

ORDINANCE NO.

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 properties, including residential rental unit dwellers.
- (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 property maintenance.
- (6) Requiring registration and providing increased inspection opportunities 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.

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.

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

3 **§ 4-14-2 DEFINITIONS.**

4 In this chapter:

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

1 (13) SINGLE-FAMILY PROPERTY means property that is used for
2 conservation single family residential, duplex residential, single-family
3 attached residential, single-family residential, small-lot single-family
4 residential, townhouse residential, and two-family residential as those
5 terms are defined in Section 25-2-3(B) (*Residential Uses Described*).

6 **§ 4-14-3 REGISTRATION REQUIRED; EXCEPTIONS.**

7 (A) Except as provided in subsection (C), a rental registration issued under this
8 chapter is required to operate, lease, occupy, or otherwise allow multi-family
9 rental property or single-family rental property to be occupied by a non-
10 owner if the following conditions are met:

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

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

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

21 (B) The violations identified in the notices and citations must be related to the
22 Chapter 25-12 (*Technical Codes*), Chapter 10-5, Article 2 (*Sanitary*
23 *Condition of Real Property*), Chapter 10-7 (*Pools and Spas*), or Section 25-
24 11-32 (*Permit Required*).

25 (C) This chapter does not apply to:

26 (1) Owner-occupied rental units; or

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

28 **§ 4-14-4 REGISTRATION.**

29 (A) The landlord of a rental property that meets the conditions in Section 4-14-
30 3(A) (*Registration Required; Exceptions*) must register the property.

31 (B) The code official must provide written notice to a landlord that registration
32 is required.

- 1 (C) The code official may allow a landlord up to 14 days to register the rental
2 property.
- 3 (D) Registration is non-transferrable.
- 4 (E) A separate registration is required for each property.
- 5 (F) A person who fails to register as required by this chapter 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 as described in Section 4-14-4 (*Registration*)
9 may appeal the requirement to register to the code official.
- 10 (B) The appeal must be in writing and filed within 10 days from the date the
11 notice required in Section 4-14-4(B) (*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 pays 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 4-
12 14-36 (*Local Contacts*); and

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

14 **ARTICLE 3. OPERATION.**

15 **§ 4-14-30 RENTAL OF UNREGISTERED PROPERTY PROHIBITED.**

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

18 **§ 4-14-31 REGISTRATION PERIOD.**

19 (A) A rental property shall be registered for a minimum of two consecutive
20 years.

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

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

26 **§ 4-14-32 REGISTRATION FEE.**

27 (A) Each year the registrant shall pay annually a fee to maintain the rental
28 registration.

1 (B) The rental registration fee is established by separate ordinance.

2 **§ 4-14-33 DISPLAY OF REGISTRATION.**

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

6 (B) A registrant of a single-family property must display the registration in the
7 kitchen area of the property.

8 **§ 4-14-34 SIGNS.**

9 (A) A registrant shall post and maintain signs, in English and in Spanish, on the
10 premises of the property that include the following information:

11 (1) the emergency phone number described in Texas Property Code Section
12 92.020 (*Emergency Phone Number*); and

13 (2) information regarding how to report code violations to the City.

14 (B) For multi-family properties, the signs required by this section shall be a
15 minimum of 12 inches by 24 inches. Sign facings shall be weather-proof.
16 The signs shall have a white background with letters and numbers in a
17 contrasting color.

18 (C) The registrant of a multi-family property must post one sign per 50 units.
19 The signs must be posted outside and in the common areas of the property. If
20 more than one sign is required under this section, the signs may not be
21 placed in the same area of the property.

22 (D) For single-family properties, the signs required by this chapter shall be a
23 minimum of 8 ½ inches by 11 inches. The signs shall have a white
24 background with letters and numbers in a contrasting color.

25 (E) The registrant of a single-family property must post one sign in the kitchen
26 area of each dwelling unit.

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

29 **§ 4-14-35 TENANT LIST.**

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

1 (B) The list must include the following information

2 (1) name of tenants; and

3 (2) tenant contact information.

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

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

8 **§ 4-14-36 LOCAL CONTACTS.**

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

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

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

18 **§ 4-14-37 NOTIFICATION OF CHANGE OF INFORMATION.**

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

21 ***ARTICLE 4. INSPECTION.***

22 **§ 4-14-40 INSPECTION BY CODE OFFICIAL.**

23 (A) The code official may conduct:

24 (1) inspections based on indications of Code violations, including complaints
25 received by the City;

26 (2) periodic inspections; and

27 (3) follow-up inspections.

