The city attorney is authorized to appoint an independent person
10 who is admitted to the practice of law in the State of Florida to conduct a
11 hearing and make recommendations pursuant to this subsection.

12 d. 3. The hearing officer shall conduct a hearing no sooner than at least
13 15 days after service is deemed complete and shall submit recommendations
14 to the city manager within 10 days of completion of the hearing.

15 e. e. The lack of knowledge of, acquiescence, or participation in, or
16 responsibility for, a public nuisance on the part of the permittee or agent
17 shall not be a defense by such permittee or agent. However, proof that the
18 permittee or agent has commenced the process of terminating the lease and
19 recovering possession of the rental unit under state law and is diligently
20 pursuing completion or has completed the process shall be a defense.

21 f. d. If after notice and opportunity for a hearing, the hearing officer finds

1 no public nuisance to exist or that the owner has commenced the process of
2 terminating the lease and is diligently pursuing completion of the process,
3 he/she will dismiss the revocation action and the points that were on the
4 permit when the notice was sent prior to the hearing shall be rescinded.

5 g. e. If after notice and opportunity for a hearing, the hearing officer finds
6 the existence of a public nuisance, the accumulation of the requisite points
7 as provided under this section, and that the owner has failed to comply with
8 the certifications as provided in section 14.5-1, the hearing officer shall
9 submit written recommendations ~~or a final order~~ to the city manager.

10 h. f. The hearing officer shall have all the powers to this end, including
11 power to subpoena.

12 i. g. The city manager shall approve, modify or reject the
13 recommendation ~~or final order~~ of the hearing officer, and issue a final order
14 within 10 days of receipt of the recommendation. The city manager may
15 shall be authorized to revoke the permit for the rental unit for a period not to
16 exceed six months, and additionally may require the permittee to pay the full
17 costs of the hearing officer prior to the permit being reinstated.

18 j. h. Orders of the city manager issued pursuant to this section shall be
19 posted at the rental unit, and shall be mailed to the permittee and the rental
20 unit within three business days of the posting.

21 k. i. If the permit is revoked under these procedures, the permittee shall

1 have ten days from the day the order is mailed to commence proceedings to
2 terminate the lease and recover possession of the rental unit under state law.
3 The permittee shall diligently pursue the process to completion. The
4 permittee shall provide copies of all documents provided to the tenants or
5 filed with the court concerning the process to the city manager or designee.
6 If the permittee fails to comply with these provisions, or fails to abide with
7 the orders of the city manager, the city may cite the permittee for violation
8 of section 14.5-1 (renting without a landlord permit), or seek other available
9 legal or equitable relief.

10 1. j. In addition to other procedures, the city attorney is authorized to may
11 file for injunctione relief to abate the public nuisance pursuant to law.

12 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1

13 and 2 of this Ordinance shall become and be made a part of the Code of Ordinances of the City
14 of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be
15 renumbered or relettered in order to accomplish such intentions.

16 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be

17 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no
18 way affect the validity of the remaining portions of this ordinance.

19 **Section 5.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of

20 such conflict hereby repealed.

21 **Section 6.** Sections 1, 3, 4 and 5 shall become effective immediately upon final

1 adoption. Section 2 of this ordinance shall become effective on August 1, 2003.

2 **PASSED AND ADOPTED** this 28th day of April, 2003.

THOMAS D. BUSSING
MAYOR

ATTEST

APPROVED AS TO FORM AND LEGALITY

KURT M. LANNON
CLERK OF THE COMMISSION

~~MARION J. RADSON
CITY ATTORNEY~~

This Ordinance passed on first reading this 14th day of April, 2003.

16 This Ordinance passed on second reading this 28th day of April, 2003.