

ORDINANCE NO. _____

PROPOSED ORDINANCE NO. 16-???

AN ORDINANCE OF THE CITY OF LAKELAND, FLORIDA RELATED TO THE RENTAL OF RESIDENTIAL PROPERTY; AMENDING THE CODE OF THE CITY OF LAKELAND, FLORIDA BY CREATING ARTICLE III OF CHAPTER 18, "REGISTRATION OF RESIDENTIAL RENTAL PROPERTY"; PROVIDING PURPOSE, INTENT, DEFINITIONS, AND APPLICABILITY; REQUIRING OWNER AGENT REGISTRATION FOR THE RENTAL OF RESIDENTIAL PROPERTY; ESTABLISHING A REGISTRATION FEE; PROVIDING FOR THE TERM OF REGISTRATION; PROVIDING EXEMPTIONS FROM REGISTRATION; REQUIRING MAINTENANCE OF RESIDENTIAL PROPERTY SUBJECT TO REGISTRATION; PROVIDING FOR INSPECTIONS AND RE-INSPECTIONS; PROVIDING FOR DENIAL AND REVOCATION; PROVIDING ENFORCEMENT AUTHORITY; PROVIDING FOR APPEALS; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes, authorizes the City Commission acting on behalf of the City of Lakeland to adopt Ordinances and Resolutions necessary for the exercise of its powers and prescribe fines and penalties for the violation of Ordinances in accordance with the law; and

WHEREAS, the City of Lakeland has found a significant increase in the number of residential properties rented within its boundaries in which various health and safety violations have occurred; and

WHEREAS, the City Commission of the City of Lakeland, Florida seeks to address concerns and complaints raised by owner-occupants of residential properties about nuisances occurring at or on non-owner occupied residential properties and dwelling units, such as noise, parking, property maintenance and overcrowding; and

WHEREAS, in order to ensure that current owners of residential dwelling units that are rented are notified of violations related to their property as soon as possible, it is necessary to maintain current and accurate contact information; and

WHEREAS, the City Commission of the City of Lakeland, Florida finds that neighborhoods should be protected from becoming blighted through the lack of adequate maintenance and security of substandard residential rental properties; and

WHEREAS, it is in the best interest of the health and safety of the citizens of Lakeland that any violations are cured as quickly as possible and a rental registration program for non-owner occupied residential rental properties will enable the City to have adequate contact information for landlords; and

WHEREAS, the records of the Polk County Tax Collector and Polk County Property Appraiser do not contain all information necessary to contact a landlord in case of a health or safety violation; and

WHEREAS, the creation of a rental registration program, together with regular inspections, will provide the City with an accurate database of contact information related to residential rental property within the City and will further enable the City to ensure compliance with local codes and ordinances related to health and safety of residential rental properties within the City; and

WHEREAS, the City Commission of the City of Lakeland therefore finds it to be in the best interests of the health, safety and welfare of the citizens of Lakeland to initiate a rental registration program.

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

SECTION 1. The above recitals are true and correct and by this reference are incorporated herein and made an integral part hereof.

SECTION 2. The Code of the City of Lakeland, Florida is hereby amended by enacting CHAPTER 18, ARTICLE III, "Registration of Residential Rental Property" to read as follows:

Sec. 18-100. Purpose and Intent.

It is the purpose and intent of this Article to protect the comfort, health, repose, safety and general welfare of residents of the City of Lakeland, Florida by establishing a registration requirement for all non-owner-occupied residential rental dwelling units within the City of Lakeland, Florida. This Article is further intended to establish a registration program a to protect neighborhoods from becoming blighted due to lack of adequate maintenance of non-owner-occupied residential rental dwelling units and properties.

Sec. 18-101. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning.

Department means the Community Development Department of the City of Lakeland.

Director means the Director of Community Development or his/her designee.

Enforcement officer means any law enforcement officer, building inspector, fire inspector, or code enforcement officer employed by the City of Lakeland, Florida.

