

CITY OF ANNA, TEXAS

ORDINANCE NO. 838-2019

AN ORDINANCE OF THE CITY OF ANNA, TEXAS, AMENDING THE ANNA CITY CODE OF ORDINANCES BY AMENDING CHAPTER 4 (BUILDING REGULATIONS) BY REPEALING ARTICLE 4.08 (MULTIFAMILY DWELLING REGULATIONS) AND REPLACING SAID ARTICLE WITH A NEW ARTICLE 14.08 (RENTAL HOUSING); AMENDING APPENDIX A (FEE SCHEDULE) BY AMENDING SECTION A2.008 (APARTMENT COMPLEX LICENSE AND RE-INSPECTION FEES); ESTABLISHING REGULATIONS AND FEES FOR LANDLORDS AND OWNERS OF SINGLE-FAMILY, DUPLEX AND MULTI-FAMILY RESIDENTIAL RENTAL PROPERTIES; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Anna deems it necessary for promoting the health, safety and general welfare of the City and its residents, to adopt and enforce regulations regarding residential rental properties which are offered for lease or rent in the City; and

WHEREAS, the City currently has few regulations in place that require landlords to maintain certain residential renter-occupied dwellings in safe or sanitary conditions, and a need exists to protect the health and safety of those citizens who occupy all residential rental property; and

WHEREAS, the residential rental program shall be implemented Citywide and shall apply to each single-family, two-family (Duplex), townhouse, multi-family (apartment) and other residential rental unit or property in the City.

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

SECTION 1: Chapter 4 (Building Regulations) of the Anna City Code of Ordinances is hereby amended to repeal Section 4.08 (Multifamily Dwelling Regulations) in its entirety and replace said article with a new Article 4.08 (Rental Housing) as follows:

“CHAPTER 4 BUILDING REGULATIONS

[...]

ARTICLE 4.08 RENTAL HOUSING

Division 1. Single-Family and Duplex Dwellings

Sec. 4.08.001 Definitions

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context clearly indicates otherwise:

Code compliance manager shall refer to any person designated by the City Manager as being responsible for the administration and enforcement of this article.

Dwelling unit means a structure or that part of a structure which is used as a residence.

Landlord means the owner, property manager, or any person having or exercising supervision or control over rental property that is or is intended to be occupied by another. A person having or exercising supervision or control of rental property is, for all purposes under this article, deemed a landlord, regardless of whether ownership or title to the real estate is vested in another.

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

- (1) the holder of fee simple title;
- (2) the holder of a life estate;
- (3) the holder of a leasehold estate for a term of at least five years;
- (4) the holder of a leasehold estate who, in turn, subleases property to another; or
- (5) the buyer in a contract for deed.

As used in this division, Owner also includes any agent, association, company, corporation, firm, partnership, person or organization of any kind having a legal or equitable interest in a rental property.

Rental property or rental properties means a single-family or duplex dwelling unit or a townhouse, not occupied by the owner, and which is leased or rented or intended to be leased or rented to another person, for or without consideration.

Tenant means any person who occupies rental property for residential purposes with the landlord's consent, regardless of whether the occupancy is in exchange for monetary consideration.

Townhouse means one of a series of not less than three nor more than 10 attached one-family dwellings under common roof with common exterior wall and separated from one another by single partition walls without openings from basement to roof.

Sec. 4.08.002 Applicability

This division shall apply to all single-family and duplex dwelling rental properties and townhouse rental properties within the territorial limits of the city. Division 2 of this article shall apply to apartment buildings, apartment complexes, multi-family dwellings not covered by this division, and the individual apartments and dwelling units within those buildings.

Sec. 4.08.003 Registration of rental properties required

(a) No person shall own, operate, lease, rent or maintain rental property within the city without first registering the rental property with the city. Rental properties shall be registered each calendar year upon expiration, which is the 31st of December of every year. Registration shall be by written application submitted to and on a form provided by the code compliance manager identifying, at a minimum, the name and address of the owner, the name and address of

the landlord, and the address, age and interior square footage of the rental property. Registration may be approved but occupancy may not occur unless and until the rental property has been inspected for compliance with the minimum standards set forth in this article.

(b) Rental property registration may be denied, suspended or revoked by the code compliance manager if:

- (1) the application contains false information;
- (2) there are utility fees and/or charges over 60 days past due for the rental property over which the landlord is responsible;
- (3) the rental property is not in compliance with the standards set forth in this article;
- (4) access to the property by the code compliance manager has been impaired so as to prevent timely inspection of the premises;
- (5) a change in tenancy has occurred and the landlord or owner has failed to request an inspection as required by this article; or
- (6) there exists any condition in, on or near the rental property that renders the rental property unsafe or unfit for human habitation or occupancy or presents a threat to public health or safety.

