

## M E M O R A N D U M

**To:** Howard Tipton, Town Manager

**From:** Allen Parsons, AICP  
Director, Planning, Zoning & Building Department

**Report date:** January 26, 2023

**Meeting date:** February 6, 2023

**Subject:** Ordinance 2022-13, Establishing Chapter 115, Residential Rental Registration Requirements and Program

### **Recommended Action**

Forward Ordinance 2022-13 to the March 6, 2023 Regular Meeting for second reading hearing.

### **Background**

The Town Commission (Commission) considered staff recommendations for the establishment of a Residential Rental Registration Program at their June 20, 2022 and January 23, 2022 Regular Workshop Meetings. Like many jurisdictions across the State, and the Country, including the neighboring jurisdictions of Bradenton Beach (program adopted in 2015), Anna Maria (program adopted 2016), Holmes Beach (program adopted 2016) and Bradenton (program adopted 2022), staff is recommending the adoption of a Residential Rental Registration Program to proactively address negative impacts that can be associated with residential rental properties and to ensure the safety of structures that are used as residential rental units.

At the January 23, 2023 Regular Workshop, the Commission recommended forwarding Ordinance 2022-13 to the February 6, 2023 Regular Meeting for first reading. The Commission did not have any consensus for changes to the Ordinance. In response to a question raised regarding situations where a property owner may be coordinating with or subject to certain private restrictions that differ from Town Code Short Term Rental provisions, staff added the following language to the Purpose and Intent subsection (Sec. 115.01):

*“This Chapter shall not be construed nor is it intended to impair, modify, or otherwise amend any privately imposed rental restrictions and requirements that are set forth in homeowners association deed restrictions, restrictive covenants, declarations of condominium, condominium bylaws, other applicable condominium documents, or other recorded covenants applicable to a particular property within the Town.”*

This newly inserted language (also included as an additional Whereas statement) reflects that property owners would still be subject to any existing private rental restrictions and any coordination obligations that may entail.

No other changes were made to Ordinance 2022-13.

The Commission had a couple of other questions at the January 23, 2023 Regular Workshop, which are addressed below:

- Question regarding flexibility that may be needed if an applicant is working to respond (ex. working with a Condominium Board, may take longer) to incomplete or inaccurate information as part of the application process for a Residential Rental Certificate of Registration (RRCR) (Sec. 115.03 lays out timeframes for applicants to respond within 30 days).

As discussed at the January 23, 2023 Regular Workshop, officer discretion would be used, as is typical. If the Town is in contact with an applicant or a Code violator and they are working toward coming into compliance, the Town provides ample opportunities to do so. Staff is not recommending any Ordinance changes and believes the current practice of staff discretion on unique circumstances is already built into the enforcement process.

- Question regarding adding a timeframe for the Town's response to applicants as part of the application process for a RRCR, similar to the 30 days that applicants have to respond to the Town.

Staff's timeframes for responding to an applicant regarding application's completeness would be very quick. Staff doesn't foresee a time where an extended wait would be on the Town. Scheduling an inspection would be the owner's responsibility and staffing is in place to implement the program. Staff is not recommending any Ordinance change to impose a clock for staff reviews.

- Question regarding whether the list of properties with RRCR's could be made public and publicly searchable.

The simple and straightforward answer is that if the Towns collects such information, it is then public record. In addition, the Town's Enterprise Data System does have the ability to have this information available online. For example, currently a renter/owner can search the Town's system (through BS&A online) to check if a unit has been issued a Business Tax Receipt. This same system will also be used to track RRCR's and will be available to publicly search online. Prior to making this information available staff will work with the Town Attorney's Office to provide appropriate disclaimers that the Town is not endorsing any particular rental property or its suitability for rental/use by particular occupants/tenants. It may very well be that an online database is not something that a short-term occupant of the property would be going to look at when deciding where to potentially rent in the Town. We could make this link, with instructions, available online and through education material.

- Question regarding the fees staff would be recommending to recover the cost of implementation and management of the Residential Rental Registry Program.

A copy of the proposed Fee Schedule (Resolution 2022-21) is attached. The recommended fees include \$200 for the initial 2-year RRRCR and a \$150 renewal application fee that would be associated with each subsequent renewal. Grandfathered tourism properties that are residentially zoned would be assessed a lower fee (\$50), provided such properties have a valid Florida Department of Business and Professional Regulation (DBPR) permit, because those properties are regulated and inspected by DBPR. Resolution 2022-21 would be acted upon following second reading, public hearing and approval, which is currently anticipated to occur on March 6, 2023.

