

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE ADOPTING A REGISTRATION AND INSPECTION  
PROGRAM FOR RESIDENTIAL PROPERTIES BEING RENTED  
WITHIN THE CITY OF OPELIKA, ALABAMA**

**BE IT ORDAINED** by the City Council of the City of Opelika as follows:

Section 1. That Chapter 12 of the *Code of Ordinances* of the City of Opelika, Alabama, is hereby amended by adding an article to be numbered IV, which said article shall read as follows:

**ARTICLE VI**

**RESIDENTIAL RENTAL PROPERTY REGISTRATION AND INSPECTION**

**Sec. 12-40. Title.**

This article shall be known as the Residential Rental Property Registration and Inspection Code of the City of Opelika.

**Sec. 12-41. Legislative Findings.**

The City of Opelika does hereby find and declare that:

- (a) The Alabama Uniform Residential Landlord and Tenant Act, Act No. 2006-316, codified as Sections 35-9A-101 et seq, 1975 *Code of Alabama*, became effective on January 1, 2021;
- (b) Sections 35-9A-102(b) states that one of the purposes of the Act is to encourage landlords and tenants to maintain and improve the quality of housing;
- (c) Sections 11-40-10(b) authorizes a municipality to enforce police or sanitary regulations within the city limits and to prescribe fines and penalties for violations of the regulations;
- (d) Section 11-45-8(c) authorizes a municipality to adopt ordinances, rules and regulations as a code for the construction, erection, alteration or improvement of buildings, the installation of plumbing or plumbing fixtures, installation of gas or gas fixtures, fire prevention, health and sanitation, mechanical, housing, elimination and repair of unsafe buildings and other like codes;
- (e) Section 35-9A-204(a)(1) requires a landlord to comply with the requirements of applicable building and housing codes materially affecting health and safety;
- (f) Section 35-9A-301(1) requires a tenant to comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(g) Pursuant to Section 11-45-1, a municipality is authorized to adopt ordinances not inconsistent with the laws of the state to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the inhabitants of the municipality;

(h) In Opinion No. 207-009, dated October 31, 2006, the Attorney General issued an opinion to Mayor Ronald K. Davis of the City of Pritchard that a municipality has the authority to adopt an ordinance (1) requiring the annual inspection of apartments and rental houses to ensure compliance with the local building code, (2) charging a reasonable fee to defray the expense of performing the inspections, and (3) charging a reasonable fine or revoking the certificate of occupancy of any apartment or rental house failing to comply with the local building code;

(i) There is a need to protect the public health, safety and welfare of the occupants of residential rental dwelling units in the City of Opelika;

(j) The City Council of the City of Opelika (the "City") recognizes that the preservation of existing rental housing stock is of tremendous importance. There are more than 4,500 of rental housing units within the City. Rental housing provides needed, affordable housing for many and is a valuable asset that must be preserved and maintained. The City has a significant interest in ensuring that rental housing remains a safe and desirable housing option for its citizens.

(k) There exists in the City substandard and unsanitary residential buildings and rental housing units whose conditions violate state and local building, housing, and safety Codes and ordinances. Property owners may be unaware of some hazardous conditions, or may choose not to make the necessary repairs due to costs.

(l) Substandard and deficient rental housing units are unfit or unsafe for human occupancy and their conditions jeopardize the health, safety, and welfare of their occupants and of the public. Substandard housing conditions pose a particularly acute risk to young children (from lead poisoning or asthma attacks from mold and other air-borne irritants), seniors (from falls), and people with chronic illnesses.

(m) Relying on a complaint-based enforcement program is inadequate to ensure that rental housing properties are safely and adequately maintained. Inspection authorities often do not receive complaints about rental units with the worst violations of health and safety codes. Tenants may fear being evicted or that their rent will be raised for reporting violations or may face language or education barriers preventing them from using complaint-based programs.

(n) Deteriorating and substandard buildings and dwelling units also threaten the physical, social, and economic stability of neighboring structures and surrounding neighborhoods and the community as a whole. By ensuring that landlords are aware of poor conditions before they worsen, proactive inspections encourage preventative maintenance, which is more cost effective than deferred maintenance, and thereby helps landlords to maintain their properties. Proactive rental inspection programs can ensure that properties don't become blighted, thereby preserving neighboring property values and the local tax base.

