

ORDINANCE NO. 20-_____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING CHAPTER 34 “ENVIRONMENT” OF THE ADDISON CODE OF ORDINANCES TO ADD A NEW ARTICLE VIII “LANDLORD-TENANT AFFAIRS”; PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING FOR SAVINGS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the Town of Addison, Texas has investigated and determined that it in the best interest of the health, safety and welfare of the citizens of the Town of Addison, Texas to adopt this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. The recitals set forth above are true and correct and are incorporated as if fully set forth herein.

SECTION 2. Addison Code of Ordinances, Chapter 34 “Environment,” is hereby amended to add a new Article VIII “Landlord-Tenant Affairs” which shall read in its entirety as follows:

ARTICLE VIII. – LANDLORD-TENANT AFFAIRS

DIVISION I -

ADOPTED.

Sec. 34-231. - Adopted.

For the purpose of providing minimum guidelines for landlord-tenant affairs, for properties with four or more dwelling units, a copy of which is on file in the office of the City Secretary, is hereby adopted and designated as the Landlord-Tenant Affairs ordinance of the Town of Addison. The title of this Article shall be the “Landlord-Tenant Affairs” and it may be cited as such.

DIVISION II - GENERALLY.

Sec. 34-232. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Actor means a person identified in a complaint as having committed an offense under this article or whose criminal responsibility is in issue in a criminal action.

Apartment building means any structure containing four or more dwelling units for rent for periods of time of 30 or more consecutive days in one calendar year.

Apartment complex means one or more adjacent apartment buildings which are under common ownership and management.

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.

Code official means the code official of the town or his 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 by two 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, heater rooms, boiler rooms and basement or cellar recreation rooms.

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

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

Landlord means the owner, property manager or resident manager of an apartment building or any other person held out by any owner or property manager as the appropriate person whom the tenant normally deals with 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 upon which are located four or more dwelling units, 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.

Plumbing fixtures includes 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 water-using fixtures and appliances, together with all connections to pipes.

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 real property for the owner.

Rental agreement means and includes all written agreements which establish or modify the terms, conditions, rules, regulations or any other provisions concerning the use and occupancy of a dwelling unit.

Resident manager means a property manager or agent of a property manager who resides in an apartment building.

Structure means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.

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

Sec. 34-233. - 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 repaired within the prescribed time limits set forth in this article.

- (2) The noncomplying conditions were repaired within the time limits established by the code official.
- (3) The required notice 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 their apartment.

Sec. 34-234. - Copy of article.

A landlord shall distribute to all tenants a copy of this article describing the rights and responsibilities of the tenants.

Sec. 34-235. - Security deposit.

A landlord shall return a tenant's security deposit within 30 days of a moveout, as set forth in Texas Property Code Chapter 92, Subchapter C.

Sec. 34-236. - Disclosure of management.

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.

State Law reference— Duty of landlord to disclose ownership and management, Texas Property Code § 92.201 et seq.

Sec. 34-237. - Notice of entry.

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 and the person who has entered the apartment unit.

Sec. 34-238. - Change of ownership, address, etc.

An owner or property manager shall notify the building official within ten days of a change or partial change in ownership, lender or management of the apartment complex or a change of address or trade name.

Sec. 34-239. - Eviction—When prohibited.

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 code official about conditions in the apartment or dwelling unit which might not be in compliance with the health, housing or fire codes or this article, and which conditions 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 about violation of their rights under this article.
- (3) The tenant files a complaint against the landlord under this article.

Sec. 34-240. - Same—When permitted.

Even if the tenant claims "retaliation," the landlord may still evict the tenant if:

- (1) The rent is overdue.
- (2) There are Code violations caused by the tenant or their visitor.
- (3) The tenant is damaging property, disturbing the peace or using the apartment for illegal purposes.

Sec. 34-241. - Responsibilities 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 from a dwelling unit if the presence of the animal is a health hazard to a tenant.
- (3) Connect plumbing fixtures and heating equipment that the tenant supplies in accordance with the town plumbing code and the town mechanical code.
- (4) Place all ashes, rubbish, garbage and any other waste material in the appropriate receptacles provided for such waste material by the landlord.
- (5) Not alter a structure or its facilities so as to create a nonconformity with this article.
- (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 knowingly permit any person to do so.
- (8) Conduct himself 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 article, such unpermitted 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 the loss of a portion of the security deposit.

Sec. 34-242. - Emergencies generally.

The landlord shall provide to all tenants an emergency telephone number which is answered at all times during the night or day.

Sec. 34-243. - Emergency procedures.

In emergency situations, the tenant shall notify the landlord immediately by way of the emergency telephone number. For purposes of this article, "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 their property. Upon notification, the landlord shall respond immediately and furnish assistance to the tenant within one hour from such notification.

Sec. 34-244. - Property standards.

(a) 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 drainage to prevent standing water and flooding on the land;
- (5) Remove dead trees and tree limbs 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; and

- (7) Keep all areas of the building, grounds, facilities and appurtenances in a clean and sanitary condition.
- (b) It is a defense to prosecution under this section that the premises concerned is the site of new construction and reasonable and continuous progress is being made to complete the construction.

