

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 4-14 TO ESTABLISH A PILOT PROGRAM REQUIRING RENTAL REGISTRATION FOR MULTI-FAMILY PROPERTIES AND CERTAIN SINGLE-FAMILY AND DUPLEX PROPERTIES IN THE CENTRAL AUSTIN NEIGHBORHOOD ADVISORY COMMITTEE (CANPAC) PLANNING AREAS AND THE HYDE PARK, NORTHFIELD, AND NORTH LOOP NEIGHBORHOODS; ESTABLISHING A PENALTY; AND ESTABLISHING PILOT PROGRAM EVALUATION CRITERIA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS.

The council finds the following:

- (1) The City is committed to ensuring that residential rental properties in the community are safe and maintained in accordance public health, safety, and property maintenance standards in the City Code.
- (2) Property maintenance is necessary to protect all properties, including residential rental unit dwellers.
- (3) Structural failures at multi-family rental properties have increased.
- (4) A proactive rental registration program is needed to protect the community welfare by ensuring that multi-family property are routinely maintained to prevent substandard and dangerous conditions resulting from major disrepair.
- (5) Single-family rental properties also experience property maintenance issues; and property owners who routinely fail to maintain their properties put rental unit dwellers at risk of injury or death.
- (6) Creating a “rental registration pilot program” that includes increased inspection opportunities is a tool that will assist the City in its commitment to ensuring that residential rental properties are safe and maintained in accordance public health, safety, and property maintenance standards in the City Code.
- (7) The areas included in the pilot program have many residential rental units and have had a high number of complaints handled by the Code

1 Compliance Department. Focusing on these areas will allow the City to
2 determine the effectiveness of a proactive rental registration program in
3 identifying substandard and dangerous conditions in contrast to a reactive
4 complaint-based system.

5 **PART 2.** City Code Chapter 4-14 (*Registration of Rental Property*) is amended to add
6 Article 6 (*Multi-family Rental Pilot Program*) and Article 7 (*Pilot Program Enforcement*)
7 to read:

8 ***ARTICLE 6. MULTI-FAMILY PILOT PROGRAM***

9 **§ 4-14-60 PURPOSE AND PILOT PROGRAM AREA.**

- 10 (A) The purpose of this article is to protect the health and safety of rental unit
11 dwellers in Austin.
- 12 (B) This article creates a pilot program that requires registration of multi-family
13 rental properties beginning on the effective date of this ordinance and
14 continuing for 18 months in the Central Austin Neighborhood Advisory
15 Committee (CANPAC) Planning Areas and the Hyde Park, Northfield, and
16 North Loop Neighborhoods. This area is shown in Exhibit 1, which is
17 attached and incorporated by reference.

18 **§ 4-14-61 REGISTRATION REQUIRED.**

- 19 (A) Except as provided in subsection (D), a rental registration issued under this
20 chapter is required for single-family rental property occupied by a non-
21 owner if the following conditions are met:
- 22 (1) two or more separate notices of violation for conditions that are
23 dangerous or impair habitability are issued for the same property within a
24 consecutive 12 month period and the owner of the property fails to
25 correct the violations within the time frame required by the code official;
- 26 (2) five or more separate notices of violation for conditions that are
27 dangerous or impair habitability are issued on separate days for the same
28 property within a consecutive 12 month period regardless of whether the
29 owner of the property corrects the violations within the time frame
30 required by the code official; or
- 31 (3) two or more citations for conditions that are dangerous or impair
32 habitability are issued for the same property within a consecutive 12
33 month period.

