

CITY OF LAVON
ORDINANCE NO. 2022-04-07

Adding Article 4.08 of the Code of Ordinances – Residential Rental Property Registration and Inspection

AN ORDINANCE OF THE CITY OF LAVON, TEXAS, AMENDING CHAPTER 4 “BUILDING REGULATIONS” TO ADD ARTICLE 4.08 “RESIDENTIAL RENTAL PROPERTY REGISTRATION AND INSPECTION”; PROVIDING REQUIREMENTS AND REGULATIONS FOR ANNUAL REGISTRATION, INSPECTION, MAINTENANCE, OPERATION, AND ADMINISTRATION OF SINGLE-FAMILY AND DUPLEX RESIDENTIAL RENTAL UNITS; PROVIDING FOR REGISTRATION AND INSPECTION FEES; PROVIDING A PENALTY; PROVIDING SAVINGS AND SEVERABILITY CLAUSES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lavon (“City”) has authority pursuant to Texas Local Government Code, Section 51.001, to adopt an ordinance that is for the good government, peace, or order of the City; and

WHEREAS, it is in the interest of the public health, safety, and welfare of the citizens of the City to regulate properties that are rented by property owners to tenants by providing for minimum standards governing the construction, use, occupancy, management, operation, and maintenance of residential rental units, City inspections, safety guidelines, habitability regulations, and other related regulations essential to make residential rental units safe, sanitary, and fit for human use, occupancy, and habitation; and

WHEREAS, the City is committed to ensuring that residential rental units in the community are safe, livable, and routinely maintained in accordance with public health, safety, and property maintenance standards as adopted in the City’s Code of Ordinances; and

WHEREAS, residential rental property registration and inspection programs provide cities with an effective mechanism for the identification, tracking, and enforcement of poorly maintained properties and owners/landlords; and

WHEREAS, the fees contemplated in this Ordinance are necessary to cover the cost of exercising the proper regulation of residential rental units; and

WHEREAS, the City Council of the City (the “City Council”) has investigated and determined it is in the best interest of the citizens of Lavon to amend Chapter 4 “Building Regulations” of the City Code of Ordinances to regulate residential rental property registrations and inspections; and

WHEREAS, the City Council finds that the adoption of this Ordinance will promote and provide for the health, safety, and welfare of the City.

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

SECTION 1. Recitals

The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

SECTION 2. Amendment to Chapter 4.

Chapter 4 "Building Regulations" of the City's Code of Ordinances is hereby amended to add Article 4.08 "Residential Rental Property Registration and Inspection" to read entirely as provided in Exhibit "A," attached hereto and incorporated herein.

SECTION 3. Penalty

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum in accordance with the general penalty provided in section 1.01.009 of the City's Code of Ordinances. Each time that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this division is a misdemeanor. The penalty provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies to it pursuant to local, state and federal law.

SECTION 4. Savings

This Ordinance shall be cumulative of all other ordinance of Lavon and shall not repeal any of the provisions of such ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance; whether such ordinances are codified or uncodified, and all other provisions of the ordinances of Lavon, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect. Any repeal occurring due to this provision shall not abate any pending prosecution or lawsuit and/or prevent any prosecution or lawsuit from being commenced for any violation occurring before the effective date of this Ordinance.

SECTION 5. Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

SECTION 6. Open Meeting

That it is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Section 551.042, Texas Government Code.

SECTION 7. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

PASSED AND APPROVED by the City Council of the City of Lavon, Texas this 19 day of April 2022.



Vicki Sanson, Mayor

ATTEST:



Rae Norton, City Secretary

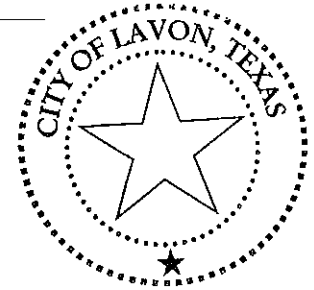


EXHIBIT A

ARTICLE 4.08. RESIDENTIAL RENTAL PROPERTY REGISTRATION AND INSPECTION

Sec. 4.08.001. Definitions.

For the purpose of this article, the following definitions shall apply unless the context indicates or requires a different meaning:

Duplex dwelling unit. One unit of a residential structure providing complete, independent living facilities to two (2) separate units for families, including permanent provisions for living, sleeping, cooking, eating, and sanitation in each unit.