Local property manager means an individual property manager, property management company, property maintenance company or similar entity located within Polk County or Hillsborough County, Florida, designated by the owner to be responsible for the maintenance and security of non-owner-occupied residential rental dwelling units.

Owner means any legal owner of record, be it a person, company, corporation, firm, trust, or similar entity owning one or more residential rental units.

Person means any individual, company, corporation, limited liability company, partnership, trust or other legal entity.

Registration means the completion of a rental registration form and payment of the prescribed fee for registration or registration renewal, as applicable.

Registrant means any person who completes an application to register one or more residential rental units.

Residential rental unit means any dwelling that is rented for residential purposes, including any single-family, duplex, triplex, quadraplex, multiple family dwelling, or other similar unit.

Sec. 18-102. Registration of Residential Rental Units.

- (a) All persons who rent or offer for rent any residential rental units or residential property within the City not otherwise exempt in Section 18-103, whether with a written or verbal agreement and regardless of the term of the lease being transient (short term under six (6) months) or a long term rental, and constitutes the rental or lease of property for residential purposes, shall register the residential rental unit with the City.
- (b) Each residential rental unit leased or offered for rent, whether on a single parcel or multiple parcels, shall require a separate registration.
- (c) Registration pursuant to this section shall contain the names of the owner and registrant along with the corresponding mailing addresses of both, email addresses, telephone numbers and name of the local property manager and said person's address, email address and telephone number.
- (d) An annual registration fee set by Resolution of the City Commission of the City of Lakeland, Florida shall accompany a registration for each rental unit. No fee shall be charged for modifying contact information, provided ownership of the rental unit remains the same. The City of Lakeland may assign and delegate the collection and/or administration of such fee to an independent third party contractor.
- (e) The registration period shall be for a one (1) year period commencing October 1 and ending September 30. A registration fee of one-half the amount required by the Resolution outlined in Section 18-102 (d) shall be required for a new registration received on or after April 1 and before August 1 of the same year. The period from August 1 through September 30 shall be considered a grace period for newly registered units and no registration fee shall be collected from such registrations for this period, provided such registrants renew the registration for the next registration period.

Sec. 18-103. Exemptions.

The following shall be exempt from the provisions of this Article:

- (a) Any properties with more than six (6) dwelling units, provided the property has a current City of Lakeland Business Tax Receipt as required by Lakeland Code of Ordinances Section 18-27. However, this exemption shall not apply if the property claiming the exemption is cited for three (3) or more code violations or if any combination of the occupants therein are charged with two (2) or more criminal violations in any twelve (12) month period.
- (b) Apartment complexes with on-site property management open and available during regular operating hours. However, this exemption shall not apply if the property claiming the exemption is cited for three (3) or more code violations or if any combination of the occupants therein are charged with two (2) or more criminal violations in any twelve (12) month period.
- (c) Units owned by religious organizations, when used by clergy (e.g. parsonages).
- (d) Student housing units owned by a public or private college or university.
- (e) Public housing units owned by the Lakeland Housing Authority.
- (f) Units reserved exclusively for the physically or developmentally disabled, provided said units are owned by a qualified nonprofit specializing in housing the physically or developmentally disabled.

Sec. 18-104. Requirements of Registrant

- (a) The applicant seeking to register one or more residential rental units shall make the following certifications:
 - 1. That the property manager shall maintain, at all times, a list of the names of tenants of each dwelling unit registered, and shall make the list available to the City upon reasonable written notice for inspection.
 - 2. That at least one (1) tenant of each dwelling unit registered has been provided a copy of:
 - i. Part II of Chapter 83, Florida Statutes, "Residential Tenancies"
 - ii. Lakeland Up to Code Brochure
 - 3. That the owner agrees to allow inspection of the interior and exterior of the unit at any reasonable time, provided however, that nothing in this provision shall be construed as authorizing the City to conduct an

inspection of an occupied unit without first obtaining either consent of the occupant or an administrative search warrant.

