

ORDINANCE NO. 27751

An ordinance amending Sections 27-3 and 27-4 of and adding Article IX (composed of Sections 27-59 through 27-72) to CHAPTER 27, "MINIMUM URBAN REHABILITATION STANDARDS," of the Dallas City Code, as amended; defining terms; providing requirements, procedures, and fees for the registration of non-owner occupied rental property in the city; providing defenses; providing an appeal process for the denial or revocation of a certificate of registration; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 27-3, "Definitions," of Article I, "General Provisions," of CHAPTER 27, "MINIMUM URBAN REHABILITATION STANDARDS," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 27-3. DEFINITIONS.**

In this chapter:

(1) BASEMENT means the portion of a structure that is partly underground and has more than one-half its height, measured from clear floor to ceiling, above the average finished grade of the ground adjoining a structure.

(2) BATHROOM means an enclosed space containing one or more bathtubs, showers, or both, and which may also include toilets, lavatories, or fixtures serving similar purposes.

(3) CELLAR means the lowermost portion of a structure partly or totally underground having one-half or more of its height, measured from clear floor to ceiling, below the average finished grade of the adjoining ground.

(4) CERTIFICATE OF REGISTRATION means a certificate of registration issued by the director under Article VII of this chapter to the owner or operator of a multi-tenant property or under Article IX of this chapter to the owner of a non-owner occupied rental property, whichever is applicable.

(5) CITY ATTORNEY means the city attorney of the city of Dallas and includes the assistants and other authorized representatives of the city attorney.

(6) CRIME PREVENTION ADDENDUM means an addendum to a residential lease or rental agreement for the use of a multi-tenant property as required by Section 27-43 of this chapter.

(7) DEPARTMENT means the department designated by the city manager to enforce and administer this chapter.

(8) DIRECTOR means the director of the department designated by the city manager to enforce and administer this chapter and includes representatives, agents, or department employees designated by the director.

(9) DWELLING means a structure or building occupied as a residence.

(10) DWELLING UNIT means one or more rooms in a multifamily property designed to accommodate one family and containing only one kitchen plus living, sanitary, and sleeping facilities.

(11) FLOOR SPACE means the total area of all habitable space.

(12) GRADE means the natural surface of the ground, or surface ground after completion of any change in contour.

(13) GRADED INSPECTION means an inspection of a multi-tenant property in which the property is given a score by the director based on the number of code violations found to exist on the premises.

(14) GUEST ROOM means any room in a multi-tenant property, other than a multifamily property, that is intended as a sleeping area, whether or not the room includes a kitchen or kitchenette and whether or not the property is operated for profit or charges for the services it offers.

(15) HABITABLE SPACE means the space occupied by one or more persons while living, sleeping, eating, and cooking; excluding kitchenettes, bathrooms, toilet rooms, laundries, pantries, dressing rooms, closets, storage spaces, foyers, hallways, utility rooms, heater rooms, boiler rooms, and basement or cellar recreation rooms.

(16) KITCHEN means a space, 60 square feet or more in floor area with a minimum width of five feet, used for cooking or preparation of food.

(17) KITCHENETTE means a space, less than 60 square feet in floor area, used for cooking or preparation of food.

(18) MULTIFAMILY PROPERTY means a multifamily use as defined in Section 51A-4.209(b)(5) of the Dallas Development Code, as amended.

(19) MULTI-TENANT PROPERTY means property containing any of the following uses:

(A) A multifamily property as defined in Subsection (18) of this section.

(B) A lodging or boarding house as defined in Section 51A-4.205(2) of the Dallas Development Code, as amended.

(C) A group residential facility as defined in Section 51A-4.209(b)(3) of the Dallas Development Code, as amended.

(D) An extended stay hotel or motel as defined in Section 51A-4.205(1.1) of the Dallas Development Code, as amended.

(E) A residential hotel as defined in Section 51A-4.209(b)(5.1) of the Dallas Development Code, as amended.

(20) NON-OWNER OCCUPIED RENTAL PROPERTY means a single-family, duplex, townhouse, or condominium dwelling that is leased or rented to one or more persons other than the owner of the property, regardless of whether:

(A) the lease or rental agreement is oral or written; or

(B) the compensation received by the owner for the lease or rental of the property is in the form of money, services, or any other thing of value.

(21) OCCUPANT means a person who has possessory rights to and is actually in possession of a premises.

(22) [(21)] OPEN AND VACANT STRUCTURE means a structure that is, regardless of its structural condition:

(A) unoccupied by its owners, lessees, or other invitees; and

(B) unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children.

(23) [(22)] OPERATING CONDITION means free of leaks, safe, sanitary, structurally sound, and in good working order.

