

ORDINANCE NO. 2009-06

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SEALY, TEXAS, BY ADDING A NEW ARTICLE VIII "MULTI-FAMILY RESIDENCE LICENSING" TO CHAPTER 14 "BUILDINGS AND BUILDING REGULATIONS" THEREOF; REGULATING PROPERTY MAINTENANCE OF APARTMENT COMPLEXES; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR VIOLATION OF ANY PROVISION HEREOF; PROVIDING OTHER MATTERS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEALY, TEXAS:

Section 1. The Code of Ordinance of the City of Sealy, Texas, is hereby amended by adding a new Article VIII "Multi-Family Residence Licensing" to Chapter 14 thereof, which shall read and provide as follows:

"Chapter 14. BUILDINGS AND BUILDING REGULATION

...

ARTICLE VIII. MULTI-FAMILY RESIDENCE LICENSING

Sec. 14-430. Definitions.

As used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Apartment complex license means the license issued by the building inspector pursuant to this article and referred to as "license" in this article.

Bedroom means a room used or intended to be used for sleeping purposes and not as a kitchen, bathroom, living room, closet, hallway, utility space, entryway, garage, patio, or breezeway.

Building inspector means the properly identified building official of the city or designated representative.

Dwelling unit means a structure, or that part of a structure, which is used as a home, residence, or sleeping place by one or more persons maintaining a common household to the exclusion of all others.

Efficiency unit means the equivalent of a one-bedroom unit.

Family means any number of individuals living together as a single housekeeping unit in which not more than two individuals are unrelated by blood, marriage, or adoption when residing in a dwelling containing one or two bedrooms; or not more than three individuals unrelated by blood, marriage or adoption when residing in a dwelling unit containing three or more bedrooms. Foster children shall be considered as a related member of the family.

Multiple-family dwelling complex (referred to as an apartment complex in the body of the article) means (1) any building or portion thereof which is rented, leased or let to be occupied for compensation as three or more dwelling units or (2) any building or portion thereof which is occupied as a home or place of residence by three or more families living in independent dwelling units.

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

- (1) Holder of fee simple title.
- (2) Holder of life estate.
- (3) Holder of a leasehold estate for an initial term of five years or more.
- (4) The buyer in a contract for deed.
- (5) A mortgagee, receiver, executor or trustee in control of real property; but not including the holder of a leasehold estate or tenancy for an initial term of less than five years.

Person means an individual, corporation, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or community entity.

Premises means a lot, plot or parcel of land, including any structure thereon, and furthermore, including a dwelling unit, appurtenances thereto, grounds and facilities held out for the use of tenants generally and any other area or facility whose use is promised to the tenant.

Property manager means a person who for compensation has managing control of an apartment complex for the owner.

Resident manager means a property manager or agent of a property manager who resides in the apartment complex.

Single location means property held in common ownership that is compact and contiguous property separated only by public streets.

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

Sec. 14-431. License required.

(a) It shall be unlawful for any person to own, operate, manage, or maintain an apartment complex in the city without a current and valid license having been issued for the apartment complex. Any person owning, operating, managing, or maintaining an apartment complex at more than one location shall obtain a license for each separate location.

(b) An owner, or the owner's authorized agent, of an apartment complex shall file with the building inspector the trade name of his apartment complex and it shall be unlawful for any person to use or permit to be used more than one trade name at a single location.

Sec. 14-432. License application; place of business; issuance; renewal and expiration.

(a) An applicant for a license shall file with the building inspector a written application upon a form provided for that purpose, which shall be signed by the owner, or owner's agent, and the property manager. Should an applicant own an apartment complex at more than one location, a separate application shall be filed for each location. The following information shall be required in the application:

(1) Name, address, telephone number of owner, property manager, resident, manager, mortgagee, if there is a mortgage against the property.

(2) Trade name of apartment complex.

(3) Names and addresses of all registered agents of the owner.

(4) Number of dwelling units broken down as to number of efficiencies, one-bedroom, two-bedroom, and three-bedroom.

(5) Acknowledgement of receipt of copy of the multiple-family residence licensing ordinance and agreement to abide by such licensing ordinance as a condition to receiving and maintaining a license.

(b) For new apartment complexes, a license shall be obtained prior to the occupancy of any dwelling unit.

