

ORDINANCE 2007-09-10-1786

REQUIRING ALL OWNERS OF RENTAL RESIDENTIAL PROPERTIES TO DESIGNATE AN AGENT FOR SERVICE OF PROCESS; AND PROVIDING FOR THE INSPECTION OF RESIDENTIAL RENTAL PROPERTIES; AND PRESCRIBING DUTIES OF OWNERS, AGENTS AND OCCUPANTS; AND PRESCRIBING PENALTIES FOR VIOLATIONS

WHEREAS, the City of Lenoir City, Tennessee deems it necessary to inspect residential rental property for the protection of the health, safety and welfare of its citizens living inside the corporate city limits, now therefore,

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LENOIR CITY and it is hereby ordained and with the authority of the same as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION

The following words, when used in this ordinance, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; words in the singular shall include the plural, and words in the masculine shall include the feminine and the neuter.

- A. AGENT- Individual of legal majority who has been designated under the provisions of this ordinance by the owner.
- B. MUNICIPALITY- City of Lenoir City
- C. CITY CODE - the Lenoir City Municipal Code, the Lenoir City Standard Housing Code and the latest adopted Southern Building Code officially adopted by the governing body of the City, or other such codes officially designated by the governing body of the City for the regulation of construction, alteration, addition, repair, removal, demolition, location, occupancy, and maintenance of buildings and structures.
- D. ZONING ORDINANCE - Zoning ordinance as officially adopted by the City of Lenoir City.
- E. OFFICE - The Office of Code Enforcement for the City of Lenoir City.
- F. DWELLING UNIT - means a single habitable living unit, having its own toilet, bath or shower, sink, sleeping and cooking facilities and separate access to the outside at ground level. There may be more than one dwelling unit on a premise, provided that this definition shall not be inconsistent with current Lenoir City Zoning Ordinances.
- G. FAMILY - one or more persons living in a single dwelling unit and functioning as a common household unit sharing household expenses and sharing joint use of the entire dwelling unit. If a dwelling is rented, in order to qualify as a family, there shall not be more than one (1) lease among the occupants. A family shall not include more than five (5) persons who are not Arelated@ to each other per the Lenoir City Zoning Ordinance.
- H. CODES ENFORCEMENT OFFICER- means any person authorized by Law or Ordinance to inspect buildings or systems, e.g., zoning, housing, plumbing, electrical systems, heat systems, mechanical systems and health necessary to operate or use buildings within the City of Lenoir City. A Codes Enforcement Officer would include those identified in the Lenoir City Municipal Code.
- I. FIRE DEPARTMENT - means the Fire Department of the City of Lenoir City or any member thereof, includes the Chief of Fire or his designee.
- J. LET FOR OCCUPANCY - to permit possession or occupancy of a building or dwelling unit by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease.

- K. OCCUPANT - means a person age 18 or older who resides at a premises, such as a tenant, or any other individual (excluding visitors) that is allowed on premise by such resident or tenant.
- L. OPERATOR - means a person age 18 or older who resides at a premises, such as a tenant, or any other individual (excluding visitors) that is allowed on premise by such resident or tenant.
- M. OWNER - means one or more persons, jointly or separately, in who is vested all or part of the legal title to the premises, or all or part of the beneficial ownership and right to present use and enjoyment of the premises, including a mortgage holder in possession of a Rental Unit. For purposes of this Ordinance also includes a LANDLORD.
- N. OWNER - OCCUPANT - means an owner who resides in a dwelling unit on a regular permanent basis.
- O. PERSON - any person, partnership, firm, association, corporation, or municipal authority.
- P. POLICE DEPARTMENT - means the Police Department of the City of Lenoir City or any member thereof sworn to enforce laws and ordinances in the City, includes the Chief of Police or his designee.
- Q. PREMISES - means any parcel or real property in the City, including the land and all buildings and apartment structures or apartment elements on which one or more rental units are located.
- R. PROPERTY OWNER - any person, agent, or operator having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a Court of competent jurisdiction.
- S. DETERIORATED - means any structure or vacant or unimproved lot or parcel within the corporate city limits that has at least one of the following violations:
- (1) That, because of physical condition or use, is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with local housing, building, plumbing, electrical, fire, health, or related codes;
 - (2) That, because of physical condition, use or occupancy is considered an attractive nuisance;
 - (3) That, because it is dilapidated, unsanitary, unsafe, vermin-infested or other condition, has been designated by the appropriate agency or department of the municipality as unfit for human habitation or use;
 - (4) That is a fire hazard, or is otherwise dangerous to the safety of persons or property;
 - (5) From which the utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for human habitation or use;
 - (6) That, by reason of neglect or lack of maintenance, has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;
 - (7) That has been tax delinquent for a period of at least three (3) years; or
 - (8) That has not been rehabilitated within the time constraints placed upon the owner or party in interest by the municipality;
- T. DWELLING - means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith;
- U. PUBLIC OFFICER - means any officer or officers of the municipality or authority established by the municipality or jointly with any other municipality who are authorized by ordinance adopted hereunder to exercise the power prescribed by the ordinances and by this part;
- V. RESIDENTIAL RENTAL DWELLING UNIT - means a dwelling unit that is leased or rented to one (1) or more tenants. However, a dwelling unit occupied in part by the owner

thereof shall not be construed to be a residential rental dwelling unit, unless otherwise provided by the zoning ordinance of the municipality; and

