

ORDINANCE NO. 414

AN ORDINANCE OF THE CITY OF WEST ORANGE, TEXAS ESTABLISHING ANNUAL REGISTRATION AND INSPECTION REQUIREMENTS FOR OWNERS OF RESIDENTIAL RENTAL PROPERTY; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST ORANGE, TEXAS, that

WHEREAS, the City Council of the City of West Orange, Texas ("City Council") has investigated and determined that it would be advantageous and beneficial to the citizens of the City of West Orange, Texas ("City" or "West Orange") to protect the health, safety and general welfare of the citizens by establishing registration and inspection requirements for the owners of residential rental property;

WHEREAS, the City Council has investigated and determined that there are owners of residential rental structures within the City that do not provide adequate information on how to contact them; and

WHEREAS, the City Council has investigated and determined that there is a high percentage of owners of residential rental structures that do not reside locally or reside out of State; and

WHEREAS, the City Council has investigated and determined that some absentee owners of residential rental properties do not have firsthand knowledge of the condition of their properties; and

WHEREAS, the City Council desires that this Ordinance will prevent the growth of unmaintained properties and will preserve and enhance residential neighborhoods and property values; and

WHEREAS, the City Council seeks to protect property values within the City limits; and

WHEREAS, Pursuant to the laws of the State of Texas, including Texas Local Government Code Section 51.001, the City Council has the authority to adopt, publish, amend or repeal an ordinance that is for the good government, peace or order of the City; and

WHEREAS, the Texas Property Code, Section § 92.208, allows a municipality to adopt an ordinance that conforms to the provisions of Chapter 92, Subchapter E, Texas property Code, related to the disclosure of ownership and management of a dwelling by a landlord, and may contain additional enforcement provisions; and

WHEREAS, the City Council has investigated and determined that to protect the health, safety and general welfare of the citizens of West Orange, it would be advantageous and beneficial to create sustainability and maintain property values by establishing requirements for the regulation of annual disclosure of ownership, management and inspection of a residential rental dwelling by a landlord in accordance with Chapter 92, Subchapter E, Texas Property Code.

SECTION 1. PURPOSE.

This ordinance is adopted so that the City Council may promote the public health, safety, and general welfare within the City by providing neighborhood sustainability and preserving property values and providing a safe environment for residents to live. Having current and reliable information about the owner of residential rental properties will allow the City to provide those owners with timely information on the condition of the property. By requiring the registration of residential rental dwelling owners, the City Council seeks to protect property values and prevent property damage within the City limits. By requiring the annual inspection, the City seeks to continue to strive for better life safety, health, fire and property maintenance codes to provide a more efficient system for compelling both absentee and local residential rental property owners

to correct violations and to maintain, in proper condition, residential rental property within the City. The City recognizes that the most efficient system to provide for rental inspections is the creation of a program requiring the registration of all residential rental units within the City so that orderly inspection schedules can be made by City officials.

SECTION 2. DEFINITIONS.

As used in this Ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Boardinghouse, rooming house, lodging house and tourist house shall mean a building arranged or used for the lodging, with or without meals, for compensation, by individuals who are not members of the same family.

Building Official shall mean a City of West Orange employee designated by the Mayor to govern and enforce this ordinance.

City shall mean the City of West Orange, Texas and all areas within its corporate limits.

City Council shall mean the City Council of the City of West Orange, Texas.

High-risk items shall mean unsafe or unsanitary plumbing, electrical hazards, unsanitary conditions, missing or inoperable smoke detectors, structural hazards, inadequate heat (as required by the *International Building Codes* and/or *International Property Maintenance Code*), improperly secured premise, inadequate exits.

Hearing Officer shall mean the Director of Public Works or his designee.

Hotel shall mean a room or rooms in any building or structure kept, used, maintained, advertised or held out to the public to be an inn, motel, hotel, apartment hotel, lodging house, boarding house, rooming house, tourist house, dormitory or place, where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals.

Landlord shall mean a dwelling owner, lessor or sublessor of a dwelling, but does not include a manager or agent of the landlord unless the manager or agent purports to be the owner, lessor, or sublessor in an oral or written lease.

Owner shall mean any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the County Appraisal District as holding title to the property; including the guardian of the estate of such person if ordered to take possession of real property by a court; or other documents that provide proof of ownership as determined by the Public Works Director or City Secretary.

Premises shall mean a lot, plot or parcel of land including, but not limited to, the buildings or structures thereon.

Property Manager shall mean the owner or the person appointed or hired by the owner to be responsible for the daily operation of the residential dwelling, this person has the authority to make decisions regarding repairs and/or maintenance of the property.

Rental Property shall mean a single-family dwelling, two family dwelling, multi family dwelling, dormitory, boardinghouse, lodging house, tourist house, rooming unit or combination of any such dwelling unit as defined herein. It is not necessary for the exchange of cash or other consideration for the unit to be considered "rental property" under this ordinance.

