



City of Rowlett

Official Copy

Ordinance: ORD-038-17

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

AN ORDINANCE OF THE CITY OF ROWLETT, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF ROWLETT, TEXAS, BY AMENDING CHAPTER 10, "BUSINESSES," TO ADD A NEW ARTICLE XI, ENTITLED "RENTAL HOUSING," ESTABLISHING REGULATIONS FOR LANDLORDS AND OWNERS OF SINGLE-FAMILY, DUPLEX AND MULTI-FAMILY RESIDENTIAL RENTAL PROPERTIES; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Rowlett finds and determines that nearly 15% of housing units in the City, almost 3,000 units, are not owner-occupied, and a substantial number of the City's residents who live in single family and duplex dwellings are renters; and

WHEREAS, the City currently has few regulations in place that require landlords to maintain renter-occupied dwellings in safe or sanitary conditions, and a need exists to protect the health and safety of those citizens who occupy rental property; and

WHEREAS, the City Council finds and determines that the regulations adopted herein are in the best interest of the citizens of the City and are necessary to preserve and protect public health and safety.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:

SECTION 1: That Chapter 10, "Businesses," of the Code of Ordinances, City of Rowlett, Texas, be and is hereby amended to add a new Article XI, to be entitled "Rental Housing," establishing regulations for owners, property managers and landlords of rental properties, and adding new divisions 1 and 2, and sections 10-400 through 10-428, to read in their entirety as follows:

**"CHAPTER 10
BUSINESSES**

**ARTICLE XI
RENTAL HOUSING**

DIVISION 1. Single-Family and Duplex Dwellings

Sec. 10-400. Definitions.

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context clearly indicates otherwise:

Code enforcement official shall refer to any person designated by the city manager as being responsible for the administration and enforcement of this article.

Dwelling unit means a structure or that part of a structure which is used as a residence.

Landlord means the owner, property manager, or any person having or exercising supervision or control over rental property that is or is intended to be occupied by another. A person having or exercising supervision or control of rental property is, for all purposes under this article, deemed a landlord, regardless of whether ownership or title to the real estate is vested in another.

Owner means any person claiming, or in whom is vested, the ownership, dominion or title of real property, including, but not limited to:

- 1) the holder of fee simple title;
- 2) the holder of a life estate;
- 3) the holder of a leasehold estate for a term of at least five years;
- 4) the holder of a leasehold estate who, in turn, subleases property to another; or
- 5) the buyer in a contract for deed.

Rental Property or Rental Properties means a single-family or duplex dwelling unit, not occupied by the owner, and which is leased or rented or intended to be leased or rented to another person, for or without consideration.

Tenant means any person who occupies rental property for residential purposes with the landlord's consent, regardless of whether the occupancy is in exchange for monetary consideration.

Sec. 10-401. Applicability.

This division shall apply to all single-family and duplex dwelling rental properties within the territorial limits of the city. Division 2 of this article shall apply to apartment buildings, apartment complexes, multi-family dwellings not covered by Division 1, and the individual apartments and dwelling units within those buildings.

Sec. 10-403. Registration of rental properties required.

a) No person shall own, operate, lease, rent or maintain rental property within the city without first registering the rental property with the city. Rental properties shall be registered annually, within 30 days prior to the expiration of the anniversary of the date of its issuance each year. Registration shall be by written application submitted to and on a

form provided by the code enforcement official identifying, at a minimum, the name and address of the owner, the name and address of the landlord, and the address, age and interior square footage of the rental property. Registration may be approved but occupancy may not occur unless and until the rental property has been inspected for compliance with the minimum standards set forth in this article.

b) Rental property registration may be denied, suspended or revoked by the code enforcement official if:

- 1) the application contains false information;
- 2) there are utility fees and/or charges over 60 days past due for the rental property over which the landlord is responsible;
- 3) the rental property is not in compliance with the standards set forth in this article;
- 4) access to the property by the code enforcement official has been impaired so as to prevent timely inspection of the premises;
- 5) a change in tenancy has occurred and the landlord or owner has failed to request an inspection as required by this article; or
- 6) there exists any condition in, on or near the rental property that renders the rental property unsafe or unfit for human habitation or occupancy or presents a threat to public health or safety.

c) The denial, suspension or revocation of a registration may be appealed to the city manager in the same manner as an appeal from the denial, suspension or revocation of a license hereunder.

