

**CITY OF CHARLOTTE
COUNCIL PROCEEDINGS**

**Workshop Meeting
August 10, 2021**

CALL TO ORDER:

By Mayor Armitage on Tuesday, August 10, 2021 at 7:01 p.m.

PRESENT:

Council members: Dyer, Baker, McRae, VanStee, Mayor Armitage, City Manager LaPere, City Clerk LaRocque

APPROVAL OF AGENDA:

Motion by Baker, second by Dyer to approve the agenda as published. Carried. Yes 5; No 0; Absent 2

EXCUSE ABSENT MEMBERS:

Councilmembers: Hoogstra and Weissenborn. Motion by Baker, Second by Dyer to approve absent members. Carried, Yes 5; No 0; Absent 2.

PUBLIC COMMENT:

Lisa Barna, Executive Director of Charlotte Rising, reported that a Mural is to be painted at 114 W. Lovett St. Local artist Michelle Henry will complete the work, a colorful abstract featuring the quote “Take time to make a stranger a friend”. Businesses and residents who may be affected by this activity have been notified and the work will be scheduled during times that will least interfere with their schedules. City Manager LaPere requested Lisa to send information that can be posted to the City’s Facebook page.

DISCUSSION ITEM:

A. Rental Registration Program

Consider Ordinance 2021-09 Amending Chapter 14, Article III to establish a rental registration and inspection program

THE CITY OF CHARLOTTE ORDAINS

SECTION 1. ESTABLISHING A RENTAL REGISTRATION AND INSPECTION PROGRAM. Chapter 14, *ARTICLE III RESERVED*, Title and Sections listed below shall hereby be amended.

Article III – Rental Dwelling Registration

ARTICLE III RENTAL DWELLING REGISTRATION

Section 14-56 - Definitions.

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

Building inspector means the official who is charged with the administration and enforcement of this Code, or any duly authorized representative by the city manager.

Hotel, motel, boardinghouse, rooming house mean a building held out to the public as a place for lodging for a nightly, weekly or monthly rate, including bed and breakfasts.

Occupant includes all tenants, lessees and persons residing within a rental dwelling or rental unit.

Owner means any person, firm, corporation or other legal entity having a legal or equitable interest in the premises. If more than one person or entity owns the subject real property or if more than one person or entity is a land contract vendee of the subject real property, property owner refers to each person or entity holding any portion of that interest in the property, and the property owners' obligations in this article are joint and several as to each property owner.

Owner's representative means a person or representative of a corporation, partnership, firm, joint venture, trust, association, organization or other entity designated by the owner of the premises as responsible for operating such property in compliance with all the provisions of the city's ordinances.

Rental building or structure means any building containing one or more rental units.

Rental unit means any portion of a rental building in the city that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, which is occupied by a person other than a property owner or the parents or children of a property owner. The definition of rental unit includes a single-family dwelling, or a unit in a multifamily or multipurpose dwelling, or a unit in a condominium or cooperative housing project, or any room or group of rooms located within a dwelling and forming a single unit with facilities that are used or intended to be used for living, sleeping, cooking or eating.

Sec. 14-57. - Purpose of standards.

The city recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe residential rental structures in the city as an important factor for the general health, safety and

welfare of all of its citizens. This article is designed to promote the continued maintenance of quality and safe rental properties and to enhance and maintain property values by adopting legislation which will be applicable to all rental housing units.

Sec. 14-58. - Applicability; exclusions

This article shall apply to any rental dwelling unit, or part thereof, which is occupied by persons pursuant to any oral or written rental or lease agreement or other valuable compensation. Such dwelling shall include, but not be limited to, single-family dwellings, multiple-family dwellings, rooming houses and boarding houses. No person shall lease or rent a rental dwelling unit unless they have registered their property.

This article does not apply to jails, hospitals, nursing homes, convalescent homes, foster homes or temporary group shelters provided by legal nonprofit agencies which are inspected, certified and/or licensed by the state.

