

ORDINANCE NO. 2437

AN ORDINANCE OF THE CITY OF ERLANGER, IN KENTON COUNTY, KENTUCKY, AMENDING THE ERLANGER CODE OF ORDINANCES CHAPTER 117, RENTAL OF RESIDENTIAL UNITS, AS ADOPTED BY ORDINANCE 2392

WHEREAS, Erlanger Ordinance 2393, as codified in Chapter 117, governs the Rental of Residential Units in the City; and

WHEREAS, the City is desirous of amending the Erlanger Code of Ordinances, Chapter 117 to comply with applicable law and provide for a registration of rental property owners within the City; and

WHEREAS, the City is desirous of having contact information for each residential rental property owners to properly notify them of compliance issues, as well as unlawful tenant activity; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF ERLANGER, IN KENTON COUNTY, KENTUCKY, AS FOLLOWS:

(Strikethrough portions are to be deleted, underlined portions are to be added as required by KRS 83A.060(3))

Section 1.0

That the Erlanger City Council amends the Erlanger Code of Ordinances, Chapter 117, Section 117.01, Definitions, as follows:

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

~~“ANYBODY.” Any human being, and any combination thereof, in the form of partnership, corporation, joint venture, unincorporated association, or otherwise.~~

“APPLICABLE PROPERTY MAINTENANCE LAWS.” The Kentucky Building Code and the Kentucky Standards of Safety and the Erlanger Nuisance Code (Ordinance 2361 as amended) and the following codes that the city has adopted by reference:

- (1) The International Property Maintenance Code;
- (2) The National Fire Protection Association 1: Fire Code (NFPA 1: Fire Code);
- (3) The International Residential Code; and
- (4) The Kentucky Residential Code, all as amended from time to time.
- (5) The Kentucky Standards of Safety;

(6) The Kentucky Building Code;

(7) The Erlanger Nuisance Code;

Any any subsequent amendments thereto to (1)-(7).

“CITY.” The City of Erlanger, in Kenton County, Kentucky.

“CODES ENFORCEMENT OFFICER.” Have the same meaning as that provided in KRS 65.8805.

~~“COMMON AREAS.” Those areas within and outside of a residential rental building that are available for the use of all of the tenants of that building and their guests and invitees.~~

~~“ERLANGER RESIDENTIAL RENTAL PERMIT.” An Erlanger permit to rent a specific residential rental unit in the City of Erlanger.~~

“EVERYBODY.” Every human being, or any combination thereof in the form of a partnership, corporation, joint venture, unincorporated association, or otherwise.

“LANDLORD.” The owner of a residential rental unit who offers to or actually lets, leases or rents it to others for use as a separate residence.

~~“NOBODY.” Not anybody, or no human being, or any combination thereof in the form of a partnership, corporation, joint venture, unincorporated association, or otherwise.~~

“RENT.” Compensation for the use and occupancy of a residential rental unit.

“RESIDENTIAL RENTAL BUILDING.” A building that includes one (1) or more residential rental units and the interior and exterior equipment and common areas thereof.

“RESIDENTIAL RENTAL BUSINESS.” The business of owning and offering to or actually letting, leasing or renting a residential rental unit to others for use as a separate residence.

“RESIDENTIAL RENTAL UNIT.” Each separate room or group of rooms within a building that are offered for or actually let, leased or rented as a separate residence.

“TENANT.” A person who uses a residential rental unit owned by others as a residence.

Section 2.0

That the Erlanger City Council amends the Erlanger Code of Ordinances, Chapter 117, Section 117.03, Regulations, as follows:

A) *Requirements.* Everybody who is engaged in the residential rental business in the city shall always:

(1) Obtain and maintain both:

(a) An Erlanger Business Regulatory License pursuant to the provisions of Erlanger Ordinance 2295, as previously enacted and amended from time to time; and

(b) Register each of their residential buildings in the city with the office of the City Clerk. The Registry shall include, the mailing address of each building owned by the landlord (property owner), the landlord (property owners) names and their business name, the landlord (property owners) residential and business address, the landlord (property owners) business email address, the landlord (property owners) telephone number both mobile and landline if applicable, and provide a local emergency contact person's name, address, email address, 24/7 telephone number. All information shall be updated once every twelve (12) months or whenever a change shall occur. An Erlanger Residential Rental Permit for each of their residential rental units in the city.

