

## CORRECTED ORDINANCE NO. (2008) – 415B

### AN ORDINANCE TO ESTABLISH A RENTAL REGISTRATION PROGRAM

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA that:

**Section 1.** Amend Part 12 Chapter 2 by adding a new Article H to read:

#### Article H. RENTAL DWELLING REGISTRATION AND PROP NOTIFICATION

##### Section 12-2175. FINDINGS AND DECLARATION OF NECESSITY.

(a) Findings: Housing in the *City* consists of owner occupied and tenant occupied properties and the two types of housing are in general parity. The substantial majority of complaints about and violations of the *Code* provisions adopted to assure minimum adequate housing arise from tenant occupied *property*. *State* law and this *Code* impose the responsibility to provide minimally adequate housing for tenants on the *property* owner. A significant obstacle to effecting prompt and efficient enforcement of the minimum housing code is accuracy of the information in the public record for making contact with the owner of such tenant occupied properties and for the delivery of notifications of activity at the property which may result in the dwelling being required to be licensed under Article G, the Probationary Rental Occupancy Permit. In addition, the effectiveness of responses by the Fire Department and the Police Department to multiple incidents at such properties can be improved by contact with the owners or managers of such properties. Existing contact information is insufficient to achieve prompt city response to matters adversely impacting the public health, safety, and welfare of the *City* including the quality of life for tenants, affected neighborhoods and the *City*. To expedite Fire and Police response as well as compliance with the *Code* at such properties and thereby assure better quality housing for tenants and the neighborhood, the *Council* finds it necessary to adopt a registration requirement for residential rental properties.

(b) Declaration of necessity: It is deemed necessary in order to promote public health, welfare, good order and safety of the *City* and its residents that *persons* renting *residential* properties should be subject to a registration system. Registration will:

- (a) Promote responsible management of these housing accommodations.
- (c) Assist in providing a safe habitat for residents and neighbors of these facilities.
- (d) Safeguard *property* values.
- (e) Expedite repair of *residential* housing accommodations where such problems arise.

##### Section 12-2176. DEFINITIONS.

Unless the context clearly indicates otherwise, the *following* words and phrases as *used* in this article shall have the *following* meanings:

- (a) ***Apartment house***: Any *dwelling* containing three (3) or more *dwelling units*.
- (b) ***Apartment project***: A systematically built group of *apartment houses*.

- (c) **Business affiliate:** A *person* who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, the owner of a probationary *residential* rental dwelling of any *property*. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten (10) per cent of [or] more.
- (d) **Dwelling:** A dwelling unit *used* for *residential* purposes other than a dwelling unit in a bed and breakfast inn; hotel or motel; guest house; rest home; *rooming house*, boarding house, lodging house; or a tourist home.
- (e) **Dwelling unit:** One (1) or more rooms physically arranged as to create an independent housekeeping establishment with separate facilities for cooking, sleeping, and toilet. A dwelling unit can be occupied by only one (1) family. A dwelling unit can also contain a utility apartment or rented rooms in accordance with §10-2072(b).
- (f) **Inspections Department:** The Inspections Department of the *City* of Raleigh.
- (g) **Manager:** Any *person* who has been hired and is paid by the *owner* to manage any *dwelling* or *dwelling unit* which is rented or offered for rent as a *residential dwelling*.
- (h) **Owner:** Any *person* who alone, or jointly, or severally with others:
- (1) *Shall* have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
  - (2) *Shall* have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such *person* thus representing the actual owner *shall* be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if the *person* were the owner.
- (i) **Person:** Associations, corporations, limited liability companies, company, firm, partnerships, joint ventures, public or private institutions, corporations, trusts, estates, utilities, cooperatives, commissions, boards, condominiums, interstate bodies and bodies politic and corporate as well as to individuals or other legal entities.

#### Section 12-2177. REGISTRATION REQUIREMENT.

- (a) Unless compliance with this article is deemed pursuant to §12-2180, it *shall* be unlawful for an *owner* to rent, to receive rental income from, or to offer for rent, any rental *residential dwelling* required to be registered under this part without first registering the *dwelling* under this part or when the *permit* issued under §12-2164 is revoked. The *owner* of a rental *residential dwelling shall* hold a registration under this part for each rental *residential dwelling* located on a separate tax parcel and *shall* abide by the Standards in §12-2179 in order to be eligible to retain the registration. When a *manager* is contracted to manage multiple *dwellings* in a single *townhouse* development or *apartment house*, a single registration will be required which registration will be issued to the *manager* of the *dwelling units*.
- (b) Every application for rental registration *shall* be filed on a form approved by the Director of the Inspections Department and *shall* be filed with the Inspections Department. Every application *shall* be made under oath and *shall* contain the information required to identify the owner of the dwelling(s) to be registered, contact information including a street address and telephone numbers, and identification and contact information for any manager or other alternate contact person for the dwelling(s). The owner shall also provide an electronic mail address and a facsimile number in the registration application. Each rented dwelling unit must be registered,

however, an owner of multiple units may register all units using one registration form. Within thirty (30) days of receipt of a complete application and a non-refundable application fee of thirty dollars (\$30.00), the Inspections Department *shall* review each application and determine whether the application should be approved. The Inspections Department *shall* deny any application which does not satisfy the minimum requirements of this article and any application submitted by an owner during a period of *permit* revocation pursuant to §12-2167.

