



The CITY OF DAYTONA BEACH

“THE WORLD’S MOST FAMOUS BEACH”

Office of the Deputy City Manager/Administrative and
Development Services Department

To: James V. Chisholm, City Manager
From: Paul McKittrick, Deputy City Manager/Administrative Services
Date: March 28, 2012
Re: Proposed Rental Property Inspection Program Fees

The City Commission reviewed the proposed program at their workshop on March 15th. There appeared to be consensus that the program is needed, but inspections don't have to occur annually, fees should be decreased to encourage voluntary participation, and penalties increased to insure a high level of compliance. The following fees have been recommended that should provide adequate revenue to underwrite the entire cost of personnel and associated operating expenses.

The following summarizes program changes which achieve some, but not all, of the Commission's goals.

Facts –

- a) There are approx 1900 properties with 1 to 4 rental units.
- b) There are an estimated 2500 rental units that would be subject to these regulations.
- c) The Fire Department's Engine Company Inspection Program inspects triplex and quadraplex properties every 18 months approx. with a limited fire safety inspection. Single family rentals and duplexes are not currently inspected by either the City or State.
- d) The average annual business tax receipt payment (occupation license fee) is \$30 per unit.

As directed by the Commission, staff made the following changes:

- a) The proposed annual inspection cycle changed to biennial inspections.
- b) Staff continues to recommend hiring one inspector and one clerk dedicated solely to this program to insure inspections are handled thoroughly and expeditiously. Total annual personnel and operating budget at this staffing level is \$85,000.
- c) The application fee of \$75 can be lowered to \$40. This is sufficient to cover the administrative cost of processing the application and scheduling the initial inspection. This will gradually, as applications are received over a year or longer period, generate \$76,000 in application fee revenue.
- d) A \$50 per unit inspection fee will be required at initial application to offset projected operating expenditures. We do not expect to license all 2500 units in the program's first year.

- e) In subsequent years, rental license renewals will be processed annually. Renewal fees will need to cover the \$85,000 program operating cost for biennial inspections. It will cost \$85,000 to inspect 1,250 units annually. This will require a \$68 per unit annual fee.
- f) A separate license renewal fee of \$15 should be adopted to offset billing, mailing, and payment processing costs.

Examples of annual taxes and fees –

- 1. Duplex – initial application
 - a) \$40 application fee
 - b) \$ 100 rental unit inspection fee (\$50 X 2)
- 2. Duplex – annual renewal
 - a) \$60 occupational license renewal
 - b) \$15 rental property license renewal fee
 - c) \$136 rental property inspection fee (\$68 X 2)
- 3. Quadraplex – initial application
 - a) \$40 application
 - b) \$200 rental unit inspection fee (\$50 X 4)
- 4. Quadraplex – annual renewal
 - a) \$120 annual occupational license renewal
 - b) \$15 rental property license renewal fee
 - c) \$272 rental property inspection fee

Attached is the revised draft rental property inspection program describing biennial inspections and new fees. I have also attached again the Issue Paper for Bellingham Washington.

This version may change before adoption when Legal reformats the regulations for inclusion in the City Code of Ordinances.

Chapter XX, City Code

Art. # RENTAL OF RESIDENTIAL DWELLING UNITS.

Section 1. Purpose.

The City recognizes the need for safe, decent, well maintained residential property within the city. The State of Florida regulates residential rental properties with five or more units therefore there is a need to implement a license and inspection program for one to four residential rental unit properties in order to ensure minimum standards for the health, safety, and welfare of all City residents, and that responsible persons are readily available to respond and take appropriate action when necessary to prevent or remedy the occurrence of nuisances at rental properties.

Section 2. Definitions.

International Property Maintenance Code or property maintenance code refers to the minimum standards for maintenance of residential properties as adopted by the City of Daytona Beach pursuant to Article 19 of the Land Development Code, as it may be amended from time to time.

Residential rental property means the contiguous lot or parcel of real property under single ownership on which one or more residential rental units are located. '

Residential rental unit means any building, structure, living unit, room, enclosure, mobile home, or part thereof, located within the City which is rented or offered for rent as the primary residence of any person, or which is rented or offered for rent to serve or which does serve as the residence of such person for a continuous period of more than 30 days. Residential rental unit does not include living quarters provided by any institution or facility, whether public or private, incidental to the provision of medical, geriatric, educational, counseling, religious, or similar services; a property or unit which is occupied under a contract for sale; transient lodgings occupied for less than a 30 day period and which are not the primary residence of the transient occupant.

Section 3. Applicability.

The requirements of this article shall apply to all residential rental properties with one to four units located within the City, and the owners of all such units and properties and their agents.

Section 4. License required.

- (a) It shall be unlawful to rent or lease, or offer to rent or lease, any residential rental unit without a current residential rental license for the unit, a copy of which shall be posted or available at the residential rental property.