- (b) The registrant shall designate and identify a local property manager located in Polk or Hillsborough County who is a natural person eighteen (18) years of age or older and can be contacted twenty-four (24) hours a day, seven (7) days a week regarding the rental unit. The local property manager 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 local property manager.

Sec. 18-105. Maintenance Requirements

- (a) Properties subject to the provisions of this Article shall be maintained in compliance with the City of Lakeland Housing Code adopted by Ordinance 3947.
- (b) Properties subject to the provisions of this Article shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, discarded personal items including, but not limited to, furniture, clothing, household appliances, or any other items not designed and intended for use outdoors. Grass, weeds, overgrown brush or dead vegetation which exceeds the maximum height provided by Sec. 86-2 of the Code of the City of Lakeland is prohibited.
- (c) Properties subject to the provisions of this Article shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure. Yards shall be landscaped and maintained pursuant to the standards set forth in the code. Landscaping shall include, but not be limited to, grass, ground cover, bushes, shrubs, hedges or similar ornamental plantings, decorative rock or bark or artificial turf/sod designed specifically for residential, commercial or industrial installation, as applicable. Landscaping shall not include weeds, gravel, broken concrete, asphalt or similar material.
- (d) Maintenance required under this Article shall include, but not be limited to, watering, irrigation, cutting and mowing of required landscape, and removal of all trimmings and weeds.
- (e) Properties subject to the provisions of this Article shall be maintained free of derelict, disabled, inoperative and abandoned vehicles as set forth in Ordinance 4134.
- (f) Properties subject to the provisions of this Article shall at all times comply with the City's Land Development Code, adopted by Ordinance 5425, including but not limited to: provisions for commercial vehicles, parking and storage of boats, trailers and recreational vehicles, and fences.

- (g) Properties and units subject to the provisions of this Article shall bear permanently attached building numbers as required by Ordinance 4775.
- (h) Properties subject to the provisions of this Article shall at all times comply with Chapter 10 of Code of the City of Lakeland regarding animals and animal nuisances.
- (i) Properties subject to the provisions of this Article shall at all times comply with Chapter 70 of the Code of the City of Lakeland regarding noise.
- (j) Sections (a) through (i) above shall not be construed as limiting the applicability of any other codes or ordinances to properties subject to the provisions of this Article.

Sec. 18-106. Inspections, Re-Inspections and Complaints

- (a) The Director shall cause the exterior of residential rental units subject to the provisions of this Article to be inspected for compliance at least once every three (3) years.
- (b) The Director shall only cause the interior of residential rental units subject to the provisions of this Article to be inspected upon:
 1. Receipt of a complaint from one or more occupants of the rental unit, in which case said occupant shall provide a name and a statement of the facts giving rise to the complainant's belief that one or more violations set forth in this Article exist. Such information may be obtained verbally or in writing; or
 2. A third or subsequent code violation cited in any twelve (12) month period; or
 3. Adjudication of guilt, admission through summary disposition or guilty plea, or plea of no contest (including but not limited to payment of a fine) for any second or subsequent violations of codes and ordinances outlined in Sections 18-105 (a), (b), (c), (e), (f), (h) or (i) in any twelve (12) month period; or
 4. Any combination of the occupants therein are charged with two (2) or more criminal violations in any twelve (12) month period; or
 5. Reasonable cause to believe conditions interior to the unit constitute an imminent threat to the health, safety and welfare of the occupants or the general public.

- (c) Re-inspections resulting from violations observed during exterior or interior inspections shall continue at regular intervals until all violations have been fully remedied.

Sec. 18-107. Enforcement

Any person who shall violate the provisions of this Article shall, upon conviction, be punished as provided in Section 1-14 of the Code of the City of Lakeland as applicable. In addition, any violation of this Article may be enforced by the City of Lakeland Code Enforcement Board as authorized and constituted by Chapter 2, Article IV, Division 2 of the Lakeland Code of Ordinances, as well as the registration denial and revocation provisions prescribed in Section 18-108.

