

ORDINANCE NO. 4406

AN ORDINANCE to repeal Article G (RESIDENTIAL RENTAL PERMITS), and to enact a revised Article G-1 (RESIDENTIAL RENTAL INSPECTION DISTRICTS), all of Chapter 1 (BUILDING CODE), Title 8 (BUILDING CODE REGULATIONS), of the Code of the City of Alexandria Virginia, 1981, as amended.

WHEREAS, the City Council of the City of Alexandria finds and determines that:

1. The City's current Residential Rental Permit Program authorizes the inspection of residential rental dwelling units for the purposes of protecting the public health, safety and welfare of City residents; and

3. At its 2004 session, the General Assembly enacted Virginia Code '36-105.1:1 which confirms the authority of local governments to inspect residential rental dwelling units, but amends the required process and procedure for establishing and conducting such inspections; and

4. Inspections conducted to date under the City's current program have confirmed the necessity of residential inspections, and demonstrated the need for the establishment of rental inspection districts as provided under Virginia Code '36-105.1:1, to protect the health, safety and welfare of the residents of the residential rental units located in such inspection districts, and further to prevent deterioration and blight in these districts; and

5. Upon consideration of the following factors, including but not limited to: the high proportion of rental units to total dwelling units in the districts; the age of buildings and structures in the districts; the high levels of complaints and/or history of code compliance violations in the districts; the history of residential structures that lack facilities that provide the minimum levels of health, safety and welfare to the occupants, overcrowding conditions and the need to prevent further deterioration of existing residential buildings in the districts; the establishment of rental inspection districts, as more particularly described in this Ordinance, is necessary to protect and maintain decent and sanitary living conditions for tenants and other residents within such districts and

6. Based on the foregoing findings, and all other facts and circumstances of which the City Council may take notice as the legislative body of the City of Alexandria, Virginia, adoption of this ordinance is necessary and convenient to protect the public health, safety and general welfare.

THE CITY COUNCIL OF ALEXANDRIA, HEREBY ORDAINS:

Section 1. That Article G, Chapter 1, Title 8 of the Code of the City of Alexandria Virginia, 1981, as amended, be, and the same hereby is, repealed.

Section 2. That Chapter 1, Title 8 of the Code of the City of Alexandria Virginia,

1981, as amended, be, and the same hereby is, amended and reordained by adding thereto a revised Article G-1, to read as follows:

ARTICLE G-1

RESIDENTIAL RENTAL INSPECTION DISTRICTS

DIVISION 1 GENERALLY

Sec. 8-1-110 Purpose and Intent.

The purpose of this article is to require the inspection of residential rental dwelling units for compliance with the Building Code and to promote safe, decent and sanitary housing, in accordance with Code of Virginia ' 36-105.1:1.

Sec. 8-1-111 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;

ABuilding Code@ means the Virginia Uniform Statewide Building Code.

ACode Official@ means the Director of the Code Enforcement Bureau of the Fire Department, the technical assistants who are employees of the Bureau, or any designee of the Director of the Code Enforcement Bureau.

AConditions which immediately affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit@ include items that violate fire safety; lack of or poor condition of sanitary facilities; absence of adequate heating systems or equipment; items which affect the safe operation of electrical and mechanical systems; items which affect structural integrity of the building and/or the ability of the building envelope to keep out weather, or one or more other conditions that if not corrected would be reasonably expected to become conditions that affect the safe, decent and sanitary living conditions of the occupants.

ADisqualifying Violation@ includes those conditions which affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit, or other conditions that violate the provisions of the Building Code, or multiple building code violations that indicate in their totality that the dwelling unit is not being properly maintained.

ADwelling Unit@ means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household. The term "dwelling unit" shall not

include hospitals, nursing homes, convalescent homes or similar facilities providing medical care to the aged, infirm or disabled.