(o) Public interest demands that all rental housing properties comply with the minimum standards regarding the health and safety of the public. The most effective way to seek universal compliance with the minimum standards is through routine, periodic inspections of all rental housing properties.

(p) Residential rental dwelling units are in need of inspection by the building official to prevent deterioration and to maintain safe, decent and sanitary living conditions for the tenants of such units.

The City of Opelika now seeks to adopt regulations of the type approved by the Attorney General to provide for the safety and preserve the health of persons residing in rental housing.

**Sec. 12-42. Purpose.**

The purpose of this article is to ensure that rental housing in the City is maintained in a good, safe and sanitary condition and does not create a nuisance or blighted condition to its surroundings; to protect the character and stability of residential areas; to identify the existence of substandard residential rental properties; to correct and prevent housing conditions that adversely affect the safety, general welfare and health of the residents; to preserve the value of land and structures throughout the City of Opelika; to provide certain minimum housing standards necessary to the health and safety of residents; and to enhance the quality of life of residents of the City living in residential rental units. With respect to rental disputes, it is not the intent of the City of Opelika to intrude upon contractual relationships between tenant and landlord. The City of Opelika does not intend to intervene as an advocate for either party, nor to be receptive to complaints between tenants and landlords which are not specifically and clearly relevant to the provisions of this article. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal remedies as are available to them without the intervention of the City of Opelika.

**Sec. 12-43. Definitions.**

For the purposes of this ordinance, the following words and phrases shall have the following meanings:

(a) “Building Official” is the chief building inspector of the building inspection division or his or her designee.

(b) “City” means the City of Opelika, Alabama.

(c) “Factory built housing” means a factory built structure designed for long-term residential use, the components of which are essentially constructed or assembled prior to its delivery to and installation upon a site. Factory built housing includes modular homes, manufactured homes, mobile homes and house trailers.

(d) “Property Maintenance Code” means the International Property Maintenance Code adopted under and pursuant to Section 5-207 of the *Code of Ordinances* of the City of Opelika.

(e) “Property Owner” means a person, persons, corporation, partnership, limited liability company, or any other entity holding fee title to the subject real property. If more than one person or entity owns the subject real property, “Property Owner” refers to each person or entity holding any portion of the fee interest in the property, and the Property Owners’ obligations in this article are joint and several as to each property owner.

(f) “Rental Occupancy Certificate” means a document issued by the building official indicating that the residential rental dwelling unit is in compliance with the Property Maintenance Code.

(g) “Residential Rental Property” means a structure or part of a structure, including factory built housing structures, with one or more residential units which are leased for occupancy. However, it does not include the property excluded in Section 12-44. Residential rental property includes the following: single-family dwellings, duplexes, apartments, townhouses, condominiums and factory built housing structures.

(h) “Residential Rental Dwelling Unit” means one (1) or more rooms in a structure designed and used as a residence or living quarters by one (1) or more persons who are not its owners and contained within a residential rental property as defined herein. It is a housing unit that is or may be available for rent or is occupied or rented by a tenant or subtenant in exchange for any form of consideration. However, it does not include the property excluded in Section 12-44.

(i) “Shelter” means a facility with overnight sleeping accommodations, owned, operated or managed by a non-profit organization or governmental entity, the primary purpose of which is to provide temporary shelter for the homeless in general or for specific populations of the homeless.

(j) “Unit unavailable for rent” means any residential dwelling unit that is not offered or available for rent as a rental unit and where prior to offering or making the unit available as a rental housing unit, the owner is required to register the rental property and comply with all rules adopted under this article.

(k) “Vacant” means a residential dwelling unit that is unoccupied or illegally occupied.

**Sec. 12-44. Scope.**

This article shall apply to all residential rental dwelling units located within the City of Opelika and all accessory uses thereon, including parking lots, driveways, landscaping, accessory structures, fences, walls, interior and exterior common areas. This article shall not apply to:

(a) Housing accommodations in hotels, motels, inns or tourist homes.

(b) Housing accommodations in hospitals, state licensed group homes, any facilities occupied exclusively by members of a religious order; licensed nursing homes, licensed

extended medical care facilities; licensed assisted living facilities, asylums or on-campus housing accommodations owned, operated or managed by an institution of higher education.