(2) Comply with the Applicable Property Maintenance Laws as set forth in Section 117.01 herein, in addition to maintaining a clean, safe and sanitary condition, free of all obvious defects and dangerous conditions.

~~—(2) Maintain in a clean, safe and sanitary condition, free of all obvious defects and dangerous conditions and in conformity with all applicable property maintenance laws as defined herein:~~

~~—(a) Each of their residential rental units in the city;~~

~~—(b) Each of their residential rental buildings in the city; and~~

~~—(c) The sidewalks, motor vehicle parking and other common areas outside of and appurtenant to each of their residential rental buildings in the city.~~

~~—(d) The public sidewalks that abut upon and provide pedestrian access to each of their residential rental buildings in the city.~~

~~—(3) Cause each of their residential rental units and each of their residential rental buildings in the city and the common areas and appurtenances thereof to be occupied and used without the occurrence thereon of any criminal activity involving disorderly conduct, alcoholic beverages, firearms, menacing, physical injury to person or property, deadly weapons, gambling, prostitution, controlled substances, or any other felony or misdemeanor to such an extent that there have been responses thereto in the same residential rental building or the outside common areas thereof by peace officers or other personnel of the city on three (3) or more separate occasions within any one (1) period of twelve (12) consecutive calendar months; provided that an owner of the residential rental unit or building has been notified at least once of any re-occurrence of any such criminal activity; and provided further that the eviction of the tenants of the residential rental units involved in such criminal activity shall be a defense to any Residential Rental Permit revocation and any civil or criminal prosecution for a violation of this section.~~

~~—(4) Continually consent, release and authorize the city to conduct physical on-site inspections of both the interior and exterior of each of their residential rental units and each of their residential rental buildings in the city by any Codes Enforcement Officer of the city who has reasonably determined such an inspection to be necessary in the circumstances for a determination that those residential rental units and the buildings in which they are located are and~~

continue to be in conformity with the requirements and other provisions of this chapter and all other applicable property maintenance laws, as defined herein, provided that:

~~—(a) The city provides the owners with at least forty eight (48) hours notice of such inspections;~~

~~—(b) The inspections are a part of a systematic program for the inspection of all residential rental units and the buildings in which they are located in the city; and~~

~~—(c) The scope of the inspections are limited to inspections for the conformity of those residential rental units and the buildings in which they are located with the requirements and other provisions of this chapter and all other applicable property maintenance laws, as defined herein.~~

~~—(B) *Prohibitions*. Nobody shall conspire, cause, permit, promote, allow, aid, assist, encourage or engage in:~~

~~—(1) The residential rental business in the city without both:~~

~~—(a) An Erlanger Business Regulatory License pursuant to the provisions of Erlanger Ordinance 2295, as previously enacted and amended from time to time; and~~

~~—(b) An Erlanger Residential Rental Permit pursuant to the provisions of this chapter for each separate residential rental unit involved in their residential rental business in the city.~~

~~—(2) The use in the city of any of the following that are not in conformity with the requirements and other provisions of this chapter and all other applicable property maintenance laws as defined herein:~~

~~—(a) Residential rental units.~~

~~—(b) Residential rental building.~~

~~—(c) The sidewalks, motor vehicle parking and other common areas outside of and appurtenant to any residential rental building.~~

~~—(d) The public sidewalks that abut upon and provide pedestrian access to any residential rental building.~~

