

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE TITLE 4 TO ADD CHAPTER 4-14 ESTABLISHING A PILOT PROGRAM REQUIRING RENTAL REGISTRATION FOR MULTI-FAMILY PROPERTIES AND NON-COMPLIANT SINGLE-FAMILY AND DUPLEX PROPERTIES; ESTABLISHING A PENALTY; AMENDING SECTION 2-1-122 RELATING TO THE BUILDING AND STANDARDS COMMISSION; 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 Compliance Department. Focusing on these areas will allow the City to

1 determine the effectiveness of a proactive rental registration program in
2 identifying substandard and dangerous conditions in contrast to a
3 reactive complaint-based system.

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

6 **ARTICLE 1. GENERAL PROVISIONS**

7 **§ 4-14-1 PURPOSE AND PILOT PROGRAM AREAS:**

8 (A) The purpose of this chapter is to improve the health and safety of rental unit
9 dwellers in Austin.

10 (B) This chapter creates a pilot program that requires registration of multi-family
11 rental properties and non-compliant single-family rental properties beginning
12 on the effective date of this chapter and continuing for 12 months in the
13 following areas:

14 (1) North Austin Civic Association (NACA);

15 (2) "Restore Rundberg";

16 (3) East Riverside/Oltorf Combined Neighborhood (EROC);

17 (4) Central Austin Neighborhood Advisory Committee (CANPAC)
18 Planning Areas;

19 (5) Hyde Park; and

20 (6) Northfield and North Loop.

21 (C) The areas identified above are shown on the attached map that is identified as
22 Exhibit 1.

23 **§ 4-14-2 DEFINITIONS.**

24 In this chapter:

25 (1) A.A.C.E. means the American Association of Code Enforcement.

26 (2) AUSTIN METRO AREA means the five-county metropolitan area that
27 surrounds the City of Austin.

- 1 (3) CODE OFFICIAL means the Code Compliance Department director and
2 authorized designees.
- 3 (4) DWELLING UNIT means a residential unit providing complete,
4 independent living facilities including permanent provisions for living,
5 sleeping, eating, and cooking.
- 6 (5) EMERGENCY CONDITIONS means, but is not limited to, fire, natural
7 disaster, flood, collapse hazard, burst pipes, lack of working utilities, or
8 other condition that requires an immediate response to prevent harm to
9 the property, the tenants of the property, or the public.
- 10 (6) I.C.C. means the International Code Council.
- 11 (7) LANDLORD means a person who owns, leases, or subleases multi-
12 family or single-family property. The landlord is the applicant for
13 purposes of this chapter.
- 14 (8) LOCAL CONTACT means the individuals described in Section 4-14-36
15 (*Local Contacts*).
- 16 (9) MULTI-FAMILY PROPERTY means property that is used for: three or
17 more dwelling units, within one or more buildings; condominium rental
18 use as defined in Section 25-2-3(B) (*Residential Uses Described*); and
19 three or more single-family properties owned by one person that are
20 adjacent to one another.
- 21 (10) NOTICE OF VIOLATION means a written notice that a violation of the
22 City Code exists.
- 23 (11) REGISTRANT means the landlord of a registered rental property.
- 24 (12) RENTAL PROPERTY means a multi-family property and a single-
25 family property subject to this chapter.
- 26 (13) SINGLE-FAMILY PROPERTY means property that is used for
27 conservation single family residential, duplex residential, single-family
28 attached residential, single-family residential, small lot single-family
29 residential, townhouse residential, and two-family residential, as those
30 terms are defined in Section 25-2-3(B) (*Residential Uses Described*).

31 **§ 4-14-3 REGISTRATION REQUIRED; EXCEPTIONS.**

1 (A) Except as provided in subsection (D), a rental registration issued under this
2 chapter is required to operate, lease, occupy, or otherwise allow a single-
3 family rental property to be occupied by a non-owner if any one of the
4 following conditions are met:

5 (1) two or more separate notices of violation are issued for the same
6 property within a consecutive 12 month period and the owner of the
7 property fails to correct the violations within the time frame required by
8 the code official;

9 (2) five or more separate notices of violation are issued on separate days for
10 the same property within a consecutive 12 month period regardless of
11 whether the owner of the property corrects the violations within the time
12 frame required by the code official; or

13 (3) two or more citations are issued for the same property within a
14 consecutive 12 month period.

