

ORDINANCE NO. 20130926-012

AN ORDINANCE AMENDING CITY CODE TITLE 4 TO ADD CHAPTER 4-14 RELATING TO REGISTRATION OF RENTAL PROPERTY; ESTABLISHING A PENALTY; AND AMENDING SECTION 2-1-122 RELATING TO THE BUILDING AND STANDARDS COMMISSION.

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 and put rental unit dwellers at risk.
- (4) 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.
- (5) There are residential rental properties that are the subject of multiple health and safety complaints, including complaints related to property maintenance.
- (6) Requiring registration, providing increased inspection opportunities, and reducing dangerous and substandard conditions for residential rental properties with multiple health and safety complaints will assist the City in its commitment to ensuring that residential rental properties are safe and maintained.
- (7) Properties with dangerous conditions and/or impair habitability as defined below must register and be responded to immediately.

PART 2. City Code Title 4 (*Business Permits*) is amended to add Chapter 4-14 (*Registration of Rental Property*) to read:

ARTICLE 1. GENERAL PROVISIONS

§ 4-14-1 PURPOSE.

The purpose of this chapter is to protect the health and safety of rental unit dwellers in Austin.

§ 4-14-2 DEFINITIONS.

In this chapter:

- (1) A.A.C.E. means the American Association of Code Enforcement.
- (2) AUSTIN METRO AREA means the five-county metropolitan area that surrounds the City of Austin.
- (3) CODE OFFICIAL means the Code Compliance Department director and authorized designees.
- (4) DANGEROUS means an imminent danger is present, or the conditions are able or likely to cause physical harm or injury to someone in the environment.
- (5) DWELLING UNIT means a residential unit providing complete, independent living facilities including permanent provisions for living, sleeping, eating, and cooking.
- (6) EMERGENCY CONDITIONS means, but is not limited to, fire, natural disaster, flood, collapse hazard, burst pipes, lack of working utilities, or other condition that requires an immediate response to prevent harm to the property, the tenants of the property, or the public.
- (7) HABITABILITY means conditions, including but not limited to, hot water, electric service, heating, electrical hazards and infestation, which impair the quality of life for a tenant.
- (8) I.C.C. means the International Code Council.
- (9) LANDLORD means a person who owns, leases, or subleases multi-family or single-family property.
- (10) LOCAL CONTACT means the individuals described in Section 4-14-36 (*Local Contacts*).

- (11) **MULTI-FAMILY PROPERTY** means property that is used for three or more dwelling units, within one or more buildings; condominium residential use as defined in Section 25-2-3(B) (*Residential Uses Described*); and three or more single-family properties owned by one person that are adjacent to one another.
- (12) **NOTICE OF VIOLATION** means a written notice that a violation of the City Code exists.
- (13) **REGISTRANT** means the landlord of a registered rental property.
- (14) **RENTAL PROPERTY** means a property subject to this chapter.
- (15) **SINGLE-FAMILY PROPERTY** means property that is used for conservation single family residential, duplex residential, single-family attached residential, single-family residential, small-lot single-family residential, townhouse residential, and two-family residential as those terms are defined in Section 25-2-3(B) (*Residential Uses Described*).

§ 4-14-3 REGISTRATION REQUIRED; EXCEPTIONS.

- (A) Except as provided in subsection (C), a rental registration issued under this chapter is required for multi-family rental property or single-family rental property occupied by a non-owner if the following conditions are met:
 - (1) two or more separate notices of violation for conditions that are dangerous or impair habitability are issued for the same property within a consecutive 12 month period and the owner of the property fails to correct the violations within the time frame required by the code official;
 - (2) five or more separate notices of violation for conditions that are dangerous or impair habitability are issued on separate days for the same property within a consecutive 12 month period regardless of whether the owner of the property corrects the violations within the time frame required by the code official; or
 - (3) two or more citations for conditions that are dangerous or impair habitability are issued for the same property within a consecutive 12 month period.
- (B) The violations identified in the notices and citations must be related to the Chapter 25-12 (*Technical Codes*), Chapter 10-5, Article 2 (*Sanitary Condition of Real Property*), Chapter 10-7 (*Pools and Spas*), or Section 25-11-32 (*Permit Required*).

(C) This chapter does not apply to:

- (1) Owner-occupied rental units; or
- (2) Residential units regulated by another section of the Code.

§ 4-14-4 REGISTRATION.

- (A) The owner of a rental property that meets the conditions in Section 4-14-3(A) (*Registration Required; Exceptions*) must register the property.
- (B) The code official must provide written notice to a landlord that registration is required.
- (C) The code official may allow a landlord up to 14 days to register the rental property.
- (D) Registration is non-transferrable.
- (E) A separate registration is required for each property.
- (F) A person who fails to register as required by this chapter commits an offense punishable under Section 4-14-53 (*Penalty*).

§ 4-14-5 APPEAL OF REGISTRATION REQUIREMENT.

- (A) An owner required to register as described in Section 4-14-4 (*Registration*) may appeal the requirement to register to the code official.
- (B) The appeal must be in writing and filed within 10 days from the date the notice required in Section 4-14-4(B) (*Registration*) is mailed.
- (C) An appeal must contain a brief statement of the facts that support the appeal and the reasons why registration should not be required.
- (D) An appeal under this Section stays the enforcement of the registration requirement.

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

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

§ 4-14-7 CHANGE IN OWNERSHIP.

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

ARTICLE 2. RENTAL REGISTRATION APPLICATION.

§ 4-14-20 CONTENTS OF APPLICATION.

- (A) An application for rental registration must be submitted on a form approved by the code official.
- (B) The disclosure of information must request the following information:
 - (1) the name, address, and telephone number, and email address of the owner of the rental property;
 - (2) if the owner of the rental property is a corporation or association, the name and address of the registered agent on file with the Texas Secretary of State;
 - (3) the address of the rental property;
 - (4) the number of individual rental units and buildings at the property; and
 - (5) the telephone number that will be answered 24 hours a day as required by Texas Property Code Section 92.020 (Emergency Phone Number).

ARTICLE 3. OPERATION.

§ 4-14-30 RENTAL OF UNREGISTERED PROPERTY PROHIBITED.

A landlord may not allow another person to occupy or lease a rental property without a registration required by this chapter.

§ 4-14-31 REGISTRATION PERIOD.

- (A) A rental property shall be registered for a minimum of two consecutive years.
- (B) The rental property must remain registered until none of the conditions in Section 4-14-3(A) (*Registration Required; Exceptions*) occur for two years.

- (C) If a rental property completes a registration period and then becomes subject to this chapter again, the registration period shall be for a minimum of five years and must remain registered as provided for in subsection (B).

§ 4-14-32 REGISTRATION FEE.

- (A) Each year the registrant shall pay annually a fee to maintain the rental registration.
- (B) The rental registration fee is established by separate ordinance.

§ 4-14-33 DISPLAY OF REGISTRATION.

- (A) A registrant of a multi-family property must display the registration in a public area of an on-site management office or other similar public area of the property.
- (B) A registrant of a single-family property must display the registration in the kitchen area of the property.

§ 4-14-34 SIGNS.

- (A) A registrant shall post and maintain signs, in English and in Spanish, on the premises of the property that include the following information:
- (1) the emergency phone number described in Texas Property Code Section 92.020 (*Emergency Phone Number*); and
 - (2) information regarding how to report code violations to the City.
- (B) For multi-family properties, the signs required by this section shall be a minimum of 12 inches by 24 inches. Sign facings shall be weather-proof. The signs shall have a white background with letters and numbers in a contrasting color.
- (C) The registrant of a multi-family property must post one sign per 50 units. The signs must be posted outside and in the common areas of the property. If more than one sign is required under this section, the signs may not be placed in the same area of the property.
- (D) For single-family properties, the signs required by this chapter shall be a minimum of 8 ½ inches by 11 inches. The signs shall have a white background with letters and numbers in a contrasting color.
- (E) The registrant of a single-family property must post one sign in the kitchen area of each dwelling unit.

- (F) Any changes in the information required in subsection (A) must be updated within three business days of the change.

§ 4-14-35 TENANTS.

A landlord must be able to contact all tenants within two hours in an emergency situation.

§ 4-14-36 LOCAL CONTACTS.

- (A) A registrant who does not reside within the Austin Metro Area must identify an individual or individuals that can respond to emergency conditions.
- (B) The individual or individuals described in subsection (A) must be present within the Austin Metro Area and be available to respond within two hours after being notified by a tenant or a City employee of an emergency during any 24-hour period.
- (C) If there is a change related to the local contacts, a registrant must update the code official in writing within three business days and provide the new local contact's information.

