

ORDINANCE NO. 166-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONE OAK, TEXAS, PROVIDING FOR REGISTRATION AND INSPECTION OF RESIDENTIAL RENTAL PROPERTIES WITHIN THE CITY AND ORDERING PUBLICATION, PROVIDING A REPEALER AND SEVERABILITY CLAUSE, PROVIDING A PENALTY AND AN EFFECTIVE DATE.

WHEREAS, the City of Lone Oak, Texas ("City"), is a Type A General Law city operating pursuant to the laws of the State of Texas, by and through its duly elected council members;

WHEREAS, the City Council ("Council") of the City serves as the elected governing body of the City directly responsible for the promotion and protection of the public health and safety of its citizens and inhabitants;

WHEREAS, the City is authorized and empowered to adopt and enforce ordinances, not inconsistent with state law, that are necessary to protect the safety of its inhabitants (**TEXAS LOCAL GOVERNMENT CODE § 51.012**);

WHEREAS, the Council is aware of the everchanging economy and the increased demand for residential rental property within the City;

WHEREAS, the City is committed to ensuring that residential rental properties in the community are safe, livable and routinely maintained in accordance with public health, safety, and property maintenance standards as adopted by the **CITY OF LONE OAK ORDINANCES**;

WHEREAS, some residential rental property owners routinely fail to maintain their properties putting rental unit dwellers at risk of injury or death;

WHEREAS, the City now lacks the necessary tools to identify and track problem residential rental properties and owners/landlords, relying solely on sporadic and oftentimes after-the-fact tenant complaints;

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

WHEREAS, the time has come for the City to establish a more organized approach to regulating residential rental properties within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LONE OAK, TEXAS THAT THE CITY OF LONE OAK:

SECTION ONE. RESIDENTIAL RENTAL PROPERTY REGISTRATION AND INSPECTION.
— DEFINITIONS.

BUILDING INSPECTOR. A person who is usually certified in one or more disciplines qualifying them to make professional judgment about whether a building meets building code requirements for inspections.

CODE COMPLIANCE OFFICER. An officer or investigator, who possesses specialized training in, and whose primary duties are the prevention, detection, investigation, inspection and enforcement of violations of laws regulating public nuisance, public health, safety and welfare, and more.

LOCAL CONTACT. An individual designated by an absent Owner/Landlord/Manager (one that lives outside of Lone Oak), who can respond promptly (less than two hours) to an emergency at a Rental Property, subject to this ordinance, on the Owner/Landlord/Manager's behalf and authorized to make decisions and act to remedy the emergency situation.

MAYOR. The City Mayor or their designee.

OWNER/LANDLORD/MANAGER. Any person or corporation/company that owns, leases or subleases residential Rental Property.

RENTAL PROPERTY. Any residential single-family, two-family, or multi-family dwelling unit, including manufactured homes, that is not owner occupied, and is rented or leased, whether or not rent is charged, whether or not the lease is memorialized in writing. Rental Property includes, but is not limited to: properties rented or leased to students, families, or any other persons; properties in which a family member of the owner resides in the home but the owner does not (regardless of whether additional persons also reside in the home); properties used as vacation rentals and hosted short-term rentals; properties owned by a company or corporation to house employees, whether rent is paid or not; and properties where a property caretaker lives in the home but the owner does not.

SECTION TWO. RESIDENTIAL RENTAL PROPERTY REGISTRATION.

(A) The Owner/Landlord or Real Estate Manager of Rental Property is required to register Rental Property with the City on a form within fifteen (15) days of the property becoming Rental Property, if not previously registered with the City, and within 30 days if a Rental Property changes ownership. For purposes of this Section, only one registration is required per property location, whether the property location consists of a one-family, two-family unit (duplex) or multi-family unit (triplex, quadplex, apartment building, etc.). The information required to register the Rental Property is as follows:

- 1) Physical address of the Rental Property;
- 2) Full name(s) of Owner(s)/Landlord(s);
- 3) Name of the Rental Property, if not identified by the physical address, (i.e. The Wilshire Apartments, Newport Condos, etc.);
- 4) If the Owner/Landlord/Manager is a corporation or association, the name and address of the registered agent on file with the Texas Secretary of State;
- 5) Full contact information of the Owner/Landlord/Manager (home phone, cell phone, business phone, fax number, email address, and mailing and physical address);
- 6) Type of Rental Property (single-family, two-family, multi-family, etc.);

- 7) The name and complete contact information for the Local Contact, if different than the Owner/Landlord/Manager, in the case of an absentee owner. The Local Contact cannot be someone who is listed on the lease;
- 8) If a two-family or multi-family property, the number of individual rental units and buildings at the property;
- 9) Telephone number that will be answered 24 hours a day (i.e. emergency phone number) by a responsible party (Owner/Landlord/Manager, Local Contact, etc.);
- 10) Tenant names, the contact information for all persons listed on the current lease(s), and all current lease(s) shall be presented to the code compliance officer for review upon request; and
- 11) Any other information, deemed necessary shall likewise be provided, as deemed necessary by the code compliance officer.

B) An Owner/Landlord/Manager of Rental Property shall pay a fee of Fifty Dollars (\$50.00) per rental property registration.

C) An Owner/Landlord/Manager of Rental Property may not permit or allow another person to occupy or lease Rental Property without a registration required by this section.

SECTION THREE. RESIDENTIAL RENTAL PROPERTY INSPECTION.