- (b) No license shall be issued or renewed for a residential rental unit unless the residential rental property and unit are in compliance with the requirements of this article and applicable provisions of the Land Development Code, and International Property Maintenance Code as adopted in Article 19, LDC.

Section 5. License application; registration statement.

- (a) Application for a residential rental license for each residential rental unit shall be made in writing on forms supplied by the City.
- (b) The application shall include a registration statement providing the following information:
 - 1. The street address of the residential rental property.
 - 2. The number of residential rental units located on the property, type of each unit (e.g.: detached single-family dwelling unit, apartment, sleeping room, etc.), and the unit number or other identifying designation of each unit.
 - 3. Name, address, and phone number of the property owner or owners.
 - 4. Name, address, and phone number of any designated agent authorized to act on behalf of the owner. If the owner is not a natural person, a natural person shall be designated as agent.
 - 5. Name, address, and phone number of any person authorized to make or order made repairs or services for the property, if the person is different than the owner or designated agent.
 - 6. Name, address, and phone number of a natural person 18 years of age or older who can be contacted 24 hours a day, seven days a week, regarding the residential rental unit. This contact person may be the owner, the owner's agent, or any other person other than a resident of the rental unit who has agreed to be the contact person.
- (c) After submission of the application and registration statement, the residential rental property owner or designated agent shall have a continuing obligation to notify the City in writing within 15 calendar days of any change in the information provided in the registration statement. Failure to notify the City of changes shall be a violation of this article.

Section 6. Inspection; issuance of license and renewal.

- (a) Within fifteen working days after receipt of a complete application satisfying the

requirements above and the application fee, the City shall inspect the residential rental property and units to determine compliance with all applicable provisions of the Land Development Code, including the property maintenance code, and shall issue the license or provide the applicant with written notice of any defects which must be remedied before a license shall issue.

- (b) The license shall be renewed each year in the same manner as, and concurrent with, the business tax receipt renewal as provided in Chapter 90, Article V, of this Code.
- (c) Each residential rental property and unit regulated by this Article shall be re-inspected every 24 months, contingent upon department resources and the number of units to be inspected. The City shall maintain a re-inspection schedule for currently licensed units. In addition, any currently licensed unit or property may be inspected upon reasonable notice. The property owner and agent shall permit the City to inspect all premises governed by this ordinance to determine compliance, and shall fully cooperate with such inspections. The property owners or their agents shall notify tenants of planned inspections of their residential rental units and shall make every effort to obtain the tenant's written consent to entry for inspection purposes.
- (d) A tenant may request an inspection of the residential rental property or unit in which he or she currently resides if violations of the International Property Maintenance Code are suspected.

Section 7. Fees.

- (a) There shall be an initial application fee of \$40 and an annual license renewal fee of \$15.
- (b) There shall be an initial inspection fee of \$50 per unit paid upon application and an annual inspection fee assessed of \$68 per unit.
- (c) A reinspection fee of \$100 will be assessed for every reinspection after the second inspection if the failure to correct noted code violations is due to owner/manager negligence.
- (d) A penalty of 10% shall be assessed for failure to submit a timely renewal fee during the first month of such delinquency, and an additional 5% penalty shall be assessed for each month of delinquency thereafter.
- (e) Failure to renew within four months of expiration will result in code enforcement action. In addition to the late fee provided in (d), the code board or magistrate may impose any fines and issue any orders authorized by law.

Section 8. Tenants.

- (a) The owner or designated agent shall maintain a current tenant list at all times. The tenant list shall be available for inspection by the City upon reasonable notice. The contact person shall have possession of the current tenant list which shall be made available promptly in the case of a medical or law enforcement emergency.
- (b) The tenant list shall include for each adult tenant:
 - 1. Tenant's full name, date of birth and Florida I.D. or driver's license number.
 - 2. Tenant's signature.
- (c) A blank form which can be used to record the tenant list may be obtained from the City.

Section 9. Enforcement.

- (a) The Code Enforcement Board/Special Magistrate shall have jurisdiction to enforce the provisions of this article, and any person, firm, corporation, or agent determined to be in violation shall be subject to all penalties and remedies available to the Board Magistrate as provided by law.
- (b) Any violation of this article may be treated as a civil infraction in accordance with the supplemental municipal code enforcement procedures as set forth in F.S. ch. 162, part II, as may be amended from time to time. Any code enforcement officer designated by the City Manager is hereby empowered to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted provision of this article. For a person who does not contest the citation, initial violations shall carry a civil penalty of \$100.00, payable to the City Clerk. A person may contest the citation in the County Court and shall be subject to a maximum civil penalty imposed by the court of \$500.00.
- (c) The City may institute any appropriate legal action or procedure to bring about compliance or remedy violations of this article.

Section 10. Violations related to act or omission of tenant.

If a notice of violation arises due to acts or omissions of a tenant, and the tenant fails to make the necessary correction, the property owner or agent shall remedy the condition by whatever means necessary. No adverse action shall be taken against a licensee for failure to remedy a condition related to a tenant during the pendency of a bona fide eviction proceeding against the tenant which is diligently pursued by the licensee.