Sec. 14-59. - Registration.

Compliance required. All rental dwelling unit owners in District 1 are required to register their rental dwelling units within 90 days of the effective date of this ordinance, and every two (2) years or biennially, thereafter. All rental dwelling unit owners in District 2 are required to register their rental dwelling units between 90-180 days of the effective date of this ordinance, and every two years, or biennially, thereafter. All rental dwelling unit owners must abide by the registration process and procedures of this article and shall comply with the following:

1. All existing rental dwelling unit's property shall be registered within one hundred eighty (180) days of the effective date of the ordinance.
2. All newly constructed rental dwelling units shall be registered prior to any use or occupancy as a rental dwelling unit and every two (2) years thereafter.
3. A new owner shall register a rental dwelling unit, which is sold, transferred or conveyed, within thirty (30) days of the date of the closing of such sale. Any existing registration shall be transferred to the new owner and shall be valid until its expiration or revocation for noncompliance with city codes and ordinances.
4. All existing nonrental dwelling units, which are converted to rental dwelling units, shall be registered prior to the date on which the property is first occupied for rental purposes and every two (2) years thereafter. Failure to comply will result in penalties as described in this article or by resolution.

Applications for registration shall be made in such form and in accordance with such instructions as may be provided by the building inspector designated by the city manager and shall include at least the following information:

- a. The name, address and telephone number of the owner (no post office box shall be accepted).
- b. The name, address and telephone number of the owner's representative or responsible local agent, if the rental property owner has opted to appoint a representative.
- c. The authorization appointing a local agent, signed by both the owner and the local agent, is designated.
- d. The address of the rental unit.

- e. The number of dwelling or rooming units in each building on the premises

Upon registration, the owner shall be responsible for notifying the building inspector of any change of address of either the owner or owner's representative. Renewal registration shall require a satisfactory inspection being completed.

In the event of a transfer of ownership, the registration shall become invalid. Any new owner shall register within ten days of the date of transfer. Every person holding such registration shall notify the building inspector in writing within ten days after having sold, transferred or otherwise changed the ownership of such rental unit.

Fee. At the time of registration of the dwelling unit, there will be a prescribed fee, as adopted by resolution. Any unpaid registration fees shall become a lien on the property immediately and collected as an assessment pursuant to city ordinance. An owner shall not have a property as a rental dwelling unless it has registered with the city.

Section 14-60. - Inspections.

The City employee assigned to inspect a particular rental unit shall give confirmation notice, by first class mail, to the local agent and the tenant within seven days of the scheduled inspection. The landlord, the tenant and the agent shall permit the inspection by the City inspector. The City inspector shall advise the landlord, tenant and/or agent, at the time of the inspection, that the landlord, tenant and/or agent shall have the right to refuse entry if the inspector does not have a search warrant. The City inspector shall also advise the landlord, tenant and/or agent that, if the inspection is refused, an administrative search warrant will be sought. If the landlord, tenant and/or agent refuses to permit a scheduled inspection, the inspector

may, through the City Attorney, seek an administrative search warrant to conduct the inspection.

The City inspector may, at the request of the landlord, the tenant or the agent, inspect the property. If the inspector is invited to inspect the property, no notice shall be required to be given.

A reinspection notification shall be given by first class mail or by telephone within seven days of the scheduled reinspection.

Sec. 14-61. - Responsible Local Agent.

At the discretion of the property owner, a responsible local agent may be designated. The responsible local agent shall be a person or representative of a corporation, partnership, firm, joint venture, trust, association, organization or other entity, having his place of residence in the county, and shall be designated by the owner of the premises as responsible for operating such property in compliance with all the provisions of this Code. All official notices of the city may be served on the responsible local agent, and any notice so served shall be deemed to have been served upon the owner of record.

Sec. 14-62. - Certificate of Compliance.