- (c) Owner or manager occupied rental units.
- (d) Rental units that are owned, operated or managed by a governmental agency other than the City or which are exempt from municipal regulation pursuant to state or federal law or regulations, but only so long as such government ownership, operations or management or exemption from municipal regulation continues in effect.
- (e) Public Housing Units owned or administered by the Housing Authority of the City of Opelika.
- (f) Section 8 rental units whose vouchers are administered by the Housing Authority of the City of Opelika.
- (g) Owner occupied condominium and townhouse units.
- (h) Emergency or temporary shelter or transitional housing accommodations.
- (i) Units unavailable for rent.

**Sec. 12-45. Registration of Residential Rental Property.**

- (a) After January 1, 2022, it shall be unlawful for any owner, as defined herein, to lease or operate a residential rental property without registering it with the City and complying with the provisions of this article. All existing residential rental units must be registered with the City on or before January 1, 2022, but not before October 1, 2021. The registration of residential rental properties required herein shall expire on the 31<sup>st</sup> day of December of each year thereafter.
- (b) After January 1, 2022, a newly constructed or converted residential rental property shall be registered with the City and a rental occupancy certificate obtained before said property is occupied.

**Sec. 12-46. Application Requirements.**

Applications for registration shall be filed with the building inspection department and accompanied by a registration fee as established in Sec. 12-49. Such application shall include the following information:

- (a) Name, street address and telephone number of the owner of the rental unit.
- (b) Name, street address and telephone number of the owner's agent responsible for the management of the premises of the rental unit.
- (c) Legal address of the rental unit.

- (d) Number of units in each building within the rental property.
- (e) Description of rental unit (i.e.) house, condominium, townhouse, apartment, manufactured home, mobile home, etc.
- (f) Signed statement of owner and owner's agent indicating that he/she is aware of the City's Property Maintenance Code and the legal ramifications for knowingly violating said Code.
- (g) The name and address of the registered agent, if the owner is a corporation.
- (h) Number of rental units, if property is an apartment complex or multi-unit facility. A list of unit numbers must accompany the registration.
- (i) The owner's signature and date of registration.

**Sec. 12-47. Registration Renewal.**

If there are no changes in ownership or agent representation, renewals of the registration may be made by filling out the Registration Renewal form furnished by the City and paying the appropriate fee. Registrations must be renewed on or before January 1 of each year, but not before October 1 of the preceding year.

**Sec. 12-48. Changes In Ownership.**

Within thirty (30) days of any change of ownership of any residential rental property, the new owner shall reregister the property by filing a registration application as set out in Section 12-46. There shall be no additional charge for the remaining period of the annual registration period. A change of ownership shall include any change in ownership rights, or execution of a contract or deed, whether recorded or not. The failure of the new owner to register the property within the time specified above is a violation of this article.

**Sec. 12-49. Registration Fee.**

The owner or his/her agent shall pay a registration fee of five dollars (\$5.00) for each residential rental dwelling unit when he/she submits his/her completed application for registration and/or his/her renewal application. A twenty-five dollar (\$25.00) late fee for each residential rental dwelling unit will be charged for the owner's failure to timely register or renew the registration of a residential rental dwelling unit in compliance with the provisions of this article.

**Sec. 12-50. Agent Required.**

(a) Each owner of a residential rental dwelling unit within the City rented or offered for rent shall appoint an agent upon whom the City may lawfully serve notices pertaining to the administration of this article. Service shall be effective as if made upon the owner.

- (b) The designated agent must reside in Lee County, Alabama.
- (c) The owner may serve as the agent if the owner resides in Lee County, Alabama.