(24) [(23)] OWNER means a person in whom is vested the ownership or title of real property:

(A) [5] including, but not limited to:

(i) [(A)] the holder of fee simple title;

(ii) [(B)] the holder of a life estate;

(iii) [(C)] the holder of a leasehold estate for an initial term of five years or more;

(iv) [(D)] the buyer in a contract for deed;

(v) [(E)] a mortgagee, receiver, executor, or trustee in control of real property; and

(vi) [(F)] the named grantee in the last recorded deed; and

(B) [~~but~~] not including the holder of a leasehold estate or tenancy for an initial term of less than five years.

(25) [(24)] PERSON means any individual, corporation, organization, partnership, association, or any other legal entity.

(26) [(25)] PLUMBING FIXTURES means gas pipes, water pipes, toilets, lavatories, sinks, laundry tubs, dishwashers, garbage disposal units, clothes-washing machines, catch basins, wash basins, bathtubs, shower baths, sewer pipes, sewage system, septic tanks, drains, vents, traps, and other fuel-burning or water-using fixtures and appliances, together with all connections to pipes.

(27) [(26)] PREMISES or PROPERTY means a lot, plot, or parcel of land, including any structures on the land.

(28) [(27)] PROPERTY MANAGER means a person who for compensation has managing control of real property.

(29) [(28)] PUBLIC SEWER means a sewer operated by a public authority or public utility and available for public use.

(30) [(29)] REGISTRANT means a person issued a certificate of registration for a multi-tenant property under Article VII of this chapter or for a non-owner occupied rental property under Article IX of this chapter, whichever is applicable.

(31) [(30)] SANITARY means any condition of good order and cleanliness that precludes the probability of disease transmission.

(32) [(31)] STRUCTURE means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(33) [(32)] UNIT means a dwelling unit or a guest room in a multi-tenant property.

(34) [(33)] URBAN NUISANCE means a premises or structure that:

(A) is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;

(B) regardless of its structural condition, is unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

(C) boarded up, fenced, or otherwise secured in any manner if:

(i) the structure constitutes a danger to the public even though secured from entry; or

(ii) the means used to secure the structure are inadequate to prevent unauthorized entry or use of the structure in the manner described by Paragraph (B) of this subsection.”

SECTION 2. That Section 27-4, “Violations; Penalty,” of Article II, “Administration,” of CHAPTER 27, “MINIMUM URBAN REHABILITATION STANDARDS,” of the Dallas City Code, as amended, is amended to read as follows:

**“SEC. 27-4. VIOLATIONS; PENALTY.**

(a) A person who violates a provision of this chapter, or who fails to perform an act required of him by this chapter, commits an offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued.

(b) Criminal penalties.

(1) An offense under this chapter is punishable by a fine not to exceed \$2,000; except, that an offense under Section 27-5.2 and 27-25 of this chapter is punishable by a fine not to exceed \$500.

(2) An offense under this chapter is punishable by a fine of not less than:

(A) \$200 for a first conviction of a violation of Section 27-11(a)(1), (3), or (4), 27-11(b)(1), (2), (3), (4), (6), (7), (8), (9), or (10), Section 27-60, or Article VIII of this chapter;

(B) \$500 for a first conviction of a violation of Section 27-11(a)(2), (5), or (6), 27-11(b)(5), 27-11(c), or 27-11(d); and

(C) \$2,000 for a first conviction of a violation of Section 27-30.

(3) The minimum fines established in Subsection (b)(2) will be doubled for the second conviction of the same offense within any 24-month period and trebled for the third and subsequent convictions of the same offense within any 24-month period. At no time may the minimum fine exceed the maximum fine established in Subsection (b)(1).

(c) The culpable mental state required for the commission of an offense under this chapter is governed by Section 1-5.1 of this code.

(d) In addition to imposing the criminal penalty prescribed in Subsection (b) or exercising the other remedies provided by this chapter, the city may, in accordance with Chapter 54, Subchapter B of the Texas Local Government Code, bring a civil action against a person violating a provision of this chapter. The civil action may include, but is not limited to, a suit to recover a civil penalty not to exceed \$1,000 for each day or portion of a day during which the violation is committed, continued, or permitted.

(e) The penalties provided for in Subsections (b), (d), and (h) are in addition to any other enforcement remedies that the city may have under city ordinances and state law.

(f) The director has the authority to enforce provisions of Chapter 7A and Article II, Chapter 18 of this code.

(g) A person commits an offense if he fails to correct a violation of this chapter in compliance with any order issued under this chapter that has become final.