No person shall operate, lease, rent or occupy a rental unit unless there is a valid certificate of compliance issued by the building inspector in the name of the operator and issued for the specific rental unit. The certificate shall be issued for each building containing a rental unit and shall be displayed in a conspicuous place. The certificate shall be issued after registration with the city and after inspection by the building inspector and shall state that the unit or units inspected comply with the provisions of this Code and state law. A certificate of compliance is valid for a period of two years from its date of issuance and must be renewed in conformity
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with the registration provisions of this article. The name, address and telephone number of the property owner or the designated responsible local agent shall be posted on the certificate of compliance.

Sec. 14-63. - Requirements for Issuance, Revocation of Certificate.

The building inspector shall not issue a certificate of compliance unless a current housing registration is in effect, the responsible local agent is properly designated, any fees for registration plus penalties are paid in full, and inspection of each unit has determined that compliance has been secured with the minimum standards and other provisions of this Code.

The building inspector may, after inspection, issue a certificate of compliance for all units in a multiple unit dwelling. The Building inspector may also, after inspection, issue a certificate of compliance for a portion, but not all, of the units in a multiple unit dwelling. If the certificate of compliance is not issued for all units in a multiple unit dwelling, it shall be a partial certificate of compliance, and noncomplying units may not be operated, leased, rented or allowed to be occupied. Owners of noncomplying units and multiple unit dwellings may appeal the decision of the Building Inspector through the procedures listed in section 14-XX. For the purposes of this subsection, multiple unit dwellings shall include all hotels, motels, boarding houses, rooming houses, two-family dwelling units and multiple unit dwellings.

Whenever the building inspector finds that the operator of any rental unit has failed to comply with a notice of violation or compliance order issued pursuant to this Code, the certificate of compliance may be revoked.

Upon revocation of a certificate of compliance and/or a determination by the housing and building board of appeals that a rental unit is unfit for human habitation, the owner or operator of the unit shall immediately vacate the unit; and no person shall thereafter occupy for sleeping or living purposes the unit until the unit is in compliance with this article.

Sec. 14-64. - Applicable standards.

The standards used to determine rental property and dwelling unit compliance with city codes and ordinances shall be the International Property Maintenance Code, as adopted and amended by the city council.

Sec. 14-65. - Noncompliance with code.

The building inspector may enter rental dwelling units under any of the following circumstances:

1. After the registration of the rental dwelling unit which shows the possibility of not complying with local or state law.
2. Upon receipt of a written complaint from an owner, owner's representative or occupant that the premises is in violation of this article.
3. Upon receipt of a report or referral from the police department, fire department, public or private school, or another public agency, or a failure to comply with this article.
4. Upon evidence of an existing ordinance violation observed by the building inspector.

5. At the request of the owner to determine compliance with the International Property Maintenance Code.
6. If the proposed rental dwelling unit is being converted from a single-family home, the building inspector shall evaluate the property for public safety violations before first occupied for rental purposes.

The building inspector may make an appointment with the owner or owner's representative of the rental dwelling unit. The owner or owner's representative must give the building inspector at least twenty-four (24) hours' notice when changing the scheduled appointment with an alternative date and time. The building inspector shall issue a written report noting any violations of this article or any other provision of the city's ordinances and shall provide a copy of the report to the owner or owner's representative. The building inspector shall direct the owner or owner's representative to correct violations within the time set forth in the report. A reasonable time for correcting violations shall be determined by the building inspector in light of the nature of the violations and all relevant circumstances, which shall not exceed sixty (60) days, unless correction of the violation within a 60-day period is impossible due to seasonal considerations. Upon request of the person responsible for correcting violations, the building inspector may extend the time for correcting violations, but not to exceed an additional thirty (30) days.

The building inspector may charge a nominal fee that equals the actual administrative cost to enter premises as established by resolution. If the building inspector determines that a complaint was filed without a factual basis and with malice, a fee may be charged to the complainant.

Sec. 14-66. - Fees.