(c) A denial, suspension or revocation may be appealed to the city manager if written notice of the appeal is received within twenty (20) days of the denial, suspension or revocation. The city manager's decision shall be final and binding.

Sec. 4.08.004 Applications and fees

(a) The code compliance manager may, at any time, require additional information of the owner or landlord to clarify or supplement items on the application for registration.

(b) The annual fee for issuing a registration shall be as set forth in Sec. A2.008 of Appendix A of this code. The fees are non-refundable and are payable to the city when application is made to the city for the registration. The code compliance manager shall waive a registration fee for a new registration that is required solely because the rental property has had a change in tenancy occurring less than six months after the most recent previous tenancy; provided, however, that there shall be no such waiver for a short-term rental (STR) as that term may be defined elsewhere in this code.

Sec. 4.08.005 Appointment, powers and duties of code compliance manager

(a) The code compliance manager is hereby designated as the administrator of this article.

(b) In addition to the powers and duties previously prescribed for the code compliance manager, said person shall:

- (1) administer and enforce all provisions of this article;
- (2) keep and maintain records of all registrations issued;
- (3) adopt rules and regulations, not inconsistent with the provisions of this article, with respect to the form and content of applications for registrations, the investigation of applicants, and other matters incidental or appropriate to his or her powers and duties as

may be necessary for the proper administration and enforcement of the provisions of this article; and

- (4) conduct, on his or her own initiative, periodic investigations of rental properties throughout the city concerning compliance with this article.

Sec. 4.08.006 Minimum standards

All rental properties, inclusive of the primary dwelling structure, all accessory structures, and the premises comprising the property, shall be kept and maintained by the owner and the landlord in accordance with the following minimum standards:

- (1) the property must be maintained in a safe and habitable condition;
- (2) the property must be adequately served by all utilities, including but not limited to electricity, water and sanitary sewer services;
- (3) any violations of the City's nuisance regulations
- (4) prohibiting junk motor vehicles, high grass and weeds, dangerous vegetation, dilapidated fencing, and accumulations of stagnant water, rubbish, and unwholesome matter of any kind shall be remedied in a timely manner upon notification; and
- (5) The property shall be kept and maintained in accordance with the standards and requirements set forth in the International Property Maintenance Code, as adopted by the city, or the provisions of any building, residential or property code adopted by the city for the purposes of protecting the life, health or safety of occupants or residents.

Sec. 4.08.007 Inspections; certificate of registration

(a) Inspection. Rental property shall be inspected for compliance with the provisions of this article as follows:

- (1) upon first-time registration, if unoccupied or warranted by receipt of a complaint; and
- (2) each time there is a change in tenancy and the owner or landlord shall request that the inspection be conducted by the city before the new tenancy commences.

(b) No registration or release of utilities shall be issued if, as a result of an inspection, it is determined that the rental property does not comply with the standards of this article and other applicable provisions of this code.

(c) Any life safety or critical deficiencies noted by the inspection shall be corrected prior to issuance of a certificate of registration and prior to occupancy. A re-inspection may not be necessary if the owner or landlord submits sufficient proof to the city from which the city can determine that all noted violations have been appropriately repaired or corrected. Sufficient proof includes, but is not limited to, an affidavit stating that the repairs have been completed, receipts for materials used in the repair or receipts for the work done to complete the repair, and/or photographs of the repair(s).

(d) Certificate of Registration. No rental property shall be occupied unless a valid certificate of registration has been issued by the city for the premises. A certificate of registration is

required for each change in tenancy. The certificate shall be issued if, after inspection, the rental property complies with this article and other applicable provisions of this code.

Sec. 4.08.008 Violations; affirmative defenses

- (a) No person may violate any provision of this article, including landlords, owners, tenants and occupants of rental property.
- (b) A person commits an offense the person acts in the capacity of a landlord without a valid registration issued under this article.
- (c) A landlord or an owner commits an offense if the landlord or owner rents, leases, or allows another to occupy rental property that is not registered, has not passed a city inspection, or does not have a valid certificate of registration.
- (d) A landlord or an owner commits an offense if the landlord or owner rents, leases, or allows another to occupy rental property after having been provided with notice of a cease and desist order issued by the code compliance manager to vacate the premises or repair or remediate a condition that is a violation of this article or causes a public nuisance.
- (e) No landlord or owner may prevent or impair an inspection under this article, or knowingly conceal, cover or disguise any condition that is a violation of the standards imposed by this article.
- (f) It shall be an affirmative defense to the prosecution of an offense under this article if:
 - (1) the rental property is a bed and breakfast, defined herein as a dwelling occupied as a permanent residence by an owner or renter in which sleeping accommodations of not more than four rooms are provided or offered for transient guests for compensation;
 - (2) the rental property is a group home for elderly persons or persons with disabilities;
 - (3) the tenant is hired by the owner as a short-term caretaker of the dwelling or is related to the owner within one degree of affinity or consanguinity; or
 - (4) the rental property is not used for residential purposes.

