

ORDINANCE NO. 437-2016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VENUS, TEXAS, ADDING ARTICLE VI. RESIDENTIAL RENTAL PROPERTY REGISTRATION AND INSPECTION TO CHAPTER 8, BUILDINGS AND BUILDING REGULATIONS OF THE VENUS CODE OF ORDINANCES, TO PROVIDE FOR REGISTRATION AND INSPECTION OF RESIDENTIAL RENTAL PROPERTIES WITHIN THE CITY AND AMENDING ARTICLE II. TECHNICAL CODES, SECTION 8-19 TO LIMIT THE APPLICABILITY OF THE SECTION TO ARTICLE II. AND TO RAISE THE MAXIMUM FINE FROM \$1,000 TO \$2,000, ORDERING PUBLICATION, CONFIRMING OPEN MEETINGS ACT COMPLIANCE, PROVIDING A SEVERABILITY CLAUSE, PROVIDING A REPEALER CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Venus, Texas (“City”), is a Type A general law city operating pursuant to the laws of the State of Texas, by and through its duly elected council members;

WHEREAS, the City Council (“Council”) of the City serves as the elected governing body of the City directly responsible for the promotion and protection of the public health and safety of its citizens and inhabitants;

WHEREAS, the City is authorized and empowered to adopt and enforce ordinances, not inconsistent with state law, that are necessary to protect the safety of its inhabitants (TEXAS LOCAL GOVERNMENT CODE § 51.012);

WHEREAS, the Council has adopted the CITY OF VENUS CODE OF ORDINANCES, as is permitted by TEXAS LOCAL GOVERNMENT CODE Section 53;

WHEREAS, the Council is aware of the ever changing economy and the increased demand for residential rental property within the City;

WHEREAS, the City is committed to ensuring that residential rental properties in the community are safe, livable and routinely maintained in accordance with public health, safety, and property maintenance standards as adopted in the CITY OF VENUS CODE OF ORDINANCES;

WHEREAS, the City has only rarely before regulated rental properties through the adopted building codes and maintenance codes promulgated by the INTERNATIONAL CODE COUNCIL;

WHEREAS, some residential rental property owners routinely fail to maintain their properties putting rental unit dwellers at risk of injury or death;

WHEREAS, the City now lacks the necessary tools to identify and track problem residential rental properties and owners/landlords, relying solely on sporadic and oftentimes after-the-fact tenant complaints;

WHEREAS, the Council has researched and reviewed the ordinances and policies of other cities and learned that residential rental property registration and inspection programs provide cities with a powerful mechanism for the identification, tracking, and enforcement of poorly maintained properties and owners/landlords; and

WHEREAS, the time has come for the City to employ a more organized approach to regulating residential rental properties within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENUS, TEXAS THAT THE CITY OF VENUS CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

SECTION ONE. ARTICLE VI. RESIDENTIAL RENTAL PROPERTY REGISTRATION AND INSPECTION ADDITION TO CHAPTER 8 OF THE VENUS CODE OF ORDINANCES.

Chapter 8 of the CITY OF VENUS CODE OF ORDINANCES shall be amended to add a new article titled “Residential Rental Property Registration and Inspection” as follows:

ARTICLE VI. – Residential Rental Property Registration and Inspection.

Sec. 8-150 – Definitions.

ADMINISTRATOR. The City Administrator or their designee.

LOCAL CONTACT. An individual designated by an absent Owner/Landlord (one that lives outside of Venus), who is able to respond promptly (less than two hours) to an emergency at a Rental Property, subject to this ordinance, on the Owner/Landlord’s behalf and authorized to make decisions and act to remedy the emergency situation.

OWNER/LANDLORD. Any person or corporation/company that owns, leases or subleases residential Rental Property.

RENTAL PROPERTY. Any residential single-family, two-family, or multi-family dwelling unit, including manufactured homes, that is not owner occupied, and is rented or leased, whether or not rent is charged whether or not the lease is memorialized in writing. Rental Property includes, but is not limited to: properties rented or leased to students, families, or any other persons; properties in which a family member of the owner resides in the home but the owner does not (regardless of whether additional persons also reside in the home); properties used as vacation rentals and hosted short-term rentals; properties owned by a company or corporation to house employees, whether rent is paid or not; and properties where a property caretaker lives in the home but the owner does not.

Sec. 8-151 – Residential rental property registration.