(c) The registration fee *shall* thirty dollars (\$30.00) for the first unit registered by an owner in a dwelling, apartment house or apartment project and ten dollars (\$10.00) for each additional unit registered in the same dwelling, apartment house or apartment project, with a credit applied for the application fee during the first *year* of the registration. The annual fee for renewal of the registration by the owner *shall* be thirty dollars (\$30.00) for the first unit registered by an owner in a dwelling, apartment house or apartment project and ten dollars for each additional unit registered in the same dwelling, apartment house or apartment project. Such fee *shall* be due and payable when the renewal registration issues.

#### Section 12-2178. REGISTRATION UPDATES.

(a) Any *person* taking title to a rental *residential* dwelling *shall* be the holder of the registration held by the prior owner for thirty (30) days after the transfer of title is recorded in the Wake County Registry or otherwise becomes legally binding.

(b) The owner of a registered dwelling shall update annually the information previously provided, or sooner as required by the Director of the Inspections Department.

#### Section 12-2179. STANDARDS.

(a) The *owner shall* respond to each department making contact, either *in person* or by telephone, within two (2) business days after being contacted at the telephone number provided in the application or renewal application by the Raleigh Police Department, the Fire Department, or the Inspections Department. The *owner shall* designate an alternate *person* as responsible for responding to calls for assistance from the Raleigh Police Department, the Fire Department, or the Inspections Department when the department is unable to be in contact with the owner within two (2) business days of the initial contact. The designated alternate must be located in the *City* or within twenty-five (25) miles of the *City* 's planning jurisdiction and be authorized by it to respond to calls. The designation *shall* be effective only when the responsible person is identified and agrees to accept the duty by signature on the application or renewal application.

(b) The *owner shall* maintain a current list of occupants. Upon request, by *City* inspectors, police, and fire and emergency response personnel investigating violations or potential violations of the City Code or State law, the *owner shall* present the list of occupants to the investigating personnel.

(c) The Public Utilities Department *shall* not provide water service to a vacant rental *residential* dwelling which is not registered in compliance with this Article.

#### Sec. 12-2180. COMPLIANCE WITH PROVISIONS.

(a) Any *person* required by this article to register a rental *residential* dwelling who files a complete application for registration within ten (10) days *following* notice from the Inspections

Department that this Article applies to the dwelling *shall* be deemed compliant with this article unless and until the application is denied.

(b) It *shall* be unlawful to rent, to receive rental income from, or to offer for rent a dwelling subject to the registration requirements of this Article beginning ten (10) days after service of notice by the Inspections Department that registration is required under this Article unless a complete application for a §12-2177 registration has been submitted for the dwelling.

(c) Any mortgagee of record, not otherwise defined as an owner, *shall* be deemed compliant with this article unless and until the other owners of the rental *residential* dwelling fail to comply with the registration requirement of this Article. A mortgagee of record, not otherwise defined as an owner, *shall* not be liable for civil penalties or administrative fees in excess of the liability of the other owners.

#### Section 12-2181. ENFORCEMENT.

(a) Civil penalties.

(1) Any *person* who *shall* rent, or offer for rent, a rental *residential* dwelling without first applying for and registering the dwelling as required in §12-2177 *shall* be subject to a civil penalty as follows:

(a) Fifty dollars (\$50.00) for a first violation, and each continuing day of noncompliance *following written* notice thereof *shall* result in the assessment of an additional civil penalty of fifty dollars (\$50.00) per day;

(b) One hundred dollars (\$100.00) for a second violation, and each continuing day of noncompliance *following* notice thereof *shall* result in the assessment of an additional civil penalty of one hundred dollars (\$100.00) per day;

(c) The maximum civil penalty for any calendar month shall not exceed two thousand dollars (\$2000.00).

(b) Equitable remedies, including injunctions.

As authorized by the *City Council*, the *City may* apply to the courts for any appropriate equitable remedy to enforce the provisions of this article, including mandatory or prohibitory injunctions commanding the party to correct the unlawful condition or cease the unlawful use of the business.

(c) Not a criminal violation.