Infestation. The presence within or continuous to a dwelling unit of insects, rodents, vermin or other pests.

Landlord. The owner or lessor of a rental housing unit and additionally includes a management company or managing agent (including an on-site manager) of a rental unit.

Lease. Any written or oral agreement between a landlord and tenant that establishes or modifies the terms, conditions, rules, or other provisions regarding the use and occupancy of a rental unit.

Occupant. Any individual living or sleeping in a building or having possession of a space within a building.

Owner. Any person, agent, landlord, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of such person if ordered to take possession of real property by a court or a property manager. An "owner" shall also include the applicant, permittee and/or any person owning or possessing an animal and/or who has the right of property on which the animal is kept, harbored or permits an animal to remain on or about the property, or has control of an animal.

Person. An individual, partnership, firm, company, corporation, association, business trust, estate trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

Property manager. A person who has managing control of real property; the term shall include the commission of owners, the homeowner association or the entity having control over the common, co-owned elements.

Rental unit. Residential single family dwelling or duplex dwelling unit, including any room or group of rooms of such single family dwelling or duplex dwelling unit, providing complete, independent living facilities for the occupants thereof, or which is intended or designed to be occupied as the home or residence of any individual, group of individuals, family or household, with permanent provisions for living, sleeping, eating, cooking and sanitation, that are rented or offered for rent as a residence for more than thirty (30) days.

Rental registration certificate of occupancy (RRCO). A valid registration document from the city for a landlord to own, operate, manage, and maintain a rental unit or portion for a specific location or locations and authorizing occupancy.

Rubbish. Non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Sanitary. A condition of good order and cleanliness that precludes the probability of disease transmission.

Single Family or Duplex Residential Landlord Self Inspection Declaration. A form provided by the city to the landlord of a rental unit for the purpose of "Self-Inspection" of the rental unit.

Single-family dwelling. Means either a detached building having separate accommodations for, and occupied by not more than, two families, whereby each individual dwelling unit is located on a separate lot of record as a result of a property line being coincident with the common wall separating each dwelling unit, such that dwelling

units may be individually owned; or a detached building having accommodations for, and occupied by not more than, one family, or by one family and not more than four boarders or lodgers; or a single-family attached dwelling located on a separately platted lot of record which is joined to another dwelling unit on one or both sides, and occupied by not more than one family, or by one family and not more than four boarders or lodgers. The term does not include bed and breakfast establishments with seven or fewer rooms for rent that serve breakfast to overnight guests and are not a retail food establishment.

Tenant. Any person who occupies a rental unit for living or dwelling purposes with the landlord's consent.

Uninhabitable. A condition or conditions that exist which could possibly threaten the life, health, safety, or general welfare of the tenant or occupant as determined by the building official.

Sec. 4.08.002. Building official—Power and duties.

The building official or designee is hereby designated as the administrator of the provisions of this article.

Sec. 4.08.003. Registration required.

- (a) Each owner of a rental unit within the city shall register each such rental unit with the city in accordance with procedures contained in this article. A separate registration shall be required for each rental unit. Every owner of a rental unit as of the date of adoption of this article shall complete an initial registration application and pay an initial registration fee as set by the city fee schedule on or before September 1, 2022 and annually thereafter.
- (b) Each owner of a rental unit within the city shall make application for registration with the city and submit a Single Family or Duplex Residential Landlord Self Inspection declaration for said rental unit with the building official within thirty (30) days after the date of acquiring ownership of a rental unit or within thirty (30) days after the date an owner of a single-family dwelling or duplex dwelling unit converts the dwelling unit into a rental unit.
- (c) Application for rental unit registration shall be made upon a form provided by the city for such purpose, and shall include, at a minimum, the following information:
 - (1) Owner's name, address, and work and home telephone number, driver's license number, or identification card number and state of issuance of the owner;
 - (2) If owner is a partnership, the names of all partners, the principal business address, and telephone number of each partner;
 - (3) If owner is a corporation, the person registering must state whether the corporation is organized under the laws of this state or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the main individual in charge of the local office of such corporation, if any, and the names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation;
 - (4) Name, address and telephone number of the property manager or person having the authority to act on behalf of the owner;
 - (5) Name, address, telephone number of mortgagee (if there is a mortgage against property);
 - (6) Street address of the rental unit;
 - (7) Number of persons that the unit is designed to occupy as determined by the International Residential Code and International Property Maintenance Code, as amended; and
 - (8) Signature of the owner or owner's agent.
 - (9) A completed Single Family or Duplex Residential Landlord Self Inspection Declaration.