Fees for registration of rental units and penalties shall be established by resolution of Council. The fee schedule shall be available to the public from the city clerk. Any unpaid inspection fees shall become a lien on the property and collected as provided by law.

Reinspection fees for violations shall be assessed after the original inspection and one reinspection. There will be no exceptions or extensions for immediate health, safety and life-threatening violations. Following is a list of reasons that a reinspection fee may be charged: failure to appear for inspection; failure to comply with violation notices; and failure to permit inspection.

Inspection fees shall be set by resolution of the City Council. Such fees may be changed from time to time by resolution of Council.

Sec. 14-67. - Violations.

If the owner or owner's representative does not correct a violation of any provision of this article, the building inspector may bring an action to seek the enforcement of this article by an appropriate legal remedy. Any structure not in compliance with this article is deemed a nuisance.

Any owner or owner's representative of a rental dwelling unit who violates any section of this article for the first offense shall be responsible for a municipal civil infraction as provided for in this Code with the fines as stated in subsection (a) below.

a. The fines for municipal civil infractions for violating this article shall be: Two hundred dollars (\$200.00) per occurrence for the first offense; four hundred dollars (\$400.00) for a second offense if it occurs within two (2) years of the prior offense even if it occurs

at the same time as the prior offense. Each day that a violation continues shall be a separate offense.

The building inspector, building official, code enforcement officer and any other person designated by the city manager are hereby designated as the authorized individuals to issue municipal civil infraction citations for violations of this article.

In addition to any penalties imposed by law, a finding of responsibility by the court for a violation of this article, the city shall be entitled to immediately revoke any existing certificate of compliance and shall entitle the city to seek the issuance of a court order compelling the eviction of all persons and property upon the premises until a certificate of compliance is issued by the city.

An owner or owner's representative may be charged with more than one (1) violation of the provisions of this article in a single complaint or municipal civil infraction, provided that each violation so charged relates to the same property.

Sec. 14-68. - Appeals.

Any person whose registration to rent or lease a dwelling or to operate a rental unit has been denied, or whose certificate of compliance has been revoked, may appeal to the City Council.

Sec. 14-69 through 14-85. - Reserved.

SECTION 2. EFFECTIVE DATE. This ordinance shall become effective 20 days after publication.

Memo submitted by Manager LaPere as copied below:

A revised copy of ordinance language to establish a rental registration program was submitted for Council's review. This language has been reviewed by Attorney Hitch and some modifications have been made since the first reading. Notably, the exclusion of temporary housing which is already subject to state or similar licensing, such as hotels. As stated in the purpose section, the reason for the standards is to maintain safe and sanitary residential rental structures in the city. Hotels and similar are typically not considered residential uses of property and therefore did not fit in with the intent of these regulations.

Per the Assessor there are approximately 1,492 residential rental units in Charlotte. This number includes multi-family homes, traditional apartment buildings, and rental apartments above stores in the downtown business district. He also identified over 550 homes which are not exempt from principal residence exemption, which may be rental properties. In total, rental dwelling units represent approximately 46% of the housing stock in Charlotte.

These properties are owned by a variety of entities including corporate-managed apartment complexes, individuals who live in town and own one or more rental properties, business owners who lease out apartment units above their commercial sites, and individuals who live out of town and own one or more rental properties. Ensuring all residential units comply with the adopted International Property Maintenance Code is important to ensuring safe housing throughout the city and this ordinance will make a significant impact given the percentage of housing that is occupied by tenants. Additionally, maintaining base standards for properties that are being utilized as income-generating opportunities ensures a level playing field for the business owners.