Any *person* violating any of the provisions of this article *shall* be subject to the civil penalties and *permit* revocations set forth. Any violation of this article *shall* be deemed a non-criminal violation and *shall* not be a misdemeanor or infraction pursuant to *G.S.* 14-4 or §14-1005(a) of this *Code* of Ordinances.

#### Section 12-2182. APPEAL

Any *owner* served with notice or an order under the provisions of this article, including denial of a request pursuant to §12-2177, *may* appeal the notice or order in the following manner:

(1) An appeal must be filed in writing with the Director of the Inspections Department within thirty (30) days after service of the written notice or order of the Director of the ---Inspections Department on the petitioner. The written appeal *shall* identify the application of the article at issue and provide the reasons the petitioner contends that it was wrongly applied and any supporting documentation.

(2) Unless the Director of Inspections decides to allow the requested relief based on the appeal request, the Director of the Inspections Department *shall* send each appeal request to arbitration. The Director of Inspections and the appealing party *shall* select an arbitrator from the Wake County District Court list of arbitrators. The arbitration *shall* be conducted, to the extent practicable, in accordance with the Supreme Court Rules for Court-Ordered Arbitration in North Carolina. The arbitrator *shall* be paid a fee equal to the maximum fee specified in such Rules. The arbitrator *shall* consider both the applicable code provisions and equitable factors in resolving the appeal. If the person who files an appeal of a notice that a *dwelling* is qualified as a "*rental residential dwelling*" pursuant to §12-2177 shows that the *owner* did rent the dwelling while it was not registered, the arbitrator *may* reverse the order.

(3) An appeal *may* be taken from any decision of arbitrator by giving notice of appeal to the City Council within thirty (30) days after service of the *written* decision of the arbitrator. Notice of appeal *shall* be given by delivery of a *written* statement to the City Manager stating the grounds for the appeal and providing the City Manager with a copy of the written decision of the arbitrator. The *written* appeal *shall* identify the application the article at issue and provide the reasons the petitioner contends that it was wrongly applied. The Director of the Inspection Department *shall* transmit to the City Manager all documents constituting the record upon which the decision by the arbitrator was made.

(4) The *City Council shall* fix a reasonable time for the presentation of oral arguments by the parties and *shall* give due notice to the petitioner and the *City Manager*. After consideration of the arbitrator's decision, including any equitable factors applied by the arbitrator, and the record of the proceeding, the *City Council shall* issue a written determination, within a reasonable time, stating whether the disputed application of the article will be approved without change or modified or reversed.

(5) All decisions of the Director of the Inspections Department and *City Council shall* be served on the petitioner.

#### Sec. 12-2183. ARBITRATION FEE.

Any *person* who files an appeal *shall* pay an administrative fee of two hundred (\$200.00) to the *City* at the time the appeal request is made. Failure to pay the administrative fee *shall* cause the appeal to be denied. The person who filed the appeal *shall* be responsible for paying one-half of the costs of the arbitration fee. If the person who appeals is the prevailing party, the administrative fee and the portion of the arbitration fee *shall* be reimbursed.

#### Sec. 12-2184. METHODS OF SERVICE.

(a) Notices, orders or other documents issued pursuant to this article *shall* be served upon *persons* either *personally* or by first class regular mail. Service *shall* be deemed sufficient if regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is *used*, a notice of the pending proceedings *shall* be posted in a conspicuous place on the premises affected.

(b) If the identities of any owners or whereabouts of *persons* are unknown and the same cannot be ascertained by the Inspections Department in the exercise of reasonable diligence, or if the owners are known but have refused to accept service by registered or certified mail, and the Inspections Department *shall* make an affidavit to that effect, stating the steps taken to determine and locate the *persons* in interest, then the serving of such complaint or order upon

such owners or *persons* may be made by publication in a newspaper having general circulation in the *City* at least once no later than time at which *person* al service would be required under this article. Where such service is by publication, a notice of the pending proceedings *shall* be posted in a conspicuous place on the premises thereby affected.

Sec. 12-2185. RELATION TO OTHER LAWS.

Nothing in this article *shall* authorize or condone any violation of Federal, *state*, and *City* fair housing laws and *state* landlord and tenant laws. This article *shall* not diminish any private right of action of any *person*.

**Section 2.** All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

**Section 3.** If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable.

**Section 4.** This ordinance shall be enforced by law as provided in G.S.N.C. 160A-75 or as provided in the Raleigh City Code.

**Section 5.** This ordinance shall become effective upon December 1, 2008.

**Adopted:** June 17, 2008 – First Reading  
**Adopted:** July 1, 2008 – Second Reading  
**Effective:** December 1, 2008

**Distribution:** Planning – Silver  
Inspections – Strickland, Fulcher, McMillan, Grudzinski  
City Attorney's Office – Hargrove, Yost, McLawhorn