~~—(3) The occupation or use of any of their residential rental units or buildings in the city or the common areas and appurtenances thereof for any criminal activity involving disorderly conduct, alcoholic beverages, firearms, menacing, physical injury to person or property, deadly weapons, gambling, prostitution, controlled substances or any other felony or misdemeanor to such an extent that there have been responses thereto in the same residential rental building or the outside common areas thereof by peace officers or other personnel of the city on three (3) or more occasions within any one (1) period of twelve (12) consecutive calendar months; provided, however, that the eviction of all of the tenants of the residential rental units involved in such criminal activity shall be a defense to any Residential Rental Permit revocation and any civil or criminal prosecution for a violation of this section~~

Section 3.0

That the Erlanger City Council repeals the Erlanger Code of Ordinances, Chapter 117, Section 117.04, Residential Rental Permit, as follows:

~~—(A) *Form and content.* The form and content of the Erlanger Residential Rental Permit required by this chapter and the application for it shall be determined by the executive authority of the city; provided, however, that the application shall require:~~

~~— (1) The mailing address of each separate residential rental unit that is the subject of the application.~~

~~— (2) The names, dates of birth, social security numbers and the motor vehicle operator's license number for everybody who has any ownership interest in the residential rental unit or units that are the subject of the application, and their business and residential e-mail addresses and telephone numbers.~~

~~— (3) The consents, releases and authorizations of each and every owner named in the application for Codes Enforcement Officers of the city to conduct the following physical on-site inspections of the residential rental units that are the subject of their application and the residential rental buildings in which they are located within thirty (30) days thereafter, for a determination that those residential rental units and residential rental buildings are in conformity with the requirements and other provisions of this chapter and all other applicable property maintenance laws, as defined herein:~~

~~— (a) The exterior of each building that is identified in the application;~~

~~— (b) The equipment and common areas inside each residential rental building that is identified in the application; and~~

~~— (c) The interior of each residential rental unit; but only in the event that violations of this chapter or any other applicable property maintenance laws, as defined herein, are observed by a Codes Enforcement Officer of the city during the inspections described in the immediately preceding §§ [117.04\(A\)\(3\)\(a\)](#) and [\(b\)](#).~~

~~—(B) *Information incorporated by reference.* All information from any previous application or re-application by the same applicant for an Erlanger Residential Rental Permit that continues to be accurate may be incorporated by reference into any subsequent applications for the same permit by the same applicant.~~

~~—(C) *Application process.*~~

~~— (1) Signature to application. Each application for an Erlanger Residential Rental Permit shall be signed by an owner of the residential rental unit or units that are the subject of the application.~~

~~— (2) *Submission of application.* Each application for an Erlanger Residential Rental Permit shall be presented to the City Clerk, or any designee thereof, but no application for an Erlanger Residential Rental Permit shall be accepted or received by the City Clerk or the designee thereof that does not conform to all of the requirements of § [117.04\(A\)](#).~~

~~— (3) *Inspections.* Each application for an Erlanger Residential Rental Permit that is received and accepted by the City Clerk or the designee thereof shall be immediately referred to a Codes Enforcement Officer of the city, who shall cause the residential rental buildings and the residential rental units that are the subject~~

of the application to be inspected in the following manner within thirty (30) days thereafter to determine if they comply with all of the requirements and other provisions of this chapter and all other applicable property maintenance laws:

— (a) The Codes Enforcement Officer shall first inspect the exterior of each building identified in the application;

— (b) Then the Codes Enforcement Officer shall inspect the interior common and equipment areas of each residential rental building that is identified in the application; and

— (c) Then the Codes Enforcement Officer shall inspect each residential rental unit therein; but only in the event that:

— 1. Violations of this chapter or any other applicable property maintenance laws, as defined herein, are observed during the inspections described in the immediately preceding §§ [117.04](#)(C)(3)(a) and (b);

— 2. The applicant and tenant are provided with no less than forty-eight (48) hours notice of such inspection; and

— 3. The scope of each such inspection is limited to inspections for the conformity with the requirements and other provisions of this chapter and all other applicable property maintenance laws, as defined herein.