Sec. 4.08.009 Penalties; remedies

- (a) A violation of this article is punishable by a fine not to exceed the sum of two thousand dollars (\$2000.00). Each day a violation continues shall be deemed a separate offense.
- (b) Unless otherwise expressly provided for herein, no intent need be pleaded or proven in the prosecution of an offense under this article, and a person in violation shall be strictly liable, regardless of intent.
- (c) The remedies provided for in this article are cumulative of each other and of any other remedy provided for and allowed by law. In addition to any other remedy allowed by law, the city may seek injunctive relief in any court of proper jurisdiction to restrain or enjoin a violation of any provision of this division.

Secs. 4.08.010 - 4.08.030 Reserved

Division 2. Multi-Family Dwellings

Sec. 4.08.031 Definitions

For the purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context clearly indicates otherwise:

Code compliance manager shall refer to any person designated by the City Manager as being responsible for the administration and enforcement of this article.

Dangerous building refers to any building with exterior or interior conditions that pose a danger to the life, limb, health, property or safety of any person.

Dwelling unit means a structure or that part of a structure which is used as a residence.

Landlord means the owner, property manager, or any person having or exercising supervision or control over rental property that is or is intended to be occupied by another. A person having or exercising supervision or control of rental property is, for all purposes under this article, deemed a landlord, regardless of whether ownership or title to the real estate is vested in another.

Managing agent shall refer to a person who lives in this state and who is authorized by the owner of a multi-family residential rental building to accept legal service relevant to that building on his or her behalf.

Multi-family residential building refers to a building or structure containing three or more individual residential units which are leased or rented or intended to be leased or rented to another person, for or without consideration, for residential purposes. The term also includes accessory buildings and structures intended for human occupancy and use by residents of a primary multi-family residential building.

Order to correct refers to an order that requires any person acting in the capacity of an owner, managing agent, property manager or landlord of a multi-family residential building to correct any building code violation.

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

- (1) the holder of fee simple title;
- (2) the holder of a life estate;
- (3) the holder of a leasehold estate for a term of at least five years;
- (4) the holder of a leasehold estate who, in turn, subleases property to another; or
- (5) the buyer in a contract for deed.

As used in this division, Owner also includes any agent, association, company, corporation, firm, partnership, person or organization of any kind having a legal or equitable interest in a multi-family residential building.

Property shall refer to the land on which one or more multi-family residential buildings are located and is inclusive of the land and all buildings and structures thereon.

Property manager means a person who for compensation has managing control of a multi-family residential building.

Resident shall refer to any person who occupies a residential unit in a multi-family residential building.

Residential unit means any single residential dwelling unit within a multi-family residential building or portion thereof that is used or intended to be used for residential purposes. The term is inclusive of units within mixed-use buildings whereby an occupant may utilize an area for combined residential and commercial or retail purposes.

Substandard building means a building, structure or multi-family residential building which is not in compliance with the provisions of the International Property Maintenance Code, as adopted by the city, or the provisions of any building, residential or property code adopted by the city for the purposes of protecting the life, health or safety of occupants or residents.

Sec. 4.08.032 Application for Annual Registration

(a) No person may operate a multi-family residential building, and shall not offer for rent, lease or occupancy, a residential unit in a multi-family residential building without first having applied for and been granted an annual registration from the city. To obtain an annual registration, an owner shall complete and submit an application on a form prescribed by the city that shall, at a minimum, require the applicant to provide:

- (1) the property's trade name, physical address, business address, the total number of residential rental buildings located on the property, the total number of residential rental units located on the property and the year in which construction of each residential rental building located on the property was completed;
- (2) the name, permanent address and telephone numbers of the owner, the property manager and, if the property owner does not reside in this state, the managing agent;
- (3) the names, addresses and telephone numbers of any mortgagees of the property;
- (4) if the owner is a partnership, the names and telephone numbers of the managing partner and the partnership's principal business address;
- (5) if the owner is a corporation, limited liability company, partnership, general partnership, limited liability partnership, trust or real estate investment trust, the name, physical business address and telephone numbers of the following:
 - i) for a corporation, the president and/or chief executive officer;
 - ii) for a limited liability company, the managing or administrative member;
 - iii) for a partnership, limited partnership or limited liability partnership, the general partner;
 - iv) for a trust, a trustee; for a real estate investment trust, the general partner; or
 - v) for any other legal entity not named in the foregoing subsections, the name and address of a duly authorized agent; and

- (6) any other information deemed material by the code compliance manager.