- 1 (B) The violations identified in the notices and citations must be related to the
2 Chapter 25-12 (*Technical Codes*), Chapter 10-5, Article 2 (*Sanitary*
3 *Condition of Real Property*), Chapter 10-7 (*Pools and Spas*), or Section 25-
4 11-32 (*Permit Required*).
- 5 (C) A rental registration issued under this article is required for a multi-family
6 rental property.
- 7 (D) This chapter does not apply to a single-family property that is regulated by
8 another section of the Code.
- 9 (E) The owner of a rental property that meets the conditions in subsections (A)
10 or (C) must register the property.
- 11 (F) The code official must provide written notice to an owner of a single-family
12 property subject to this article that registration is required.
- 13 (G) The code official may allow a landlord up to 14 days to register the rental
14 property.
- 15 (H) Registration is non-transferrable.
- 16 (I) A separate registration is required for each property.
- 17 (J) A person who fails to register as required by this article commits an offense
18 punishable under Section 4-14-73 (*Penalty*).
- 19 (K) An owner required to register as described in subsection (A) may appeal the
20 requirement to register to the code official.
- 21 (L) The appeal must be in writing and filed within 10 days from the date the
22 notice required in subsection (F) is mailed. Filing an appeal stays the
23 enforcement of the registration requirement.
- 24 (M) A single-family property must be registered for the time periods described in
25 Section 4-14-31 (*Registration Period*).

26 **§ 4-14-62 OTHER PERMITS OR LICENSES REQUIRED.**

- 27 (A) The issuance of a rental registration does not satisfy the requirement to obtain any
28 other permit or approval required by this code.
- 29 (B) Failure to comply with other City permitting requirements is cause to suspend a
30 registration issued under this chapter.

1 **§ 4-14-63 CHANGE IN OWNERSHIP.**

2 If the rental property changes ownership, the new owner must, within 30 days of
3 the change, submit a new registration application and pay a new registration fee. If the
4 single-family property is made compliant within a 90 day period after the property is
5 sold, the requirement to register is no longer applicable.

6 **§ 4-14-64 REQUIREMENTS.**

7 (A) An owner of a multi-family property must submit a registration application to
8 the code official within 30 days of the effective date of this ordinance.

9 (B) An owner of a rental property that is subject to this article shall comply with the
10 requirements set forth in:

11 (1) Section 4-14-30;

12 (2) Section 4-14-32;

13 (3) Section 4-14-33;

14 (4) Section 4-14-34;

15 (5) Section 4-14-36; and

16 (6) Section 4-14-37.

17 (N) A registrant of a rental property must provide in writing to the code official
18 the name, address, and telephone of local contacts described in Section 4-14-
19 36 (*Local Contacts*).

20 **§4-14-65 TENANT LIST.**

21 (A) A registrant of a multi-family property must maintain a list of all tenants at a
22 single location that includes the names of tenants and tenant contact
23 information.

24 (B) In the event of emergency conditions, the registrant or the local contact must
25 make the rental list available immediately for use by the code official.

26 (C) A registrant must update its list within 48 hours of a change in tenants at the
27 property.

28 (D) In the event the City receives a complaint related to occupancy of the rental
29 property, the code official may request to review the tenant list.

1 **§ 4-14-66 INSPECTION BY CODE OFFICIAL.**

2 (A) The code official may conduct:

- 3 (1) inspections based on indications of Code violations, including complaints
4 received by the City;
- 5 (2) periodic inspections; and
- 6 (3) follow-up inspections.

7 (B) The following areas of a multi-family property will be subject to inspection
8 by the code official:

- 9 (1) all building exteriors;
- 10 (2) all exterior and interior common areas;
- 11 (3) vacant dwelling units; and
- 12 (4) occupied dwelling units upon the consent of the tenant or when subject to
13 a valid administrative search warrant issued by a court of competent
14 jurisdiction.

15 (C) Nothing in this chapter limits the ability of the code official to inspect as
16 necessary or as authorized by other law.

17 (D) A landlord or tenant of a rental property may refuse to consent to an
18 inspection conducted by the code official. If consent is refused, the code
19 official may seek an administrative search warrant authorized by Article 18
20 of the Texas Code of Criminal Procedure (*Search Warrant*) and Section 2-
21 10-1 (*Municipal Court Jurisdiction and Authority*) of this code.

22 **§ 4-14-67 SINGLE-FAMILY PERIODIC INSPECTIONS.**

23 (A) The Code Compliance Department may inspect a single-family property
24 once a year.

