

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 CERTAIN CENTRAL AUSTIN AREAS; 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 with public health, safety, and property maintenance standards in the City Code.
- (2) Property maintenance is necessary to protect all residents.
- (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 properties are routinely maintained to prevent substandard and dangerous conditions resulting from major disrepair.
- (5) High concentrations of poorly managed single-family rental properties with repeated code violations are deteriorating the fabric of certain central neighborhoods.
- (6) Over-occupied and poorly managed rentals create a domino effect whereby nearby owner-occupation becomes untenable.
- (7) The Code Compliance Department and the Austin Police Department currently work separately when addressing problem rental properties.
- (8) A pilot rental registration program for repeat code violators that coordinates the Code Compliance Department and the Austin Police Department is necessary to protect the community welfare, the quality of life of residents, and the long term viability of central Austin neighborhoods.

1 (9) Creating a program that includes increased inspection opportunities will
2 assist the City in its commitment to ensuring that residential rental
3 properties are safe and maintained in accordance public health, safety,
4 and property maintenance standards in the City Code.

5 (10) The areas included in the pilot program have many residential rental units
6 and have had a high number of complaints handled by City departments.
7 Focusing on these areas will allow the City to determine the effectiveness
8 of a proactive rental registration program in identifying substandard and
9 dangerous conditions and over occupancy in contrast to a reactive
10 complaint-based system.

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

14 **ARTICLE 6. PILOT RENTAL REGISTRATION PROGRAM**

15 **§ 4-14-60 PURPOSE AND PILOT PROGRAM AREA.**

16 (A) The purpose of this article is to protect the health and safety of rental unit
17 dwellers in Austin.

18 (B) This article creates a pilot program that requires registration of multi-family
19 rental properties constructed prior to January 1, 1999, and certain single-
20 family rental properties beginning on the effective date of this ordinance and
21 continuing for 18 months in the Central Austin Neighborhood Advisory
22 Committee (CANPAC) Planning Areas and the Hyde Park and North Loop
23 Planning Team Areas. These areas are shown in Exhibit 1, which is attached
24 and incorporated by reference.

25 **§ 4-14-61 REGISTRATION REQUIRED.**

26 (A) Except as provided in subsection (C), a rental registration issued under this
27 chapter is required for single-family property occupied by a non-owner if
28 the following conditions are met:

29 (1) one citation for a violation of Section 25-2-511 (*Dwelling Unit*
30 *Occupancy Limit*); or

31 (2) two or more separate notices of violation or citations for violations of
32 City Code Title 25 (*Land Development*);

33 (3) two or more separate citations for violations of

- (a) City Code Section 12-5-29 (*Front and Side Yard Parking*);
- (b) City Code Section 12-5-38 (*Sidewalk or Right-of-Way*);
- (c) City Code Chapter 9-2 (*Noise and Amplified Sound*);
- (d) City Code Section 15-6-17 (*Receptacle*);
- (e) Penal Code Section 42.01 (*Disorderly Conduct*);
- (f) Penal Code Section 49.02 (*Public Intoxication*);
- (g) Alcohol and Beverage Code Section 106.05 (*Possession of Alcohol by a Minor*); or
- (h) Alcohol and Beverage Code Section 106.06 (*Purchase of Alcohol for a Minor; Furnishing Alcohol to a Minor*).

- (B) A rental registration issued under this article is required for a multi-family rental property constructed prior to January 1, 1999.
- (C) Except for a single-family property regulated under Section 4-14-3 (*Registration Required; Exceptions*), this chapter does not apply to a single-family property that is regulated by another section of the Code.
- (D) The owner of a rental property that meets the conditions in subsections (A) or (B) must register the property.
- (E) The code official must provide written notice to an owner of a single-family property subject to this article that registration is required.
- (F) The code official may allow a landlord up to 14 days from the receipt of the notice to register the rental property.
- (G) Registration is site specific and non-transferrable among property owners.
- (H) A separate registration is required for each property.
- (I) A person who fails to register as required by this article commits an offense punishable under Section 4-14-73 (*Penalty*).
- (J) An owner required to register as described in subsection (A) may appeal the requirement to register to the code official.

1 (K) The appeal must be in writing and filed within 14 days from the date the
2 notice required in subsection (E) is mailed. Filing an appeal stays the
3 enforcement of the registration requirement.

4 (L) A single-family property must be registered for the time periods described in
5 Section 4-14-31 (*Registration Period*).

6 **§ 4-14-62 OTHER PERMITS OR LICENSES REQUIRED.**

7 (A) The issuance of a rental registration does not satisfy the requirement to obtain any
8 other permit or approval required by this code.

9 (B) Failure to comply with other City permitting requirements is cause to suspend a
10 registration issued under this chapter.