15 (B) The violations identified in the notices and citations must be related to the
16 City Code Chapter 25-12 (*Technical Codes*), City Code Chapter 10-5, Article
17 2 (*Sanitary Condition of Real Property*), City Code Chapter 10-7 (*Pools and*
18 *Spas*), and City Code Section 25-11-32 (*Permit Required*).

19 (C) Except as provided for in subsection (D), a rental registration issued under
20 this chapter is required to operate, lease, occupy, or otherwise allow a multi-
21 family rental property to be occupied.

22 (D) A rental registration under this chapter is not required for:

23 (1) Owner-occupied residential units; or

24 (2) Residential units regulated by another section of the Code.

25 **§ 4-14-4 REGISTRATION.**

26 (A) The landlord of a single-family property that meets the conditions in Section
27 4-14-3(A) (*Registration Required; Exceptions*) must register the property.

28 (B) The code official must provide written notice to a landlord of a single-family
29 property subject to this chapter that registration is required.

30 (C) The code official may allow a landlord up to 14 days to register a single-
31 family property subject to this chapter.

- 1 (D) A multi-family property must be registered within 30 days of the effective
2 date of this chapter.
- 3 (E) Registration is non-transferable
- 4 (F) A separate registration is required for each property.
- 5 (G) A person who fails to register as required by this section commits an offense
6 punishable under Section 4-14-53 (*Penalty*).

7 **§ 4-14-5 APPEAL OF REGISTRATION REQUIREMENT.**

- 8 (A) A person required to register under Section 4-4-14(A) (*Registration*) may
9 appeal the requirement to register to the code official.
- 10 (B) The appeal must be in writing and filed not later than 10 days after the date
11 the notice required in Section 4-4-14(C) (*Registration*) is mailed.
- 12 (C) An appeal must contain a brief statement of the facts that support the appeal
13 and the reasons why registration should not be required.
- 14 (D) An appeal under this Section stays the enforcement of the registration
15 requirement.

16 **§ 4-14-6 OTHER PERMITS OR LICENSES REQUIRED.**

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

21 **§ 4-14-7 CHANGE IN OWNERSHIP.**

22 If the rental property changes ownership, the new owner must, within 30 days of the
23 change, submit a new registration application and pay a new registration fee.

24 ***ARTICLE 2. RENTAL REGISTRATION APPLICATION***

25 **§ 4-14-20 CONTENTS OF APPLICATION.**

- 26 (A) An application for rental registration must be submitted on a form approved
27 by the code official.

1 (B) An application must contain all of the information described in this
2 subsection that is applicable to the rental property.

3 (1) the name, address, and telephone of the applicant;

4 (2) the name, address, and telephone of the property management company,
5 if not the same as the applicant;

6 (3) the address of the property;

7 (4) the number of individual rental units and buildings at the property;

8 (5) a brief description of the amenities on the property;

9 (6) the form of business of the applicant and, if the business is a corporation
10 or association, a copy of the documents establishing the business;

11 (7) the name, address, and telephone of local contacts described in Section
12 4-14-36 (*Local Contacts*); and

13 (8) any additional relevant information required by the code official.

14 **§ 4-14-21 APPROVAL OR DENIAL OF REGISTRATION.**

15 The code official shall issue a registration for a rental property subject to this chapter.

16 **ARTICLE 3. OPERATION.**

17 **§ 4-14-30 RENTAL OF UNREGISTERED PROPERTY PROHIBITED.**

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

20 **§ 4-14-31 REGISTRATION PERIOD.**

21 (A) A single-family property subject to this chapter shall be registered for a
22 minimum of two consecutive years.