Establishment of this ordinance would necessitate a designated rental inspector. This could be accomplished with hiring a Code Enforcement/Rental Inspector. The Council has expressed a desire to hire an established code enforcement officer and revenues generated for a rental registration program could offset the costs. I am working with the current staff to determine how to best administer this program, from the clerical tasks associated with notices and letters, to processing payments and applications, to scheduling and conducting applications, along with following up on non-compliance matters. Additionally, I am working with the Assessor to further categorize the types of rental units to formulate a suggested fee schedule to accurately predict revenues. Some base calculations show this program could generate sufficient revenues to hire someone to work 25-30 hours per week. Additional considerations for costs that need to be considered include vehicle and other equipment such as a cell phone.

Council discussed the impact on administration to implement this program. Hiring an enforcement officer, salary, equipment, vehicle, numerous clerical tasks that ensue, and what department it would come under. Also discussed with the fee schedule and the need to ensure fees covered administrative costs. More data is required from the assessor to develop a fee schedule.

Council also discussed the language and explored topics about the scope of properties to be inspected and what is excluded, the impact this may have on rental tenants.

Council discussed the need to inform residents, utilizing the City Facebook page, The County Journal, Website posting, Notice of Hearing and public discussion at regular Council meetings. Also, mailings and notices on water bills could be used.

Clean final copy will be ready for Monday, August 16th regular

Council meeting. Attorney Hitch is requested to be present and available for questions.

No further questions, moving onto the next topic,

a. Marijuana Regulations

Memo provided by City Manager LaPere as noted below:

At the workshop meeting held in July, discussion began on whether to amend City Ordinance to allow for commercial marihuana activities. Council asked for additional feedback from neighboring communities who had implemented licensing programs. Community Development Director Myrkle reached out to representatives from a few neighboring communities about their experiences with permitting marihuana, including Niles, Webberville, Ionia, Portage, Chesaning, Owosso, and Bangor.

The conversations revealed a pretty wide range of experience when it comes to administration. Some are managing their programs completely in-house, while others are using a professional planning service to administer the programs. Nevertheless, there are some common thoughts and experiences that he was able to identify. The most commonly expressed sentiment was that the program is very manageable once you get past the initial phases; but that it is very challenging and time-consuming for the first 6 months or so, and that we should expect that effort to be the primary focus of our attention during that time.

Start-up

In most cases, setting-up the programs initially was reported as the most labor-intensive part of the experience. However, once this start-up period was over, the workload returned to a manageable
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level. While the communities are reasonably similar in size, the number of people involved in managing the initial set-up ranged from as few as one, to as many as 6. Vetting applications and determining who would receive licenses was a big challenge for many of these cities. For example, one community reported limiting the number of licenses to 6, yet receiving more than 100 applications, which all had to be vetted for eligibility and scoring. This work had to be performed and reviewed by more than one person to maintain the integrity of the process and ensure fairness and accuracy. It should be noted, that under the statute, Section 333.27959, if the city limited number of licenses is exceeded by the number of qualified applicants received by the state for a license, it is the responsibility of the city to decide by a competitive process to select applicants who are best suited to operate in compliance with the act.

In some cases, marijuana businesses are operating under multiple licenses (growing, transporting, retailing, etc.) and so a single business application may have to be reviewed multiple times which may be confusing and difficult to keep straight. Some have chosen licensees based on a local criterion scoring process, and others have used a lottery system.

Once licensees are chosen, there are additional rules regarding marijuana operations often included in both site plan review and special use permitting that make this process somewhat more complicated than more traditional business development. This could be considered the second-stage of the start-up process.

Two communities reported feeling 'overmatched' by the knowledge and expertise of the individual businesses and their legal representation, which challenged city decisions and processes,

greatly complicating their efforts and introducing a level of doubt and confusion both within the City and in the eyes of the public. One said this made it one of the worst things they had ever worked on.

Most of the communities are managing the program through their general administrative office, the planning and zoning department, or the community development department. One was managing it entirely through the police department. Some used a combination of staff during start-up, and then a single department or staff person once it is up-and-running.

No one reported having to hire additional staff dedicated to the marijuana program, but most had to divert staff time and resources during the set-up period, i.e. take people off other work for a period of time. Two communities instead hired outside consultants and paid for that work with the licensing fees.