AMultiple-Family Development@ means any structure, consisting of 10 or more residential rental dwelling units under common ownership and occupied for valuable consideration. The term "multiple-family development" shall not include mobile homes under common ownership in a mobile home park or subdivision; nor shall such term include single-family detached dwellings, duplex dwellings, or townhouse dwellings under common ownership.

AOwner@ means the person or entity shown on the current real estate assessment books or current real estate assessment records of the City or the fee simple titleholder of the property if ownership has changed since such tax assessment records were last updated.

AResidential rental dwelling unit@ means a dwelling unit that is leased or rented to one or more tenants month to month or for any period in excess of thirty (30) days including, but not limited to, condominiums, manufactured or mobile homes, single-family detached dwellings, duplex dwellings, townhouse dwellings or multi-family dwellings (which shall include efficiency apartments and condominiums). However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom, unless otherwise provided in the zoning ordinance by the local governing body.

DIVISION 2 RENTAL INSPECTION DISTRICTS

Sec. 8-1-112 Factors for Establishing Rental Inspection Districts.

After holding a duly advertised public hearing as required by the Code of Virginia, '36-105.1:1(C)(1), having duly given notice as required, City Council finds that within the inspection districts described in section 8-1-113 herein below, (i) there is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated rental inspection districts; (ii) the residential rental dwelling units within the designated rental inspection districts are either (a) blighted or in the process of deteriorating, or (b) the residential rental dwelling units are in the need of inspection by the Code Official to prevent deterioration, taking into account the number, age and condition of residential dwelling rental units inside said rental inspection districts, and (iii) the inspection of residential rental dwelling units inside the rental inspection districts is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the rental inspection districts.

Sec. 8-1-113 Rental Inspection Districts Established.

Based upon the findings of City Council as set forth in section 8-1-112 herein above, the

following areas are included and hereby declared to be rental inspection districts which are subject to the requirements of this article;

East District: Census tracts 7.00, 8.02, 12.02, 12.03, 12.04, 13.00, 14.00, 16.00, 18.01, 18.02, and 20.01.

West District: Census tracts 1.01 ,1.03, 1.04, 1.05, 3.01, 3.02, 3.03, 4.01, 4.02, 5.00, and 6.00.

A map showing the rental inspection districts described in section 8-1-113 is hereby adopted as a part of this article, and shall be available for public inspection in the Code Enforcement Bureau. Said districts are hereinafter referred to collectively as "inspection districts" and individually as "inspection district."

Sec. 8-1-114 Applicability.

The provisions of this article shall apply to residential rental dwelling units located within the districts identified in section 8-1-113 of this article and shall further apply to certain structures located outside of such districts but meeting the requirements of section 8-1-115(g) herein below.

DIVISION 3 INSPECTION

Sec. 8-1-115 Inspection and Certificate Required.

(a) The Code Official may, in conjunction with the written notifications provided for in section 8-1-112, proceed to inspect dwelling units in the designated rental inspection districts to determine if the dwelling units are being used as a residential rental property and for compliance with the provisions of the Building Code that affect the safe, decent and sanitary living conditions for tenants of such property.

(b) The owner of each residential rental dwelling unit located in an inspection district shall arrange for and permit an initial inspection and subsequent inspections of such residential rental dwelling unit as provided in this section and section 8-1-116. Inspections under this article shall be conducted by the City's Code Official who is charged with the enforcement of this article, or his designee. If the unit to be inspected is occupied at the time of a required inspection, it shall be the duty of the owner thereof to notify the occupants of such inspection and make the residential rental dwelling unit available for inspection.

(c) If inspection reveals that a residential rental dwelling unit has no disqualifying violations, the Code Official shall issue a 48-month Certificate of Compliance for such unit. However, if one or more violations of the property maintenance provisions of the Building Code are found that do not constitute a disqualifying violation, the existence of such non-disqualifying violations shall be noted on the 48-month Certificate of Compliance together with the date by which such non-disqualifying violations must be remedied, which date shall be determined by

the Code Official and which date shall be reasonable. The issuance of a Certificate of Compliance shall not be evidence of a lack of any and all building code violations, and shall not prevent the Code Official from conducting follow-up inspections regarding building code violations in the residential rental unit, whether or not the violations affect the safe, decent and sanitary occupancy of said unit. If a follow-up inspection reveals that the owner has failed to remedy the noted violations by the specified date, the Code Official shall issue a Notice of Violation, revoke the 48-month Certificate of Compliance and the unit shall thereafter be subject to annual inspections pursuant to section 8-1-116.