Sec. 18-108. Denial and Revocation

The Director may deny issuance of or revoke any registration applied for or issued pursuant to this Article if it is determined:

- (a) That the applicant has made material misrepresentations about the condition of the applicant's property, or that the owner has otherwise violated a provision of this Article.
- (b) That one or more of the violations enumerated in Section 18-106 (b) 3. remain uncorrected for a period of ninety (90) days after adjudication of guilt by the City's Code Enforcement Board or Code Enforcement Board Hearing Officer.
- (c) Repeated violations of the type enumerated in Section 18-106 (b) 3. For purposes of this Section, repeated violations shall mean six (6) or more violations cited in any twelve (12) month period, nine (9) or more violations cited in any twenty-four (24) month period, or twelve (12) or more violations cited in any thirty-six (36) month period, notwithstanding the violations occurred at different locations, provided the locations have the same owner.
- (d) Before revoking a registration issued pursuant to this Article, the Director shall cause written notice of the revocation be sent to the owner and local property manager in the manner prescribed by Lakeland Code of Ordinances Section 2-103, and providing the owner and local property manager ten (10) days to appeal the revocation decision as outlined in Section 18-109.
- (e) If a registration is revoked under this Section, the owner whose registration was revoked shall not be issued another registration for the subject unit or any new or previously unregistered units for a period of six (6) months after the date of revocation.

Sec. 18-109. Appeals

- (a) An appeal of a decision made by the Code Enforcement Board Hearing Officer pursuant to this Article shall be as prescribed in Section 2-98, Lakeland Code of Ordinances.
- (b) An appeal of a decision made by the Code Enforcement Board pursuant to this Article shall be as prescribed in Section 2-102, Lakeland Code of Ordinances.
- (c) An appeal of the Director's interpretation or determination pursuant to Sections 18-108 shall be in writing to the Director within ten (10) days of notice of said determination, in which case a hearing on the appeal shall be scheduled before the City's Code Enforcement Board within thirty (30) days of receipt of the appeal. The appeal hearing shall take the form prescribed by Section 2-98 (c), Lakeland Code of Ordinances, and the action that is the subject of the appeal shall be stayed until such time as the Code Enforcement Board has issued its Findings of Fact, Conclusions of Law and Order. In considering an appeal filed pursuant to this Section, the Code Enforcement Board shall evaluate:
 - 1. The unit's occupancy and history.
 - 2. The owner's past history of violations.
 - 3. The owner's efforts to correct past and present violations, including but not limited to, actions to terminate the lease and recover possession of the rental unit under state law.
- (d) The lack of knowledge of, acquiescence, or participation in, or responsibility for, violations of this Article on the part of the owner, agent or local property manager shall not be a defense by such owner, agent or local property manager.

Sec. 18-110. Supplemental Provisions.

Nothing contained in this Article shall prohibit the City of Lakeland from enforcing its codes and ordinances by any other means, including, but not limited to, injunction, abatement, or as otherwise provided by state or local law.

SECTION 3. Should any section, paragraph, sentence, clause or phrase of this Ordinance conflict with any section, paragraph, sentence, clause or phrase of any prior City of Lakeland Ordinance, Resolution, or Code provision, then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 4. If any one or more of the covenants, agreements or provisions of this Ordinance should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions of this Ordinance.

SECTION 5. Specific authority is hereby granted to codify this Ordinance.

SECTION 6. This Ordinance shall take effect immediately upon its passage in the manner provided by law.

PASSED AND CERTIFIED AS TO PASSAGE this ____ day of _____, 2016.

R. HOWARD WIGGS, MAYOR

ATTEST: _____
KELLY S. KOOS, CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS: _____
TIMOTHY J. McCAUSLAND
CITY ATTORNEY