Long-term

A couple communities did not limit the number of potential licensees and reported that as a mistake that they regret. They said that the interest in this business sector is so high that they reached a saturation point very quickly and that the number of local marijuana businesses has grown beyond a sustainable number.

Most of the communities contacted by Mr. Myrkle are limiting the number of retail licenses to 4-6, but not limiting the number of grow operations at all. However, many other communities in Michigan do limit the number of grow operations. Charlotte will want to carefully consider its unique desires and needs for the community as well as its current and future zoning maps to determine whether

limits to grow operations will make sense for the community. Most communities are using zoning classifications tied to license types to regulate the geographic location of the businesses. Included as an attachment for Council is a copy of the most recent Zoning Map. It should be noted there have been rezoning approvals recently which have not been updated on this map but it provides a basis for discussion.

Financial Impacts

To the extent that they were able to answer the question, or have been doing it long enough to know, communities felt that the revenue they have received had exceeded their expenses. However, all communities did include retail operations which offer excise tax revenue sharing that would not be eligible for grow only licenses. If Charlotte were to only pursue grow operations, it could only collect the \$5,000 annual fee for licensing. This would provide a consistent revenue to defray the costs of administering this program; however, it would limit the revenue to only that annual fee. The first year, we could expect a higher revenue as the number of applicants would be expected to level off if other communities' experiences are repeated here. The excise taxes are only applicable on the provisioning centers (medical) and retail operations (adult-use) and any revenue sharing would be limited based on those licenses. If Charlotte were to consider allowing even one retail license, it would result in additional revenues. This year, it would be slightly over \$28,000, which is over five times the annual application fee for that one license.

Community Input Considerations

Council may consider whether to solicit community feedback on this issue. Specifically, it could conduct some town hall meetings, surveys (online or paper), or even Facebook polls to

gauge the general public's interest. There are limitations to any community feedback, including accuracy and respondent biases, as well as financial costs that vary based on the type of feedback considered. Certainly, the proposal of whether to allow any, or certain types, of licenses could be placed on the ballot. However, the next regular election at which this matter could be placed on the ballot would be in two-years' time. Administration has continued to receive interest from the business community interested in investing in these types of operations in the city. I would recommend any community input be broadly based on the topic and types of licenses the residents would like to see allowed versus specific regulations given the prescriptive requirements imposed by the various statutes and state-issued rules.

Council discussed the need to consider whether to focus on Grow or Retail facilities. The need for community input would be important. Council discussed the concern of a timeline if they were to consider having this ordinance ready to adopt before the November 2 election and the issue that trying to pursue such an aggressive plan may be difficult on administrative staff considering the previously discussed Rental Inspection Ordinance would be newly implemented. The proposal would need to go through the Planning Commission process to consider site plans and zoning changes. A time-line crunch would be an issue if the November 2 dead-line were to be reached. It was discussed that the process continues without the expectation the final decision would be presented to this Council, but likely the next.

PUBLIC COMMENTS:

Anthony Rodriguez, a City resident posed several questions inquiring how often inspections would occur, what the salary would be for an enforcement officer, would the enforcement officer serve also as an inspector, would a reward for compliance be considered,

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for example, the property owner had 3 years of compliance, they would then qualify for less inspections, if, per-se, the inspection schedule was a yearly event. LaPere responded to Rodriguez.

MAYOR AND COUNCIL COMMENTS:

No further comments. Armitage noted next meeting August 16, 2021 at 7:00 p.m., a public hearing will be made regarding the Rental Inspection ordinance. Work Session in November will be cancelled and the Organizational Meeting for new Council will be scheduled for the Monday following the election in accordance with the City Charter.

ADJOURNMENT:

Motion by Baker, seconded by Dyer to adjourn the meeting at 9:42 p.m. Carried. Yes 5; No 0, Absent 2

Mayor Armitage

Mary LaRocque, City Clerk