(d) If inspection of a residential rental dwelling unit reveals one or more disqualifying violations, the Code Official shall not issue a Certificate of Compliance until the disqualifying violations are satisfactorily remedied. However, the Code Official may issue a Temporary Certificate of Compliance if in the opinion of the Code Official such disqualifying violations do not constitute an immediate threat of injury to the occupants of such residential rental dwelling unit. If conditions warrant, however, the Code Official may require that the residential rental dwelling unit be vacated or remain unoccupied until brought into compliance, pursuant to his authority under Code of Virginia ' 36-98, et. seq., the Virginia Uniform Statewide Building Code. Upon compliance, the Code Official shall, as provided in section 8-1-116 of this article, issue an annual Certificate of Compliance.

(e) No annual inspection pursuant to this article shall take place more than one time each year, calculated from the date of the first inspection, unless additional inspections are necessary to ensure compliance. Nothing in this article shall alter the duties or responsibilities of the Code Official to conduct any other inspections, as allowed under the provisions of the Building Code, and inspections for obtaining a Certificate of Compliance under this article do not supplant or preclude any other inspection authorized under the Building Code.

(f) Unless a current Certificate or Temporary Certificate of Compliance is in force for a residential rental dwelling unit in accordance with the provisions of section 8-1-116 of this article, and such Certificate remains in effect, no owner of such unit shall permit any person to occupy such unit as a tenant or otherwise.

(g) An individual residential rental dwelling unit located outside of a rental inspection district shall nevertheless be subject to the terms of this article upon City Council making a separate finding for each such individual residential rental dwelling unit that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual residential rental dwelling unit; (ii) the individual residential dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the Building Code that affect the safe, decent and sanitary living conditions for occupants of such individual dwelling unit. Upon said finding by the City Council, said residential rental dwelling unit shall be subject to this article, notwithstanding its location outside the inspection districts.

(h) Should the owner fail to timely contact the Code Enforcement within the required time in order to schedule any inspection required under this article, or should such owner fail to allow such inspection to proceed on the date for which it was scheduled, the owner shall be in violation of this article and shall be subject to such penalties and enforcement remedies as provided in section 8-1-120 herein below.

Sec. 8-1-116 Certificates of Compliance; Applications and Exemptions.

(a) The following provisions shall apply to all residential rental dwelling units located within inspection districts, which are not exempted under subsection (b) of this section:

(1) The initial inspection of each residential rental dwelling unit which is subject to inspection under this article, unless the initial inspection is delayed under paragraph (a) of this section, shall take place no later than 120 days from the date that the owner thereof contacts the Code Enforcement Bureau to schedule such inspection. The Code Official shall inspect such unit within a reasonable time. Each residential rental unit, for which a Certificate of Compliance or 48-month Certificate of Compliance as described in (a)(7) below has been issued, shall be inspected again within 30 days from the expiration of either the Certificate or the revocation of a 48-month Certificate of Compliance.

(2) Prior to expiration of the Certificate of Compliance or 48-month Certificate of Compliance, or upon revocation of a 48-month Certificate of Compliance, the owner of such residential rental dwelling unit shall contact the Code Enforcement Bureau and arrange for an inspection of such unit. Except in the case of an inspection following revocation of a 48-month Certificate of Compliance, should the date scheduled for inspection fall after expiration of the current Certificate, and more than thirty days from the day on which the owner contacted the Code Enforcement Bureau to schedule inspection, a thirty-day Temporary Certificate of Compliance shall be issued. Said inspection shall take place no later than 30 days from the date of application for said inspection, and such Temporary Certificate shall expire on the date of the inspection.