Residential rental dwelling unit shall mean each and every dwelling designed and constructed for occupancy by one family and having complete independent living facilities which is to be made available or currently rented or leased.

SECTION 3. REGISTRATION.

- (a) Registration Requirements. No person shall hereafter occupy, allow to be occupied or let to another person for occupancy any residential rental property within the City for

which a registration statement has not been properly made and filed with the Building Official. Registration shall be made upon forms furnished by the City for such purpose and shall specifically require the following minimum information:

- (1) Name, address and phone number of the property owner;
 - (2) Name, address and phone number of the designated property manager, if any;
 - (3) The street address of the rental dwelling unit;
 - (4) The number of bedrooms and baths for this rental dwelling unit;
 - (5) The maximum number of occupants permitted for the dwelling unit;
 - (6) A statement attested to by the owner that the owner or property manager are authorized to make repairs and conduct maintenance for the property, these persons also may be held responsible for violations of State, County and local ordinance codes. All person(s) authorized to make repairs and conduct maintenance on the property should sign this form or an addendum in person.
 - (7) Proof of valid sanitation account with City or other franchised sanitation collection service;
 - (8) Any other items deemed necessary by Building Inspector.
- (b) *Manner of Registering.* The registration must be made initially within one year from effective date of ordinance, and then annually thereafter, but at least within one year from the last date of registration. Registration shall be done by the owner or designated property manager in the office of the designated Building Official.
- (c) *Transfer of property.* Every new owner of residential rental property (whether as fee owner or contract purchaser) shall be required to register under the requirements of this ordinance within thirty (30) days of taking possession of the property.

SECTION 4. INSPECTION REQUIRED.

- (a) All residential rental dwellings, boardinghouses, rooming houses, dormitories, lodging houses, and/or tourist houses that rent, whether for a fee or not, to residents shall be inspected for compliance with this ordinance, the minimum standards meeting the International Property Maintenance Codes, State Laws and City of West Orange Code of Ordinances. The provisions of this Section shall be applicable to the residential and common public areas of such building and premises.
- (b) Hotels and or Apartment Complexes that rent, whether for a fee or not, to residents shall be inspected for compliance with this ordinance, the minimum standards meeting the International Property Maintenance Codes, State Laws and City of West Orange Code of Ordinances. Due to the number of units in these types of structures, the building official, at his/her own discretion, shall select twenty percent (20%) of the total number of units for inspection. If more than ten percent (10%) of the twenty percent (20%) have deficiencies, this shall be cause for building official to inspect each and every unit. The provisions of this Section shall be applicable to the residential and common public areas of such building and premises.
- (c) The provisions of this section shall not apply to:
- (1) Dwellings, buildings, structures and uses licensed, inspected and wholly owned by the State of Texas or the federal government;
 - (2) Where a nonresidential business or activity, or a state-licensed and inspected use occupies a portion of a building and premises which would be otherwise subject to this Ordinance, the provisions of this Ordinance shall be applicable to the residential and common public areas of such building and premises.

SECTION 5. FREQUENCY OF INSPECTIONS.

- (a) All residential rental dwellings subject to this Ordinance shall be inspected at least once every year.
- (b) Every new owner of residential rental property (whether as fee owner or contract purchaser) shall be required to have the property inspected under the requirements of this ordinance within thirty (30) days of taking possession of the property.

SECTION 6. RESIDENTIAL CERTIFICATE OF OCCUPANCY REQUIRED.

No person, dwelling owner, lessor, sublessor of a dwelling, agent of the landlord shall rent, whether for fee or not, let, or let for occupancy any dwelling subject to this Ordinance without

first having a valid, current residential Certificate of Occupancy issued by the Building official of the City of West Orange for that dwelling.

SECTION 7. INSPECTION PROCEDURE.

- (a) If, upon completion of the required inspection and registration, the premises are found to be in compliance with all applicable codes and ordinances along with the proper fee(s) paid, the Building Official shall issue a Residential Certificate of Occupancy for the dwelling for a period not to exceed one (1) year.
- (b) If, upon completion of the required inspection and registration, the premises are found to be in violation of one or more provisions of applicable City, State, Federal laws, codes or ordinances, the City shall provide written notice of such violation and shall set a re-inspection date before which such violation shall be corrected. If such violation has been corrected within that period, the city shall issue a Residential Certificate of Occupancy for the premises. If such violations have not been corrected within that period of re-inspection, the city shall not issue the Residential Certificate of Occupancy and may take any action necessary to enforce compliance with applicable City, State, Federal laws, codes or ordinances. If such uncorrected violations do not pose an immediate threat to the health, safety and welfare of the occupants, the Director of Public Works may authorize the occupancy of the premises for a period not to exceed ninety (90) days.