(A) The City Code Compliance Officer may order an inspection (use of City's Certificate of Occupancy Inspection List) of the interior and/or exterior of a Rental Property if any of the following circumstances exist: The City receives a written or oral complaint from a tenant, neighbor, code officer, public works employee, police officer, or other interested party concerning a Rental Property indicating a current violation of the CITY OF LONE OAK ORDINANCES, any of the international building codes, state law, or federal law or where the premises appear to be unsafe, dangerous, or hazardous to the public health or safety;

- (1) Upon the first-time registration of a Rental Property with the City required by this ordinance;
- (2) The failure of an owner to register Rental Property as required by this ordinance; or
- (3) Any time the Rental Property is vacant, or without a tenant.

(B) When an inspection is ordered, a preliminary inspection shall be conducted by a city code compliance officer or building inspector working at the direction of the City. This preliminary inspection is to identify issues of substantial concern that affect the habitability of the property involved, not merely aesthetic or surface level concerns. Dangerous electrical problems, water leaks, structural damage/insufficiencies, plumbing/sewer blockages, gas leaks, and other major problems will be the type of issues the City will be assessing.

(C) The preliminary inspection shall be conducted within 10 days of the City Inspector's order.

(D) A written report of the preliminary inspection shall be submitted to the City, the occupants of the home and Owner/Landlord/Manager or Local Contact within two (2) days of the preliminary inspection. Actual notice must be achieved on the Owner/Landlord/Manager and/or Local Contact. This report shall contain a comprehensive list of any issues that require repair/remedy/correction with citation to the applicable law, regulation, and/or code offended. If no actionable issues are present, a written report detailing the preliminary inspection findings and passing performance shall be served on all parties as well, to close out the inspection.

(E) If actionable dangerous issues exist in the preliminary inspection report, the Owner/Landlord/Manager has five (5) business days to remedy the issues and provide the City proof of such compliance. The cost of any remedy is the responsibility of Owner/Landlord/Manager and not the tenant(s) or the City.

(F) Proof of compliance may be achieved by photos, receipts of materials/work, affidavits of compliance, and/or a second inspection by the city code compliance officer or building inspector working at the direction of the City.

(G) Failure to remedy a dangerous issue identified in the preliminary inspection within five (5) business days, and/or the failure to provide proof of a remedy to all of the dangerous issues identified in the preliminary report, is a violation of this ordinance and may result in the issuance of a criminal citation for the failure to comply. Additionally, a noncompliant Owner/Landlord/Manager, will also face a citation for each and every specific code, regulatory, and or state law violation present at the time. The preliminary inspection report shall serve as a warning to the Owner/Landowner.

(H) An Owner/Landlord/Manager of Rental Property, that wishes to contest the findings of a preliminary inspection report, may, at their own expense, seek an independent inspection of the Rental Property. A written report of this independent inspection shall be filed with the City of Lone Oak before the expiration of the five (5) day period for compliance. Such inspection must be conducted by a licensed building inspector, registered and licensed through the Texas Real Estate Commission. If this written independent inspection report conflicts in a substantial way with the preliminary inspection report, no citations may be issued for an offense under this article, until the matter is heard before the governing body of the municipality — the city council. The Owner/Landlord/Manager shall be notified of the date and time of the meeting and be allowed to present their position to the city council. The Mayor shall be responsible for determining whether the independent inspection report and preliminary inspection report are substantially in conflict and invoke a hearing before the city council. The decision before the city council on such an issue is whether to designate a period for compliance, and/or to close out an ordered inspection file. If Owner/Landlord/Manager is found in violation and if tenant vacates property, then services will be terminated until violation findings are in compliant with this ordinance and inspection. Code Compliance Officer may issue citations to Owner/Landlord/Manager of Rental Property if found in violation.

(I) The Owner/Landlord/Manager of the Rental Property shall permit the city code compliance officer, and/or building inspector working at the direction of the City, to enter the Rental Property (exterior and interior) when necessary to review compliance with this article for the purposes of performing an inspection and/or to follow-up on a previous inspection. If the property to be inspected is occupied by a tenant or tenants, consent must be achieved of at least one occupant of legal age and authority to provide consent. If no consent of the occupants can be achieved, the City shall be responsible for seeking and obtaining a valid administrative search warrant issued by a court of competent jurisdiction to allow the designated building inspector and/or city code compliance officer access 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/Manager for purposes of this ordinance.

(J) An Owner/Landlord/Manager of Rental Property that allows an occupant of a rental property to house pets/animals is required to secure the pets/animals by structurally sound fencing, so animal is not 'Running at Large' (Ref. Animal Regulation Ordinance #156).

(K) Any and all costs incurred by the City for third party inspection services related to compliance with this article shall be billed and collected from the Owner/Landlord/Manager. Failure to reimburse the City may lead to a civil collection action against Owner/Landlord/Manager, including attorney's fees and interest.

SECTION FOUR. PENTALY FOR VIOLATION.

Any violation of the terms of this ordinance of said code is further declared to be a misdemeanor, and any person found to be guilty thereof shall be punishable by a fine not to exceed \$500.00. Each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.

SECTION FIVE. PUBLICATION

The City Secretary is hereby directed, if required by law, to post or publish in the official newspaper of the City, the caption, publication clause and effective date clause of this ordinance in one issue of the official newspaper of the City or required by law.

SECTION SIX. REPEALER AND SEVERABILITY

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

SECTION SEVEN. EFFECTIVE DATE

This Ordinance shall become effective immediately from and after its passage by Council and publication.

PASSED AND APPROVED by the City of Lone Oak at a regular meeting of the City Council of the City of Lone Oak, Texas on this 12th day of February 2019.



Douglas E. Williams, Mayor

ATTEST:



Kathy Voss, City Secretary