(3) For Building Code violations which do not immediately affect the safe, decent and sanitary living conditions for persons living in such unit, provided that all inspection fees shall have been remitted in advance of the issuance of such Temporary Certificate of Compliance, the Code Official shall issue one Temporary Certificate of Compliance valid for thirty (30) days, and may permit such extensions thereof as the Code Official shall deem reasonably necessary to allow for remediation of the violations. However, as to Building Code violations which are disqualifying violations and which pose an immediate threat to the safe, decent and sanitary living conditions for persons living in such unit, then the Code Official shall not issue a Temporary Certificate of Compliance.

(4) Temporary Certificates of Compliance shall expire upon the earlier of either their stated expiration dates or the completion of an inspection which finds all violations have been remedied.

(5) Unless a residential rental unit in an inspection district is exempted from inspection under this Article, or receives a 48-month Certificate of Compliance as provided in subsection (a)(6) below, the term of a Certificate of Compliance issued for any residential rental dwelling unit in an inspection district shall be for a term of twelve (12) months, beginning with the first day of the month next following the month of issuance.

(6) A residential rental dwelling unit which, upon inspection under this article, either has no disqualifying violations, or has only one or more violations of such Code that do not affect the safe, decent and sanitary living conditions for persons living in such unit, shall not be subject to further annual inspection under this article for forty-eight (48) months from date of such annual inspection, except as provided in section 8-1-115, and a 48-month Certificate of Compliance shall be issued for such unit. However, if a residential rental dwelling unit covered by a 48-month Certificate of Compliance is found in violation of the Building Code during the term of such 48-month Certificate of Compliance, the Code Official may revoke such 48-month Certificate of Compliance and such unit shall thereupon become subject to annual inspections and the issuance of annual Certificates of Compliance. If an annual Certificate of Compliance is issued after the inspection necessitated by the violation of the Building Code and revocation of the extended Certificate of Compliance, then said residential rental dwelling unit shall again be eligible for an extended Certificate of Compliance only after the annual Certificate of Compliance has expired and as of the first subsequent annual inspection when no disqualifying violations are found.

(7) Should a residential rental dwelling unit be sold, or the title thereto be otherwise transferred to another owner during the term of any Certificate of Compliance issued for such unit, the term of such Certificate shall continue and will expire 48 months from the original issuance date, unless disqualifying Building Code violations are found, in which case the exemption previously granted maybe revoked.

(b) The following shall be exempt from the requirements of this article for the time periods indicated:

(1) No inspection of a newly constructed residential rental dwelling unit located in an inspection district shall be required within forty-eight (48) months of the issuance of a Certificate of Occupancy for such newly constructed unit. Thereafter, said unit shall in all respects become subject to the requirements of this article.

(2) All hotels, motels, inns, bed and breakfast establishments, and other similar facilities, to the extent occupied by transients, shall be exempt from compliance with this article.

Sec. 8-1-117 Multi-family Developments.

(a) If a multi-family development contains more than 10 residential rental dwelling units during the initial and annual inspections, the Code Official shall inspect no less than two units and not more than 10 percent (10%) of the residential rental dwelling units.

(b) Notwithstanding the number of residential rental dwelling units inspected in a multi-family development, the Code Official shall charge the fee authorized by this article for inspection of no more than 10 dwelling units.

(c) If the Code Official determines upon inspection of a sampling of dwelling units in accordance with subsection (a) above that there are violations of the Building Code that affect the safe, decent and sanitary living conditions for the tenants of such multi-family development, the Code Official may inspect as many dwelling units as he deems reasonably necessary to enforce the Building Code, in which case the fee shall be based upon a charge per dwelling unit inspected, notwithstanding the provisions of subsection (b) of this section.

DIVISION 4 CERTIFICATE ISSUANCE, INSPECTION FEES AND ENFORCEMENT

Sec. 8-1-118 Issuance of Certificate; Fees.

