

LANDLORD REGISTRATION ORDINANCE

SPECIAL CITY COUNCIL MEETING

JULY 15, 2019

*Presented By: The City of Port St. Lucie Neighborhood Services Department
with R. Gregory Hyden, Esq. – Special Outside Counsel*

Background & Facts

- ▶ PSL is the 7th most populous City in FL with approximately 200,000 residents and growing.
- ▶ PSL is nearly twice the size of West Palm Beach and is in the same population categories as places like Orlando and Tampa!
- ▶ This growth requires the most efficient use of all City resources.
- ▶ Approx. 1 out of 4 homes in the City are non-homestead properties which account for over 50% of Code Compliance resources.
- ▶ A landlord registration program with proper outreach and education will help the City with its strategic goals of Safe, Clean and Beautiful and Vibrant Neighborhoods.
- ▶ The proposed program can be expanded or contracted to provide the easiest implementation possible.
- ▶ Today will be a presentation about the possibilities of the program.

Statistics (estimated)

- ▶ Single Family Homes (Total) – 70,368
 - ▶ Owner Occupied – 51,973 (2018 Code Cases 49%)
 - ▶ Non-Homestead – 18,395 (2018 Code Cases 51%)
- ▶ Code Liens as of January 2019
 - ▶ \$12,097,877 (total)
 - ▶ \$5,883,174 (liens from non-homestead properties)
- ▶ Average Assessed Value SF Homes (citywide)
 - ▶ Owner Occupied - \$188,682.83
 - ▶ Non-Homestead - \$163,597.79

(Difference of \$25,085.04)

Why a Landlord Registration System?

- ▶ As the City has experienced substantial growth in the last two decades, the City has become concerned that in an effort to keep pace with the demand for available rental commercial and residential premises, some rental structures are or may become substandard in nature, with inadequate structure, maintenance or equipment. The conditions of these structures are, or may become, unsanitary, unsafe and/or overcrowded creating public health safety concerns.
- ▶ The requirement of an annual Landlord Registration enables the City to ensure that all commercial and residential rental premises within its jurisdiction comply with minimum housing standards as set forth in the City's applicable building and fire codes thereby ensuring that the best interests of the public health, safety and welfare of its citizens and visitors are protected.

Definitions

- ▶ **AGENT.** A person or entity authorized to act on behalf of another.
- ▶ **LANDLORD.** The owner or owner's designated agent of a commercial or residential rental premises.
- ▶ **LANDLORD REGISTRATION I.D.** An identification number issued by the City, electronic or otherwise, which reflects that a commercial or residential premises complies with the provisions of the City's Landlord Registration and may be offered for rent.
- ▶ **PUBLIC LODGING ESTABLISHMENT.** A transient public lodging establishment governed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.
- ▶ **RENT.** The leasing, subleasing, renting, licensing, sublicensing or otherwise granting for consideration the right of a person(s) or entity(ies) to use the property of another.
- ▶ **RENTAL AGREEMENT.** Any written agreement, including amendments or addenda, or oral agreement providing for rental use and occupancy of a commercial or residential premises.
- ▶ **TENANT.** Any person(s) or entity(ies) entitled to occupy a commercial or residential premises pursuant to a Rental Agreement.