— (4) *Issuance or denial of permits.* Between thirty (30) and forty (40) days after the receipt of each application for an Erlanger Residential Rental Permit, the City Clerk shall issue and mail the requested permit to the applicant by U.S. first class mail to the address of the applicant identified in the application, unless the City Clerk is directed by any Codes Enforcement Officer to deny the application for specified failures of the residential rental buildings or the residential rental units that are the subject of the application to conform to the requirements and other provisions of this chapter and all other applicable property maintenance laws, as defined herein, in which event the City Clerk shall mail to the applicant by U.S. first class mail to the address of the applicant identified in the application, a written denial of the application with an identification of the conditions that are contrary to and not in conformity with the requirements and other provisions of this chapter and any other applicable property maintenance laws, as defined herein, and the actions necessary to remedy those non-conforming conditions.

— (5) *Re-application.* After the non-conforming conditions identified in a denial of an application for an Erlanger Residential Permit have been corrected, another application for an Erlanger Residential Rental Permit for the non-conforming residential rental units may be submitted to the City Clerk on a re-application form provided by the City Clerk, which shall require all of the information required for an original application; and, additionally include:

— (a) A description of the actions by which the non-conforming conditions were corrected;

— (b) The name and address of the person by whom those corrections were performed and the cost of those corrections; and

— (c) The consents, releases and authorizations of each and every owner named in the application for Codes Enforcement Officers of the city to conduct on-site inspections of the remediation of the non-conforming conditions.

~~—(d) A re-inspection fee in the amount of fifty dollars (\$50.00). Such a re-application shall be processed in the same manner as an initial application.~~

~~—(D) Expiration of Erlanger Residential Rental Permits unless previously revoked pursuant to the following provisions of this chapter, each Erlanger Residential Rental Permit shall expire:~~

~~—(1) Upon the sale or any other conveyance of any ownership interest in the residential rental unit for which the permit was issued or the residential rental building in which it is located; and~~

~~—(2) Three (3) years after the date on which it was issued; and, upon such expiration, in the event that the person to whom that permit was issued wants to continue to rent the residential rental unit for which that permit was issued, that person must apply for a new permit.~~

~~—(E) *Revocation of Erlanger Residential Rental Permits.* After a due process hearing in regard thereto, any Erlanger Residential Rental Permit may be revoked by any Codes Enforcement Officer for the occurrence of any of the following events:~~

~~—(1) The failure of: (a) the residential rental unit that is the subject of that permit; or (b) the building in which that residential rental unit is located; or (c) the sidewalks, motor vehicle parking and other common areas outside of and appurtenant to that building; or (d) the public sidewalks that abut upon and provide pedestrian access to that building to continually conform to the requirements and other provisions of this chapter and all other applicable property maintenance laws, as defined herein.~~

~~—(2) The sale of any ownership interest in the residential rental unit that is the subject of that permit.~~

~~—(3) The cancellation or withdrawal of any of the consents, releases and authorizations that are described in § [117.03\(A\)\(4\)](#).~~

~~—(4) The violation of any applicable law, as defined herein, in the conduct of the residential rental business. The revocation of an Erlanger Residential Rental Permit pursuant to the provisions of this ordinance shall be in addition to the imposition of any other civil or criminal penalty prescribed by this ordinance or any applicable law, as defined herein.~~

~~—(F) *Appeals.* Any denial or revocation of an Erlanger Residential Rental Permit may be appealed to the City Administrative Officer of the City of Erlanger, by filing the following documents with the City Clerk within thirty (30) days after the denial or revocation:~~

~~—(1) A written notice of the appeal which shall include the name and address of the appellant and an identification of the denial or revocation that is the subject of the appeal;~~

~~—(2) A copy of the notice of the denial or revocation that is the subject of the appeal;~~