Sec. 10-404. Applications and fees.

a) The code enforcement official may, at any time, require additional information of the owner or landlord to clarify or supplement items on the application for license or registration.

b) The annual fee for issuing a license or registration shall be as set forth in the city's master fee schedule. The fees are non-refundable and are payable to the city when application is made to the city for the license or registration.

Sec. 10-405. Appointment, powers and duties of code enforcement official.

a) The code enforcement official is hereby designated as the administrator of this article.

b) In addition to the powers and duties previously prescribed for the code enforcement official, as administrator of the article he is required to:

- 1) administer and enforce all provisions of this article;
- 2) keep and maintain records of all licenses and registrations issued;
- 3) adopt rules and regulations, not inconsistent with the provisions of this article, with respect to the form and content of applications for licenses and registrations, the investigation of applicants, and other matters incidental or appropriate to his or her powers and duties as may be necessary for the proper administration and enforcement of the provisions of this article; and
- 4) Conduct, on his or her own initiative, periodic investigations of rental properties throughout the city concerning compliance with this article.

Sec. 10-406. Minimum standards.

a) All rental properties, inclusive of the primary dwelling structure, all accessory structures, and the premises comprising the property, shall be kept and maintained by the owner and the landlord in accordance with the following minimum standards:

- 1) the property must be maintained in a safe and habitable condition;
- 2) the property must be adequately served by all utilities, including but not limited to electricity, water and sanitary sewer services;
- 3) Any violations of the city's nuisance regulations including but not limited to prohibiting junk motor vehicles, high grass and weeds, dangerous vegetation, dilapidated fencing, and accumulations of stagnant water, rubbish, and unwholesome matter of any kind shall be remedied in a timely manner upon notification; and
- 4) the property shall be kept and maintained in accordance with the standards and requirements set forth in the International Property Maintenance Code, as adopted by the city.

Sec. 10-407. Inspections; certificate of occupancy.

a) Inspection. Rental property shall be inspected for compliance with the provisions of this article as follows:

- 1) upon first-time registration, if unoccupied or warranted by receipt of a complaint; and
- 2) each time there is a change in tenancy. The applicant or landlord shall request that the inspection be conducted by the City.

b) No registration, certificate of occupancy or release of utilities shall be issued if, as a result of an inspection, it is determined that the rental property does not comply with the standards of this article.

c) Any life safety or critical deficiencies noted by inspection shall be corrected prior to issuance of a certificate of occupancy and prior to occupancy. A re-inspection may not

be necessary if the owner or landlord submits sufficient proof to the City from which the City can determine that all noted violations have been appropriately repaired or corrected. Sufficient proof includes, but is not limited to, an affidavit stating that the repairs have been completed, receipts for materials used in the repair or receipts for the work done to effect the repair, and/or photographs of the repair(s).

d) Certificate of Occupancy. No rental property shall be occupied unless a valid certificate of occupancy has been issued by the City for the premises. A certificate of occupancy is required for each change in tenancy. The certificate shall be issued if, after inspection, the rental property complies with this article and the Code of Ordinances.

Sec. 10-408. Violations; affirmative defenses.

- a) No person may violate any provision of this article, including landlords, owners, tenants and occupants of rental property.
- b) A person commits an offense if he acts in the capacity of a landlord without a valid license issued under this article.
- c) A landlord or an owner commits an offense if he rents, leases, or allows another to occupy rental property that is not registered, has not passed a city inspection, or does not have a valid certificate of occupancy.
- d) A landlord or an owner commits an offense if he rents, leases, or allows another to occupy rental property after having been provided with notice of a cease and desist order issued by the code enforcement official to vacate the premises or repair or remediate a condition that is a violation of this article or causes a public nuisance.
- e) No landlord or owner may prevent or impair an inspection under this article, or actively and knowingly conceal, cover or disguise any condition that is a violation of the standards imposed by this article.
- f) It shall be an affirmative defense to the prosecution of an offense under this article if:
- 1) the rental property is a bed and breakfast, defined herein as a dwelling occupied as a permanent residence by an owner or renter in which sleeping accommodations of not more than four rooms are provided or offered for transient guests for compensation;
 - 2) the rental property is a group home for elderly persons or persons with disabilities;
 - 3) the tenant is hired by the owner as a short-term caretaker of the dwelling or is related to the owner within one degree of affinity or consanguinity; or
 - 4) the rental property is not used for residential purposes.