Sec. 4.08.004. General requirements.

- (a) In addition to annual registration, it shall be unlawful for any person to own, operate, manage, or maintain a rental unit or otherwise occupy or offer one for occupancy in the city without a current and valid residential rental certificate of occupancy (RRCO) having been issued for said property by the city. Any person owning, operating, managing, or maintaining a rental unit shall obtain an RRCO for each separate location.
- (b) A RRCO shall be required for each rental unit offered under lease and/or occupancy upon the effective date of this article and shall be in full compliance on or before September 1, 2022. For rental units, offered leased or occupied for rent after the effective date, an RRCO shall be obtained prior to occupancy.
 - (1) All RRCOs shall expire with the change of a tenant or the addition of new tenants to the lease.
 - (2) The landlord applicant for an RRCO shall file a written application with the city upon a form provided for that purpose. The application shall be signed by the owner or his agent and the property manager. Should an applicant own more than one rental unit at the same or another location, a separate application shall be filed for each rental unit. The following information shall be required in the application:
 - a. Address of property;
 - b. Name of tenant and all other residents of the rental unit;
 - c. A copy of the executed Crime Prevention Addendum required under Section 4.09.0010 of the city's Code of Ordinances (as may be amended);
 - d. A completed Single Family or Duplex Residential Landlord Self Inspection Declaration;
 - e. Acknowledgment by property owner (or property manager) and tenant of receipt of copy of the city's residential rental property registration and inspection ordinance; and
 - (3) The building official, or designee, may, at any time, require additional relevant information of the owner or property manager to clarify items on the application and to assure compliance with this article.
- (c) The fee for an RRCO, reinstatement of an RRCO, or renewal and all other fees provided for in this article shall be established in the city's Fee Schedule.
- (d) A replacement RRCO may be issued for one lost, destroyed or mutilated upon application on a form provided by the city. A replacement RRCO shall have the word "Replacement" stamped across its face and shall bear the same number as the one it replaces.
 - (1) A residential rental property RRCO is not assignable or transferable.
 - (2) The form of the RRCO shall be prepared by the building official.
 - (3) The RRCO shall be held by the owner and a second copy kept on the premises and available for inspection upon request by the city.
- (e) The owner of any property in the city, whether vacant or occupied, shall be responsible for maintenance of all structures, equipment, appliances and accessories to the property in compliance with all applicable ordinances and permit requirements in force in the city.
- (f) No owner shall permit the occupancy of a rental unit that is not in a safe and sanitary condition, or that does not comply with all ordinances in force in the city.
- (g) The owner shall notify the city at least forty-eight (48) hours prior to an eviction notice. Furthermore, the owner shall provide to the city a plan for the clean-up and removal of personal items from the rental unit twenty-four (24) hours after the eviction.

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- (h) Tenants of any rental unit shall be responsible for keeping the interior and exterior of the rental unit in a clean, orderly and sanitary condition, as provided in this article.
 - (i) In the event of any dispute between owner and tenant, or when the tenant is absent or unwilling or unable to correct violations, the property owner shall be held responsible for compliance with all ordinances that affect the property.
 - (j) All exterior property of a rental unit, and the interior of every rental unit, shall be free from any accumulation of rubbish, trash, debris, filth, or garbage.
 - (k) Upon the request of a tenant, the building official may inspect a property for structural, electrical, mechanical or plumbing problems, ceiling leaks, smoke detector checks, and insect or rodent infestation.

Sec. 4.08.005. Inspections.