25 (B) Prior to a scheduled periodic inspection, a registrant must provide tenants of
26 the property at least two days written notice that includes the following:

- 27 (1) the units that may be inspected;
- 28 (2) that an inspector intends to enter the dwelling unit to inspect the unit;

(3) that the tenant has a right to see the code compliance inspector's identification before the inspector enters the dwelling unit; and

(4) contact information for the Code Compliance Department.

(C) Upon request of the code official, a registrant must provide proof that written notice was provided.

§ 4-14-68 MULTI-FAMILY PERIODIC INSPECTIONS.

(A) Except as provided subsection (G), a periodic inspection of a multi-family property by the code official may occur once every two years.

(B) A periodic inspection includes inspection of:

(1) no more than four dwelling units at a rental property with 20 or fewer dwelling units; or

(2) no more than 20 percent of the dwelling units at rental property with more than 20 dwelling units.

(C) If one percent of the dwelling units fail inspection, the code official may inspect all of the dwelling units.

(D) The code official will select the dwelling units that will be subject to inspection.

(E) Prior to a scheduled periodic inspection, a registrant must provide tenants of the property at least two days written notice that includes the following:

(1) the dwelling units that may be inspected;

(2) that an inspector intends to enter the dwelling unit to inspect the unit;

(3) that the tenant has a right to see the code compliance inspector's identification before the inspector enters the dwelling unit; and

(4) contact information for the Code Compliance Department.

(F) Upon request of the code official, a registrant must provide proof that written notice was provided.

(G) A newly-constructed multi-family property is exempt from periodic inspections during the first five years after the City issues a certificate of occupancy.

1 **§4-14-68 THIRD PARTY INSPECTION.**

2 (A) Except as provided in subsection (E), a multi-family property subject to this
3 article may satisfy the periodic inspection requirement in Section 4-14-67
4 (*Periodic Inspections*) with inspections conducted by a third-party inspector
5 if the following conditions are met:

6 (1) the property has been inspected at least once by the code official after the
7 effective date of this ordinance;

8 (2) during a prior inspection by the code official, no violations were found at
9 the property, or any violations found during the prior inspection were
10 corrected in a timely fashion;

11 (3) there are no outstanding permitting issues at the property; and

12 (4) the registrant has complied with this chapter.

13 (B) A third-party inspector must inspect at least 40% of the dwelling units
14 equally distributed throughout the property.

15 (C) A third-party inspection must occur once every year.

16 (D) The results of a third-party inspection shall be submitted to the code official
17 on a form approved by the code official.

18 (E) A third party inspection may not satisfy the periodic inspection requirement
19 in Section 4-14-67 (*Periodic Inspections*) if:

20 (1) the rental property is subject to a legal action concerning the public
21 health and safety conditions relating to the property;

22 (2) during a consecutive 12 month period, the rental property incurs five or
23 more notices of violations regardless of whether the registrant corrects
24 the violations within the time frame required by the code official;

25 (3) during a consecutive 12 month period, the registrant fails to timely
26 comply with two or more notices of violations or two or more citations
27 are issued for the rental property; or

28 (4) the conditions of the rental property make the property unsafe,
29 substandard, or dangerous.

30 (F) If the third-party inspection identifies violations of the City Code, a
31 registrant shall, within 30 days from the date of the third-party inspection:

1 (1) correct the violations; and

2 (2) provide written notice to the code official that the violations were
3 corrected.

4 (G) If the code official rejects a third-party inspection as described in section 4-
5 14-67 (*Third Party Inspectors*), the registrant must have the property re-
6 inspected by a third-party inspector registered with the City.

7 **§ 4-14-69 THIRD PARTY INSPECTORS.**

8 (A) A person may register with the City as a third-party inspector if the
9 individual is certified as:

10 (1) an A.A.C.E. Property Maintenance and Housing Inspector; or

11 (2) an I.C.C. Property Maintenance and Housing Inspector; or

12 (3) an I.C.C. Residential Building Code Inspector; or

13 (4) an I.C.C. Building Code Inspector.

14 (B) The code official may reject a third-party inspection conducted by a person
15 that is not registered with the City.