(h) As an alternative to imposing the criminal penalty prescribed in Subsection (b), the city may impose administrative penalties, fees, and court costs in accordance with Article IV-b of this chapter, as authorized by Section 54.044 of the Texas Local Government Code, for an offense under this chapter. The alternative administrative penalty range for an offense is the same as is prescribed for a criminal offense in Subsection (b).”

SECTION 3. That CHAPTER 27, “MINIMUM URBAN REHABILITATION STANDARDS,” of the Dallas City Code, as amended, is amended by adding Article IX, entitled “Registration and Inspection of Non-owner Occupied Rental Property,” (composed of Sections 27-59 through 27-72) to read as follows:

27751

“ARTICLE IX.REGISTRATION AND INSPECTION OF  
NON-OWNER OCCUPIED RENTAL PROPERTY.SEC. 27-59. AUTHORITY OF DIRECTOR.

The director shall implement and enforce this article and may by written order establish such rules, regulations, or procedures, not inconsistent with this article, as the director determines are necessary to discharge any duty under or to effect the policy of this article.

SEC. 27-60. REGISTRATION REQUIRED; DEFENSES.

(a) A person commits an offense if he owns a non-owner occupied rental property in the city without a valid certificate of registration issued under this article.

(b) If a person owns more than one non-owner occupied rental property in the city, a separate registration is required for each property. If both dwelling units of a duplex qualify as non-owner occupied rental properties, then each dwelling unit must be registered separately, even if under a common ownership.

(c) If three or more townhouses or condominiums in the same complex are under a common ownership and are leased or offered for lease, they must be registered as a multi-tenant property under Article IV of this chapter instead of as non-owner occupied rental properties under this article.

(d) It is a defense to prosecution under Subsection (a) that the non-owner occupied rental property had been leased or rented for less than the 60-day period preceding the date of the violation.

SEC. 27-61. REGISTRATION APPLICATION.

To obtain a certificate of registration for a non-owner occupied rental property, a person must submit an application on a form provided for that purpose to the director. The applicant must be the owner of the non-owner occupied rental property. If the owner is not an individual, an authorized officer or agent of the owner must file the form. The application must contain the following information:

(1) The name, street address, mailing address, and telephone number of the applicant (owner of the property).

(2) The name, street address, mailing address, telephone number, and position of the authorized officer or agent filing the form on behalf of the applicant, if the applicant for the non-owner occupied rental property is not an individual.

(3) The form of business of the applicant; the name, street address, mailing address, and telephone number of a high managerial agent of the business; and, if the business is a corporation or association, a copy of the documents establishing the business.

(4) The street address of the non-owner occupied rental property.

(5) The name, street address, mailing address, and telephone number of a person or persons to contact in an emergency as required by Section 27-69 of this article.

(6) Documentary evidence of payment of ad valorem taxes owed in connection with the non-owner occupied rental property.

(7) The names, street addresses, mailing addresses, and telephone numbers of any owners of the non-owner occupied rental property other than the applicant.

(8) A statement that, by filing the registration, the applicant swears or affirms under penalty of perjury that, to the best of the applicant's knowledge, all information contained in the registration is true and correct and that the registration is complete and includes all information required to be disclosed under this article.

(9) Such additional information as the applicant desires to include or that the director deems necessary to aid in the determination of whether the requested certificate of registration should be granted.

#### **SEC. 27-62. REGISTRATION FEES.**

(a) The annual fee for a certificate of registration for a non-owner occupied rental property is \$25.

(b) No refund of a registration fee will be made.

(c) The registration fee established in Subsection (a) will not be charged upon renewal of a certificate of registration for a non-owner occupied rental property if no violations of Section 27-11(b), (c), or (d) of this chapter were found on the property by the director within the preceding registration year.

#### **SEC. 27-63. ISSUANCE, DENIAL, AND DISPLAY OF CERTIFICATE OF REGISTRATION.**

(a) Upon payment of all required fees, the director shall issue a certificate of registration for a non-owner occupied rental property to the applicant if the director determines that:

(1) the applicant has complied with all requirements for issuance of the certificate of registration;



(2) the applicant has not made a false statement as to a material matter in an application for a certificate of registration; and

(3) the applicant has no outstanding fees assessed under this article.

(b) If the director determines that the requirements of Subsection (a) have not been met, the director shall deny a certificate of registration to the applicant.

(c) If the director determines that an applicant should be denied a certificate of registration, the director shall notify the applicant in writing that the application is denied and include in the notice the reason for denial and a statement informing the applicant of the right of appeal.

(d) A certificate of registration issued under this section must be displayed on the premises of the non-owner occupied rental property in a manner and location approved by the director. The certificate of registration must be presented upon request to the director or to a peace officer for examination.