Sec. 34-245. - Structural standards.

A landlord shall:

- (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 specified in the town building code.
- (3) Repair holes, cracks and other 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 weathertight and watertight condition.
- (5) Maintain floors, walls, ceilings and all supporting structural members in a sound condition, capable of bearing imposed loads safely.
- (6) Repair or replace chimney flue and 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 and ceilings.

Sec. 34-246. - Utility standards.

A landlord shall:

- (1) Provide and maintain in working order connections to discharge sewage from a structure or land 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 constant minimum temperature of 120 degrees Fahrenheit within each dwelling unit;

- (5) Provide, connect and maintain in working order a kitchen sink, a bathtub or shower and a lavatory to a cold and hot water source in a dwelling unit;
- (6) Connect plumbing fixtures and heating equipment that the owner supplies in accordance with the town plumbing code and the town mechanical code;
- (7) Provide heating equipment capable of maintaining a minimum inside temperature of 68 degrees Fahrenheit in each room of a dwelling unit;
- (8) Provide and maintain air conditioning equipment capable of maintaining a maximum inside temperature of 78 degrees Fahrenheit with an outside temperature of 98 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 chimney or flue;
- (11) Provide and maintain electrical circuits and outlets sufficient to safely carry a load imposed by normal use of appliances and fixtures;
- (12) Maintain all electrical, plumbing, heating and other facilities supplied by the owner in good working condition at all times; and
- (13) Pay all utility bills on time to prevent cut off of utilities by utility companies.

Sec. 34-247. - 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 a 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.

Sec. 34-248. - Repairs.

- (a) The landlord has the duty to furnish and maintain premises in accordance with the standards enumerated in this article. 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 this article.
- (b) Upon notice by the tenant in writing of any defective condition in the premises or dwelling unit in noncompliance with the standards stated in this article, the landlord shall repair such condition within a reasonable period of time.
- (c) If the landlord fails to complete repairs of defective conditions within seven days, the tenant may file a complaint in writing to the code official for enforcement of this article. The code official shall establish a time in which the repair must be completed and shall issue a citation if the defect is not corrected.

Sec. 34-249. - Removal of property.

A landlord may not remove a tenant's furnishings or possessions except as outlined in Texas Property Code Chapter 54, Subchapter C.

DIVISION III ADMINISTRATION AND ENFORCEMENT.

Sec. 34-250. - Administrator designated.

The code official is designated as the administrator of this article.

Sec. 34-251. - General duties of code official.

In addition to the powers and duties prescribed for the code official as administrator of this article, they are required to:

- (1) Enforce all provisions of this article.
- (2) Keep records of all licenses issued under this article.
- (3) Adopt rules and regulations, not inconsistent with the provisions of this article, with respect to the form and content of application for licenses, the investigation of applicants and other matters incidental or appropriate to their powers and duties as may be necessary for the proper administration and enforcement of the provisions of this article; and
- (4) Conduct, on their own initiative, periodic investigations of apartment buildings throughout the town concerning their compliance with this article.

Sec. 34-252. - Complaints.

A tenant may not file a complaint with the code official under the terms of this article until seven days have elapsed following written notice to the manager of the apartment.

Sec. 34-253. - Giving notice.

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 of it. A person "receives" a notice or notification when (i) it comes to their attention or (ii) 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 them as the place for receipt of the communication, or in the absence of such designation, to their last known place of residence.

DIVISION IV. - LICENSING OF LANDLORDS

Sec. 34-254. - Required.

No person shall own, maintain, conduct, operate or rent a dwelling unit in an apartment complex for compensation within the town, or act as agent for another who is renting dwelling units in an apartment complex, without first obtaining an apartment license from the code official.

Sec. 34-255. - Different locations.

Should a person own or maintain an apartment complex at more than one location, a duplicate license is required for each additional location.

Sec. 34-256. - Right of licensee.

The license issued under this division to an owner authorizes such owner and its bona fide agents or employees to rent dwelling units to tenants.

Sec. 34-257. - Trade name.

An owner shall register with the code official the trade name of the apartment complex and shall not use or permit to be used more than one trade name at a single location.

Sec. 34-258. – Application - Form.

An applicant for a license under this division shall file with the code official a written application upon a form provided for that purpose, which shall be signed by the owner and the property manager.

Sec. 34-259. – Application form - more than one location.

Should an applicant for a license under this division own an apartment complex at more than one location, a separate application must be filed for each location.

Sec. 34-260. - Application form - contents generally.

The following information shall be required in the application for a license under this division: Name, primary address and 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 with the secretary of state.

Sec. 34-261. - Application form - additional information.

The code official may, at any time, require additional information of the owner or property manager to clarify items on the application for a license under this division.

Sec. 34-262. – Fee - Amount generally.

The annual fee for an apartment complex license shall be \$2.25 for each dwelling unit located therein with a minimum fee per apartment complex of \$75.00. The fee for a license issued during the year will be prorated on the basis of whole months.

Sec. 34-263. – Fee - when paid.

The fee for a license under this division is payable to the Town upon issuance of the license.

Sec. 34-264. – Fee - Replacement of license.

