Re: 781
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ORDINANCE NO. 684

AN ORDINANCE RELATING TO THE SYSTEMATIC INSPECTION OF RENTAL HOUSING; SETTING FORTH THE PURPOSE OF THE ORDINANCE; ESTABLISHING DEFINITION OF TERMS; REGISTRATION REQUIREMENTS AND MANNER OF REGISTRATION; TRANSFER REQUIREMENTS; INSPECTION REQUIRED AND THE FREQUENCIES THEREOF; CERTIFICATION OF INSPECTION REQUIRED; INSPECTION PROCEDURE; CERTIFICATE AVAILABILITY; CREATING AND ESTABLISHING HOUSING BOARD OF APPEALS AND THE APPEAL PROCESS; ESTABLISHING INSPECTION FEES; EXEMPTION OF UNITS SUBJECT TO INSPECTION OF OTHER GOVERNMENTAL UNITS; VIOLATION OF PROVISIONS OF ORDINANCE DECLARED A MISDEMEANOR AND THE PENALTY THEREFOR; AND PROVIDING THE EFFECTIVE DATE OF THE ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF REXBURG, IDAHO:

This ordinance shall be known and may be cited as "The Systematic Inspection of Rental Housing Ordinance."

SECTION 1: Purpose. The City of Rexburg recognizes a need for an organized inspection program of residential rental units within the City in order to upgrade rental units to meet city and state life safety, health, fire and zoning codes within the City and to provide a more efficient system for compelling both absentee and local landlords to correct violations and to maintain, in proper condition, residential rental property within the City. The City recognizes that the most efficient system to provide for rental inspections is the creation of a program requiring the registration of all residential rental units within the City so that orderly inspection schedules can be made by City officials.

SECTION 2. Definitions. As used in this ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Dwelling unit: A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Rooming unit: Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Dwellings:

(1) Single-family dwelling. A building containing one dwelling unit.

(2) Two-family dwelling (duplex). A building containing two dwelling units.

(3) Multifamily dwelling. A building or portion thereof containing more than two dwelling units.

(4) Boardinghouse, rooming house, lodging house and tourist house. A building arranged or used for the lodging, with or without meals, for compensation, by individuals who are not members of the family.

(5) Dormitory. A space in a building where sleeping accommodations are provided for more than one person not members of the same family group, in one room.

(6) Hotel. A room or rooms in any building or structure kept, used, maintained, advertised or held out to the public to be an inn, motel, hotel, apartment hotel, lodging house, boardinghouse, rooming house, tourist house, dormitory or place, where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals.

Person: Any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, or receiver, executor, trustee, conservator or other representative appointed by order of any court.

Permanent resident: Any person who occupies or has the right to occupy any room or rooms in a hotel or motel for at least 30 consecutive days.

Premises: A lot, plot or parcel of land including the buildings or structures thereon.

SECTION 3: Registration requirements. No person shall hereafter occupy, allow to be occupied or let to another person for occupancy any residential rental property within the City for which a registration statement has not been properly made and filed with the Building Inspector of the City. Registration shall be made upon forms furnished by the Building Inspector of the city for such purpose and shall specifically require the following minimum information:

(1) Name, address and phone number of the property owner.

(2) Name, address and phone number of the designated local property manager if the property owner lives outside the metropolitan area.

(3) The street address of the rental property.

(4) The number and types of units within the rental property (dwelling units or sleeping rooms).

(5) The maximum number of occupants permitted for each dwelling unit or sleeping room.

(6) The name, phone number and address of the person authorized to make or order made repairs or services for the property, if in violation of city or state codes, if the person is different than the owner or local manager.

SECTION 4: Manner of registering. The registration must be made on or after January 2, 1989, by the property owner or designated local property manager in the office of the Building Inspector of the City.

SECTION 5: Transfer of property. Every new owner of rental property (whether as fee owner or contract purchaser) shall be required to furnish to the Building Inspector the new owner's name, address and phone number and the name, address and phone number of the owner's designated local manager before taking possession of the rental property. No registration fee shall be required of the new owner during the year in which possession takes place provided that the previous owner has paid all registration fees and has complied with all requirements of this ordinance and any notices from the City concerning violations of health, zoning, fire or safety codes of the City. If any change in the type of occupancy as originally registered is contemplated by the new owner, a new registration statement will be required.

SECTION 6: Inspection required.

(a) All multifamily dwellings, boardinghouses, rooming houses, lodging houses, tourist houses, hotels that rent to permanent residents and dormitories shall be inspected systematically for compliance with this ordinance and all other applicable laws.

(b) The provisions of this section shall not apply to:

(1) Dwellings, buildings, structures and used owned and operated by any governmental agency;

(2) Dwellings, buildings, structures and uses licensed and inspected by the state;

(c) Where a nonresidential business or activity, or a state licensed and inspected use occupies a portion of a building and premises which would be otherwise subject to this ordinance, the provisions of this ordinance shall be applicable to the residential and common or public areas of such building and premises.

SECTION 7: Frequency of inspections.

(a) All rental dwellings subject to this section shall be inspected at least once every two years.

(b) Neither the common areas nor the dwelling or rooming units in structures newly constructed shall be further inspected after the completion and issuance of a certificate of occupancy for a period of three years from the date of said certificate, unless a complaint is made thereof. Thereafter said areas and units shall be inspected in accordance with the requirements of this ordinance.

(c) Nothing in this section shall preclude the inspection of said dwellings more frequently than every two years.

SECTION 8: Inspection certificate required. No person shall rent, let or let for occupancy any dwelling subject to this division without having a valid, current certificate of inspection for that dwelling.

SECTION 9: Inspection procedure.