~~—(3) A statement why the denial or revocation is erroneous; and~~

~~—(4) A check in the amount of Two Hundred Dollars (\$200.00) payable to the city as an appeal fee, to provide for the expenses of conducting a due process hearing in regard to the appeal. In such an appeal, a de novo due process~~

hearing in regard to the denial or revocation that is the subject of the appeal shall be conducted by the City Administrative Officer (CAO) within thirty (30) days after the filing of the appeal. Within forty five (45) days after the date the appeal was filed, the City Administrative Officer shall issue a written decision in regard to the appeal, including findings of fact, conclusions of law and a decision supported by a record of the due process hearing; and the appellant shall be notified thereof by U.S. first class mail to the address thereof identified in the notice of appeal. In the event that the denial or revocation is reversed by the CAO, the appeal fee shall be refunded. Unless a judicial proceeding to declare the decision of the CAO to be invalid is filed in a court of competent jurisdiction within thirty (30) days after the date of that decision, that decision shall become final.

Section 4.0

That the Erlanger City Council repeals the Erlanger Code of Ordinances, Chapter 117, Section 117.05, City Inspections of Residential Rental Units, as follows:

~~—(A) City inspections of the interior of residential rental units in the city are necessary for the enforcement of the applicable property maintenance laws, as defined herein; and, therefore, regardless of the consent, release and authorization by the owners of residential rental units and buildings in the city and even in the absence thereof any Codes Enforcement Officer of the city may, without any warrant, conduct inspections of the interior of any residential rental unit or building in the city for a determination that it is and continues to be in conformity with the requirements and other provisions of this chapter and all other applicable property maintenance laws, as defined herein, provided that either:~~

~~—(B) The Codes Enforcement Officer has observed a violation of an applicable property maintenance law in the exterior or the interior common or equipment areas of the residential rental building in which the residential rental unit is located; or:~~

~~—(1) The city provides the owners with at least 48 hours notice of such inspection;~~

~~—(2) The inspection is a part of a systematic program for the inspection of all residential rental units and buildings in the city; and~~

~~—(3) The scope of the inspection is limited to inspections for the conformity of the residential rental unit and building with the requirements and other provisions of this chapter and all other applicable property maintenance laws, as defined herein.~~

Section 5.0

That the Erlanger City Council amendss the Erlanger Code of Ordinances, Chapter 117, Section 117.99, Residential Rental Permit, as follows:

Each separate violation of any provision of §§ 117.03(A) and ~~(B)~~ of this chapter is hereby classified as a civil offense, for which:

(A) The maximum civil fine that may be imposed for each separate violation of this chapter, in a twelve month period, is hereby established at five one hundred dollars ~~(\$500.00)~~ (\$100.00) for a first violation, seven two hundred fifty dollars ~~(\$750.00)~~ for a second occurrence of the same violation, and one thousand dollars ~~(\$1,000.00)~~ five hundred dollars ~~(\$500.00)~~ for the third and each subsequent occurrence of the same violation plus the costs of collection, including, without limitation, court costs and attorney fees.

~~(B) The specific civil fine that shall be imposed for each separate violation of this chapter in the event that a citation for that violation is not contested is hereby established at one hundred dollars (\$100.00) for a first violation, two hundred fifty dollars (\$250.00) for a second occurrence of the same violation, and five hundred dollars (\$500.00) for the third and each subsequent occurrence of the same violation, plus the costs of collection, including, without limitation, court costs and attorney fees.~~

Section 6.0

The provisions of this ordinance are severable; and the invalidity of any provision of this ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

Section 7.0

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 8.0

This ordinance shall be effective as soon as possible according to law.

Section 9.0 - Publication

This ordinance shall be published in summary pursuant to K.R.S. 83A.060 (9).

Adopted this 5th day of July, 2016.

First Reading- June 7, 2016

Second Reading - July 5, 2016 Votes Cast- 10 Yes, 0 No

TYSON HERMES, Mayor