

ORDINANCE 2019 -7- 1

**AN ORDINANCE ESTABLISHING
A RENTAL REGISTRATION AND INSPECTION PROGRAM**

WHEREAS the Plan Commission of the Town of Winona Lake, Indiana Winona Lake Zoning as a part of its ongoing monitoring and evaluation of the Master Plan, Zoning Ordinance and the Subdivision Control Ordinance, and

WHEREAS, from time to time some changes and additions appear to be necessary, and

WHEREAS the Plan Commission of Town of Winona Lake, Indiana, after consideration has submitted to the Town Council of the Town of Winona Lake, Indiana its recommendation for the modification of the Zoning Plan of the Town of Winona Lake, and

WHEREAS, the Town Council for the Town of Winona Lake, Indiana ("Town Council") has considered the recommendations and report of the Plan Commission, and desires that all rental units within the Town of Winona Lake, Indiana ("Town") are kept in a safe and habitable manner; and

WHEREAS, Ind. Code § 36-1-20-1 *et seq.* empowers the Town Council to adopt measures to track, inspect, and enforce certain building and living standards for rental units; and

WHEREAS, the Town Council desires to adopt measures to track, inspect, and enforce certain building and living standards for rental units within the Town; and

WHEREAS, the fees incurred by running such a program should, as much as practicable, be funded by landlords and/or owners who are renting property; and

WHEREAS, the Town Council desires to adopt enforcement measures and penalties to encourage compliance with this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Winona Lake, Indiana, as follows:

Section 1. Title

This Ordinance shall be known as the "Rental Registration and Inspection Program" of the Town of Winona Lake, Indiana.

Section 2. Definitions

The following definitions shall apply in the interpretation and enforcement of this

Ordinance. Words in the singular shall include the plural, and words in the plural shall include the singular.

- 2.1 Inspection Certificate - A certificate issued by the Town of Winona Lake which documents that a rental unit has passed inspection and the owner is permitted to rent or lease the unit.
- 2.2 Inspection Officers - Shall mean the following persons, working separately or together, who shall enforce the provisions of this ordinance:
- A. Building Commissioner or his/her designee.
 - B. Fire Inspector, Fire Chief or other designated officer.
 - C. County Health Office
- 2.3 Occupant - Any person, living, sleeping, cooking, or having physical or actual possession of a Rental Unit.
- 2.4 Owner - One (1) or more persons in whom is vested all or part of the legal title to property. The term includes a mortgagee or contract purchaser in possession.
- 2.5 Person - An individual, a corporation, an association, a partnership, a governmental entity, a trust, an estate, or any other legal or commercial entity.
- 2.6 Registration Fee - The amount paid to the Town of Winona Lake when registering a rental unit with the Town.
- 2.7 Rental Unit - As used in this Ordinance "Rental Unit" means:
- A. A structure, or the part of a structure, that is used as a home, residence, or sleeping unit by:
 - i. One (1) individual who maintains a household but is not the owner of record or a related relative of the owner of record; or
 - ii. Two (2) or more unrelated individuals who maintain a common household;
- or-
- B. Any grounds, facilities, or area promised for the use of a residential tenant, including the following:
 - i. An apartment unit.
 - ii. A boarding house.
 - iii. A rooming house.
 - iv. A mobile home space.

v. A single or two (2) or more family dwelling.

2.8 Rental Unit Community - As used in this Ordinance, "Rental Unit Community" means one (1) or more parcels of contiguous real property upon which are located one (1) or more structures containing Rental Units, if:

- A. The Combined total of all rental units in all of the structures is five (5) or more rental units; and
- B. The rental units are not occupied solely by the Owner or the Owner's family.

2.9 Unsafe Building - A building or structure, or any part of a building or structure, that is:

- A. In an impaired structural condition that makes it unsafe to a person or property;
- B. A fire hazard;
- C. A hazard to the public health;
- D. A public nuisance;
- E. Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance;
- F. Vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance; or
- G. Otherwise in violation of State or Town unsafe building laws.