Section 11. Suspension or revocation of license.

- (a) Failure to comply with any of the requirements of this article shall subject the licensee to suspension or revocation of the license, in addition to other remedies and penalties provided by law.
- (b) Repeated incidents occurring on the residential rental property which threaten public safety including but not limited to assaults, batteries, robberies, burglaries, prostitution, sexual offenses, or narcotics possession, use, or sales, or other criminal activity, shall be grounds for license revocation.
- (c) Repeated incidents of violation or continuing violation of state or local laws which violations adversely affect the rights of nearby residents to the quiet enjoyment of their property, including but not limited to violations of noise, animal control, solid waste, yard parking, storage, trash, and yard maintenance regulations constitute a public nuisance and shall be grounds for license revocation.
- (d) Prior to initiating suspension or revocation proceedings, written notice shall be delivered to the owner or designated agent identified in the registration statement. The notice shall specifically identify the provision of this article which has not been complied with, or shall specifically identify the repeated or continuing incidents of violations of state or local laws, and shall state that failure to remedy the violation or further incidents of violations will result in revocation of the residential rental license for all units on the property.

Section 12. Suspension or revocation hearing.

- (a) If the violation is not corrected after written notice, or if further violations occur, a hearing shall be held to determine whether the license should be suspended or revoked, as follows:
 - 1. Written notice to appear and show cause why the license should not be suspended or revoked shall be delivered to the property owner or designated agent identified in the registration statement by person delivery or by certified mail, return receipt requested, to the address of the owner or agent. The notice shall set the date, time, and place for the hearing.
 - 2. The hearing shall be held no sooner than 15 days after service of the notice to show cause. The hearing shall be conducted by the Special Magistrate appointed by the City Commission.

3. The Special Magistrate shall explain the rules of procedure governing the hearing. The City and the licensee shall have an opportunity to present evidence through witnesses and documentary evidence. All testimony shall be under oath. Testimony and evidence shall be limited to matters directly relating to the pending suspension or revocation. Irrelevant or unduly repetitive testimony or evidence may be excluded. To the maximum extent practicable, the hearing shall be informal. Reasonable cross examination of witnesses shall be permitted, but questioning shall be confined as closely as possible to the scope of direct testimony. The Special Magistrate may call and question witnesses or request additional evidence as he or she deems necessary and appropriate. The Special Magistrate shall decide all questions of procedure or standing.
4. Lack of knowledge of, acquiescence, or participation in, or responsibility for, a public nuisance on the part of the licensee or agent shall not be a defense by such licensee or agent. However, proof that the licensee or agent has commenced and is diligently pursuing under state law the process of terminating tenancy and recovering possession of the residential rental unit from the tenant or tenants causing the violations, or has completed such process, shall be a defense.
5. The Special Magistrate shall render a written decision within 30 days after the hearing concludes. The original shall be filed with the City Clerk and a copy shall be delivered to the property owner or designated agent by personal delivery or by certified mail, return receipt requested. In addition, a copy shall be posted at the residential rental property.
6. If the Special Magistrate finds that the violation or violations have been corrected, that no threat to public safety or public nuisance exists, or that the owner has completed the process of terminating the tenancy of those persons causing the violations, the action shall be dismissed. If the Special Magistrate finds the owner has commenced and is diligently pursuing the process of terminating tenancy of those persons causing the violations, the Special Magistrate shall continue the action until completion of the process under state law.
7. If the Special Magistrate finds that the violation or violations have not been corrected, or that a threat to public safety or public nuisance exists and has not been corrected, he or she shall issue a final order suspending or revoking the license.
8. A licensee aggrieved by a decision of the Special Magistrate may challenge the decision as provided by law for appeal of administrative decisions by filing a petition for writ of certiorari with the Clerk of the Circuit Court no later than 30 days after the decision of the hearing officer is filed with the City Clerk. The record will consist of the complete record of the proceedings before the Special Magistrate.

Section 13. Obligation to terminate tenancies after license revocation.

- (a) If the license is suspended or revoked pursuant to this article, the licensee shall have fifteen days from the date of the order to commence proceedings to terminate any existing tenancies and recover possession of the residential rental property and unit or units under state law. The licensee shall diligently pursue the process to completion. Upon request, the licensee shall provide copies of all documents provided to the tenants or filed with the Court to the City. After completion of the process and removal of any tenants, no unit or units shall be relet to any person during the period of suspension or revocation.
- (b) Reletting a unit or units during a period of suspension or revocation shall constitute a violation of this article.

Section 14. Reinstatement of license after suspension or revocation.

The Special Magistrate may establish terms and conditions from reinstatement of a license after a period of suspension or revocation, which terms and conditions shall include payment of the reasonable costs of the hearing. An application for reinstatement of a license shall be subject to the same fees and application and inspection process as an original application.