- (a) The building official, in addition to any other applicable requirement of this article, may inspect the interior and exterior of a rental unit to determine compliance with applicable state and local laws.
- (b) The building official or designee shall enforce the provisions of this article upon presentation of proper identification to the owner or tenant in charge of any rental unit and, with the owner or tenant's permission, may inspect the rental unit in accordance with this section between the hours of 8:00 a.m. and 5:00 p.m. The building official's authority to conduct both exterior and interior inspections is subject to all limitations provided in state and federal law.
- (c) If entry is refused by the owner or any occupant, or if consent to enter the rental unit could not be obtained, the building official is authorized to seek a warrant permitting the building official's entry pursuant to Texas Code of Criminal Procedure art. 18.05, as the same may be amended from time to time.
- (d) Inspections of a rental dwelling unit shall be performed (i) every five (5) years, (ii) on a complaint-driven basis, and (iii) at intervals deemed necessary for the enforcement of this article.
- (e) A nonrefundable inspection fee shall be paid to the city by the owner for each inspection of each rental unit by the city, or its designee.
- (f) Except in the case of a threat to life safety or a critical violation, the building official shall provide a three-day notice via email, fax, certified mail, direct delivery, regular mail, or in person to the owner, landlord or property manager prior to the inspection date. If the notice is sent via regular mail, the notice will be deemed received three (3) days after deposit of the notice with the United States Postal Service. Notice shall include an inspection checklist, outlining the minimum requirements to maintain a rental unit in compliance with this article. All rental units may be inspected initially, or more frequently if the building official determines the property poses a risk of health and safety to its tenants or occupants.
- (g) Any unoccupied rental unit that has a life-safety violation or critical violation at the time of the initial inspection must be re-inspected within fifteen (15) calendar days or at another reasonable time as described by the building official not to exceed forty-five (45) calendar days. Any life-safety violations or critical violations of occupied units that would cause a rental unit to become uninhabitable shall be vacated or corrected by the owner within twenty-four (24) hours and shall not be occupied until all violations have been corrected.

Sec. 4.08.006. Notice of violation.

- (a) A notice of violation shall:
 - (1) Be in writing or marked on an inspection report form or notice;
 - (2) Include a legal description of the rental unit property/premises;
 - (3) Include a statement of the violation(s); and

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- (4) Include a correction order allowing a reasonable amount of time as determined by the building official to make any necessary repairs or corrections required to bring the rental unit, structure, and/or premises into compliance with the provisions of this chapter.
- (b) A notice of violation shall be considered delivered when:
- a. Delivered in-person;
 - b. three (3) days after the notice is deposited at the United States Postal Service; or
 - c. by posting at or on a conspicuous place on the rental unit structure, and/or premises.

Sec. 4.08.007. Minimum inspection standards.

A rental unit inspected under the authority of this article must, at a minimum, comply with the standards set forth in the Property Maintenance Code adopted by the City in order to pass inspection.

Sec. 4.08.008. Minimum responsibilities of tenants or occupants.

- (a) At a minimum, an occupant and/or tenant of a rental unit shall comply with all of the following:
- (1) Maintain those portions of the interior of a rental unit and premises under the occupant's control free from litter, rubbish, garbage, and all other nuisance-related violations that would encourage the infestation of insects, rodents or vermin and other unsanitary conditions.
 - (2) Maintain the rental unit and all plumbing equipment and facilities provided in a clean, sanitary condition at all times. At no time shall an occupant or tenant fail or refuse to connect to an approved potable water source.
 - (3) Not occupy a premises or structure unintended for occupancy.
 - (4) Prohibit the premises from being utilized in any manner that would otherwise violate any portion of the city's Code of Ordinances, subject to penalties thereof.
 - (5) Eliminate and/or correct any fire hazard as determined by the fire marshal or building official.
 - (6) Not alter a rental unit or its facilities so as to create a nonconformity with this or any other ordinance or code of the city.
- (b) An owner, landlord or property manager may file, with the building official, a signed notarized affidavit of personal knowledge of an occupant or tenant's failure to comply with the requirements of this section. Upon receipt of such signed notarized affidavit by the owner, landlord or property manager, the building official may begin enforcement of the provisions of this section, including the issuance of a citation to the occupant or tenant for violating the requirements of this article.

Sec. 4.08.009. Compliance with applicable state statutes and codes.

- (a) All rental units shall comply with all applicable city codes, including all current codes related to fire, health, safety and all other state statutes.
- (b) All landlords, owners, occupants and tenants shall comply all laws and ordinances of the State of Texas and the city.

Sec. 4.08.010. Failure to comply/violation.