23 (B) The single-family property must remain registered until none of the
24 conditions in Section 4-14-3(A) (*Registration Required; Exceptions*) occur
25 for two years.

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

1 **§ 4-14-32 REGISTRATION FEE.**

- 2 (A) Except as provided in subsection (C), a registrant shall annually pay a fee to
3 maintain the rental registration.
- 4 (B) The rental registration fee is established by separate ordinance.
- 5 (C) A registrant exempt from periodic inspections as described in Section 4-4-
6 41(G) (*Periodic Inspections*) is exempt from paying a registration fee for the
7 first five years.

8 **§ 4-14-33 DISPLAY OF REGISTRATION.**

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

14 **§ 4-14-34 SIGNS.**

- 15 (A) A registrant shall post and maintain signs, in English and in Spanish, on the
16 premises of the property that include the following information:
- 17 (1) the emergency phone number described in Texas Property Code Section
18 92.020 (*Emergency Phone Number*); and
- 19 (2) information regarding how to report code violations to the City.
- 20 (B) For multi-family properties, the signs required by this section shall be a
21 minimum of 12 inches by 24 inches. Sign facings shall be weather-proof. The
22 signs shall have a white background with letters and numbers in a contrasting
23 color.
- 24 (C) The registrant of a multi-family property must post one sign per 50 units. The
25 signs must be posted outside and in the common areas of the property. If
26 more than one sign is required under this section, the signs may not be placed
27 in the same area of the property.
- 28 (D) For single-family properties, the signs required by this section shall be a
29 minimum of 8 ½ inches by 11 inches. The signs shall have a white
30 background with letters and numbers in a contrasting color.

1 (E) The registrant of a single-family property subject to this chapter must post
2 one sign in the kitchen area of each dwelling unit.

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

5 **§ 4-14-35 TENANT LIST.**

6 (A) The registrant must maintain a list of all tenants at a single location.

7 (B) The list must include the following information

8 (1) name of tenants; and

9 (2) tenant contact information.

10 (C) In the event of an emergency, the registrant or the local contact must make
11 the rental list available immediately for use by the code official.

12 (D) A registrant must update its list within 48 hours of a change in tenants at the
13 property.

14 **§ 4-14-36 LOCAL CONTACTS.**

15 (A) A registrant who does not reside within the Austin Metro Area must identify
16 an individual or individuals that can respond in emergency conditions.

17 (B) The individual or individuals described in subsection (A) must be present
18 within the Austin Metro Area and be available to respond to within two hours
19 after being notified by a tenant or a City employee of an emergency during
20 any 24- hour period.

21 (C) If there is a change related to the local contacts, a registrant must update the
22 code official in writing within three business days and provide the new local
23 contact's information.

24 **§ 4-14-37 NOTIFICATION OF CHANGE OF INFORMATION.**

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

27 ***ARTICLE 4. INSPECTION***

28 **§ 4-14-40 INSPECTION BY CODE OFFICIAL.**

- 1 (A) The code official may conduct:
- 2 (1) inspections based on indications of Code violations, including
- 3 complaints received by the City;
- 4 (2) periodic inspections; and
- 5 (3) follow-up inspections.
- 6 (B) The following areas of a multi-family property will be subject to inspection
- 7 by the code official:
- 8 (1) all building exteriors;
- 9 (2) all exterior and interior common areas;
- 10 (3) vacant dwelling units; and
- 11 (4) occupied dwelling units upon the consent of the tenant or when subject
- 12 to a valid administrative search warrant issued by a court of competent
- 13 jurisdiction.
- 14 (C) The following areas of a single-family property will be subject to inspection
- 15 by the code official:
- 16 (1) all building exteriors;
- 17 (2) vacant dwelling-units, with the owner's consent; and
- 18 (3) occupied dwelling units upon receipt of complaint by the tenant or when
- 19 subject to a valid administrative search warrant issued by a court of
- 20 competent jurisdiction.
- 21 (D) Nothing in this chapter limits the ability of the code official to inspect as
- 22 necessary or as authorized by other law.
- 23 (E) A landlord or tenant of a rental property may refuse to consent to an
- 24 inspection conducted by the code official. If consent is refused, the code
- 25 official may seek an administrative search warrant authorized by Article 18
- 26 of the Texas Code of Criminal Procedure (*Search Warrants*) and Section 2-
- 27 10-1 (*Municipal Court Jurisdiction and Authority*) of the City Code.

