

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 4-14 TO ESTABLISH A PILOT PROGRAM REQUIRING RENTAL REGISTRATION FOR MULTI-FAMILY PROPERTIES IN THE EAST RIVERSIDE/OLTORF COMBINED NEIGHBORHOOD (EROC); 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 Compliance Department. Focusing on these areas will allow the City to determine the effectiveness of a proactive rental registration program in

1 identifying substandard and dangerous conditions in contrast to a reactive
2 complaint-based system.

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

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

7 **§ 4-14-60 PURPOSE AND PILOT PROGRAM AREA.**

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

10 (B) This article creates a pilot program that requires registration of multi-family
11 rental properties beginning on the effective date of this ordinance and
12 continuing for 18 months in the general area that is in and around East
13 Riverside/Oltorf Combined Neighborhood (EROC). This area is shown in
14 Exhibit 1, which is attached and incorporated by reference.

15 **§ 4-14-61 REGISTRATION REQUIRED.**

16 A rental registration issued under this article is required for a multi-family rental
17 property.

18 **§ 4-14-62 OTHER PERMITS OR LICENSES REQUIRED.**

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

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

23 **§ 4-14-63 CHANGE IN OWNERSHIP.**

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

26 **§ 4-14-64 REQUIREMENTS.**

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

29 (B) An owner of a multi-family property that is subject to this article shall comply
30 with the requirements set forth in:

- 1 (1) Section 4-14-30;
- 2 (2) Section 4-14-32;
- 3 (3) Section 4-14-33;
- 4 (4) Section 4-14-34;
- 5 (5) Section 4-14-36; and
- 6 (6) Section 4-14-37.

7 (C) A registrant of a multi-family property must provide in writing to the code
8 official the name, address, and telephone of local contacts described in
9 Section 4-14-36 (*Local Contacts*).

10 **§4-14-65 TENANT LIST.**

- 11 (A) A registrant of a multi-family property must maintain a list of all tenants at a
12 single location that includes the names of tenants and tenant contact
13 information.
- 14 (B) In the event of emergency conditions, the registrant or the local contact must
15 make the rental list available immediately for use by the code official.
- 16 (C) A registrant must update its list within 48 hours of a change in tenants at the
17 property.

18 **§ 4-14-66 INSPECTION BY CODE OFFICIAL.**

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

- 1 (3) vacant dwelling units; and
- 2 (4) occupied dwelling units upon the consent of the tenant or when subject to
- 3 a valid administrative search warrant issued by a court of competent
- 4 jurisdiction.

5 (C) Nothing in this chapter limits the ability of the code official to inspect as

6 necessary or as authorized by other law.

7 (D) A landlord or tenant of a rental property may refuse to consent to an

8 inspection conducted by the code official. If consent is refused, the code

9 official may seek an administrative search warrant authorized by Article 18

10 of the Texas Code of Criminal Procedure (*Search Warrant*) and Section 2-

11 10-1 (*Municipal Court Jurisdiction and Authority*) of this code.

12 **§ 4-14-67 PERIODIC INSPECTIONS.**

13 (A) Except as provided subsection (G), a periodic inspection of a multi-family

14 property by the code official may occur once every two years.

15 (B) A periodic inspection includes inspection of:

- 16 (1) no more than four dwelling units at a rental property with 20 or fewer
- 17 dwelling units; or
- 18 (2) no more than 20 percent of the dwelling units at rental property with
- 19 more than 20 dwelling units.

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

21 inspect all of the dwelling units.

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

23 inspection.

24 (E) Prior to a scheduled periodic inspection, a registrant must provide tenants of

25 the property at least two days written notice that includes the following:

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

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

3 (G) A newly-constructed multi-family property is exempt from periodic
4 inspections during the first five 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 year.

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 14-67 (*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;

- 1 (2) the registrant fails to timely comply with a notice of violation;
- 2 (3) the registrant fails to comply with a requirement of Article 6 (*Multi-*
- 3 *family Rental Pilot Program*);
- 4 (4) the registrant fails to comply with other City permitting requirements; or
- 5 (5) the registrant fails to pay its annual registration fee.

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

7 complies with:

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

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

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

14 an occupied unit to be occupied by new tenants.

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

16 registration issued under this chapter.

17 (E) The notice required by this section may specify a reasonable time for

18 compliance with this chapter. If a time for compliance is specified, the code

19 official may not suspend before the time for compliance has expired.

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

21 tenants.

22 **§ 4-14-71 REVOCATION.**

23 (A) The code official may immediately revoke a registration that has been

24 suspended pursuant to section 4-14-70 (*Suspension*) if the code official

25 determines that the registrant:

- 26 (1) did not comply in a reasonable time with the requirements of this chapter
- 27 or a notice of violation for which the suspension was ordered;
- 28 (2) during the suspension, did not comply with other requirements of Article
- 29 6 (*Multi-Family Rental Pilot Program*); or

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

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

8 **§ 4-14-72 APPEAL OF A SUSPENSION OR REVOCATION.**

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

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

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

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

17 **§ 4-14-73 PENALTY.**

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

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

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

24 (A) The Code Compliance Department will report to Council quarterly with a
25 report that addresses the following items related to properties that have
26 registered:

27 (1) Number and percentage of rental properties registered;

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

30 (3) Number and percentage of properties that received periodic inspections
31 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 (B) Code Compliance Department should also develop an online reporting tool
6 that is publicly accessible for residential rental properties that have received
7 notices of violation but have not complied in a timely manner (including
8 properties that are not registered). The online tool should provide the current
9 status of those cases (Municipal Court, Building and Standards Commission,
10 or other enforcement track).

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

12 **PASSED AND APPROVED**

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16 _____, 2013

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17 Lee Leffingwell
18 Mayor

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20
21 **APPROVED:** _____
22 Karen M. Kennard
23 City Attorney

24
25
26 **ATTEST:** _____
Jannette S. Goodall
City Clerk