W. **STRUCTURE** - means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

X. **RELATED OR RELATIVE** - Persons who are related by blood, marriage, adoption, or formal foster relationship to result in one of the following relationships; brother, sister, parent, child, grandparent, grandchild, great grandchild, uncle, aunt, nephew, niece, sister-in-law, brother-in-law, father-in-law, mother-in-law, or first cousin. Shall not include relationships such as second, third, and fourth cousins.

Y. **TENANT** – any person who occupies a rental unit within a rental property regardless of whether such person has executed a lease for said premises.

SECTION 2. APPOINTMENT OF AN AGENT AND/OR MANAGER

Each property owner who is not an owner-occupant or who does not reside in the City of Lenoir City or within a ten-mile radius of the City shall appoint an agent who shall reside in the City or within a ten (10) mile radius of the City.

SECTION 3. INSPECTION OF RESIDENTIAL RENTAL PROPERTY

a. The governing body of the municipality may inspect residential rental dwelling units that are either deteriorated or in the process of deteriorating for compliance with applicable local housing, building, plumbing, electrical, fire, health, or related codes and to promote the health, safety, and welfare of its citizens in accordance with the following.

b. Upon adoption by the municipality of a residential rental inspection ordinance relating to residential rental dwelling units that are either deteriorated or in the process of deteriorating, the Codes Enforcement Officer shall make reasonable efforts to notify owners and parties in interest of residential rental dwelling units regarding the adoption of the residential rental inspection ordinance. The public authority shall provide a summary of the provisions of the residential rental inspection ordinance to owners and parties in interest of residential rental dwelling units in the designated residential rental inspection district.

c. The Codes Enforcement Officer, in conjunction with the written notification as provided for in this part, proceed to inspect dwelling units that are either deteriorated or in the process of deteriorating located in the City residential rental property and to determine if the dwelling units are in compliance with applicable housing, building, plumbing, electrical, fire, health, or related codes.

d. Following the initial inspection of a residential rental dwelling unit found to be deteriorated or in the process of deteriorating, the Codes Enforcement Officer may inspect periodically any residential rental dwelling unit that is deteriorated or in the process of deteriorating that is not otherwise exempted by this part.

e. Following the initial or periodic inspection of a residential rental dwelling unit found to be deteriorated or in the process of deteriorating and that is subject to a residential rental inspection ordinance, the Codes Enforcement Officer has the authority to require the owner or party in interest of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the Codes Enforcement Officer deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of all applicable housing, building, plumbing, electrical, fire, health, or related code.

f. The residential rental inspection ordinance of the municipality authorizes the Codes Enforcement Officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the power to:

- (1) Investigate conditions in the municipality, in order to determine which residential rental dwelling units in the municipality are deteriorated or in the process of deteriorating;

- (2) Administer oaths, affirmations, examine witnesses, issue subpoenas, and receive evidence;
- (3) Enter upon the premises for the purpose of making examinations and inspections; provided, that the Codes Enforcement Officer may enter inside the dwelling unit only with the consent of a person in possession, with a validly issued search warrant, or in the event of an emergency presenting an immediate threat to the health, safety, and welfare of a person in possession. Entry shall comply in all respects with the Fourth Amendment to the Constitution of the United States as well as Article I, Section 7, of the Constitution of Tennessee. Entry shall be made in such manner as to cause the least possible inconvenience to a person in possession;
- (4) Appoint and fix the duties of any officers, agents, and employees that the Codes Enforcement Officer deems necessary to carry out the purposes of the residential rental inspection ordinance; and
- (5) Delegate any of the Codes Enforcement Officer's functions and powers under the residential rental inspection ordinance to any officers and agents as the Codes Enforcement Officer may designate.

SECTION 4. DUTIES OF THE OWNER, AGENT, AND/OR MANAGER

- a. The duties of the Owner, Agent and/or Manager shall be to receive notices and correspondence, including service of process, from the City of Lenoir City; to arrange for the inspection of the rental units; do or arrange for the performance of maintenance, cleaning, repair, pest control, and ensure continued compliance of the premises with the Current Codes, Building Codes and Zoning Code in effect in the City of Lenoir City, as well as arrange for garbage removal.
- b. The name, address, and telephone number of the owner, agent and/or manager shall be reported to the Codes Enforcement Office in writing.
- c. The owner has the duty to maintain the premises in good repair, clean, and sanitary condition, and to maintain the premises in compliance with the current Codes, Building Codes, and Zoning Codes of the City of Lenoir City. He or she may delegate implementation of these responsibilities to an agent and/or manager.
- d. No dwelling unit shall be occupied, knowingly by the owner, manager, or agent, by a number of persons that is in excess of the requirements as defined by the City of Lenoir City for light, ventilation, and occupancy limits, Overcrowding, or any update thereof.
- e. If a rental unit is condemned due to the negligence of the owner, it shall be the responsibility of the owner to find housing for the occupants at the owner's expense.