28 **§ 4-14-41 PERIODIC INSPECTIONS FOR MULTI-FAMILY PROPERTY.**

- 1 (A) Except as provided Section 4-4-43 (*Third-Party Inspection*), a periodic
2 inspection of a multi-family property by the code official may occur once
3 every two years.
- 4 (B) A periodic inspection includes inspection of:
- 5 (1) no more than four dwelling units at a rental property with 20 or fewer
6 dwelling units; or
- 7 (2) no more than 20 percent of the dwelling units at rental property with
8 more than 20 dwelling units.
- 9 (C) If one percent of the dwelling units fail inspection, the code official may
10 inspect all of the dwelling units.
- 11 (D) The code official will select the dwelling units that will be subject to
12 inspection.
- 13 (E) Prior to a scheduled periodic inspection, a registrant must provide tenants of
14 the property at least two days written notice that includes the following:
- 15 (1) the dwelling units that may be inspected;
- 16 (2) that an inspector intends to enter the dwelling unit to inspect the unit;
- 17 (3) that the tenant has a right to see the code compliance inspector's
18 identification before the inspector enters the dwelling unit; and
- 19 (4) contact information for the Code Compliance Department.
- 20 (F) Upon request of the code official, a registrant must provide proof that written
21 notice was provided.
- 22 (G) A newly-constructed multi-family property is exempt from periodic
23 inspections during the first five years after the City issues a certificate of
24 occupancy.

25 **§ 4-14-42 PERIODIC INSPECTIONS FOR SINGLE-FAMILY PROPERTY.**

- 26 (A) The Code Compliance Department may inspect a single-family property once
27 a year.
- 28 (B) Prior to a scheduled periodic inspection, a registrant must provide tenants of
29 the property at least two days written notice that includes the following:

- 1 (1) the units that may be inspected;
- 2 (2) that an inspector intends to enter the dwelling unit to inspect the unit;
- 3 (3) that the tenant has a right to see the code compliance inspector's
- 4 identification before the inspector enters the dwelling unit; and
- 5 (4) contact information for the Code Compliance Department.

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

8 **§ 4-14-43 THIRD PARTY INSPECTION.**

9 (A) Except as provided in subsection (E), a multi-family property subject to this
10 chapter may satisfy periodic inspection requirement in Section 4-4-141
11 (*Periodic Inspections*) with inspections conducted by a third-party inspector
12 if the following conditions are met:

- 13 (1) the property has been inspected at least once by the code official after
14 the effective date of this ordinance;
- 15 (2) during a prior inspection by the code official, no violations were found at
16 the property, or any violations found during the prior inspection were
17 corrected in a timely fashion;
- 18 (3) there are no outstanding permitting issues at the property; and
- 19 (4) the registrant has complied with this chapter.

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

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

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

25 (E) A third party inspection may not satisfy the periodic inspection requirement
26 in Section 4-4-141 (*Periodic Inspections*) if:

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

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

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

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

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

11 (1) correct the violations; and

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

14 (G) If the code official rejects a third-party inspection as described in Section 4-
15 4-144(B) (*Third Party Inspectors*), the registrant must have the property re-
16 inspected by a third-party inspector registered with the City.

17 **§ 4-14-44 THIRD PARTY INSPECTORS.**

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

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

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

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

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

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

26 **ARTICLE 5. ENFORCEMENT**

27 **§ 4-14-50 SUSPENSION.**

28 (A) The code official may suspend rental registration for a property if the code
29 official determines that:

- 1 (1) the registration was issued in error;
- 2 (2) the property is declared substandard or dangerous by the Building and
- 3 Standards Commission, the code official, or a court of competent
- 4 jurisdiction;
- 5 (3) the registrant fails to timely comply with a notice of violation;
- 6 (4) the registrant fails to comply with the requirements of this chapter;
- 7 (5) the registrant fails to comply with other City permitting requirements; or
- 8 (6) the registrant fails to pay its annual registration fee.