- (a) Failure to comply with any provision of this article shall be a violation and may result in the abatement of any public nuisance as allowed by law and/or the issuance of municipal court citations and/or the probation, denial, suspension, or revocation of a RRCO.
- (b) It shall be a violation of this article for an owner to allow occupancy of a rental unit if the owner has not applied for a RRCO for said unit with the building official.
- (c) It shall be a violation of this article for an owner to allow occupancy of a rental unit with a life safety or critical violation.
- (d) It shall be a violation for any landlord or their representative to falsify a Single Family or Duplex Residential Landlord Self Inspection.
- (e) It shall be a violation for any landlord or their representative to fail to report any nonconforming condition of a rental unit on a Single Family or Duplex Residential Landlord Self Inspection.
- (f) It shall be unlawful for any person to make and/or file false information on their residential rental registration application with the city.
- (g) The building official may, without warning, advance notice or hearing, and/or suspend any RRCO for a rental unit if the operation of the rental unit constitutes an imminent hazard to public health or life-safety. Upon suspension of a RRCO, the owner may not continue to allow tenants or persons to occupy said unit until the RRCO has been reinstated.
 - (1) When a RRCO is suspended the holder of the RRCO, or the responsible person shall be notified in writing that the RRCO is pending suspension.
 - (2) The holder of the RRCO will have ten (10) calendar days to file a request for hearing with the city council. If a written request for a hearing is filed with the city council within ten (10) calendar days after the service of the notice in accordance with the provisions of this article, the suspension of the RRCO will remain pending until after the city council hearing. If no written request for hearing is filed within the said ten (10) calendar day period, the RRCO suspension becomes effective immediately.
 - (3) Suspension of a RRCO shall continue until the building official determines, after re-inspection, that the reasons for the suspension no longer exist and until all applicable fees required by this article have been paid.
 - (3) Suspension of a RRCO shall not preclude the building official from taking any other enforcement action authorized by law.
- (h) The city may initiate termination of utility services or place a hold on reconnecting or reinstating utility services that have been terminated, as the case may be, to or for a rental unit that is substandard, or unfit for human habitation by certifying, in writing, that the unit or property is substandard or unfit for human habitation. Upon initiating a utility termination or hold, the city shall promptly notify the owner by written notice.
- (i) In addition to other authority granted by any section of the city's Code of Ordinances, the building official has all rights and authority granted by Texas Code of Criminal Procedure art. 18.05, to obtain a valid administrative search warrant issued by a court of competent jurisdiction to allow the building official to perform the inspection. The time period for inspection completion shall toll during any days where a warrant is being sought to allow entry and shall not be held against the owner/landlord. Any inspections shall comply with all federal, state and local laws, regulations, and ordinances.
- (j) The building official shall also have the power to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violations, or to require the removal or termination of any unlawful occupancy of a rental unit in violation of the provisions of this article or direction made pursuant thereto. Any action taken

by the authority having jurisdiction on such premises is chargeable against the real-estate upon which the structure is located, and such charges shall constitute a privileged lien upon such premises.

Sec. 4.08.011. Appeals.

Any person directly affected by a decision of the building official or a notice or order issued under this article shall have the right to appeal to the city council provided that a written application for an appeal is filed within ten (10) calendar days after the date the decision, notice or order has been served. An application for appeal shall be based on a claim that the true intent of this article or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this article do not fully apply, or the requirements of this article are adequately satisfied by other means.

- (1) Appeals shall be heard by the city council.
- (2) The city council shall consider the appeal as soon as reasonably practical from the date of the appeal.
- (3) The city council may adopt, modify or reverse the decision of the building official.
- (4) Except for vacation orders made pursuant to this Code, enforcement of any notice and orders of the building official issued under this article shall be stayed until the appeal is heard by the city council.

Sec. 4.08.012. Penalty clause.

Any person violating any provision of this article shall, upon conviction, be fined a sum in accordance with the general penalty provided in section 1.01.009 of the city's Code of Ordinances. Each day that a provision of this article is violated shall constitute a separate offense. An offense under this division is a misdemeanor.

The penalty provisions imposed under this article shall not preclude the city from filing suit to enjoin the violation. The city retains all legal rights and remedies to it pursuant to local, state and federal law.

Sec. 4.08.013. Interference with building official.

It shall be a violation of this article for any person to interfere with the building official, or designee, in the performance of his/her duties under this article, and their enforcement of the ordinances of the city.

Secs. 4.08.014. Reserved.