SECTION 5. NOTICES

- a. All notices shall be sent to the owner, agent and/or manager, if applicable, by certified mail. In the event that the notice is returned by the postal authorities marked "unclaimed" or "refused," then the Code Enforcement Office or Police Department shall attempt delivery by personal service on the owner, agent and/or manager, if applicable. The Code Enforcement Office shall also post the notice at a conspicuous place on the premises.
- b. If personal service cannot be accomplished after a reasonable attempt to do so, then the notice may be sent to the owner, agent and/or manager at the address stated on the most current registration application for the premises in question, by regular first class mail, postage prepaid. If such notice is not returned by the postal authorities within five (5) days of its deposit in the U.S. Mail, then it shall be deemed to have been delivered to and received by the addressee on the fifth day following its deposit in the United States Mail.

c. For purposes of this Ordinance, any notice required hereunder to be given to the agent and/or manager shall be deemed as notice given to the owner.

d. There shall be a rebuttable presumption that any notice required to be given to the owner under this ordinance shall be no defense to closure of rental units, as long as all notice prerequisite to such proceedings have been given and deemed received in accordance with the provisions of this ordinance.

e. A claimed lack of knowledge by the owner, agent, and/or manager, if applicable, of any violation hereunder cited shall be no defense to closure of rental units, as long as all notice prerequisite to such proceedings have been given and deemed received in accordance with the provisions of the ordinance.

f. All notices shall contain a reasonable time (not less than 30 days) to correct violations of the above. Requests for additional time to correct deficiencies must be received by the City within five (5) days of receipt of the notice by the owner, agent, or a manager. The City retains the right to deny time extension requests.

g. If in the event that an owner, agent, or manager, initiates legal action against tenants and/or occupants of the said owner's building to correct violations of the above, it may be considered by the City that the Owner has taken reasonable action to correct said violations, if said legal action constitutes a valid attempt to correct all items that may be noted in any notice of violation. In such instances, where possible, the tenant and/or occupants shall be held liable and responsible by the City for correction of these violations.

SECTION 6. ENFORCEMENT

a. The following persons are hereby authorized to enforce this Ordinance:

- i. The Chief of Police
- ii. Any Police Officer
- iii. Code Enforcement Officer
- iv. The Fire Chief
- v. Deputy Fire Chief of the City of Lenoir City

b. The designation of any person to enforce this Ordinance or authorization of a Codes Enforcer, when in writing, and signed by a person authorized by Section (1a) to designate or authorize an inspector to enforce this Ordinance, shall be prima facie evidence of such authority before the General Sessions Court, Municipal Court, or any other Court, administrative body of the City, and the designating Director or Supervisor need not be called as witness thereto.

SECTION 7. FAILURE TO COMPLY WITH THIS ORDINANCE

If any person shall fail, refuse or neglect to comply with the provisions of this ordinance, or any rules or regulations, or any reasonable orders or directions of a City representative in reference thereto, the City may order the closure of the rental units, until such conditions or orders are complied with.

SECTION 8. VIOLATIONS AND PENALTIES

Any person, firm, or corporation who shall violate any provision of the Ordinance shall, upon conviction thereof, be sentenced to pay a fine not more than \$50.00 plus costs, or imprisonment for a term not to exceed six months in default of payment. Every day that a violation of this Ordinance continues shall constitute a separate offense.

SECTION 9. EXEMPTIONS TO THE ORDINANCE

a. Rental Units owned by Public Authorities, as defined under the Lenoir City Housing Authority or HUD, and Elderly Multi Dwelling Units that are occupied by 75% of persons over the age of sixty-five years of age.

- b. Multi-dwelling units that operate under Internal Revenue Service Code Section 42

SECTION 10. APPLICABILITY

The provisions of the ordinance shall not apply to properties which are hotels (motels), or dormitories.

SECTION 11. SAVING CLAUSE

This ordinance shall not affect violations of any other ordinance, code, or regulation existing prior to the effective date thereof and any such violations shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

SECTION 12. SEVERABILITY

If any section, clause, provision, or portion of this Ordinance shall be held invalid or unconstitutional by any Court of Competent jurisdiction such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION 13. EFFECTIVE DATE

This ordinance shall become effective immediately upon approval.

Approved on First Reading: Aug. 27, 2007

Approved on Second Reading: Sept. 10, 2007