SECTION 8. REQUEST FOR INSPECTION.

The owner of any dwelling subject to this Ordinance may request a compliance inspection of said dwellings at any time based for the re-inspection fee. This request shall not serve as an official inspection for a Residential Certificate of Occupancy.

SECTION 9. CERTIFICATE EXPIRATION DATE.

- (a) The Residential Certificate of Occupancy issued pursuant to this Ordinance shall expire one year from the date of inspection.
- (b) The Residential Certificate of Occupancy shall have the expiration date prominently displayed on its face.

SECTION 10. CERTIFICATE TRANSFERABILITY.

A Residential Certificate of Occupancy issued pursuant to this Ordinance shall not be transferable.

SECTION 11. CERTIFICATE AVAILABILITY.

Upon the request of an existing or prospective tenant, the owner or the owner's agent shall produce the Residential Certificate of Occupancy.

SECTION 12. SUSPENSION OR REVOCATION OF CERTIFICATE.

If the Public Works Director or his designee, after a hearing before the Public Works Director or designee determines that any person has failed to comply with this Ordinance or any applicable Federal, State or City Laws, Codes or Ordinances, the Public Works Director may suspend or revoke the Residential Certificate of Occupancy held by that person for a particular dwelling. Such a hearing shall be held not less than seven (7) calendar days after notice of time, place and subject of the hearing has been sent to the Residential Certificate of Occupancy holder at the holder's last known address. The Building Official shall present evidence in support of such suspension or revocation, and the Certificate holder shall be permitted to rebut such evidence and present any other evidence that is, in the discretion of the hearing officer, relevant and material. Based upon the evidence presented at the hearing, the hearing officer shall issue a written decision. The suspension or revocation of any Residential Certificate of Occupancy shall not release or discharge the certificate holder from paying any fees due to the City, nor shall such a certificate holder be released from prosecution for violating any code or ordinance.

SECTION 13. MAINTENANCE OF RECORDS.

All records, files, and documents pertaining to this Ordinance shall be maintained by the Building Official and made available to the public as allowed or required by State Law.

SECTION 14. EXEMPTIONS.

The provisions of this Ordinance shall not apply to hospitals, nursing units or retirement-home units inspected and licensed by the State of Texas and located within the City of West Orange, all of which shall be specifically exempt from registration under this Ordinance.

SECTION 15. FEES.

The following fee schedule shall apply to this ordinance:

- (a) Annual Registration and Inspection per dwelling inspected, Fifty Dollars (\$50.00);
- (b) Re-inspection fee (per re-inspection, if necessary), Twenty-five Dollars (\$25.00).

Fees are to be paid at City Hall prior to inspection (or re-inspection if necessary).

SECTION 16. NUISANCE, INJUNCTION.

Any violation of this Ordinance is hereby declared to be a nuisance. In addition to any other relief provided by this Ordinance, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Ordinance. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction. Any civil remedies that the City may choose have no bearing on the criminal prosecution for any and all Ordinance violations under this Ordinance.

SECTION 17. OTHER ACTIONS, PROSECUTION, COURT CASES.

Nothing in this Ordinance shall prevent the City from taking action under any Federal, State or City Codes, laws or Ordinances for violations thereof to seek injunctive relief or criminal prosecution of such violation(s) in accordance with the terms and conditions of the particular code, law or ordinance which the City would proceed against the property owner, designated property manager or occupant of any residential rental dwelling unit covered by this registration and inspection Ordinance.

SECTION 18. PROVIDING FALSE INFORMATION.

It shall be a violation to provide false information on any form under this Ordinance.

SECTION 19. SAVINGS/REPEALING CLAUSE.

All provisions of any Ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed Ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance. Any remaining portion of conflicting Ordinances shall remain in full force and effect.

SECTION 20. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid in a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City of West Orange hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 21. PENALTY.

Any person, firm, corporation or business entity violating this Ordinance or portion thereof shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined a sum not exceeding the maximum allowed by law. Each continuing day's violation under this Ordinance shall constitute a separate offense. The penalty provisions imposed under this Ordinance shall not

preclude the City of West Orange from filing suit to enjoin the violation. The City of West Orange retains all legal rights and remedies to it pursuant to local, State and Federal law.

SECTION 22. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon its adoption.

PASSED, APPROVED AND AUTHENTICATED this 13th day of April, 2015.



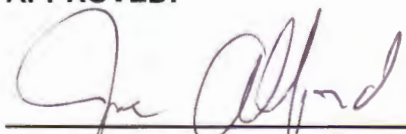
Roy McDonald, Mayor

ATTEST:



Theresa Van Meter, City Secretary

APPROVED:



Joe Alford, City Attorney