§ 4-14-37 NOTIFICATION OF CHANGE OF INFORMATION.

A registrant shall notify the code official of a material change in the information contained in the rental registration application within 10 days of the change.

ARTICLE 4. INSPECTION.

§ 4-14-40 INSPECTION BY CODE OFFICIAL.

- (A) The code official may conduct:
- (1) inspections based on indications of Code violations, including complaints received by the City;
 - (2) periodic inspections; and
 - (3) follow-up inspections.
- (B) The following areas of a multi-family property will be subject to inspection by the code official:
- (1) all building exteriors;
 - (2) all exterior and interior common areas;

- (3) vacant dwelling units; and
 - (4) occupied dwelling units upon the consent of the tenant or when subject to a valid administrative search warrant issued by a court of competent jurisdiction.
- (C) The following areas of a single-family property will be subject to inspection by the code official:
- (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.
- (D) Nothing in this chapter limits the ability of the code official to inspect as necessary or as authorized by other law.
- (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.

§ 4-14-41 PERIODIC INSPECTIONS.

- (A) A periodic inspection by the code official may occur once a year.
- (B) The code official will select the dwelling units that will be subject to inspection.
- (C) Prior to a scheduled periodic inspection, a registrant must provide tenants of the property at least 2 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.

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

ARTICLE 5. ENFORCEMENT.

§ 4-14-50 SUSPENSION.

- (A) The code official may suspend rental registration for a rental property if the code official determines that
- (1) the property is declared substandard or dangerous by the Building and Standards Commission, the code official, or a court of competent jurisdiction;
 - (2) the registrant fails to timely comply with a notice of violation;
 - (3) the registrant fails to comply with a requirement of this Chapter;
 - (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 Chapter;
 - (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.

§ 4-14-51 REVOCATION.

- (A) The code official may immediately revoke a registration that has been suspended pursuant to Section 4-14-50 (*Suspension*) if the code official determines that the registrant is:
- (1) a condition that is dangerous or impairs habitability exists at the rental property during the suspension period; and
 - (2) the registrant fails to take remedial action to correct the condition.
- (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.
- (C) After the rental property is compliant with the City Code, the code official may re-instate the registration for the time period specified in Section 4-14-31 (*Registration Period*).

§ 4-14-52 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.

§ 4-14-53 PENALTY.

- (A) A person who violates a provision of this chapter 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. City Code Section 2-1-122 (*Building and Standards Commission*) is amended to read as follows:

§ 2-1-122 BUILDING AND STANDARDS COMMISSION.

- (A) The Building and Standards Commission is established to hear cases concerning alleged violations of the City's regulations relating to property maintenance, housing, and dangerous buildings.
- (B) Each member is appointed for a term of two years until a successor is appointed and qualified. A vacancy is filled for the unexpired term.
- (C) The fire marshal and the health authority representative are ex officio members of the commission. The code [building] official shall also serve as the commission's executive secretary. An ex officio member may designate a representative to [~~the~~] attend a hearing.
- (D) The City Council may remove a commission member or alternate member for cause on a written charge. Before a decision regarding removal is made, the City Council must hold a public hearing on the matter if requested by the commission member who is subject to the removal action.
- (E) The Building and Standards Commission shall have the powers and duties granted by, and comply with the procedures of, Texas Local Government Code Chapter 54, Subchapter C (*Quasi-Judicial Enforcement of Health and Safety Ordinances*), Texas Local Government Code Chapter 214 (*Municipal Regulation of Housing and Other Structures*), Subchapter A (*Dangerous Structures*), City Code Chapter 4-14 (*Registration of Rental Property*), and City Code Chapter 25-12, Article 9 (*International Property Maintenance Code*).

PART 4. Follow Up Evaluation and Report to Council; Online Reporting Tool.

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

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

(B) Code Compliance Department should also develop an online reporting tool 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 5. This ordinance takes effect on October 7, 2013.

PASSED AND APPROVED

_____ September 26 _____, 2013 §
 § Lee Leffingwell
 § Lee Leffingwell
 Mayor

APPROVED: Karen M. Kennard
Karen M. Kennard
City Attorney

ATTEST: Jannette S. Goodall
Jannette S. Goodall
City Clerk