Sec. 10-409. Penalties; remedies.

a) A violation of this article is punishable by a fine not to exceed the sum of five hundred dollars (\$500.00). Each day a violation continues shall be deemed a separate offense.

b) Unless otherwise expressly provided for herein, no intent need be pleaded or proven in the prosecution of an offense under this article, and a person in violation shall be strictly liable, regardless of intent.

c) The remedies provided for in this article are cumulative of each other and of any other remedy provided for and allowed by law. In addition to any other remedy allowed by law, the city may seek injunctive relief in any court of proper jurisdiction to restrain or enjoin a violation of any provision of this division.

Secs. 10-410—10-419. - Reserved.

DIVISION 2. Multi-Family Dwellings

Sec. 10-420. Definitions.

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context clearly indicates otherwise:

Code enforcement official shall refer to any person designated by the city manager as being responsible for the administration and enforcement of this article.

Dangerous building refers to any building with exterior or interior conditions that pose a danger to the life, limb, health, property or safety of any person.

Dwelling unit means a structure or that part of a structure which is used as a residence.

Landlord means the owner, property manager, or any person having or exercising supervision or control over rental property that is or is intended to be occupied by another. A person having or exercising supervision or control of rental property is, for all purposes under this article, deemed a landlord, regardless of whether ownership or title to the real estate is vested in another.

Managing agent shall refer to a person who lives in this state and who is authorized by the owner of a multi-family residential rental building to accept legal service relevant to that building on his or her behalf.

Multi-family Residential Building refers to a building or structure containing three or more individual residential units which are leased or rented or intended to be leased or rented to another person, for or without consideration, for residential purposes. The term also includes accessory buildings and structures intended for human occupancy and use by residents of a primary multi-family residential building.

Order to Correct refers to an order that requires any person acting in the capacity of an owner, managing agent, property manager or landlord of a multi-family residential building to correct any building code violation.

Owner means any person claiming, or in whom is vested, the ownership, dominion or title of real property, including, but not limited to:

- 1) the holder of fee simple title;
- 2) the holder of a life estate;
- 3) the holder of a leasehold estate for a term of at least five years;
- 4) the holder of a leasehold estate who, in turn, subleases property to another; or
- 5) the buyer in a contract for deed.

As used in this division, *Owner* also includes any agent, association, company, corporation, firm, partnership, person or organization of any kind having a legal or equitable interest in a multi-family residential building.

Property shall refer to the land on which one or more multi-family residential buildings are located, and is inclusive of the land and all buildings and structures thereon.

Property manager means a person who for compensation has managing control of a multi-family residential building.

Resident shall refer to any person who occupies a residential unit in a multi-family residential building.

Residential unit means any single residential dwelling unit within a multi-family residential building or portion thereof that is used or intended to be used for residential purposes. The term is inclusive of units within mixed-use buildings whereby an occupant may utilize an area for combined residential and commercial or retail purposes.

Substandard building means a building, structure or multi-family residential building which is not in compliance with the provisions of the International Property Maintenance Code, as adopted by the City, or the provisions of any building, residential or property code adopted by the city for the purposes of protecting the life, health or safety of occupants or residents.