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

- 11 (1) the notice of violation;
- 12 (2) an order of the Building and Standards Commission, code official, or a
- 13 court of competent jurisdiction;
- 14 (3) the requirements of this chapter;
- 15 (4) other City permitting requirements; or
- 16 (5) the annual fee is paid.

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

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

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

26 § 4-14-51 REVOCATION.

27 (A) The code official may immediately revoke a registration that has been
28 suspended pursuant to Section 4-14-50 (*Suspension*) if the code official
29 determines that the registrant:

1 (1) did not comply in a reasonable time with the requirements of this chapter
2 or a notice of violation for which the suspension was ordered;

3 (2) during the suspension, did not comply with other requirements of this
4 chapter; or

5 (3) during the suspension, did not comply with an order of the Building and
6 Standards Commission, the code official, or a court of competent
7 jurisdiction.

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

12 **§ 4-14-52 APPEAL OF A SUSPENSION OR REVOCATION.**

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

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

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

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

21 **§ 4-14-53 PENALTY.**

22 (A) A person who violates a provision of this chapter is guilty of a separate
23 offense for each day the violation of this chapter continues.

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

26 **PART 3.** City Code Section 2-1-122 (*Building and Standards Commission*) is amended
27 to read as follows:

28 **§ 2-1-122 BUILDING AND STANDARDS COMMISSION.**

29 (A) The Building and Standards Commission is established to hear cases
30 concerning alleged violations of the City's regulations relating to property
31 maintenance, housing, and dangerous buildings.

- 1 (B) Each member is appointed for a term of two years or until a successor is
2 appointed and qualified. A vacancy is filled for the unexpired term.
- 3 (C) The Fire Marshal and the health authority representative are ex officio
4 members of the commission. The code [~~building~~] official shall also serve as
5 the commission's executive secretary. An ex officio member may designate a
6 representative to [~~the~~] attend a hearing.
- 7 (D) The City Council may remove a commission member or alternate member
8 for cause on a written charge. Before a decision regarding removal is made,
9 the City Council must hold a public hearing on the matter if requested by the
10 commission member who is subject to the removal action.
- 11 (E) The Building and Standards Commission shall have the powers and duties
12 granted by, and comply with the procedures of, Texas Local Government
13 Code Chapter 54, Subchapter C (*Quasi-Judicial Enforcement of Health and*
14 *Safety Ordinances*), Texas Local Government Code Chapter 214 (*Municipal*
15 *Regulation of Housing and Other Structures*), Subchapter A (*Dangerous*
16 *Structures*), City Code Chapter 4-14 (*Registration of Rental Property*), and
17 City Code Chapter 25-12, Article 9 (*International Property Maintenance*
18 *Code*).

19 **PART 4.** Follow-Up Evaluation and Report to Council.

20 The Code Compliance Department will return to council within six months of the end of
21 the pilot program with a report that addresses the following:

- 22 (1) Number and percentage of rental properties registered;
- 23 (2) Number and percentage of rental properties that received a periodic
24 inspection;
- 25 (3) Number and percentage of properties that received periodic inspections
26 and violations were found;
- 27 (4) Number and percentage of properties that timely complied with a Notice
28 of Violation;
- 29 (5) Number and percentage of properties that received periodic inspections
30 and no violations were found;
- 31 (6) Changes in the rental market; and
- 32 (7) Stakeholder's perspective.

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

2 **PASSED AND APPROVED**

3
4
5
6 _____, 2013

§
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§

7 _____
8 Lee Leffingwell
9 Mayor

10
11 **APPROVED:** _____
12 Karen M. Kennard
13 City Attorney

14 **ATTEST:** _____
15 Jannette S. Goodall
City Clerk

Draft