(a) Except as provided in section 8-1-117(c) above, there shall be a \$50.00 inspection fee for the inspection of each dwelling unit. If repairs or corrections are deemed necessary by the Code Official, and a reinspection is required, no additional fee shall be charged for the reinspection. If, however, subsequent reinspections are required, there shall be charged an additional fee of \$50.00 per dwelling unit for each subsequent unit reinspection. No reinspection shall be performed, nor any Certificate of Compliance be issued, until all fees have been paid.

(b) Requests for an inspection may be made by telephone; provided, however, that the Code Enforcement Bureau must, in all cases, receive notice from the owner and payment of the applicable inspection fees prior to conducting any inspection required under this Article.

(c) The Code Official shall issue a 48-month certificate, as provided in section 8-1-116 when, upon inspection, the Code Official determines that the residential rental dwelling unit has no disqualifying violations. The 48-month Certificate of Compliance shall be issued immediately upon completion of an inspection in which no disqualifying violations are found.

(d) If the dwelling unit fails to comply with any one or more provisions of the Building Code, and any amendments thereto, the Code Official shall furnish the owner with a written list of specific violations. Failure to list any violation shall not be deemed a waiver of enforcement of such violation. Upon the completion of all corrections and repairs, the owner shall arrange a reinspection of the residential rental dwelling unit. Reinspection shall be for the purpose of determining compliance by the owner with the written list of specific violations furnished to the owner by the Code Official. However, if upon reinspection, the Code Official discovers other violations that were not listed on the written list of specific violations previously furnished to the owner, the Code Official shall furnish the owner with a supplemental list of violations and shall

provide the owner a reasonable opportunity to make corrections. This provision, however, shall not preclude the Code Official from revoking the 48-month Certificate of Compliance if the subsequently discovered violations are disqualifying violations or if the non-disqualifying violations have not been corrected pursuant to sections 8-1-115 and 8-1-116.

Sec. 8-1-119 Appeals; effects.

(a) Any person aggrieved by any determination or decision of the Code Official made pursuant to this article shall have the right to appeal such determination or decision in accordance with the provisions of the Building Code, and amendments thereto.

(b) Nothing in this article shall be construed to limit, impair, alter or extend the rights and remedies of persons in their relationship of landlord and tenant as such rights and remedies exist under applicable law.

(c) Nothing in this article shall be construed to relieve or exempt any person from otherwise complying with all applicable laws, ordinances, standards and regulations pertaining to the condition of buildings and other structures.

(d) Nothing in this article shall be construed to limit the authority of the Code Official to perform housing inspections in accordance with applicable law.

Sec. 8-1-120 Violation; penalty; right of entry.

(a) Any person failing to comply with the inspection requirements of this article shall be subject to the civil penalties established below and as stated in section 8-1-6.

(b) Any person failing to comply with this article shall be subject to a \$100.00 dollar civil penalty to be assessed for any one (1) violation for the initial summons. An additional \$150.00 penalty may also be assessed for each additional summons from the date notice is first given for each property, for failure to arrange for inspection or to obtain a Certificate of Compliance, as required by this article.

(c) Each day during which a violation is found to exist shall be a separate offense. However, in no event shall specified violations arising from the same set of operative facts be cited more frequently than once in a ten day period and in no event shall a series of such violations result in civil penalties exceeding a total of \$3,000.00.

(d) The remedies set forth in (a) and (b) of this section are not the exclusive remedies for non-compliance with the requirements of this article, and the Code Official may take such further actions as allowed by applicable law in order to ensure compliance with the requirements of this article including, but not limited to, seeking injunctive relief and obtaining inspection warrants.

Sec. 8-1-121 Regulations implementing article.

The city manager may establish regulations which shall be approved by resolution of city council, governing the implementation of the provisions of this article.

Section 2. This ordinance shall be effective July 1, 2005.

WILLIAM D. EUILLE
Mayor

Final Passage: June 21, 2005