(a) If, upon completion of the biennial inspection, the premises are found to be in compliance with all applicable city codes and ordinances and the appropriate fee has been paid, the city shall issue a certificate of inspection for the premises.

(b) If, upon completion of the inspection, the premises are found to be in violation of one or more provisions of applicable city codes and ordinances, the city shall provide written notice of such violations and shall set a reinspection date before which such violation shall be corrected. If such violation has been corrected within that period, the city shall issue a certificate of inspection for the premises. If such violations have not been corrected within that period, the city shall not issue the certificate of inspection and may take any action necessary to enforce compliance with applicable city codes and ordinances. If such uncorrected violations do not pose an immediate threat to the health, safety, and welfare of the occupants, the City Building Inspector may authorize the occupancy of the premises for a period not to exceed 90 days.

SECTION 10: Request for inspection. The owner of any dwelling subject to this division may request inspections of said dwelling at any time.

SECTION 11: Certificate expiration date.

(a) The certificates of inspection issued pursuant to this division shall expire two years from the date of the biennial inspection.

(b) The certificate of inspection shall have the expiration date prominently displayed on its face.

SECTION 12: Certificate transferability. A certificate of inspection issued pursuant to this division shall be transferable to succeeding owners; provided, that within five days of the transfer, the transferor shall provide written notice of said transfer to the city manager or the city manager's designee. Such notice shall contain the name and address of the succeeding owners. The failure to provide such notice may result in the suspension or revocation of the certificate of inspection.

SECTION 13: Certificate availability. Upon the

request of an existing or prospective tenant, the owner or the owner's agent shall produce the certificate of inspection.

SECTION 14: Housing board of appeals. There is hereby created and established a Housing Board of Appeals to act as a reviewing body in connection with the rental registration and rental unit inspection program under this ordinance. This board shall act as a body to review disputes arising between the City and the owner of the rental property registered and inspected pursuant to this ordinance. This board further shall regularly review and make such recommendations as the board deems reasonable and necessary to the City Council as to the schedule of fees required under this program. The board shall consist of five individuals as follows:

(a) A landlord.
(b) A tenant.
(c) A homeowner.
(d) A contractor.
(e) A professional property manager.

The City will appoint as a nonvoting member of the Housing Board of Appeals a representative from the Building Department. The Mayor, with Council approval, shall appoint the members of the Housing Board of Appeals.

SECTION 15: Appeal process. Any property owner aggrieved by any action taken by the City in regard to the rental registration and rental unit inspection program under this ordinance may request a review by or may make an appeal to the Housing Board of Appeals as to the action of the City. Upon receipt of the request or appeal, the Housing Board of Appeals shall hear and consider the matter. An appeal must be taken within ten days from the City's action and shall be in writing addressed to the Housing Board of Appeals of the City. The property owner shall have the right to appear and to be represented by counsel. The Housing Board of Appeals, after due and proper hearing, shall issue its order of decision and the decision may be appealed in the manner provided by law.

SECTION 16: Fees.

(a) No fees will be charged for the regular biennial inspections.

(b) For each reinspection required by this division which is not a biennial inspection and which is necessitated by the existence of violations of this ordinance ascertained during a biennial inspection, there shall be a $15.00 hourly reinspection fee.

(c) The units enumerated above shall include units used or occupied by the owner or the owner's representative.

(d) Where a rental dwelling does not have a current certificate of inspection, then for purposes of calculating the fee therefor the first inspections of the structure shall be deemed the biennial inspection.

(e) For purposes of this section the term "unit" shall mean either dwelling unit or rooming unit.

SECTION 17: Exemptions. This ordinance shall not apply to hospital units, nursing units or retirement home units located within the City, which are subject to inspection by other governmental agencies.

SECTION 18: Nuisance, injunction. Any violation of this ordinance is hereby declared to be a misdemeanor. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this ordinance. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

SECTION 19: Severability. The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or application.

SECTION 20: Penalty. Any person, firm or corporation violating any provision of this ordinance shall be fined not less than $50.00 nor more than $300.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 21. This ordinance shall become effective upon its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 21st day of December, 1988.

Mayor John C. Porter

ATTEST:

City Clerk Rose Bagley

(SEAL)

STATE OF IDAHO)
: ss.
County of Madison)

I, ROSE BAGLEY, City Clerk of the City of Rexburg,

Idaho, do hereby certify: That the above and foregoing is a full, true and correct copy of the ordinance entitled:

AN ORDINANCE RELATING TO THE SYSTEMATIC INSPECTION OF RENTAL HOUSING; SETTING FORTH THE PURPOSE OF THE ORDINANCE; ESTABLISHING DEFINITION OF TERMS; REGISTRATION REQUIREMENTS AND MANNER OF REGISTRATION; TRANSFER REQUIREMENTS; INSPECTION REQUIRED AND THE FREQUENCIES THEREOF; CERTIFICATION OF INSPECTION REQUIRED; INSPECTION PROCEDURE; CERTIFICATE AVAILABILITY; CREATING AND ESTABLISHING HOUSING BOARD OF APPEALS AND THE APPEAL PROCESS; ESTABLISHING INSPECTION FEES; EXEMPTION OF UNITS SUBJECT TO INSPECTION OF OTHER GOVERNMENTAL UNITS; VIOLATION OF PROVISIONS OF ORDINANCE DECLARED A MISDEMEANOR AND THE PENALTY THEREFOR; AND PROVIDING THE EFFECTIVE DATE OF THE ORDINANCE.

passed by the City Council and approved by the Mayor this 21st day of December, 1988.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City of Rexburg, this 21st day of December, 1988.

Kaye Bagley
City Clerk

(SEAL)