2.10 Unsafe Premises - The tract of real estate on which an unsafe building is located.

Section 3. Safe and Habitable Premises

An Owner must maintain the Rental Unit in a safe and habitable manner. Accordingly, the Owner must ensure that a Rental Unit:

- A. Is not in an Unsafe Building
- B. Is in compliance with all rules, regulations, ordinances, statutes, or other laws including, but not limited to:
 - i. The Town of Winona Lake Unsafe Building Ordinance
 - ii. The State of Indiana Unsafe Building Law
 - iii. State and Town Fire Code
 - iv. State and Town Building Code

- v. National, State, and Local Electric Code
- vi. Any other rule, regulation, statute, or other law relating or pertaining to the safety or habitability of a residential or rental property.

C. Is safe and habitable with respect to:

- i. Electrical supply and electrical systems;
- ii. Plumbing and plumbing systems;
- iii. Water supply, including hot water;
- iv. Heating, ventilation, and air conditioning equipment and systems;
- v. Bathroom and toilet facilities;
- vi. Doors, windows, stairways, and hallways;
- vii. Functioning smoke detectors; and
- viii. The structure in which a Rental Unit is located.

Section 4. Annual Registration

- 4.1 **Registration Form** - The Building Commissioner shall prepare a form for an Owner of a Rental Unit to complete ("Registration Form"). The Registration Form shall require information including, but not be limited to: name of Owner, address of Rental Unit, mailing address for Owner or Owner's representative, name of tenants, e-mail address, phone number, number of units that Owner rents, and verification that the landlord will update any and all information within thirty (30) days of any change. Tenant information will not be required for rentals with a duration of less than 30 days. The Building Commissioner may amend the Registration Form from time to time as appropriate and/or necessary.
- 4.2 **Annual Registration and Fee** - An Owner of Rental Unit in the Town shall complete a Registration Form and pay an annual five dollar (\$5) registration fee ("Registration Fee") for each parcel of real property on which a Rental Unit is located. The Registration Form and the Registration Fee shall be submitted to the Town Building Commissioner. The Registration Fee shall be due by January 31 of each year.
- 4.3 **Rental Unit Community Exception** - Notwithstanding the provisions of Section 4.2 above, an Owner of a Rental Unit Community will only be obligated to complete one Registration Form and to submit a single Registration Fee per each Rental Unit Community.

- 4.4 Obligation to Update Information - The Owner of a rental unit will be required to update its Registration Form within thirty (30) days of any change in address, change in ownership, or any other material changes thereto. Failure to do so will result in a violation of this Ordinance.
- 4.5 Initial Registration - All current Owners shall submit an initial Registration Form and a Registration Fee for any and all existing Rental Units by January 31, 2020. Thereafter, any Owner shall have thirty (30) days from obtaining ownership in a Rental Unit and/or leasing a Rental Unit to register that Rental Unit with the Town and to submit the Registration Fee.
- 4.6 Rental Registration and Inspection Fund - The Town Council hereby establishes a special fund which shall be known as the "Rental Registration and Inspection Fund" dedicated solely to reimbursing the costs actually incurred by the Town relating to the registration and inspection of rental units as provided in this Ordinance. All registration fees required hereunder shall be deposited in that special fund.

Section 5. Inspection

- 5.1 Inspections Authorized - The Inspection Officers are authorized and directed to make inspections to determine the condition of Rental Units located within the Town of Winona Lake.
- A. The Inspection Officers are authorized to enter, examine and survey, at all reasonable times, any and all Rental Units. The Owner or the Owner's representative, and/or Occupant of every Rental Unit shall give the Inspection Officer free access to such Rental Unit and its premises at all reasonable times for the purpose of such inspection, examination and survey, provided, however, that such Inspection Officer has, prior to entry thereof, positively identified himself or herself as a person authorized pursuant to this Ordinance to enter upon said premises. At the time of each inspection, all pets must be controlled so that the Inspection Officer can move about the dwelling and surrounding property.
- B. The Owner or the Owner's representative and the Occupant shall be entitled to seventy-two (72) hours'

written notice from the Inspection Officer prior to conducting the inspection, examination or survey. In the event that the Owner, or the tenant if occupied, refuses to allow the Inspection Officer to conduct the inspection, the Inspection Officer shall apply for a warrant to make the inspection in accordance with Indiana Code 36-7-9-16.