Sec. 10-421. Application for Annual License.

a) No person may operate a multi-family residential building, and shall not offer for rent, lease or occupancy, a residential unit in a multi-family residential building without first having applied for and been granted an annual license from the city. To obtain an annual license, an owner shall complete and submit an application on a form prescribed by the city that shall, at a minimum, require the applicant to provide:

- 1) the property's trade name, physical address, business address, the total number of residential rental buildings located on the property, the total number of residential rental units located on the property and the year in which

construction of each residential rental building located on the property was completed;

- 2) the name, permanent address and telephone numbers of the property owner, the property manager and, if the property owner does not reside in this state, the managing agent;
- 3) the names, addresses and telephone numbers of any mortgagees of the property;
- 4) if the property owner is a partnership, the names and telephone numbers of the managing partner and the partnership's principal business address;
- 5) if the property owner is a corporation, limited liability company, partnership, general partnership, limited liability partnership, trust or real estate investment trust, the name, physical business address and telephone numbers of the following:
 - A. for a corporation, the chief executive officer;
 - B. for a limited liability company, the managing or administrative member;
 - C. for a partnership, limited partnership or limited liability partnership, the general partner;
 - D. for a trust, a trustee; for a real estate investment trust, the general partner; or
 - E. for any other legal entity not named in the foregoing subsections, the name and address of a duly authorized agent; and
- 6) any other information deemed material by the city.

Sec. 10-422. Annual licensing requirements.

- a) Upon submission of an application, the city may inspect the property and the multi-family residential building for compliance with minimum standards imposed by city health and safety codes.
- b) An annual license shall expire on the first anniversary of the date of its issuance.
- c) An annual license shall expire on the thirtieth (30th) day following a change of ownership of the property on which the building is situated. For the purposes of this subsection, a change in ownership shall not include a transfer or conveyance of an ownership interest in a building to an affiliate entity of the owner. The City shall act on an application for an annual license within 30 days of submission of an application.
- d) An application for an annual license shall be submitted by all owners of multi-family residential buildings within sixty (60) days following the effective date of the ordinance adopting the regulations contained within this division. However, multi-family residential buildings that are occupied and in operation on the effective date may not be denied the opportunity to continue business operations during the period in which an application is pending.
- e) The city may grant extensions of the application deadlines provided for in this division upon terms and condition deemed reasonable by the city in the city's sole discretion.

Sec. 10-423. Denial of annual license; appeal.

a) An application for annual license may be denied, revoked or suspended by the code enforcement official if:

- 1) an application contains materially false information;
- 2) a multi-family residential building or an accessory building intended for use or occupancy by residents of a multi-family residential building has conditions that present a danger to life, health or safety;
- 3) an owner, property manager or landlord has prevented any inspection by the code enforcement official or has actively concealed any condition that presents a threat to life, health or safety or that is a violation of any provision of city health and safety codes;
- 4) a multi-family residential building or an accessory building intended for use or occupancy by residents of a multi-family residential building is not in compliance with minimum standards imposed by city health and safety codes;
- 5) an order to correct, issued by the code enforcement official, has not been complied with, and at least seven (7) days have elapsed since the order to correct was issued; or
- 6) a multi-family residential building or any accessory building is a dangerous building.

b) A denial, suspension or revocation may be appealed to the board of adjustment if written notice of the appeal is received within twenty (20) days of the denial, suspension or revocation. The board's decision shall be final and binding.

Sec. 10-424. Inspections.

a) The city may inspect multi-family residential buildings or any portions thereof annually, at intervals deemed appropriate by the code enforcement official, or upon receipt of a complaint submitted by any person regarding a violation of any provision of city health and safety codes. Inspections may, at the discretion of the code enforcement official, be restricted to limited portions of a multi-family residential building. The city may adopt policies and procedures regarding inspection programs and the conduct of inspections under this division.

b) The code enforcement official shall provide at least three (3) days' prior notice of an intent to inspect interior inspections. It is the responsibility of the owner, property manager or landlord to notify residents and to secure the residential unit in preparation for inspection.

c) It is unlawful for an owner, property manager or landlord to prevent any inspection under this division, to deny or refuse access to property for the purposes of inspection, to falsify any document or record incident to an inspection, or to attempt to conceal any condition that may be a violation of any provision of city health and safety codes.

d) Residents of individual residential units may opt out of an inspection of the residential unit occupied by that person. The election to opt out of an inspection of an individual unit must be in writing and on a form promulgated by the city for that purpose.