(c) All licenses expire on December 31 of each year.

(d) The building inspector may, at all time, require additional relevant information of the owner of property manager to clarify items on the application.

(e) Upon changing ownership of the apartment complex, a new license shall be obtained within thirty days of the change with the fee charged for the change on a prorated basis. The owner shall notify the city within thirty days of a change of ownership, property manager, or resident manager.

Sec. 14-433. License fees.

The annual fee for a license, including any reinstatement license renewal under section 14-437(f), shall be ten dollars (\$10.00) for each dwelling unit within an apartment complex. The license fee calculation shall include all occupied and vacant dwelling units. The fee for license issued during the year shall be prorated on the basis of whole months. The fee for issuing a replacement for a lost, destroyed, or mutilated license is ten dollars (\$10.00).

Sec. 14-434. License display, replacement and transferability.

(a) Each license issued pursuant to this article for an apartment complex shall be posted and displayed in the apartment complex office in a conspicuous place to which tenants have access.

(b) A replacement license may be issued for one lost, destroyed or mutilated upon application on a form provided by the building inspector. A replacement license shall have the word "Replacement" stamped across its face and shall bear the same number as the one it replaces.

(c) An apartment complex license is not assignable or transferable.

(d) The form of the license shall be prepared by the building inspector.

Sec. 14-435. License Standards – Property Maintenance.

(a) Continued maintenance and observance of the standards contained in this section are conditions that shall be complied with in order to retain a license and to obtain any renewal of a license.

(b) Every owner of the premises shall maintain such premises in compliance with this Article. An owner and/or property manager shall not let, rent, or lease a premise for occupancy or use unless it complies with the provisions of this Article.

(c) Every owner and every tenant of the premises shall maintain the premises in a clean, sanitary and safe condition, including the disposal of rubbish, garbage, organic or inorganic waste, junk, or other waste in a lawful manner.

(d) All city building, electrical, plumbing, health, and other applicable ordinances, including the *International Property Maintenance Code, 2006 Edition*, as may be amended, shall be complied with at all times.

(e) In addition to the above, every owner and property manager shall adhere to the following specific exterior and interior standards. In the event there is a conflict between the provisions of this section and the 2006 International Property Maintenance Code or any other city building, electrical, plumbing, health, or other applicable ordinance, the stricter provision shall apply.

(1) Exterior of Structure Property Maintenance Regulations:

a. *General* – The exterior of a structure shall be maintained in an structurally sound condition.

b. *Structural members* – All supporting structural members of all structures shall be kept structurally sound, free of deterioration and maintained so as to safely bear the dead and live loads imposed upon them.

c. *Exterior surfaces* – The foundation, exterior wall, floor, roof, and all exterior surfaces of every structure shall be maintained in a state of repair sufficient to exclude rats, rodents, birds, vermin, and other animals. Peeling paint, cracked loose plaster, broken glass, decayed wood, and other defective surface conditions shall be repaired, replaced or restored.

d. *Foundation walls* – All foundation walls shall be maintained so as to safely carry applicable dead and live loads that are imposed upon the foundation walls.

e. *Exterior walls* - The exterior wall of every structure shall be free of holes, breaks, loose or rotting boards or timbers, and any other condition that might admit rain or dampness to the interior portions of the walls or to the interior of the structure. The exterior wall surface materials of every structure shall be maintained weather proof or the surface protected as required to prevent deterioration.

f. *Roofs* – The roof of every habitable structure shall be structurally sound, tight and free of leaks, and roof drainage shall be adequate to prevent rain water from causing dampness in the walls or exterior portion of the structure.

g. *Decorative features* – The cornices, entablatures, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features of every structure shall be maintained in good repair with proper anchorage and in a safe condition.

h. *Exterior attachments* – All exterior canopies, marquees signs, awnings, stairways, fire escapes, standpipes, rain gutters, exhaust ducts, and similar overhang extensions attached to a structure shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition, and the exterior surface

materials shall be maintained weatherproof and shall be surface coated or protected as required to prevent deterioration.

i. *Chimneys* – All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe, sound, properly mortared, and in good repair, and their exterior surface materials shall be maintained weatherproof and shall be surface coated or protected as required to prevent deterioration.

j. *Stairs and porches* – Every stair, balcony and all appurtenances attached thereto shall be constructed so as to be safe to use and capable of supporting the loads to which it is subjected and shall be kept in safe condition and good repair, and the exterior surface materials shall be maintained weatherproof and shall be surface coated or protected as required to prevent deterioration.

k. *Window and door frames* – The windows, doors and frames of every habitable structure shall be constructed and maintained in such relation to the adjacent wall construction so as to exclude rain as completely as possible from entering the dwelling or structure.

l. *Weathertight* – The windows and exterior doors of every habitable structure shall be fitted to their frames so as to be weathertight and shall be kept in sound condition and good repair.

m. *Glazing* – Every window and/or window sash shall be fully supplied with approved glazing materials that are without open cracks and holes. A window and/or window sash may be temporarily secured and/or closed with alternate materials approved by the building official for periods during actual construction, remodeling or repairs, provided the period of the time does not exceed thirty days. The building official may grant extensions of time due to extenuating circumstances.

n. *Insect screens* – Every window of every habitable structure, which may be opened and used for ventilation, shall be supplied with approved screening, except that such screens shall not be required for areas on a floor above the fifth floor and shall not be required for windows in habitable structures that have an approved and operable mechanical ventilating system as allowed by city codes and ordinances.

o. *Door hardware* – The exterior doors, door hinges, and door latches of every habitable structure shall be maintained in good condition. Door locks in exterior doors of dwelling units shall be maintained in good repair and capable of tightly securing the door.

p. *Burglar bars* – Burglar bars shall be compliant with requirements of building codes and other codes or ordinances of the city. Burglar bars on windows of bedrooms or residential structures shall be constructed and mounted in such a way so as to be opened and operable from the interior of the residence.

q. *Garage doors* – Garage Doors shall be capable of being closed reasonably plump, properly attached and the exterior surface maintained weatherproof as required to prevent its deterioration.

(2) Interior of Structure Property Maintenance Regulations:

a. *General* – The interior of a residential structure and its equipment shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to the health and safety of the occupants, and to protect the occupants from the environment.

b. *Structural members* – The supporting structural members of every building shall be maintained structurally sound, not showing any evidence of deterioration that would render them incapable of carrying the imposed loads.

c. *Interior surfaces* – Floors (including carpets), walls (including windows and doors), ceilings, and other interior surfaces of every structured shall be maintained in a good, clean and sanitary condition. Peeling paint, cracked or loose plaster, decayed wood, and other defective surface conditions shall be repaired or replaced.

d. *Bathrooms and kitchen floors* – Every toilet, bathroom, and kitchen floor surface shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure.

e. *Free from dampness* – Cellars, basements and crawl spaces of every structure shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure.

f. *Sanitation* – The interior of every structure shall be maintained in a clean and sanitary condition free from excessive or unnecessary accumulation of rubbish, refuse, or garbage.

g. *Storage* – Garbage or refuse shall not be allowed to accumulate in any premises or stored in public halls or stairways of any building.

h. *Insect and rat harborage* – All structures shall be kept free from insect and rat infestation, and where insects or rats are found, they shall be promptly exterminate by processes permitted by the codes and ordinances of the city which will not be injurious to human health. After examination, proper precautions shall be taken to prevent re-infestation.

i. *Exit facilities* – All stairs, railings and other exit facilities of every structure shall be maintained in sound condition and good repair. Treads and risers that evidence excessive wear or are broken, warped, or loose shall be repaired or replaced.

Every stair shall be so constructed and maintained as to be safe to use and capable of supporting the anticipated loads.

j. *Handrails, guardrails and grab bars* – Every handrail, guardrail, and grab bar shall be firmly fastened and capable of bearing normally imposed loads and shall be maintained in good condition.

k. *Plumbing fixtures* – Every residential dwelling structure and unit shall be provided with a water closet, a lavatory, and a bathtub or shower.

l. *Sewer* – Every residential unit shall be provided with plumbing fixtures connected to the city's sanitary sewer system, or to a private sewage system permitted by the city's codes and ordinances if the city's system is not available.

m. *Water* – All plumbing fixtures in residential units shall be connected to an approved water supply and supply and each sink, lavatory and either bathtub or shower shall be provided with hot and cold running water, except where the building official seems it unnecessary for safety and sanitation purposes.

n. *Heating and cooling* – Every residential unit shall be provided with heating facilities capable of maintaining a room temperature of a least 70 degrees F. at a point of three (3) feet above the floor at all times in all habitable rooms. All heating and cooling facilities shall be operable, and shall be installed and maintained in a safe condition in accordance with the codes and ordinance of the city. No unvented fuel-burning heater shall be permitted. All heating and cooling devises or appliances shall be of a approved type.

o. *Electrical equipment* – All electrical equipment, wiring, and appliances shall be installed and maintained in a safe manner in accordance with the codes and ordinances of the city.

Sec. 14-436. License Standards – Density

(a) It shall be unlawful for any person to permit or allow more than one family to reside in any apartment complex dwelling unit.

(b) Notwithstanding the provisions of all other city ordinances, the maximum number of persons per dwelling unit density for dwelling units in an apartment complex is as follows:

(1) No more than two persons per each bedroom are permitted to reside in a unit, plus one additional person. For example: In a one-bedroom or efficiency unit, the density shall not exceed three persons; in a two-bedroom unit, the density shall not exceed five persons; in a three-bedroom unit, the density shall not exceed seven persons.

(2) To assist in compliance with this requirement, all licenses shall display, in a conspicuous place, contiguous to the displayed license, the following notice, the form of which shall be furnished by the city:

“SECTION 14-437 OF THE CODE OF ORDINANCES OF THE CITY OF SEALY, TEXAS, IMPOSES THE FOLLOWING MAXIMUM DENSITY REQUIREMENTS:

- 1-Bedroom or Efficiency Unit – No more than three persons per unit.
- 2-Bedroom – No more then five person per unit.
- 3-Bedroom – No more then seven persons per unit.

Or , in the alternative, a licensee may display a similar notice, contiguous to the displayed license that states licensee’s density requirements, provided the requirements are as strict as or stricter than the standards ser by this subsection (b).

(3) The license shall keep records that reflect the following information:

- a. Names of all tenants in each unit.
- b. Head of each household.

Such records shall be available for review by the building inspector during regular business hours and upon receipt of reasonable notice.

(4) It shall be unlawful and violation of this article for an owner, property manager, or resident manager to knowingly permit or allow a violation of any of the terms of this section. It shall be unlawful for a tenant to violate any of the terms of this section or to permit or allow any persons to reside in the unit in violation of this section.

(5) An owner shall not be prohibited from establishing a more restrictive density for each dwelling unit within his apartment complex, provided the density is based upon persons per each established bedroom. The established density shall be posted contiguous to the displayed license and shall be on a form provided by the city.

Sec. 14-437. Inspections; re-inspections; certificate of occupancy.

(a) *Inspection.* The owner, resident manager and property manager, as a condition to issuance of the license required by this article, shall consent and agree to permit and allow the city’s building inspector to make the following inspections of the apartment complex when and as needed to ensure compliance with this article:

(1) Right and access to inspect all portions of the premises and structures located on the premises that are not dwelling units. This includes all storage areas, community buildings, swimming pools, athletic facilities, club rooms, equipment rooms, and all other portions of the facilities not constructed as dwelling units, upon reasonable advance notice being given to the owner, property manager, or resident manager.

(2) Right and access to inspect all unoccupied dwelling units upon giving reasonable notice to owner, resident manager, or property manager.

(3) Right and access to inspect all occupied dwelling units when, upon reliable information, the building inspector has reason to believe that violations of the ordinances of the city or state law exist that involve serious threats to life, safety, health and property.

(4) Semi-annually, once each six months, the owner, resident manager, or property manager shall make all dwelling units in the apartment complex available for inspection by the building inspector. The building inspector and the owner, resident manager or property manager shall agree on a reasonable date and time for each semi-annual inspection. If the parties cannot agree on an inspection time, the semi-annual inspections shall occur between December 15 and December 31 and between June 15 and June 30 of each year.

(b) *Lease provision.* The owner and/or property manager shall require that an apartment lease contract be executed between the apartment complex and the tenant and/or tenants who will occupy a dwelling unit. The lease shall contain a provision that allows the owner or property manager to show the apartment or dwelling unit to city or government inspectors. If the apartment complex's standard lease form does not contain the provision stated in this paragraph, the owner and/or property manager shall require the tenant to sign, as a condition for occupancy of a dwelling unit, a document provided by the city which will allow the owner or property manager to show the apartment or dwelling unit to the building inspector.