16 ***ARTICLE 7. PILOT PROGRAM ENFORCEMENT.***

17 **§ 4-14-70 SUSPENSION.**

18 (A) The code official may suspend rental registration for a rental property if the
19 code official determines that

20 (1) the property is declared substandard or dangerous by the Building and
21 Standards Commission, the code official, or a court of competent
22 jurisdiction;

23 (2) the registrant fails to timely comply with a notice of violation;

24 (3) the registrant fails to comply with a requirement of Article 6 (*Multi-*
25 *family Rental Pilot Program*);

26 (4) the registrant fails to comply with other City permitting requirements; or

27 (5) the registrant fails to pay its annual registration fee.

(B) A suspension is effective until the code official determines that registrant complies with:

- (1) the requirements of this Article 6 (*Multi-family Rental Pilot Program*);
- (2) an order of the Building and Standards Commission, code official, or a court of competent jurisdiction; or
- (3) a notice of violation.

(C) While under suspension, a registrant may not lease or otherwise allow vacant dwelling units to be occupied and may not lease or otherwise allow an occupied unit to be occupied by new tenants.

(D) The code official must give notice to the registrant of its intent to suspend a registration issued under this chapter.

(E) The notice required by this section may specify a reasonable time for compliance with this chapter. If a time for compliance is specified, the code official may not suspend before the time for compliance has expired.

(F) If the registration is suspended, the code official must give notice to the tenants.

§ 4-14-71 REVOCATION.

(A) The code official may immediately revoke a registration that has been suspended pursuant to section 4-14-70 (*Suspension*) if the code official determines that the registrant:

- (1) did not comply in a reasonable time with the requirements of this chapter or a notice of violation for which the suspension was ordered;
- (2) during the suspension, did not comply with other requirements of Article 6 (*Multi-Family Rental Pilot Program*); or
- (3) during the suspension, did not comply with an order of the Building and Standards Commission, the code official, or a court of competent jurisdiction.

(B) Even if the registration has not been suspended, the code official may immediately revoke a registration issued under this chapter if an order to vacate the rental property is issued by the Building and Standards Commission or a court of competent jurisdiction.

1 **§ 4-14-72 APPEAL OF A SUSPENSION OR REVOCATION.**

- 2 (A) A person affected by a suspension or revocation may appeal to the Building
3 and Standards Commission by filing a written appeal with the code official.
- 4 (B) An appeal must be submitted to the code official not later than 10 days after
5 the date the notice of suspension or revocation is mailed.
- 6 (C) An appeal must be submitted to the code official not later than 10 days after
7 the registrant is notified of the revocation.
- 8 (D) An appeal must contain a brief statement of the facts that support the appeal
9 and the reason why the suspension or revocation should be reversed.

10 **§ 4-14-73 PENALTY.**

- 11 (A) A person who violates a provision of Article 6 (*Multi-family Rental Pilot*
12 *Program*) is guilty of a separate offense for each day the violation of this
13 chapter continues.
- 14 (B) Each offense is punishable by a fine not to exceed \$2,000. A culpable mental
15 state is not required for fines of \$500 or less, and need not be proved.

16 **PART 3. Follow Up Evaluation and Report to Council; Online Reporting Tool.**

- 17 (A) The Code Compliance Department will report to Council quarterly with a
18 report that addresses the following items related to properties that have
19 registered:
- 20 (1) Number and percentage of rental properties registered;
- 21 (2) Number and percentage of rental properties that received a periodic
22 inspection;
- 23 (3) Number and percentage of properties that received periodic inspections
24 and violations were found;
- 25 (4) Number and percentage of properties that timely complied with a Notice
26 of Violation;
- 27 (5) Number and percentage of properties that received periodic inspections
28 and no violations were found;
- 29 (B) Code Compliance Department should also develop an online reporting tool
30 that is publicly accessible for residential rental properties that have received

notices of violation but have not complied in a timely manner (including properties that are not registered). The online tool should provide the current status of those cases (Municipal Court, Building and Standards Commission, or other enforcement track).

PART 4. This ordinance takes effect on _____, 2013.

PASSED AND APPROVED

_____, 2013

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Lee Leffingwell
Mayor

APPROVED: _____
Karen M. Kennard
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk