

ORDINANCE NO. 2008-10-43

AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING CHAPTER 3 OF THE LANCASTER CODE OF ORDINANCES TO ADD ARTICLE 3.4000, SECTIONS 3.4001 THROUGH 3.4014, MULTI-FAMILY RENTAL PROPERTY REGULATIONS; PROVIDING FOR DEFINITIONS; PROVIDING THE POWERS AND DUTIES OF THE BUILDING OFFICIAL AS THE DESIGNATED ADMINISTRATOR; PROVIDING FOR MINIMUM STANDARDS AND FOR THE RESPONSIBILITIES OF THE LANDLORD; PROVIDING TENANT RESPONSIBILITIES; PROVIDING FOR REPAIR DUTIES; PROVIDING NOTICE REQUIREMENTS; PROVIDING AFFIRMATIVE DEFENSES; PROVIDING FOR A RENTAL AGREEMENT, DISCLOSURES AND ADMINISTRATIVE RESPONSIBILITIES; PROVIDING FOR RETALIATORY EVICTION; PROVIDING REQUIREMENTS FOR TRADE NAME REGISTRATION; PROVIDING FOR APPLICATION, PLACE OF BUSINESS, ISSUANCE, RENEWAL AND EXPIRATION OF LICENSE; PROVIDING FOR THE ESTABLISHMENT OF AN APARTMENT LICENSE FEE; PROVIDING FOR DISPLAY, REPLACEMENT AND TRANSFERABILITY; PROVIDING A PENALTY OF FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 3 of the Lancaster Code of Ordinances be, and the same is, hereby amended by adding Article 3.4000, Multi-Family Rental Property Regulations, which shall read as follows:

“ARTICLE 3.4000 MULTI-FAMILY RENTAL PROPERTY REGULATIONS

Sec. 3.4001 Definitions

For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Actor. Means a person identified within this ordinance, whether a natural person, firm, corporation or business entity, that is obligated to perform a duty established under this article.

Apartment Building. Means any structure containing four (4) or more dwelling units.

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.

Dwelling Unit. Means a structure or that part of a structure which is used as a home, residence or sleeping place by one (1) or by two (2) or more persons, maintaining a common household, to the exclusion of all others.

Floor Space. Means the total area of all habitable space.

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, mechanical rooms and basements and or recreational rooms.

Kitchen. Means a space, sixty (60) square feet or more in floor area with a minimum width of five (5) feet, used for cooking or preparing food.

Kitchenette. Means a space, less than sixty (60) square feet in floor area used for preparation of food.

Landlord. Means the owner, property manager and/or resident manager or resident manager of an apartment building or any other person held out by any owner or property manager as the appropriate person who is in control or management of the property, who leases or causes to be leased a dwelling unit, or the person a tenant contacts concerning the rental agreement or apartment building.

Lender. Means any person who holds a mortgage, deed of trust or any other security interest in the Premises.

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 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 trusts in control of real property buy not including the holder of a leasehold estate or tenancy for an initial term of less than five (5) years.

Person. Includes an individual, corporation, business trust, estate, trust, partnership or association, two (2) or more persons having a joint common interest, or any other legal or commercial 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.

Plumbing Fixtures. Include 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 systems, septic tanks, drains, vents, traps, and other fuel burning or connections to pipes.

Property Manager. Means a person who for compensation has managing control of real property for owner.

Structure. Means that which is built or corporation, business trust, estate trust, partnership or association, two or more persons having a joint interest, or any other legal or commercial entity.

Tenant. Means any person who occupies a dwelling unit in an apartment building for living or dwelling purposes with the landlords consent.

Sec. 3.4002 Building Official, Power and Duties.

The building official is hereby designated as the administrator of this ordinance.

In addition to the powers and duties otherwise prescribed for the building official or his designated representative, as administrator of this ordinance, he is required to:

- (1) Administer and enforce all provisions of this ordinance.
- (2) Keep records of all licenses issued.
- (3) Adopt rules and regulations, not inconsistent with the provisions of this ordinance, with respect to the form and content of application for licenses, the investigation of applicants, and other matters incidental or appropriate to his powers and duties as may be necessary for the proper administration and enforcement of the provisions of this ordinance.
- (4) Conduct on his/her initiative, periodic inspections of apartment buildings throughout the city, concerning their compliance with this ordinance.

Sec. 3.4003 Minimum Standards; Responsibilities of the Landlord.

(a) Property standards. A Landlord shall:

- (1) Eliminate a hole, excavation, sharp protrusion, and other objects or conditions that exist on the premises and are reasonably capable of causing injury to a person.
- (2) Securely cover or close a well, cesspool or cistern.
- (3) Provide an adequate number of solid waste receptacles or containers on the premises.
- (4) Provide adequate drainage to prevent standing water and flooding on the land.
- (5) Remove dead trees, tree limbs, shrubs and landscaping that are reasonably capable of causing injury to a person.
- (6) Keep the doors and windows of a vacant dwelling unit or vacant portion of an apartment building securely closed to prevent unauthorized entry.
- (7) Keep all areas of the building, grounds, facilities and appurtenances in a clean and sanitary manner.
- (8) Landlord, manager, or owner shall address a resident complaints within the prescribed time listed in section 3.4003.4005(c) of this article.

(b) Structural Standards. A Landlord shall, in compliance with the appropriate codes of the City:

- (1) Protect the exterior surfaces of a structure which are subject to decay, by application of paint or other coating.
- (2) Provide and maintain railings for stairs, steps, balconies, porches, and elsewhere as specified in compliance with the established codes in the Lancaster Code of Ordinances.
- (3) Repair holes, cracks, and defects reasonably capable of causing injury to a person in stairs, porches, steps and balconies.
- (4) Maintain a dwelling unit or apartment building in a weather-tight and water-tight condition.

- (5) Maintain floors, walls, ceilings, and supporting structural members in a sound condition, capable of bearing imposed loads safely.
- (6) Repair or replace chimney flue vent attachments that do not function properly.
- (7) Repair holes, cracks, breaks and loose surface materials that are health or safety hazards in or on floors, walls or ceilings.

(c) Utility Standards. A Landlord shall in compliance with the appropriate codes of the City:

- (1) Provide and maintain in working order connections to discharge sewage from a structure or deposit into a public sewer system.
- (2) Provide and maintain in working order a toilet connected to a water source and to a public sewer in each dwelling unit.
- (3) Provide and maintain in working order connections and pipes to supply potable water at adequate pressure to a dwelling unit.
- (4) Provide and maintain a device to supply hot water of a consistent minimum temperature of one hundred and twenty (120) degrees Fahrenheit within each dwelling unit.
- (5) Provide connect and maintain in working order a kitchen sink, bathtub or shower and lavatory to a cold and hot water source in a dwelling unit.
- (6) Connect plumbing fixture and heating equipment that the owner supplied in accordance with the plumbing and mechanical codes of the City of Lancaster.
- (7) Provide heating equipment capable of maintaining a minimum inside temperature of sixty-eight (68) degrees Fahrenheit in each room of the dwelling unit.
- (8) Provide and maintain air conditioning equipment capable of maintaining inside temperature of seventy-eight (78) degrees Fahrenheit with an outside temperature of ninety-eight degrees Fahrenheit.
- (9) Provide and maintain supply lines for electrical service to each dwelling unit.
- (10) Connect each heating device that burns solid fuel to a chimney or flue.

- (11) Provide and maintain electrical circuits and outlets sufficient to safely carry a load imposed by normal use of appliance and fixtures.
- (12) Maintain all electrical, plumbing, heating and other facilities supplied by the owner in good working order at all times.
- (13) Pay all utility bills on time to prevent any cutoff of utilities by the utility companies.

(d) Health Standards. A landlord shall.

- (1) Eliminate rodents and vermin in or on the land;
- (2) Maintain the interior of a vacant structure or vacant portion of a structure free from rubbish and garbage;
- (3) Keep the interior of a vacant structure or vacant portion of any structure free from insects, rodents and vermin; and,
- (4) Provide and maintain appropriate receptacles and conveniences for the removal of ashes, rubbish, garbage and any other waste material and to arrange for frequent removal of such waste materials.

(e) Exemption

A violation of this article under subsection (a) of this section shall not apply when the premise concerned is the site of new construction and reasonable and continuous progress is being made to complete the construction.

Sec. 3.4004 Responsibility of Tenant

A tenant shall:

- (1) Maintain the interior of a dwelling unit occupied by the tenant free from rubbish and garbage.
- (2) Remove an animal or animals from a dwelling unit if the presence of the animal or animals is a health hazard to a tenant.
- (3) Connect plumbing fixtures and heating equipment that the tenant supplies in accordance with the plumbing code and the mechanical code.
- (4) Place all ashes, rubbish, garbage and any other waste material in the appropriate receptacles provided for same by the landlord.

- (5) Not alter a structure or its facilities so as to create nonconformity with section 3.4003.
- (6) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating air-conditioning, and other facilities and appliances, including elevators, in the premises.
- (7) Not deliberately or intentionally destroy, deface, damage, impair or remove any part of the premises or unknowingly permit any person to do so.
- (8) Conduct himself or herself, and require other persons on the premises with his consent to conduct themselves, in a manner that will not disturb his neighbors peaceful enjoyment of the premises. For purposes of this section such unallowed conduct includes, but is not limited to, any loud playing of music, television, radio, instrument or any other mechanical device.
- (9) When vacating the apartment, remove all trash and debris or risk loss of a portion of the security deposit.

Sec. 3.4005 Repair Duties.

(a) The landlord has the duty to furnish and maintain premises in accordance with the standards enumerated in section 3.4003. In addition the landlord shall at all times during the occupancy of a tenant make all repairs necessary to keep and maintain the premises in accordance with the standards provided for in section 3.4003.

(b) The landlord shall provide to all tenants an emergency phone number which is answered at all times during night or day.

(c) Upon notice by the tenant in writing of any defective condition in the premises or dwelling unit in noncompliance with the standards stated in section 3.4003, the landlord shall repair such condition within a reasonable period of time. If the landlord fails to complete such repairs within seven (7) days, the tenant may file a complaint in writing to the building official for enforcement based upon the nature of repair and the difficulty involved, and shall issue a citation to the property owner only, if the violation is not corrected within such reasonable time.

(d) In emergency situations, the tenant shall notify the landlord immediately by way of the emergency telephone number. For purposes of this section, "Emergency Situations" are defined as a stopped up commode, overflowing bathtub or sink, broken pipes, leaking roof, emergency electrical malfunction or

other situations having immediate adverse effects on the health or safety of the tenant or his/her property. Upon notification, the landlord shall respond immediately and furnish assistance to the tenant within one (1) hour from such notification, where possible.

Sec. 3.4006 Notice requirements

(a) A person “notifies” or “gives a notice or notification” to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know it. A person receives a notice or notification when:

- (1) It comes to his attention or,
- (2) In case of the landlord, it is delivered at the place of business of the landlord through which the rental agreement was made or at any place held out by him as the place for receipt of the communication, or in the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to him at the place held out by him as the place for receipt of the communication, or in the absence of such designation, to his last known place of residence.

(b) A tenant may not file a complaint with the building official under the terms of this section until seven (7) days have elapsed following written notice to the landlord/manager. A copy of the written notice must accompany the tenant complaint.

Sec. 3.4007 Affirmative Defenses.

Notwithstanding all other sections of this article, it will be an affirmative defense to a complaint if the defendant landlord or tenant is able to establish that:

- (1) The noncomplying condition described in the complaint was required within the prescribed time limits set fourth in section 3.4005.
- (2) The noncomplying condition was repaired within the time limits established by the building official, or that the period for repair was reasonable due to circumstances beyond the control of the landlord.
- (3) The required notice in section 3.4006 was not provided.
- (4) The noncomplying condition was caused by the deliberate or intentional conduct of the complaining party.
- (5) The noncomplying condition could have been corrected but for the tenant’s refusal to permit access to his apartment.

Sec. 3.4008 Rental Agreement; Disclosure; Administrative Responsibilities.

- (a) A landlord shall disclose to the tenant, by properly posting in the office, the name and address of:
- (1) Each property manager and resident manager.
 - (2) The management company responsible for the operation of the company.
- (b) A Landlord shall leave notice of entry, whenever it is necessary to enter an apartment without the specific permission of the tenant. Such notice shall include date, time, purpose of the person who has entered the apartment.
- (c) A landlord shall distribute to all tenants a copy of this ordinance, describing the rights and responsibilities of the tenants, and shall keep a log book with name, date and signature of the person receiving same, for a period of one (1) year, for official use by the city.

Sec. 3.4009 Retaliatory Eviction

- (a) In addition to the remedies provided by state law, a landlord shall not retaliate against a tenant by increasing rent or cutting off utilities, or evict the tenant from the premises because:
- (1) The tenant has made a complaint to the building official about conditions in the apartment or dwelling unit which might not be in compliance with the building, health, housing or fire codes, as required by this ordinance and the Code, and which condition materially affect the health and safety of the tenant, and the condition was not caused by the tenant.
 - (2) The tenant makes a general complaint to the landlord or city about violation of his rights under this ordinance.
 - (3) The tenant files a complaint against landlord under this ordinance.
- (b) In addition to the remedies provided by state law, even if the tenant claims "retaliation" the landlord may still evict him or her when:
- (1) The rent is overdue.
 - (2) There are code violations caused by the tenant or his or her visitor.

- (3) The tenant is damaging property, disturbed the peace, or using the apartment for illegal purposes.

Sec. 3.4010 Required Trade Name Registration

(a) No person shall maintain, conduct, operate or rent a dwelling unit in an apartment complex for compensation within the city, or act as agent for another who is renting dwelling units in an apartment complex, without first obtaining an apartment license from the building official. Should a person own or maintain an apartment complex at more than one (1) location, a duplicate license is required for each additional location. The license issued to an owner authorizes such owner and its bona fide agents or employees to rent dwelling units to tenants.

(b) An owner shall register with the building official the trade name of his owner of his apartment complex, and shall not use or permit to be used more than one (1) trade name at a single location.

Sec. 3.4011 Application; Place of Business; Issuance, Renewal and Expiration.

(a) An applicant for a license shall file with the building official a written application upon a form provided for that purpose, which shall be signed by the owner and his property manager. Should an applicant own an apartment complex at more than one (1) location, a separate application must be filed for each location. The following information shall be required in the application Name, primary address, telephone number of the owner, property manager, resident manager and lender and the street address of the apartment building, and if incorporated, the name of the registered agent on file with the secretary of state.

(b) The apartment complex license expires on December thirty first (31) of each year.

(c) The building official may, at any time, require additional information of the owner or property manager, to clarify items on the application.

(d) When the resident manager of an apartment complex is changed, notice of such change, together with name, address and telephone number of the new agent shall be provided to the building official within ten (10) days.

Sec. 3.4012 Apartment License Fee.

All fees for any permit under this article shall be established by resolution of the City Council.

Sec. 3.4013 Display, Replacement and Transferability

(a) Each License issued pursuant to this ordinance together with a copy of this ordinance must be posted, displayed and kept in a conspicuous place in the apartment complex in which the tenant has access.

(b) A replacement license may be issued for one lost, destroyed or mutilated, upon application on the form provided by the building official. 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) An owner or property manager shall notify the building official within ten (10) days of a change of partial change in ownership, lender or management of the apartment complex, or a change of address or trade name.

Sec. 3.4014 Penalty

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Lancaster, Texas, shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense. Every day a violation occurs shall constitute a separate offense.”

SECTION 2. That all provisions of the Ordinances of the City of Lancaster, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.


SECTION 3. If any article, paragraph or subdivision, clause or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

SECTION 4. Any person, firm or corporation violating any of the provisions of this ordinance or the provisions of the Code of Ordinances of the City of Lancaster, Texas, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Lancaster, Texas, shall be subject to a fine not to exceed the sum of Five Hundred (\$500.00) dollars for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense

SECTION 5. This Ordinance shall take effect immediately from and after the publication of its caption, as the law in such cases provides.

DULY PASSED by the City Council of the City of Lancaster, Texas, on the 27th day of October 2008.


APPROVED:


MARCUS E. KNIGHT, MAYOR

ATTEST:


DOLLE K. SHANE, CITY SECRETARY

APPROVED AS TO FORM:


ROBERT E. HAGER, CITY ATTORNEY
(REH/cdb 08/27/08)