As a reminder, the proposed Residential Rental Registry Program contains a number of requirements designed to protect residential neighborhoods. The program will be applicable to all residentially zoned rentals within the Town that are rented for periods of less than 6 months. This includes residential properties that have been grandfathered as a legally nonconforming tourism use. The program would not apply to existing legally zoned tourism properties (such as the Zota Beach Resort, Sand Cay, Four Winds Beach Resort, St. Regis, etc.) as they are regulated by the Florida Department of Business of Professional Regulation. This time period was chosen because rentals of 6 months or less are required to: pay Tourist Development Taxes to either Manatee or Sarasota Counties; pay applicable Sales Tax to the Florida Department of Revenue; meet Life/Safety requirements for transient and non-transient lodging; and obtain a Business Tax Receipt from the Town.

The Program's requirements, summarized below, will not add or modify any of the requirements or definitions of Tourism Uses in Title 15, Land Development Code, of the Town's Code of Ordinances, consistent with (Section 509.032(7)(b), F.S.), which allows local governments to regulate vacation rentals so long as such regulation does not prohibit them or limit the duration or frequency of rental.

Primary Program components include:

- Registering with the Town those properties rented for periods of 6-months or less. Such properties are currently required to remit Tourist Development Taxes to Manatee or Sarasota Counties and are required to obtain a Business Tax Receipt with the Town (per Sec. 111.02(2)(c)). Issuance of Residential Rental Certificate of Registration will require demonstration of remittance of applicable sales taxes, transient rental taxes and any other taxes required by law to be submitted to the Florida Department of Revenue; and a current and active account with the County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the County Tax Collector.
- Providing contact information for a Designated Responsible Party who can be called upon to answer for the maintenance of the Residential Rental Unit and to

respond to inquiries or complaints regarding the conduct of the occupants of the Residential Rental Unit and their guests.

- Requiring all vehicles associated with a residential rental unit to be parked on site or in a designated area. Residential rental units on Jewfish Key, which are only accessible by boat, have to provide vessel parking such as a boat dock.
- Requiring posting of information within the residential rental unit to include items such as: owner/responsible party contact information; maximum number of vehicles that can be parked at the residential rental unit; the minimum stay requirement (1-month or longer, unless the unit is a recognized legally nonconforming tourism property); emergency contact information; notice regarding the Town's Noise Ordinance requirements; the days/times of solid waste/recycling/yard waste pick-up; and copies of building emergency evacuation maps.
- Advertising (print or internet-based) requirements that include: inclusion of the residential rental certificate of registration (RRCR) number that will be provided by the Town and the minimum stay requirement.
- A safety inspection requirement. Note: Grandfathered properties that have a current and active license, for a transient public lodging establishment, from the Florida Department of Business and Professional Regulation (DBPR) will not be subject to a Town inspection, as they are currently subject to inspection by the DBPR. Such properties will pay a lower registration fee.

Residential rental units that: meet the above listed and applicable criteria; do not have any violations with the Town or subject to any unpaid fees, fines or civil penalties or liens; and pass an inspection will be issued a Residential Rental Certificate of Registration. A Residential Rental Certificate of Registration will be valid for two years from the issue date. Violations of the requirements of these provisions will be enforceable by citations or Code Enforcement proceedings.

Staff has identified approximately 1,300 properties that are engaged in rentals that would be subject to these new requirements. Staffing and costs for administering the program, including performing inspections would be covered by the two Code Enforcement positions within the Planning, Zoning & Building Department, and the adoption of fees to cover the activities and services performed by the Town in carrying out its responsibilities under this Chapter.

The program is proposed to begin on October 1, 2023 to allow for an extensive education effort and to phase in the inspections. Staff will be providing outreach to property management companies, the Federation of Longboat Key Condominiums, homeowners associations, social media and print media among others. In addition, staff will be coordinating to have the Business Tax Receipt annual renewal notices, which are sent out in July each year, include notice of the new Residential Rental Registry Program requirements.

Staff is recommending adoption of this program as a proactive measure to address the growing number of residential rental properties, to mitigate impacts to nearby residential properties, to encourage the appropriate management of these properties, and to protect the general health, safety, and welfare of the residents and visitors to the Town.

### **Staff Recommendation**

Forward Ordinance 2022-13 to the March 6, 2023 Regular Meeting for second reading and public hearing.

### **Attachments**

- A. Ordinance 2022-13 (Available in Town Clerk's Office)
- B. Resolution 2022-21 (Available in Town Clerk's Office)
- C. PowerPoint Presentation (Available in Town Clerk's Office)

**End of Agenda Item**