- C. This provision shall not be construed to limit or restrain the right of the Inspection Officer to make an inspection of any other building or premises pursuant to any of the provisions of Ind. Code § 36-7-9-1 et al. or the Town's Ordinances concerning Unsafe Buildings or unsightly premises.

5.2 Inspection At Least Once Every Three Years - Every Rental Unit operated and maintained in the Town shall be inspected by the Building Commissioner or his/her designee at least one (1) time every three (3) years ("Routine Inspection"). The Routine Inspection shall be made to ascertain that the facility conforms to all requirements of this Ordinance, any other ordinance of the Town, and all statutes of the State of Indiana regarding such facilities.

5.3 Exemption to Routine Inspection - Pursuant to Ind. Code § 36-1-20-4.1 (c), except as provided in Section 5.4, the Town may not conduct a Routine Inspection of a Rental Unit or impose a fee pertaining to the inspection of a Rental Unit, if the Rental Unit satisfies all of the following:

- A. The Rental Unit is:
 - i. managed by a professional real estate manager; or
 - ii. part of a Rental Unit Community that is managed by a professional real estate manager.

- B. During the previous twelve (12) months, the Rental Unit has been inspected or is part of a Rental Unit Community that has been inspected by either of the following:
 - i. By or for:
 - 1. the United States Department of Housing and Urban Development, the Indiana Housing and Community Development Authority, or another federal or state agency; or
 - 2. a financial institution or insurance company authorized to do business in Indiana.

 - ii. By an inspector who:

1. is a registered architect;
 2. is a professional engineer; or
 3. satisfies the qualifications of the Town's Town of Winona Lake such that the inspector would qualify as an Inspection Officer.
- iii. However, the inspector may not be an employee of the Owner.
- C. A written inspection report of the inspection under subdivision 5.3(8) has been issued to the Owner of the Rental Unit or Rental Unit Community (as applicable) that verifies that the Rental Unit or Rental Unit Community is safe and habitable with respect to:
- i. electrical supply and electrical systems;
 - ii. plumbing and plumbing systems;
 - iii. water supply, including hot water;
 - iv. heating, ventilation, and air conditioning equipment and systems;
 - v. bathroom and toilet facilities;
 - vi. doors, windows, stairways, and hallways;
 - vii. functioning smoke detectors; and
 - viii. the structure in which a rental unit is located
- D. The inspection report issued under subdivision 5.3(C) is delivered to the Town of Winona Lake on or before the date of the scheduled inspection.

5.4 Additional Inspections - In addition to the Routine Inspection, the Town may inspect any Rental Unit, if the political subdivision has reason to believe or receives a complaint that the Rental Unit does not comply with applicable code requirements, so long as the Town provides seventy-two (72) hours' written notice as provided in Section 5.1(B) above.

5.5 Access - Every Occupant of a Rental Unit shall give the Owner thereof or the Owner's representative access to any part of such dwelling or Rental Unit or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Ordinance.

5.6 Inspection Fee - For any Routine Inspection or Additional Inspection, the Town shall charge the Owner of the Rental Unit a fee of forty dollars (\$40) ("Inspection Fee"). Failure to pay the Inspection Fee within thirty (30) days of receiving notice thereof shall result in a violation of this Ordinance. However, in the case of a Rental Unit that meets the requirements for an exemption under Section 5.3, the Town may not impose any Inspection Fee pertaining to the inspection of that Rental Unit.