Sec. 4.08.033 Annual registration and fee requirements

- (a) Upon submission of an application and payment of the required annual fee, the city may inspect the property and the multi-family residential building for compliance with minimum standards imposed by city building, property, health and safety codes. The annual fee for issuing a registration shall be as set forth in Sec. A2.008 of Appendix A of this code. The fees are non-refundable and are payable to the city when application is made to the city for the registration.
- (b) An annual registration shall expire on the first anniversary of the date of its issuance.
- (c) An annual registration shall expire on the thirtieth (30th) day following a change of ownership of the property on which the building is situated. For the purposes of this subsection, a change in ownership shall not include a transfer or conveyance of an ownership interest in a building to an affiliate entity of the owner. The city shall act on an application for an annual registration within 30 days of submission of an application.
- (d) An application for an annual registration shall be submitted by all owners of multi-family residential buildings within sixty (60) days following the effective date of the ordinance adopting the regulations contained within this division. However, multi-family residential buildings that are occupied and in operation on the effective date may not be denied the opportunity to continue business operations during the period in which an application is pending.
- (e) The city may grant extensions of the application deadlines provided for in this division upon terms and condition deemed reasonable by the city in the code compliance manager's sole discretion.

Sec. 4.08.034 Denial of annual registration; appeal

- (a) An application for annual registration may be denied, revoked or suspended by the code compliance manager if:
- (1) an application contains materially false information;
 - (2) a multi-family residential building or an accessory building intended for use or occupancy by residents of a multi-family residential building has conditions that present a danger to life, health or safety;
 - (3) an owner, property manager or landlord has prevented any inspection by the code compliance manager or has actively concealed any condition that presents a threat to life, health or safety or that is a violation of any provision of applicable building, property, health and safety codes;
 - (4) a multi-family residential building or an accessory building intended for use or occupancy by residents of a multi-family residential building is not in compliance with minimum standards imposed by applicable building, property, health and safety codes;
 - (5) an order to correct, issued by the code compliance manager, has not been complied with, and at least seven (7) days have elapsed since the order to correct was issued; or
 - (6) a multi-family residential building or any accessory building is a dangerous building.

(b) A denial, suspension or revocation may be appealed to the board of adjustment if written notice of the appeal is received within twenty (20) days of the denial, suspension or revocation. See Sec. 4.08.038 for additional provisions relating to such appeals.

Sec. 4.08.035 Inspections

(a) The city may inspect multi-family residential buildings or any portions thereof annually, at intervals deemed appropriate by the Code Compliance Manager or upon receipt of a complaint submitted by any person regarding a violation of any provision of applicable building, property, health and safety codes. Inspections may, at the discretion of the Code Compliance Manager, be restricted to limited portions of a multi-family residential building. The city may adopt policies and procedures regarding inspection programs and the conduct of inspections under this division.

(b) The Code Compliance Manager shall provide at least three (3) days' prior notice of an intent to inspect interior inspections. It is the responsibility of the owner, property manager or landlord to notify residents and to secure the residential unit in preparation for inspection.

(c) It is unlawful for an owner, property manager or landlord to prevent any inspection under this division, to deny or refuse access to property for the purposes of inspection, to falsify any document or record incident to an inspection, or to attempt to conceal any condition that may be a violation of any provision of applicable building, property, health and safety codes.

(d) Residents of individual residential units may opt out of an inspection of the residential unit occupied by that person. The election to opt out of an inspection of an individual unit must be in writing and on a form promulgated by the city for that purpose.

Sect. 4.08.036 Order to correct

Upon inspection, the Code Compliance Manager may issue an order to correct any violations found by an inspection, requiring the owner, property manager or landlord to correct any violation of any provision of applicable building, property, health and safety codes. The code compliance manager may, in his or her discretion, establish a reasonable time within which a specified violation must be corrected, and repairs be made. An order to correct may be revised, amended or extended by the Code Compliance Manager in his or her discretion, as may be appropriate under the circumstances.