(A) The Owner/Landlord or real estate manager of Rental Property (as defined by Section 8-150 of this article), is required to register Rental Property with the City on a form provided by the Administrator by November 1 of each year or within fifteen (15) days of the property becoming Rental Property, if not previously registered with the City, and within 30 days if a Rental Property changes ownership. For purposes of this Section, only one registration is required per property location, whether the property location consists of a two-family unit (duplex) or multi-family unit (triplex, quadplex, apartment building, etc.). The information required to register the Rental Property is as follows:

- 1) Physical address of the Rental Property;
- 2) Full name(s) of Owner(s)/Landlord(s);
- 3) Name of the Rental Property, if not identified by the physical address, (i.e. The Wilshire Apartments, Newport Condos, etc.);
- 4) If the Owner/Landlord is a corporation or association, the name and address of the registered agent on file with the Texas Secretary of State;
- 5) Full contact information of the Owner/Landlord (home phone, cell phone, business phone, fax number, email address, and mailing and physical address);
- 6) Type of Rental Property (single-family, two-family, multi-family, etc.);
- 7) The name and complete contact information for the Local Contact, if different than the Owner/Landlord, in the case of an absentee owner. The Local Contact cannot be someone who is listed on the lease;
- 8) If a two-family or multi-family property, the number of individual rental units and buildings at the property;
- 9) Telephone number that will be answered 24 hours a day (i.e. emergency phone number) by a responsible party (Owner/Landlord, Local Contact, etc.) as is required by TEXAS PROPERTY CODE Section 92.020, if applicable;
- 10) Tenant names, the contact information for all persons listed on the current lease(s), and all current lease(s) shall be presented to the Administrator for review upon request; and
- 11) Any other information, deemed necessary shall likewise be provided, as deemed necessary by the Administrator.

B) An Owner/Landlord of Rental Property shall pay a fee of Ten Dollars (\$10.00) per registration, and at the time of any required renewal registration.

C) An Owner/Landlord of Rental Property may not permit or allow another person to occupy or lease Rental Property without a registration required by this section.

Sec. 8-152 – Residential rental property inspection.

(A) The Administrator may order the inspection of the interior and/or exterior of a Rental Property if any of the following circumstances exist:

- (1) The City receives a written or oral complaint from a tenant, neighbor, code officer, public works employee, police officer, or other interested party concerning a Rental Property indicating a current violation of the CITY OF VENUS CODE OF ORDINANCES, any of the international building codes, state law, or federal law or where the premises appear to be unsafe, dangerous, or hazardous to the public health or safety;
 - (2) Upon the first-time registration of a Rental Property with the City required by this article;
 - (3) The failure of an owner to register Rental Property as required by this article;
or
 - (4) At any time the Rental Property is vacant, or without a tenant.
- (B) When an inspection is ordered, a preliminary inspection shall be conducted by a city code officer or building inspector working at the direction of the City. This preliminary inspection is to identify issues of substantial concern that affect the habitability of the property involved, not merely aesthetic or surface level concerns. Dangerous electrical problems, water leaks, structural damage/insufficiencies, plumbing/sewer blockages, gas leaks, and other major problems will be the type of issues the City will be assessing.
- (C) The preliminary inspection shall be conducted within 10 days of the Administrator's order.
- (D) A written report of the preliminary inspection shall be served on both the Administrator, the occupants of the home and Owner/Landlord or Local Contact within two (2) days of the preliminary inspection. Actual notice must be achieved on the Owner/Landlord and/or Local Contact. This report shall contain a comprehensive list of any issues that require repair/remedy/correction with citation to the applicable law, regulation, and/or code offended. If no actionable issues are present, a written report detailing the preliminary inspection findings and passing performance shall be served on all parties as well, to close out the inspection.
- (E) If actionable dangerous issues exist in the preliminary inspection report, the Owner/Landlord has five (5) business days to remedy the issues and provide the Administrator proof of such compliance. The cost of any remedy is the responsibility of Owner/Landlord and not the tenant(s) or the City.
- (F) Proof of compliance may be achieved by photos, receipts of materials/work, affidavits of compliance, and/or a second inspection by the city code officer or inspector working at the direction of the City.