**Sec. 12-51. Rental Property Inspection.**

Every owner of a residential rental dwelling unit within the City shall submit to the City's periodic inspection of each unit and the property on which such unit is located for compliance with the Property Maintenance Code. Except as hereinafter provided, all residential rental dwelling units which are or become vacant after January 1, 2022, must be inspected for compliance with the Property Maintenance Code and a rental occupancy certificate issued if the unit is in substantial compliance, prior to occupancy by a new tenant. Thereafter, whenever a residential rental dwelling unit becomes vacant, the property shall be inspected for compliance and a new rental occupancy certificate shall be issued. No residential rental dwelling unit shall be occupied if it does not have a valid rental occupancy certificate. After completion of an inspection, if the residential rental dwelling unit is not in compliance with the Property Maintenance Code and this article, the owner or his/her agent shall be furnished with a written list of specific violations that shall be corrected and setting a time within which such violations shall be corrected. All violations and deficiencies shall be corrected with all City required permits, approvals and inspections and re-inspections within the time specified in the notice before a rental occupancy certificate is issued. A provisional rental occupancy certificate may be issued if the residential rental dwelling unit is substantially but not entirely in compliance with the Property Maintenance Code and there are no imminent life, health or safety threatening violations. Notwithstanding the provisions of this section, a residential dwelling unit shall not be subject to inspection by the building official more often than every three (3) years from the date of issuance of the initial rental occupancy certificate except for re-inspections by the building official under Section 12.52 and inspections in response to citizen based complaints under Section 12-53. It shall be unlawful and in violation of this article for the owner of a residential rental dwelling unit to refuse to allow the building official to inspect a residential dwelling unit as required by Sections 12-51, 12-52 and 12-53.

**Sec. 12-52. Re-inspections.**

A residential dwelling unit that exhibits a deficiency or deficiencies shall be subject to reinspection by the building official. All violation corrections shall be completed within the time specified by the building official. Noncompliance with a notice and order of the building official shall automatically terminate the rental occupancy certificate or provisional certificate.

**Sec. 12-53. Complaint-based Inspection.**

Nothing contained herein shall prevent or restrict the authority of the building official to inspect any residential rental dwelling unit, or the premises thereof, in response to a citizen complaint alleging code violations or other violations of law at such unit and to pursue all code enforcement remedies permissible under this article or other laws following such a complaint-based inspection of a residential rental dwelling unit. Upon receipt of a citizen-based complaint, the building official shall inspect the pertinent residential rental dwelling unit and/or areas of the

residential rental property. All violations shall be corrected with all City required permits, approvals and inspections and re-inspections within the time specified on the notice and order of the building official in order to maintain a current rental occupancy certificate for a residential rental property. Noncompliance with a notice and order of the building official shall automatically terminate the rental occupancy certificate and render it null and void.

**Sec. 12-54. Rental Occupancy Certificate.**

Rental occupancy certificates issued pursuant to this article shall specify: the date of issuance, the legal use and occupancy of the unit, the unit address, the name of the unit owner to whom the certificate is issued, and that the unit complies with applicable laws so far as could be determined by inspection. It shall be unlawful and in a violation of this article for the owner of a residential rental dwelling unit to allow occupancy of a residential rental dwelling unit without first obtaining a rental occupancy certificate or allow occupancy after a residential rental certificate has been terminated. Noncompliance with a notice and order of the building official shall automatically terminate the rental occupancy certificate or provisional certificate.

**Sec. 12-55. Exemptions From Inspection Requirement.**

Newly constructed residential rental dwelling units shall be exempt from the inspection provisions of Section 12-51 for a period of seven (7) years from the date the certificate of occupancy is issued by the building official. The exemption period shall begin to run on the date the building official issues a certificate of occupancy for the unit. This exemption shall not apply to complaint-based inspections under Section 12-53.

**Sec. 12-56. Inspection Fees.**

(a) The owner of the residential rental dwelling unit shall pay to the City a fee of fifty dollars (\$50.00) for the initial inspection and one (1) reinspection of the unit to verify that substandard conditions have been corrected in accordance with Section 12-52. The owner shall be assessed a fee of twenty-five dollars (\$25.00) for each additional follow-up reinspection.

(b) If a residential rental dwelling unit has been occupied without a rental occupancy certificate having been issued in violation of this article, the owner of the residential rental dwelling unit shall pay to the City the following fees:

- (1) \$150.00 for the first occupancy without a certificate.
- (2) \$300.00 for the second occupancy within one (1) year without a certificate.
- (3) \$500.00 for the third occupancy within one (1) year without a certificate.

**Sec. 12-57. Administrative Regulations.**

The building official is authorized and directed to promulgate administrative regulations pertaining to the implementation and enforcement of this article; provided, however, such administrative regulations shall not be inconsistent with the provisions of this article.

**Sec. 12-58. Suspension of Rental Occupancy Certificate.**

(a) The building official may suspend a rental occupancy certificate if the building official determines that:

- (1) the residential rental property is unsafe or in a dangerous condition and the building official gives notice to the owner to remedy the unsafe or dangerous condition of the building or structure;
- (2) the owner fails to comply with a notice of violation;
- (3) the owner fails to comply with a requirement of this article;
- (4) the owner fails to comply with other City permitting requirements; or
- (5) the owner fails to pay the annual registration fee or inspection fee.