- 5.7 Inspection Certificate - The Town of Winona Lake shall issue to the Owner of every registered and inspected Rental Unit and Inspection Certificate as proof that the unit passed inspection. Rental Unit and Inspection Certificate shall be made available to the tenant on record upon request. The Inspection Certificate shall be valid until the next inspection.
- 5.8 Violation Notice - If an Inspection Officer finds that a Rental Unit or any part thereof fails to comply with any standard set forth in this Ordinance, any other ordinance of the Town of Winona Lake, or any statute of the State of Indiana, he or she shall give notice of the alleged violation to the Owner of the Rental Unit (the "Violation Notice"). The Violation Notice shall be in writing and shall reasonably describe the violation found. The Violation Notice shall further specify the date by which the violation must be corrected.
- 5.9 Service of Violation Notice - The Violation Notice shall be served upon the Owner or the Owner's representative, and the Occupant of the Rental Unit. The Violation Notice may be served by any of the following methods:
- A. Sending a copy of the Violation Notice by registered or certified mail to the address of the Owner and/or Occupant as reflected on the Registration Form;
 - B. Delivering a copy of the Violation Notice personally to the person to be notified; or
 - C. Leaving a copy of the Violation Notice at the address of the Owner and/or Occupant as reflected on the Registration Form.
 - D. In the event that service cannot be obtained by foregoing methods, the alternate means of service described in Indiana Code 36-7-9-25 may be used.
- 5.10 Curing Violations - A Rental Unit that the Inspection Officer finds to be unsafe or uninhabitable shall be repaired so that it meets acceptable standards within fifteen (15) days of the Violation Notice. Any other violations shall be repaired within thirty (30) days of the Violation Notice. Failure to cure a violation shall result in a violation of this Ordinance. The Town Building Commissioner may extend the period for cure for good cause.
- 5.11 Reinspection - Upon termination of the applicable notice period as provided in Section 5.10 above, the Town may reinspect the property and charge an Inspection Fee for any and all such re-inspections.

Section 6. Penalties for Violation

Any violation of any provision of this Ordinance shall subject the violating party to a fine not to exceed five hundred Dollars (\$500.00). Each day that a violation

continues or remains uncured shall constitute a separate offense.

Section 7. Severability

The provisions of this Ordinance are severable, and the invalidity of any phrase, clause or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

Section 8. No Third-Party Beneficiaries

This Ordinance does not and is not intended to confer any rights or remedies upon any Owner, Occupant, or any other third party.

Section 9. Other Ordinances

All ordinances and parts of ordinances inconsistent or in conflict with the terms of this Ordinance are repealed to the extent of such inconsistency or conflict. Nothing in this Ordinance shall repeal or otherwise alter the Town's Unsafe Building Code, or the Town's unseemly property ordinances.

Section 10. Effective Date

This Ordinance shall be in full force and effect from and after its passage, approval and publication according to the laws of the State of Indiana.

Section 11: Existing Ordinances

All Ordinances and parts thereof that are not in conflict with the terms of this Ordinance shall remain in full force and effect.

UPON MOTION duly made, seconded and adopted by a vote of 4 ayes and 0 nays, being a majority of the elected members of the Town Council of the Town of Winona Lake, Indiana, the foregoing Ordinance was adopted this 20th day of August, 2019.

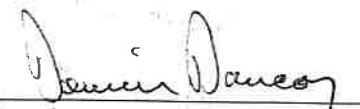
WINONA LAKE TOWN COUNCIL

AYE

Rick Swaim, President

NAY

Rick Swaim, President

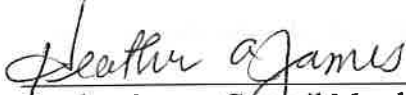

Dennis Duncan, Vice-President

Dennis Duncan, Vice-President



Theila Banta, Council Member

Theila Banta, Council Member



Heather James, Council Member

Heather James, Council Member

James Lancaster, Council Member

James Lancaster, Council Member

ATTEST:



Kent Adams, Clerk-Treasurer
Town of Winona Lake