(c) *Enforcement of admission to inspect.* Whenever the building inspector is denied admission to inspect any premises under this article, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection. In applying for such a warrant, the building inspector shall submit to the magistrate an affidavit setting forth his belief that a violation of his article exists with respect to the place sought to be inspected and the reasons for such belief. Such affidavit shall designate the location of such place and the name of the person believed to be the occupant thereof. If the magistrate finds that probable cause exists for an inspection of the premises in question, he may issue a warrant authorizing the inspection, such warrant describing the premises with sufficient certainty to identify the premises. Any warrants issued will constitute authority for the building inspector to enter upon and inspect the premises described therein.

(d) *Re-Inspection fee.* A fee of twenty dollars (\$20.00) for each re-inspection of each noted violation in a dwelling unit, but not to exceed forty dollars (\$40.00) per unit, within an apartment complex, and a re-inspection fee of twenty dollars (\$20.00) for each exterior violation item re-inspected shall be assessed for inspections that are required to verify that a violation has been repaired or corrected. Failure of a re-inspection fee to be paid shall be considered a violation of this article and subject to penalties in section 1-7.

(e) *Certificate of occupancy.* Upon failure to comply with the terms of this article after receipt of written notice of the violation from the building inspector setting out the violations and the time allowed to rectify the violations, the owner's certificate of occupancy may be withdrawn and the license authorized by this article may be canceled. Thereafter, the building inspector may notify all public utility companies serving the apartment complex that the certificate of occupancy has been withdrawn and request that all public utility services be discontinued.

(f) *Reinstatement.* Any person requesting a reinstatement or reissuance of the certificate of occupancy shall be required to apply for and receive a new license issued under this article as a condition precedent to the reissuance or reinstatement of the certificate of occupancy.

Sec. 14-438. Utility disconnection.

(a) When any utility service to an apartment complex dwelling unit is discontinued it shall be the duty of the utility company to disconnect, lock, seal or otherwise prevent the unauthorized connection or reconnection of such utility service. In the event that the service is provided on a submetering or other basis whereby the utility company's billing is not made directly to the dwelling unit resident, then such duty shall rest upon the person contracting for service with the utility company.

(b) A dwelling unit which has not been replaced but which has had any utility service disconnected thereto may be reconnected to such utility service, provided that:

(1) A safety permit has been obtained for reconnection of any utilities and the building official has found, upon inspection, that the dwelling unit is in such condition that it may be safely connected to the utility services.

(c) This section shall not apply in cases of disconnection of utilities for nonpayment of utility bills.

Sec. 14-439. Appeals to the city.

(a) The owner, resident manager or property manager of such property may appeal to the city council any decision or order of the building inspector by filing, at the office of the city manager, within five business days (Monday through Friday), a written appeal to the city council on a form to be supplied by the city.

(b) As soon as practicable after receiving the written appeal, the city manager shall fix a date, time and place for the hearing of the appeal by the city council. Written notice of such date, time and place of the hearing shall be given to each appellant by the city manager, either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the written appeal.

(c) Failure of any person to file an appeal in accordance with the provisions of the Code shall constitute a waiver of the right to a hearing by the city council and the building inspector's decision shall be final.

(d) Orders of the building inspector are stayed pending appeal.

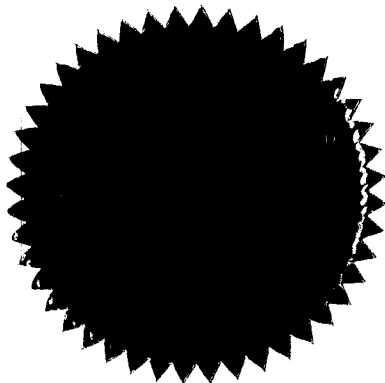
(e) Decisions of the city council are final.

Section 2. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 3. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Sealy, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED AND APPROVED on first reading this 9th day of September 2009.

PASSED, APPROVED, AND ADOPTED on second and final reading this 16th day of September 2009.



Nick Tirey

Nick Tirey
Mayor

ATTEST:

Krisha Langton

Krisha Langton
City Secretary