Sec. 10-425. Order to correct.

Upon inspection, the code enforcement official may issue an order to correct any

violations found by an inspection, requiring the owner, property manager or landlord to correct any violation of any provision of city health and safety codes. The code enforcement official may, in his or her discretion, establish a reasonable time within which a specified violation must be corrected and repairs be made. An order to correct may be revised, amended or extended by the code enforcement official, in his or her discretion, as may be appropriate under the circumstances.

Sec. 10-426. Remedies.

a) Should an inspection reveal violations of this division, a violation of any provision of city health and safety codes, a condition that presents a danger to life, health or safety, or that a multi-family residential building or an accessory building is a dangerous building, the code enforcement official may, as he may deem necessary or appropriate for the protection of health and safety:

- 1) issue an order to correct;
- 2) deny, suspend or revoke an annual license;
- 3) deny, suspend or revoke a certificate of occupancy;
- 4) issue an order to vacate the building; or
- 5) issue citations for any criminal violations observed during an inspection.

b) If a multi-family residential building is declared to be a dangerous building by the code enforcement official, the code enforcement official may:

- 1) cause the violations to be corrected, at the expense of the owner, and subject the property to a lien for all costs incurred by the city by filing a statement of expense with the appropriate county;
- 2) institute and maintain civil proceedings seeking injunctive relief against the owner in any court of appropriate jurisdiction for an order compelling the owner to comply with the code official's order;
- 3) institute proceedings under the Uniform Code for the Abatement of Dangerous Buildings or the International Property Maintenance Code, as adopted by the city, seeking the vacation and demolition of the building; or
- 4) issue appropriate orders to vacate and secure the building, and to compel repair or demolition.

Sec. 10-427. Appeal to board of adjustment.

a) The board of adjustment may hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by the code enforcement official in the enforcement of this division. An appeal must be made in writing, filed with the board, within not more than twenty (20) days of the service of the official's order, requirement, decision, or determination. Service of the order, requirement, decision, or determination is effective on the date that it is personally delivered to the owner, property manager or landlord, deposited with the US Postal Service properly addressed, or posted on the property in a conspicuous location.

b) The board shall schedule a hearing as soon as practicable upon the timely filing of an appeal. The owner, property manager or landlord may attend and present evidence at the hearing. The board shall promptly render a decision based on the merits of the appeal and the evidence presented at the hearing.

c) The board's decision shall be final and binding. No appeal may be taken from the decision of the board.

Sec. 10-428. Penalties.

a) Any person in violation of any provision of this division shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00). Each day that a violation exists is a separate offense.

b) The penalties and remedies provided for in this division are cumulative and nonexclusive, and the city may pursue any and all remedies at law or in equity without prejudice to any other remedy.

c) No culpable mental state shall be required to be plead or proven to establish guilt in the prosecution of any criminal case in which an offense under this division is alleged."

SECTION 2: That all ordinances of the City of Rowlett in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3: That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances and ordinances of the City, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

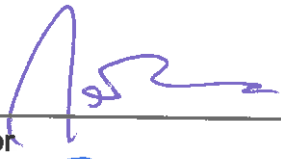
SECTION 4: That if any section, paragraph, sentence, subdivision, clause, phrase or provision of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be unconstitutional, illegal, or invalid and shall not affect the validity of the remainder of this ordinance or any other provision of the ordinances of the City of Rowlett.

SECTION 5: That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be deemed guilty of a misdemeanor and subject to a penalty as provided for in this ordinance, and upon conviction shall be punished by fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense.

SECTION 6: That this ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

At a meeting of the City Council on September 5, 2017 this Ordinance be adopted. The motion carried by the following vote:

Ayes: 7 Mayor Gottel, Mayor Pro Tem Dana-Bashian, Deputy Mayor Pro Tem Bobbitt, Councilmember van Bloemendaal, Councilmember Hargrave, Councilmember Bell and Councilmember Brown.

Approved by 
Mayor

Date September 5, 2017

Approved to form by 
City Attorney

Date September 5, 2017

 Certified by 
City Secretary

Date September 5, 2017