11 **§ 4-14-63 CHANGE IN OWNERSHIP.**

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

16 **§ 4-14-64 REQUIREMENTS.**

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

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

21 (1) Section 4-14-30 (*Rental of Unregistered Property Prohibited*);

22 (2) Section 4-14-32 (*Registration Fee*);

23 (3) Section 4-14-33 (*Display of Registration*);

24 (4) Section 4-14-34 (*Signs*);

25 (5) Section 4-14-35 (*Tenants*);

26 (6) Section 4-14-36 (*Local Contacts*); and

27 (7) Section 4-14-37 (*Notification of Change of Information*).

- 1 (C) A registrant of a rental property must provide in writing to the code official
2 the name, address, and telephone of local contacts described in Section 4-14-
3 36 (*Local Contacts*).

4 **§4-14-65 AFFIDAVIT OF OCCUPANCY.**

- 5 (A) In the event the City receives a complaint related to occupancy of the rental
6 property, the code official may request and review but not take possession of
7 an occupancy affidavit.
- 8 (B) An occupancy affidavit must include, at a minimum, the number of tenants
9 per dwelling unit and their relationship to any other persons residing in the
10 dwelling.

11 **§ 4-14-66 INSPECTION BY CODE OFFICIAL.**

- 12 (A) The code official may conduct:
- 13 (1) inspections based on indications of Code violations, including complaints
14 received by the City;
- 15 (2) periodic inspections; and
- 16 (3) follow-up inspections.
- 17 (B) Nothing in this chapter limits the ability of the code official to inspect as
18 necessary or as authorized by other law.
- 19 (C) The following areas of a multi-family property will be subject to inspection
20 by the code official:
- 21 (1) all building exteriors;
- 22 (2) all exterior and interior common areas;
- 23 (3) vacant dwelling units; and
- 24 (4) occupied dwelling units upon the consent of the tenant or when subject to
25 a valid administrative search warrant issued by a court of competent
26 jurisdiction.
- 27 (D) The following areas of a single-family property will be subject to inspection
28 by the code official:
- 29 (1) all building exteriors;

(2) vacant dwelling units, with the owner's consent; and

(3) occupied dwelling units upon receipt of complaint by the tenant or when subject to a valid administrative search warrant issued by a court of competent jurisdiction.

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

§ 4-14-67 PERIODIC INSPECTIONS.

(A) The Code Compliance Department may conduct a periodic inspection of a single-family property once every two years.

(B) 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 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.

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

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

(E) A periodic inspection of a multi-family property 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.

(F) If one percent of the dwelling units at a multi-family property fail inspection, the code official may inspect all of the dwelling units.

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

3 (H) A newly-constructed multi-family property is exempt from periodic
4 inspections during the first 15 years after the City issues a certificate of
5 occupancy.

6 **§4-14-68 THIRD PARTY INSPECTION.**

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

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

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

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

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

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

20 (C) A third-party inspection must occur once every two years.

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

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

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

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

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

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

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

8 (1) correct the violations; and

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

11 (G) If the code official rejects a third-party inspection as described in section 4-
12 14-69 (*Third Party Inspectors*), the registrant must have the property re-
13 inspected by a third-party inspector registered with the City.

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

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

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

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

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

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

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

23 ***ARTICLE 7. PILOT PROGRAM ENFORCEMENT.***

24 **§ 4-14-70 SUSPENSION.**

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

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

- (2) the registrant fails to timely comply with a notice of violation;
- (3) the registrant fails to comply with a requirement of Article 6 (*Pilot Rental Registration Program*);
- (4) the registrant fails to comply with other City permitting requirements; or
- (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 (*Pilot Rental Registration 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 (*Pilot Rental Registration 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.

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

(A) A person affected by a suspension or revocation may appeal to the Building and Standards Commission by filing a written appeal with the code official.

(B) An appeal must be submitted to the code official not later than 10 days after the date the notice of suspension or revocation is mailed.

(C) An appeal must be submitted to the code official not later than 10 days after the registrant is notified of the revocation.

(D) An appeal must contain a brief statement of the facts that support the appeal and the reason why the suspension or revocation should be reversed.

§ 4-14-73 PENALTY.

(A) A person who violates a provision of Article 6 (*Pilot Rental Registration Program*) is guilty of a separate offense for each day the violation of this chapter continues.

(B) Each offense is punishable by a fine not to exceed \$2,000. A culpable mental state is not required for fines of \$500 or less, and need not be proved.

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

The Code Compliance Department will report to Council quarterly with a report that addresses the following items related to properties that have registered:

(1) Number and percentage of rental properties registered;

(2) Number and percentage of rental properties that received a periodic inspection;

(3) Number and percentage of properties that received periodic inspections and violations were found;

1 (4) Number and percentage of properties that timely complied with a Notice
2 of Violation;

3 (5) Number and percentage of properties that received periodic inspections
4 and no violations were found;

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

6 **PASSED AND APPROVED**

7
8 §
9 §
10 _____, 2013 § _____
11 Lee Leffingwell
12 Mayor
13
14

15 **APPROVED:** _____
16 Karen M. Kennard
17 City Attorney
18

15 **ATTEST:** _____
16 Jannette S. Goodall
17 City Clerk
18