The Nuts and Bolts of the Proposed Landlord Registration

- ▶ The City hereby establishes that the owner(s) of any rental units located within its jurisdiction shall register with the Landlord Registration and obtain a registration identification number prior to allowing the occupancy of a rental premises by any person or persons unrelated to the owner. Hotels, public lodging establishments, dwelling units owned by governmental entities and dwelling units whose regulation and inspection is preempted by other governmental agencies are exempt from this Chapter.
- ▶ *Landlord Registration ID Requirement.* No owner or agent shall rent commercial or residential premises located within the jurisdiction of the City prior to obtaining an annual Landlord Registration ID. Hotels, public lodging establishments, dwelling units owned by governmental entities and dwelling units whose regulation and inspection is preempted by other governmental agencies are exempt from this Chapter.
- ▶ *Multiple owners.* In the case of multiple owners, it shall be sufficient for any one of the owners to have obtained a Landlord Registration ID for the unit.
- ▶ *Separate Landlord Registration ID Required.* A Landlord Registration ID is required for each unit even if a property has multiple units.
- ▶ *Appointment of Agent.* Any owner who resides, either at the time of obtaining a Landlord Registration ID or after having procured a Landlord Registration ID, outside of St. Lucie County shall appoint an agent residing in St. Lucie County for the purposes of receiving all legal notices and to accept service of process from the City concerning the unit subject to the Landlord Registration ID. The owner shall notify the City by affidavit of the name, address, and telephone number of the agent.
- ▶ *List of Tenants.* The owner or agent shall maintain a list of the names of Tenants in each unit. Such lists shall be made available to the City upon reasonable notice.
- ▶ *Animals.* The owner or agent shall maintain a list of the domestic animals residing in each unit and evidence that each have been duly issued a license and/or registration by the City pursuant to Chapter 92 of the Port St. Lucie

The Nuts and Bolts of the Proposed Landlord Registration

- ▶ *Duration of the Landlord Registration ID.* Beginning December 1, 2019, all owners or agents must obtain Landlord Registration IDs for units subject to existing rental agreements. All Landlord Registration IDs shall be valid for a period of twelve (12) calendar months from the date of issuance, unless revoked.
- ▶ *Landlord Registration Application.*
 - ▶ Units that are required to obtain a certificate of occupancy pursuant to the Florida Building Code, must do so prior to the issuance of a Landlord Registration ID.
 - ▶ If at any time the information provided in the Landlord Registration application changes or is no longer accurate, the owner or agent shall update the information with the City within fourteen (14) calendar days of the change. Failure to do so shall be grounds for revocation or denial of the Landlord Registration I.D.
 - ▶ *Certifications of applicant for the Landlord Registration:* the owner or agent is required to make the following certifications. Failure to comply with any of these certifications shall be grounds for revocation or denial of the Landlord Permit.
 - ▶ Prior to allowing occupancy of the unit, the owner or agent provided each tenant with a copy of: Florida Statutes Chapter 83, Part II, entitled “Residential Tenancies” and Chapter 164 of the City’s Code of Ordinances.
 - ▶ The unit complies with the requirements of the City’s minimum building and fire codes with regard to those facilities necessary to make the dwelling unit habitable and all applicable landlord/tenant laws.
 - ▶ There are no City issued liens, including but not limited to Code Compliance Liens, Special Assessment Liens and/or any debt or obligation owed to the City under State or Local Law unless the owner is on a payment plan in good standing, attached to the unit.

The Nuts and Bolts of the Proposed Landlord Registration

- ▶ *Application Review.* Upon receipt of a completed application, the Director of the Neighborhood Services Department or his/her designee shall issue a Landlord Registration ID for the unit provided: (a) the application is accompanied by payment of the regulatory fee set forth on the application; and (b) the owner(s) and the dwelling unit are in compliance with all provisions of this article; and (c) the application for the Landlord Permit provides the correct street address for the dwelling unit; and (d) the application is accompanied by evidence that the Business Tax License fee has been paid.
- ▶ *Inspection.* By submitting an application for a Landlord Registration ID, the owner or agent is authorizing the City, at its sole discretion, to conduct an inspection of the unit at a mutually agreeable time. Should the City determine that an inspection is necessary, a Landlord Registration ID shall not be issued unless and until an inspection has occurred and all code violations existing have been rectified, if applicable. This provision shall not be interpreted as authorizing the City to conduct an inspection of an occupied unit without obtaining either the consent of the owner and/or agent, the Tenant if applicable, or a warrant.
- ▶ *Emergency inspections and remediation.* By submitting an application for a Landlord Registration ID, the owner and/or agent is authorizing the City, at its sole discretion, to conduct post-registration inspections of the unit if:
 - ▶ it is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a serious hazard to the health or safety of the Tenants or the public and/or
 - ▶ lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the Tenants or the public.
 - ▶ Nothing in this Ordinance limits the right of the City to abate or remediate such emergency or nuisance by any other lawful means or proceedings. This provision shall not be interpreted as authorizing the City to conduct an inspection of an occupied unit without obtaining either the consent of the owner and/or agent, the Tenant if applicable, or a warrant.
- ▶ *Failure to apply for the Landlord Registration ID.* If the Director of the Neighborhood Services or his/her designee has reasonable cause to believe that a unit is occupied without a Landlord Registration I.D. in violation of this Chapter, the owner or agent of the unit shall be given notice that a Landlord Registration I.D. is required and that the said application must be filed with the City within thirty (30) days of the notice. Failure to apply, or provide evidence that a Landlord Registration I.D. is not required, within the thirty (30) day timeframe, shall subject the owner to citation for violation of this article and proceedings before the applicable City board.

The Nuts and Bolts of the Proposed Landlord Registration

- ▶ *Violations; warnings; points.* units where there are repeated warnings of violation and/or adjudication of guilt, finding of guilt with adjudication withheld, waiver of right to contest the violation, or pleas of no contest (including, but not limited to, payment of fine) of the following city ordinances:
 - ▶ Noise ordinances (Chapter 94 of the Code of Ordinances),
 - ▶ Animal control ordinances (Chapter 92 of the Code of Ordinances),
 - ▶ Solid waste ordinances (Chapter 50 of the Code of Ordinances),
 - ▶ The provisions of Section 158 concerning habitation by more than one family,
 - ▶ Yard parking ordinance (Chapter 72 of the Code of Ordinances),
 - ▶ Chapter 41 (related to insects, storage, trash and yard maintenance),
 - ▶ Section 60 (related to hazardous conditions), or
 - ▶ the existence of a public nuisance at common law or noxious use of private property pursuant to Chapter 40 of the Code Ordinances.
 - ▶ Violations of Florida Statutes Chapters 823 and 893
- ▶ shall be grounds for the accumulation of points as follows:
 - ▶ For each written warning 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 Registration I.D. for that unit. For each instance of adjudication of guilt, finding of guilt with adjudication withheld, waiver of right to contest the violation, or plea of no contest (including, but not limited to, payment of fine) for violation of any of the ordinances listed above, two points will be assessed on the Landlord Registration ID for that unit. However, to the extent more than one person is adjudicated guilty, found guilty with adjudication withheld, waives the right to contest the violation or pleads no contest for the same violations that occur within a 24-hour period, only two points will be assessed on the Landlord Registration I.D. for that dwelling 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.

The Nuts and Bolts of the Proposed Landlord Registration

GROUNDS FOR REVOCATION. THE DIRECTOR OF THE NEIGHBORHOOD SERVICES OR HIS/HER DESIGNEE MAY REVOKE A LANDLORD REGISTRATION I.D. AT ANY TIME FOR THE FOLLOWING REASONS: (A) VIOLATIONS OF THE CITY'S ORDINANCES OR FLORIDA LAW HAVE OCCURRED AT THE UNIT; (B) THE OWNER OR AGENT HAS FAILED TO DISCLOSE AND/OR HAS MISREPRESENTED A MATERIAL FACT OR INFORMATION REQUIRED BY THIS CHAPTER; (C) THE OWNER OR AGENT DOES NOT ENGAGE IN THE RENTAL ACTIVITY AS DESCRIBED IN THE APPLICATION OR HAS CHANGED THE USE WITHOUT AUTHORIZATION; (D) THE CERTIFICATE OF OCCUPANCY FOR THE UNIT, IF APPLICABLE, HAS BEEN DENIED, SUSPENDED OR REVOKED AND/OR (E) THE ACCUMULATION OF SIX OR MORE POINTS ON A LANDLORD REGISTRATION I.D. FOR A UNIT DURING AN ANNUAL LANDLORD REGISTRATION ID PERIOD.

NOTICE OF INTENT TO REVOKE LANDLORD REGISTRATION ID. IF THE DIRECTOR OF THE NEIGHBORHOOD SERVICES OR HIS/HER DESIGNEE DETERMINES THAT CAUSE EXISTS TO REVOKE A LANDLORD REGISTRATION I.D., HE/SHE SHALL SEND, BY UNITED STATES CERTIFIED MAIL WITH RETURN RECEIPT, THE OWNER OR AGENT A WRITTEN NOTICE OF INTENT TO REVOKE LANDLORD REGISTRATION I.D.

REQUEST FOR HEARING. THE OWNER OR AGENT SHALL HAVE FIFTEEN (15) CALENDAR DAYS FROM THE DATE OF LISTED ON THE RETURN RECEIPT TO REQUEST A HEARING TO CONTEST THE REVOCATION OF THE LANDLORD REGISTRATION ID. THE REQUEST SHALL BE SENT TO THE DIRECTOR OF THE NEIGHBORHOOD SERVICES OR HIS/HER DESIGNEE BY UNITED STATES CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED. IF SUCH REQUEST IS NOT TIMELY MADE, THE REVOCATION SHALL TAKE EFFECT ON THE SIXTEENTH (16TH) DAY AFTER THE OWNER OR AGENT RECEIVED THE NOTICE.

HEARING. UPON TIMELY REQUEST FOR HEARING, THE DIRECTOR OF THE NEIGHBORHOOD SERVICES OR HIS/HER DESIGNEE IS AUTHORIZED TO ARRANGE FOR THE SERVICES OF A SPECIAL MAGISTRATE TO CONDUCT A HEARING CONSISTENT WITH THE CITY'S QUASI-JUDICIAL PROCEDURES AND TO PREPARE A RECOMMENDED ORDER.

WITHIN FIVE (5) DAYS OF THE CONCLUSION OF THE NOTICED PUBLIC HEARING, THE SPECIAL MAGISTRATE SHALL TRANSMIT AN ORDER (CONSISTING OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED RELIEF) TO THE DIRECTOR OF THE NEIGHBORHOOD SERVICES OR HIS/HER DESIGNEE AND THE OWNER OR AGENT.

AN APPEAL OF A DECISION BY THE SPECIAL MAGISTRATE SHALL BE HANDLED EXCLUSIVELY IN THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR ST. LUCIE COUNTY, FLORIDA. SUCH APPEAL SHALL BE TAKEN BY FILING A PETITION FOR WRIT OF CERTIORARI WITHIN THIRTY (30) DAYS FROM THE DATE OF FILING OF THE WRITTEN ORDER BY THE CITY CLERK.

INJUNCTIVE RELIEF. IN ADDITION TO THE ABOVE-DESCRIBED PROCEDURES, THE CITY ATTORNEY IS AUTHORIZED TO FILE FOR INJUNCTIVE RELIEF.

REAPPLICATION AFTER REVOCATION: IF A LANDLORD REGISTRATION I.D. IS REVOKED UNDER THIS SECTION, THE OWNER AND/OR AGENT WHOSE LANDLORD REGISTRATION ID WAS REVOKED SHALL NOT BE ISSUED ANOTHER LANDLORD REGISTRATION ID ON THE SAME DWELLING UNIT FOR A PERIOD OF 6 MONTHS AFTER THE DATE OF REVOCATION.

The Nuts and Bolts of the Proposed Landlord Registration

- ▶ The Director of the Neighborhood Services or his/her designee may deny issuance of any Landlord Registration IDs if it is determined that:
 - ▶ the application for the Landlord Registration is not fully completed and executed; or,
 - ▶ that the owner or agent has not provided the required fee; or,
 - ▶ the owner or agent has made material misrepresentations about the condition of his/her unit or status of ownership; or,
 - ▶ the owner or agent has refused to make or comply with the certifications required in this Chapter; or,
 - ▶ the owner has failed to obtain a Certificate of Occupancy if applicable; or,
 - ▶ the owner has had his/her Landlord Registration I.D. for the unit revoked in the last six (6) months; or,
 - ▶ the owner has had his/her Landlord Registration I.D. for the unit denied in the last three (3) months; or,
 - ▶ the property has failed its inspection and the owner or agent has failed to remedy the code violations within thirty (30) days of being served with the code violation; or,
 - ▶ the owner has otherwise violated a provision of this article.
- ▶ the owner has outstanding City liens, including but not limited to Code Enforcement Liens, Special Assessment Liens and/or any debt or obligation owed to the City under State or Local Law has been paid in full unless the owner is on a payment plan in good standing, attached to the unit.

The Nuts and Bolts of the Landlord Registration

- ▶ *Notice of Denial.* If the Director of the Neighborhood Services or his/her designee has reasonable cause to believe that there are grounds to deny Landlord Registration I.D. applied for, the City Manager or designee shall provide written notice of the denial, including the grounds for the denial, to the owner. Written notice shall be by United States Certified Mail with Return Receipt requested.
 - ▶ *Request for Hearing.* The owner or agent shall have fifteen (15) calendar days from the date of notice to request a hearing to contest the denial of the Landlord Registration I.D. The request shall be sent to the Director of the Neighborhood Services or his/her designee by United States Certified Mail with Return Receipt requested.
 - ▶ *Hearing.* Upon request for hearing, the Director of the Neighborhood Services or his/her designee is authorized to arrange for the services of a Special Magistrate to conduct a hearing consistent with the City's quasi-judicial procedures and to prepare a recommended order.
 - ▶ Within five (5) calendar days of the conclusion of the noticed public hearing, the Special Magistrate shall transmit a Order to the Director of the Neighborhood Services or his/her designee and the owner or agent.
 - ▶ An appeal of a decision by the Special Magistrate shall be handled exclusively in the Nineteenth Judicial Circuit in and for St. Lucie County, Florida. Such appeal shall be taken by filing a petition for writ of certiorari within thirty (30) days from the date of filing of the written order by the City Clerk.
- ▶ *Reapplication After Denial:* If a Landlord Registration I.D. is denied under this section, the owner and/or agent whose Landlord Registration I.D. was denied shall not be issued another Landlord Registration ID on the same dwelling unit for a period of three (3) months after the date of denial.

The Nuts and Bolts of the Proposed Landlord Registration

- ▶ Any current Landlord Registration I.D. may be renewed for each new twelve (12) month period without the need for a new application provided the applicant signs the following certification:
- ▶ I, the undersigned, hereby certify that the Landlord Permit for which I am now applying is one for a renewal of a current Landlord Permit which is now in full force and effect. I have not changed the authorized use of the premises nor have I made any physical or structural changes to the premises, and the information contained in the original application has not changed.
- ▶ Renewed Landlord Registration I.D.s will not be issued until all Code Enforcement liens, Special Assessment Liens and/or any other debt or obligation due to the City under State or Local Law attached to the unit have been paid in full or unless the owner is on a payment plan in good standing.
- ▶ By submitting an application for a renewal of a Landlord Registration I.D., the owner and/or agent is authorizing the City, as its sole discretion, to conduct an inspection of the property at a mutually agreeable time consistent with this Chapter. Should the City determine that an inspection is necessary, a Landlord Registration I.D. shall not be renewed unless and until an inspection has occurred and all code violations existing have been rectified, if applicable. This provision shall not be interpreted as authorizing the City to conduct an inspection of an occupied dwelling unit without obtaining either the consent of the owner and/or agent, the Tenant if applicable, or a warrant.