- (G) Failure to remedy a dangerous issue identified in the preliminary inspection within five (5) business days, and/or the failure to provide proof of a remedy to all of the dangerous issues identified in the preliminary report, is a violation of this article and may result in the issuance of a criminal citation for the failure to comply. Additionally, a noncompliant Owner/Landlord, will also face a citation for each and every specific code, regulatory, and or state law violation present at the time. The preliminary inspection report shall serve as a warning to the Owner/Landowner.
- (H) An Owner/Landlord of Rental Property, that wishes to contest the findings of a preliminary inspection report, may, at their own expense, seek an independent inspection of the Rental Property. A written report of this independent inspection shall be filed with the Administrator before the expiration of the five (5) day period for compliance. Such inspection must be conducted by a licensed building inspector, registered and licensed through the Texas Real Estate Commission. If this written independent inspection report conflicts in a substantial way with the preliminary inspection report, no citations may be issued for an offense under this article, until the matter is heard before the governing body of the municipality – the city council. The Owner/Landlord shall be notified of the date and time of the meeting and be allowed to present their position to the full city council. The Administrator shall be responsible for determining whether the independent inspection report and preliminary inspection report are substantially in conflict and invoke a hearing before the city council. The decision before the city council on such an issue is whether to authorize the issuance of citations, to designate a period for compliance, and/or to close out an ordered inspection file.
- (I) The Owner/Landlord of the Rental Property shall permit the city code officer, Administrator, and/or building inspector working at the direction of the City, to enter the Rental Property (exterior and interior) when necessary to review compliance with this article for the purposes of performing an inspection and/or to follow-up on a previous inspection. If the property to be inspected is occupied by a tenant or tenants, consent must be achieved of at least one occupant of legal age and authority to provide consent. If no consent of the occupants can be achieved, the City shall be responsible for seeking and obtaining a valid administrative search warrant issued by a court of competent jurisdiction to allow the designated building inspector, city code officer, and/or Administrator access to perform the inspection. The time period for inspection completion shall toll during any days where a warrant is being sought to allow entry, and shall not be held against the Owner/Landlord for purposes of this article.
- (J) Any and all costs incurred by the City for third party inspection services related to compliance with this article shall be billed and collected from the Owner/Landlord. Failure to reimburse the City may lead to a civil collection action against Owner/Landlord, including attorney's fees and interest.

Sec. 8-153 – Enforcement.

The Administrator shall have the authority to direct a citation be issued for a violation of the provisions of this article. The Administrator shall also use due diligence in ascertaining the true Owner/Landowner or responsible party of the Rental Property subject to prosecution. The Administrator shall use all available public records (CAD, water, voting, etc.) to identify such person(s)/entities. And, in no case shall the Administrator direct a citation be issued to more than one owner for the same occurrence of offense. The Administrator shall instead choose one of the available identified owners, in their discretion, for purposes of issuance of a citation.

Sec. 8-154 – Penalty.

A person who violates this article is guilty of a Class C misdemeanor offense, and if found guilty, shall be punishable by a fine of not more than \$500 for each violation. And further, as provided by Section 1-10 of this Code, each day of offense shall constitute a separate violation.

SECTION TWO. CHAPTER 8, ARTICLE II., SECTION 8-19 AMENDMENT OF THE VENUS CODE OF ORDINANCES.

Chapter 8 – Buildings and Building Regulations, Article II. – Technical Codes, Sec. 8-19. Penalty, of the CITY OF VENUS CODE OF ORDINANCES shall be amended as follows:

Sec. 8-19. Penalty.

Any violation of the terms of this article of said code is further declared to be a misdemeanor, and any person found to be guilty thereof shall be punishable by a fine not to exceed \$2,000.00. Each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.

SECTION THREE. PUBLICATION

The City Secretary is hereby directed, if required by law, to post or publish in the official newspaper of the City, the caption, publication clause and effective date clause of this ordinance in one issue of the official newspaper of the City, provided that the official newspaper is a weekly paper, in accordance with Section 52.011 of the TEXAS LOCAL GOVERNMENT CODE. The City Secretary is also hereby directed to incorporate the provisions of this Ordinance into the CITY OF VENUS CODE OF ORDINANCES by submitting it to *www.municode.com* for incorporation and online publication.

SECTION FOUR. OPEN MEETINGS ACT COMPLIANCE

The Council and Mayor are committed to open government and are strong supporters of The TEXAS OPEN MEETINGS ACT. And as such, the meeting at which this Ordinance was approved was in all

things conducted in strict compliance with the TEXAS OPEN MEETINGS ACT, TEXAS GOVERNMENT CODE, Chapter 551.

SECTION FIVE. SEVERABILITY

Should any article, section, clause, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The Council hereby declares that it would have passed this Ordinance, and each article, section, subsection, sentence, clause and/or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

SECTION SIX. REPEALER

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this ordinance are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in this ordinance. Any cause of action accruing prior to the passage of this ordinance shall continue as if this ordinance was not passed or any other ordinance had not been repealed.

SECTION SEVEN. EFFECTIVE DATE

This Ordinance shall become effective immediately from and after its passage by Council.

PASSED AND APPROVED by the City Council of the City of Venus, Texas, on this the 12th day of September, 2016.



JAMES BURGESS – MAYOR

9-12-16
DATE

ATTEST:



RANA GAMEL – CITY SECRETARY

9-12-16
DATE

APPROVED AS TO FORM:



CASS ROBERT CALLAWAY – CITY ATTORNEY

9-12-2016
DATE