#### **SEC. 27-64. REVOCATION OF CERTIFICATE OF REGISTRATION.**

(a) The director shall revoke any certificate of registration for a non-owner occupied rental property if the director determines that:

(1) the registrant failed to comply with any provision of this chapter, any other city ordinance, or any state or federal law applicable to the operation of a non-owner occupied rental property;

(2) the registrant intentionally made a false statement as to a material matter in the application or in a hearing concerning the certificate of registration; or

(3) the registrant failed to pay a fee required by this article at the time it was due.

(b) Before revoking a certificate of registration under Subsection (a), the director shall notify the registrant in writing that the certificate of registration is being considered for revocation. The notice must include the reason for the proposed revocation, action the registrant must take to prevent the revocation, and a statement that the registrant has 10 days to comply with the notice.

(c) If, after 10 days from receipt of the notice required in Subsection (b), the registrant has not complied with the notice, the director shall revoke the certificate of registration and notify the registrant in writing of the revocation. The notice must include the reason for the revocation, the date the director orders the revocation, and a statement informing the registrant of the right of appeal.

**SEC. 27-65. APPEALS.**

If the director denies issuance or renewal of a certificate of registration or revokes a certificate of registration issued pursuant to this article, this action is final unless the applicant or registrant files an appeal with a permit and license appeal board in accordance with Section 2-96 of this code.

**SEC. 27-66. EXPIRATION AND RENEWAL OF CERTIFICATE OF REGISTRATION.**

(a) A certificate of registration for a non-owner occupied rental property expires one year after the date of issuance.

(b) A certificate of registration may be renewed by making application in accordance with Section 27-61. A registrant shall apply for renewal at least 30 days before the expiration of the certificate of registration.

**SEC. 27-67. NONTRANSFERABILITY.**

A certificate of registration for a non-owner occupied rental property is not transferable.

**SEC. 27-68. REGISTRANT'S RECORDS.**

(a) Each registrant shall maintain at a single location business records of the non-owner occupied rental property. A registrant shall make those records available for inspection by the director or a peace officer at reasonable times upon request.

(b) Records that must be maintained by the registrant include, but are not limited to:

(1) records of ownership for the property; and

(2) any other records deemed necessary by the director for the administration and enforcement of this article.

**SEC. 27-69. EMERGENCY RESPONSE INFORMATION.**

(a) The registrant of a non-owner occupied rental property shall provide the director with the name, street address, mailing address, and telephone number of a person or persons who can be contacted 24 hours a day, seven days a week in the event of an emergency condition on the property. An emergency condition includes any fire, natural disaster, collapse hazard, burst pipe, lack of working utilities, serious police incident, or other condition that requires an immediate response to prevent harm to the property, the occupants of the property, or the public.

(b) The registrant of the non-owner occupied rental property shall notify the director within 10 days of any change in the emergency response information.

(c) The registrant of a non-owner occupied rental property, or an authorized agent, must arrive at the property within one hour after a contact person named under this section is notified by the city or emergency response personnel that an emergency condition has occurred on the property.

**SEC. 27-70. FAILURE TO PAY AD VALOREM TAXES.**

A registrant or an applicant for a certificate of registration for a non-owner occupied rental property shall not allow the payment of ad valorem taxes owed in connection with the non-owner occupied rental property to become delinquent.

**SEC. 27-71. NOTIFICATION OF CHANGE OF INFORMATION.**

A registrant shall notify the director within 10 days of any material change in the information contained in the application for a certificate of registration for a non-owner occupied rental property, including any changes in ownership of the property.

**SEC. 27-72. PROPERTY INSPECTIONS; REINSPECTION FEES.**

(a) The director may inspect any non-owner occupied rental property in the city for code violations in accordance with Section 27-5 of this chapter.

(b) Whenever a non-owner occupied rental property is inspected by the director and a violation of this code is found, the building or premises will, after the expiration of any time limit for compliance given in a notice or order issued because of the violation, be reinspected by the director to determine that the violation has been eliminated.

(c) The owner, occupant, or other person responsible for the violation shall pay to the director \$50 for each reinspection after the first reinspection that must be conducted before the violation is determined to be eliminated.”

SECTION 4. That, within one year after its implementation, the city manager shall review the non-owner occupied rental property registration program established by this ordinance and report to the city council on its effectiveness.

SECTION 5. That CHAPTER 27 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

27751

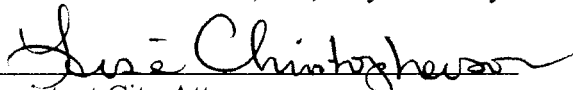
092937

SECTION 6. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 7. That this ordinance will take effect on February 1, 2010, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By   
Assistant City Attorney

Passed DEC 09 2009

LC/DCC/00473A