Sec. 4.08.037 Remedies

(a) Should an inspection reveal violations of this division, a violation of any provision of applicable building, property, health and safety codes, a condition that presents a danger to life, health or safety, or that a multi-family residential building or an accessory building is a dangerous or substandard building, the Code Compliance Manager may, if necessary or appropriate for the protection of health and safety:

- (1) issue an order to correct;
- (2) deny, suspend or revoke an annual registration;

- (3) deny, suspend or revoke a certificate of occupancy;
- (4) issue an order to vacate the building; or
- (5) issue citations for any criminal violations observed during an inspection.

(b) If a multi-family residential building is declared to be a dangerous building by the code compliance manager, the code compliance manager may:

- (1) cause the violations to be corrected, at the expense of the owner, and subject the property to a lien for all costs incurred by the city by filing a statement of expense with the appropriate county;
- (2) institute and maintain civil proceedings seeking injunctive relief against the owner in any court of appropriate jurisdiction for an order compelling the owner to comply with the code official's order;
- (3) institute proceedings under the Uniform Code for the Abatement of Dangerous Buildings or the International Property Maintenance Code, as adopted by the city, or the provisions of any applicable building, property, health or safety code adopted by the city for the purposes of protecting the life, health or safety of occupants or residents. seeking the vacation and demolition of the building; or
- (4) issue appropriate orders to vacate and secure the building, and to compel repair or demolition of the building.

Sec. 4.08.038 Appeal to board of adjustment

(a) The board of adjustment may hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by the Code Compliance Manager in the enforcement of this division. An appeal must be made in writing, filed with the board, within not more than twenty (20) days of the service of the official's order, requirement, decision, or determination. Service of the order, requirement, decision, or determination is effective on the date that it is personally delivered to the owner, property manager or landlord, deposited with the US Postal Service properly addressed, or posted on the property in a conspicuous location.

(b) The board shall schedule a hearing as soon as practicable upon the timely filing of an appeal. The owner, property manager or landlord may attend and present evidence at the hearing. The board shall promptly render a decision based on the merits of the appeal and the evidence presented at the hearing.

(c) The board's decision shall be final and binding. No appeal may be taken from the decision of the board.

Sec. 4.08.039 Penalties

(a) Any person in violation of any provision of this division shall be punished by a fine not to exceed the sum of two thousand dollars (\$2000.00). Each day that a violation exists is a separate offense.

(b) The penalties and remedies provided for in this division are cumulative and nonexclusive, and the city may pursue any and all remedies at law or in equity without prejudice to any other remedy.

(c) No culpable mental state shall be required to be plead or proven to establish guilt in the prosecution of any criminal case in which an offense under this division is alleged."

SECTION 2: Appendix A of the Anna City Code of Ordinances is hereby amended by amending Sec. A2.008 as follows:

Sec. A2.008 ~~Apartment complex license and re-inspection~~ Annual registration fees and re-inspection fees for rental properties and multi-family residential building

(a) Annual rental property registration fee. The annual fee for a rental property is \$50.00. The fee for issuing a replacement for a lost, destroyed, or mutilated license is \$25.00.

(ab) ~~Annual license multifamily residential building registration fee; replacement license.~~ The annual fee for an ~~apartment complex license~~ registration of a multi-family residential building is \$100.00 or \$25.00 per dwelling unit, whichever is greater. The fee for issuing a replacement for a lost, destroyed, or mutilated license is \$25.00.

(bc) Re-inspection fees. A re-inspection fee for re-inspection of a rental property or multifamily residential building may be charged to verify that violations have been repaired or corrected. The fee shall be \$25.00 per unit for each re-inspection of noted violations in a dwelling unit and \$50.00 for noted violations on the exterior premises.

SECTION 3: That all ordinances of the City of Anna in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4: That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances and ordinances of the City, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5: That if any section, paragraph, sentence, subdivision, clause, phrase or provision of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be unconstitutional, illegal, or invalid and shall not affect the validity of the remainder of this ordinance or any other provision of the ordinances of the City of Anna.

SECTION 6: That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be deemed guilty of a misdemeanor and subject to a penalty as provided for in this ordinance, and upon conviction shall be punished by fine not to exceed the sum of Two Thousand Dollars (\$2000.00) for each offense.

SECTION 7: That this ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

Passed by the City Council of the City of Anna, Texas, this 10th of December 2019.

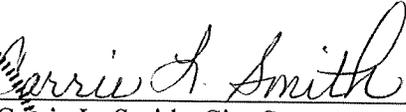
APPROVED:

ATTESTED:



Nate Pike, Mayor





Carrie L. Smith, City Secretary