The fee for issuing a replacement for a lost, destroyed or mutilated license under this division is \$2.00.

Sec. 34-265. – Fee - Refund.

No refund of a license fee under this division will be made.

Sec. 34-266. - Display.

Each license issued pursuant to this division must be posted, displayed and kept in three conspicuous places in the apartment complex to which the tenant has access.

Sec. 34-267. - Replacement.

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.

Sec. 34-268. - Transfer.

An apartment complex license is not assignable or transferable.

Sec. 34-269. - Change of manager.

When the resident manager of an apartment complex is changed, a new license must be obtained with no fee being charged for the change.

Sec. 34-270. - Expiration.

The apartment complex licenses expire on May 31st of each year.

Sec. 34-271. - Suspension of license.

- (a) A license may be suspended by the code official for failure of the landlord to comply with the requirements of this article and article VII of this chapter, or if the physical conditions of an apartment complex do not comply with the requirements of this article and article VII of this chapter, or otherwise constitutes a substantial hazard to the life, limb, property, health or welfare of the public or tenants.
- (b) Whenever a landlord has failed to comply with any notice issued under the provisions of the applicable sections, the landlord shall be notified in writing that the license, upon service of the notice, is immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the code official by the landlord.
- (c) Notwithstanding the other provisions of this article and article VII of this chapter, whenever the code official finds conditions in an apartment complex which, in their judgment, constitute substantial hazard to the life, limb, property, health or welfare of the public or tenants, they may, without warning, notice or hearing, issue a written notice to the landlord citing such conditions and corrective action to be taken, and if deemed necessary, such order shall state that the license is immediately suspended. Any person to whom such order is issued shall comply immediately therewith, but upon written petition to the code official, shall be afforded a hearing as soon as possible.

Sec. 34-272. - Condemnation, posting and re-occupancy of dwelling units.

- (a) Upon suspension of apartment complex license, the code official shall exercise the authority to condemn, post and deny the rehabilitation of a vacant dwelling unit which fails

to comply with this rule. Rehabilitation of a posted unit or removal or defacement of such announcement shall be a violation of this ordinance.

- (b) Any landlord whose vacant dwelling units have been condemned may, at any time, make application for a reinspection for the purpose of re-occupancy of the dwelling unit. Within ten days following the receipt of a written request, including a statement signed by the landlord that the conditions causing condemnation of the dwelling unit have been corrected, the code official shall make a reinspection. If the landlord is complying with the provisions of this ordinance, the unit may be reoccupied.

Sec. 34-273. - Reinstatement of suspended license.

Any landlord whose apartment complex license has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the license. Within ten days following receipt of a written request, including a statement signed by the landlord that the conditions causing suspension of the license have been corrected, the code official shall make a reinspection. If the applicant is complying with the provisions of this ordinance, the license shall be reinstated.

Sec. 34-274. - Revocation of license.

For serious or repeated violations of any of the requirements of this ordinance, or for interference with the code official in the performance of their duties, the license may be permanently revoked after an opportunity for a hearing has been provided by the code official. Prior to such action, the code official shall notify the landlord in writing, stating the reasons for which the license shall be permanently revoked at the end of five days following service of such notice, unless a request for a hearing is filed with the code official by the landlord within such five-day period. A license may be suspended for cause pending its revocation of a hearing relative thereto. If no request for hearing is filed within the five-day period, the revocation of the license becomes final.

Sec. 34-275. - Relocation of tenants.

Upon revocation of the license, it shall be the responsibility of the landlord to expedite the swift and orderly relocation of tenants to habitable quarters. Such time period shall not exceed 60 days.

Sec. 34-276. - Notification of condemnation and relocation; city council as advisory body.

In the event that any given situation, in the judgment of the code official, merits the condemnation of dwellings and subsequent relocation of tenants, the City Council shall be fully apprised of all aspects of the situation and serve as an advisory body to the code official. Upon evaluation of the information presented, the City Council shall sanction the code official to pursue whatever course of action the city council deems necessary to resolve the situation.

Sec. 34-277. - Notices.

A notice provided for in this ordinance is properly served when it is delivered to the landlord in person or when it is sent by registered or certified mail, return receipt requested, to the last known landlord.

Sec. 34-278. - Hearings.

The hearing provided for in this division shall be conducted by the city manager or his designee (hearing officer) at a time and place designated by the hearing officer. Based upon the record of such hearing, the hearing officer shall make a finding and shall sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the landlord by the code official.

Sections 34-279 through 34-290 reserved.

SECTION 3. Penalty Provision. Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined a sum of a Five Hundred Dollars (\$500.00) per day and each and every day that such violation continues shall be considered a separate offense; provided, however, that such penal provision shall not preclude a suit to enjoin such violation. Addison retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 4. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

SECTION 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. Addison hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 6. Effective Date. This Ordinance shall become effective June 1, 2020.

DULY PASSED AND ADOPTED by the City Council of the Town of Addison, Texas,
on this **28th** day of **APRIL 2020**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

APPROVED AS TO FORM:

Irma Parker, City Secretary

Brenda N. McDonald, City Attorney