The Nuts and Bolts of the Landlord Registration

- ▶ The St. Lucie West Service District Utility and the City Utility Systems Department shall advise all applicants for service, prior to activating water and/or sewer accounts, that a Landlord Registration ID must be obtained by the Director of Neighborhood Services if the unit is utilized as a rental unit.
- ▶ The St. Lucie West Service District Utility and City Utility Systems Department shall send monthly notifications to the Director of Neighborhood Services or his/her designee of the name(s) of the Tenant(s), the name of the owner, and the address of all units being rented so that the City can ensure that a Landlord Registration ID has been duly issued for the dwelling unit.

Removal of Abandoned Personal Property

- ▶ Landlord responsibilities:
- ▶ *Removal of abandoned personal property after possession.* After such time as a lawfully issued writ of possession has been executed, or other appropriate legal instrument, the owner(s) of a residential or commercial unit that was subject to an action for eviction and/or possession may remove or cause to be removed any abandoned personal property found on the premises to or near the property line consistent with Florida law.
- ▶ *Timeframe.* It is the owner and/or agent's responsibility to place all abandoned personal property totaling over six (6) cubic yards in a moveable container provided by the City's franchised hauler within forty-eight (48) hours of the abandoned personal property being placed on or near the property line and promptly removed.
- ▶ The moveable container shall be removed from the property within forty-eight (48) hours of its placement.

Removal of Abandoned Personal Property

- ▶ *Removal of abandoned personal property on property after notice.* It shall be the owner and/or agent's responsibility to remove or cause to be removed any abandoned personal property over six (6) cubic yards within forty-eight (48) hours of the time that said owner and/or agent knew or should have known of such dumping, disposal, storage or placement of same or within forty-eight (48) hours of notice of such dumping, disposal, storage, or placement from the City.
- ▶ *Location.* The owner and/or agent shall ensure that the large moveable container is placed in an area of the property so as to be inconspicuous.
- ▶ The costs associated with the delivery and retrieval of the moveable container shall be paid by the owner or agent. Nothing herein shall be deemed to prevent the owner or agent for seeking recovery and/or reimbursement of these costs from the tenant.
- ▶ *Violation.* Failure by the owner or agent to abide by this section shall result in an issuance of a blight violation notice.

BUSINESS TAX RECEIPT SCHEDULE

- ▶ **Category II. All Tax Receipts Herein: \$66.25.**
- ▶ Advertising, Animal Grooming, Archery Range, Auto Paint/Body/Repairs, Bakery, Barber, Blueprinting/Copy Service, Carpet/Rug Cleaning, Caterer, Clairvoyant/Teller/Palm, Cleaning, Cosmetologist, Courier, Children's Daycare Commercial, Delivery Service, Deli, Developer, Draftsman, Engraver, Funeral home, Gas Company Bottled, Golf Driving Range, Ice Cream Parlor, Interior Decorator, Laundries/Self-Service or Auto, Lawn Service/Landscaping, Marketing, Microfilming, Private School (24 Pupils or Less), Rentals of Goods, Rentals of commercial and/or residential units, Repairs, Riding Academy, Tailor Shops, Tanning Salon, Taxi Service (Each Vehicle), Travel Bureau and Warehousing

Best Practices & Other Concerns

- ▶ **Action plan (citywide)**
 - ▶ **Public education and community outreach**
- ▶ **Cons**
 - ▶ **Lack of education (misinterpretation)**
 - ▶ **Staffing levels, more fees, etc.**
 - ▶ **Slow application processing**
- ▶ **User friendly application process (online, in person, mail in, etc.)**

Considerations for Council

- ▶ **Do you want a landlord registration program and, if so, what type(s)?**
- ▶ **Preferred staffing levels**
- ▶ **Offer the program free of charge or with a nominal fee**
- ▶ **What stakeholders do you request we contact as this concept progresses?**
- ▶ **When would you like to have this program implemented?**