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

3 (1) all building exteriors;

4 (2) all exterior and interior common areas;

5 (3) vacant dwelling units; and

6 (4) occupied dwelling units upon the consent of the tenant or when subject to
7 a valid administrative search warrant issued by a court of competent
8 jurisdiction.

9 (C) The following areas of a single-family property will be subject to inspection
10 by the code official:

11 (1) all building exteriors;

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

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

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

18 (E) A landlord or tenant of a rental property may refuse to consent to an
19 inspection conducted by the code official. If consent is refused, the code
20 official may seek an administrative search warrant authorized by Article 18
21 of the Texas Code of Criminal Procedure (*Search Warrant*) and Section 2-
22 10-1 (*Municipal Court Jurisdiction and Authority*) of this code.

23 **§ 4-14-41 PERIODIC INSPECTIONS.**

24 (A) A periodic inspection by the code official may occur once a year.

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

27 (C) Prior to a scheduled periodic inspection, a registrant must provide tenants of
28 the property at least 2 days written notice that includes the following:

29 (1) the dwelling units that may be inspected;

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

5 (D) Upon request of the code official, a registrant must provide proof that

6 written notice was provided.

7 **ARTICLE 5. ENFORCEMENT.**

8 **§ 4-14-50 SUSPENSION.**

9 (A) The code official may suspend rental registration for a rental property if the

10 code official determines that

- 11 (1) the property is declared substandard or dangerous by the Building and
- 12 Standards Commission, the code official, or a court of competent
- 13 jurisdiction;
- 14 (2) the registrant fails to timely comply with a notice of violation;
- 15 (3) the registrant fails to comply with a requirement of this Chapter;
- 16 (4) the registrant fails to comply with other City permitting requirements; or
- 17 (5) the registrant fails to pay its annual registration fee.

18 (B) A suspension is effective until the code official determines that registrant

19 complies with:

- 20 (1) the requirements of this Chapter;
- 21 (2) an order of the Building and Standards Commission, code official, or a
- 22 court of competent jurisdiction; or
- 23 (3) a notice of violation.

24 (C) While under suspension, a registrant may not lease or otherwise allow

25 vacant dwelling units to be occupied and may not lease or otherwise allow

26 an occupied unit to be occupied by new tenants.

27 (D) The code official must give notice to the registrant of its intent to suspend a

28 registration issued under this chapter.

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

4 **§ 4-14-51 REVOCATION.**

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

- 8 (1) did not comply in a reasonable time with the requirements of this chapter
9 or a notice of violation for which the suspension was ordered;
- 10 (2) during the suspension, did not comply with other requirements of this
11 chapter; or
- 12 (3) during the suspension, did not comply with an order of the Building and
13 Standards Commission, the code official, or a court of competent
14 jurisdiction.

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

19 **§ 4-14-52 APPEAL OF A SUSPENSION OR REVOCATION.**

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

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

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

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

28 **§ 4-14-53 PENALTY.**

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

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

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

5 **§ 2-1-122 BUILDING AND STANDARDS COMMISSION.**

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

9 (B) Each member is appointed for a term of two years until a successor is
10 appointed and qualified. A vacancy is filled for the unexpired term.

11 (C) The fire marshal and the health authority representative are ex officio
12 members of the commission. The code [~~building~~] official shall also serve as
13 the commission's executive secretary. An ex officio member may designate
14 a representative to [~~the~~] attend a hearing.

15 (D) The City Council may remove a commission member or alternate member
16 for cause on a written charge. Before a decision regarding removal is made,
17 the City Council must hold a public hearing on the matter if requested by the
18 commission member who is subject to the removal action.

19 (E) The Building and Standards Commission shall have the powers and duties
20 granted by, and comply with the procedures of, Texas Local Government
21 Code Chapter 54, Subchapter C (*Quasi-Judicial Enforcement of Health and*
22 *Safety Ordinances*), Texas Local Government Code Chapter 214 (*Municipal*
23 *Regulation of Housing and Other Structures*), Subchapter A (*Dangerous*
24 *Structures*), City Code Chapter 4-14 (*Registration of Rental Property*), and
25 City Code Chapter 25-12, Article 9 (*International Property Maintenance*
26 *Code*).

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

PASSED AND APPROVED

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_____, 2013

Lee Leffingwell
Mayor

APPROVED: _____
Karen M. Kennard
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

Draft