(b) A suspension is effective until the building official determines that the owner complies with:

- (1) the requirements of this article;
- (2) an order of the building official or court of competent jurisdiction; or
- (3) a notice of violation.

(c) While under suspension, an owner may not lease or otherwise allow vacant rental units to be occupied and may not lease or otherwise allow an occupied rental unit to be occupied by new tenants.

(d) The building official must give notice to the owner of his intent to suspend the rental occupancy certificate issued under this article.

(e) The notice required by this section may specify a reasonable time for compliance under this article. If a time for compliance is specified, the building official may not suspend before the time for compliance has expired.

(f) If the rental occupancy certificate is suspended, the building official must give notice to the tenants.

**Sec. 12-59. Revocation of Rental Occupancy Certificate**

(a) The building official may immediately revoke a rental occupancy certificate that has been suspended pursuant to Section 12-58 (Suspension) if the building official determines:

(1) a condition that is dangerous or impairs habitability exists at the rental property during the suspension period; and

(2) the owner fails to take remedial action to correct the condition.

(b) Even if the certificate of rental occupancy certificate has not been suspended, the building official may immediately revoke the certificate issued under this article if an order to vacate the rental property is issued by the building official or a court of competent jurisdiction.

(c) After the rental property is compliant with the Property Maintenance Code, the building official may reinstate the rental occupancy certificate for the time specified in sections 12-51 and 12-54.

**Sec. 12-60. Appeals.**

All denials, suspensions, revocations and decisions of the building official shall be final and binding upon all parties unless the property owner appeals to the City Council. Any person receiving a notice of an adverse decision, including denial of a rental occupancy certificate, notice of suspension, or notice of revocation, and wishing to appeal the same shall file a written notice of appeal in the office of the City Clerk within ten (10) days from the date of notice of the adverse action. The notice of appeal must contain a brief statement of the facts that support the appeal and why the building official's decision should be reversed. The hearing on the appeal to the City Council shall be held within thirty (30) days of the notice of appeal. The decision of the City Council shall be final.

**Sec. 12-61. Penalties For Violation.**

Violation of the provisions of this article or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than one hundred eighty (180) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other lawful actions as are necessary to prevent or remedy any violation.

**Sec. 12-62. Injunctive Relief and Civil Remedies.**

(a) If a person has violated or continues to violate the provision of this article, the City may petition the appropriate court for a preliminary and/or permanent injunction restraining the person from activities which would create violations of this article or compelling the person to perform corrective action and/or remediation of any violation.

(b) The City may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages resulting from any violation of this article and may seek other equitable relief to enforce compliance with the provisions of this article or to enforce compliance with any lawful orders of the building official.

**Sec. 12-63. Liability.**

Nothing contained in this article is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers, employees, or agents, for any injury or damage resulting from the failure of an owner of property or land to comply with the provisions of this article, or by reason and in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this article, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this article by its officers, employees or agents.

**Sec. 12-64. Severability.**

Severability is intended throughout and within the provisions of this article. If any section, clause, sentence or phrase of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, then such holding shall in no way affect the validity of the remaining portion of this article.

Section 2. **Repealer Clause.** All ordinances or parts thereof which are in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 3. **Effective Date.** This ordinance and the provisions of article IV of Chapter 12 of the *Code of Ordinances* of the City of Opelika shall be effective as of October 1, 2021, except that the provisions of Sections 12-51, 12-52, 12-53, 12-54, 12-55 and 12-56 shall become effective as of January 1, 2022.

Section 4. **Publication.** The City Clerk of the City of Opelika, Alabama, is hereby authorized and directed to cause this ordinance to be published one (1) time in The Opelika-Auburn News, a newspaper published in and of general circulation in the City of Opelika, Alabama.

**ADOPTED AND APPROVED** this the \_\_\_\_ day of \_\_\_\_\_, 2021.

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PRESIDENT OF THE CITY COUNCIL OF THE  
CITY OF OPELIKA, ALABAMA

ATTEST:

\_\_\_\_\_  
CITY CLERK

TRANSMITTED TO MAYOR on this the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
CITY CLERK

ACTION BY MAYOR

APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK