

ORDINANCE NO. 02-__
PROPOSED ORDINANCE NO. 02-__

AN ORDINANCE
AMENDING CHAPTER 19-HOUSING CODE, OF THE CODE OF THE CITY OF
HOPEWELL, BY AMENDING ARTICLE VIII SEC 19-181.
RENTAL INSPECTION PROGRAM

BE IT ORDAINED that Chapter 19- Housing Code, of the Code of the City of Hopewell, Virginia, is hereby amended, to read as follows:

CHAPTER 19
HOUSING CODE

ARTICLE VIII. - RENTAL INSPECTION PROGRAM

Purpose and intent.

The city council finds that certain residential housing areas within the city, designated herein "City Point" and "B Village", are in need of a housing inspection program to prevent property deterioration and to protect the public health, safety and welfare by ensuring proper building maintenance and compliance with applicable building regulations in rental dwellings and dwelling units.

Sec. 19-181. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building code -the applicable provisions of the Virginia Uniform Statewide Building Code.

Codes Compliance Administrator -the administrator of the Codes Compliance Office in the Planning Department and such employees of the office as the city manager may designate to administer and enforce this division

Owner -any individual, group of individuals, corporation, partnership or other entity holding title to real property subject to this division.

Change in Occupancy -the vacation of the dwelling unit by all tenants' party to a written lease or, where no written lease exists, by all persons falling within the definition of "tenant" under the Virginia Residential Landlord and Tenant Act, and the subsequent occupancy of such dwelling or dwelling unit by new lessees or tenants.

Residential Rental Dwelling Unit -any place of residence, including, but not limited to, condominiums, efficiencies, townhomes, manufactured or mobile homes, single-family homes, two-family homes, accessory dwelling units (ADUs), multifamily homes or multifamily apartments that is leased or rented to one or more tenants. The term “dwelling” shall not include hospitals, nursing homes, convalescent homes or similar facilities providing medical care to the aged, infirmed or disabled.

Managing Agent -any individual, association of individuals, corporation, partnership or other entity having the authority, singly or in combination with another, to enter into an agreement for the occupancy of property subject to this division.

Initial Inspection -the first inspection of a residential rental dwelling unit subject to this article.

Follow-up Inspection -the inspection of a property made to determine if violations previously cited have been abated.

Periodic Inspection -an inspection of a residential rental dwelling unit conducted upon the expiration of any exemption period for the unit, or after a follow-up inspection which revealed abatement of cited violations.

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.

(Ord. No. 2005-12, §I, 9-13-2005)

Sec. 19-182. Rental Inspection District Boundaries.

The provisions of this article shall apply to dwellings and dwelling units occupied by tenants and lessees located in areas hereby designated by the city council as rental inspection districts for the purpose of this division.

a) Rental Area 1

Beginning at the intersection of Hopewell St and Riverside Ave heading southeast on Hopewell St to the Norfolk and Southern railroad tracks. Head east along the Norfolk and Southern railroad tracks to an extension of Williams Road, then head south easterly to the Seaboard Coastal railroad tracks, then head east/northeast for 1485 feet along the Seaboard Coastal railroad tracks, travel north east, parallel with Poythress Run Creek to the intersection of the James River bank and the eastern city limits. Then north along the eastern city limits to the northern city limits at the Appomattox River, and west along the northern city limits to the point of origin.

b) Rental Area 15

Beginning at the Norfolk and Western railroad tracks located northeast of the intersection of Surry Ave and Western St, heading northeasterly along the centerline of the tracks to the extension of Kenwood Ave, then southeast along

Kenwood Ave to Winston Churchill Dr. Head Northeast on Winston Churchill Dr to the intersection of Roanoke Ave, then head south on Roanoke Ave to its intersection with Berry St. Head west on Berry St and continue on as it becomes Courthouse Rd, then continue heading west on Courthouse Rd to the intersection with Surry Ave. Head northwesterly on Surry Ave to the point of origin.

c) City council may alter the boundaries of the rental inspection district, provide for additional rental inspection district areas, or provide for the inspection of residential rental dwelling units outside of designated rental inspection districts, in compliance with Code of Virginia, § 36-105.1:1, and any amendments thereto.

(Ord. No. 2005-12, § II, 9-13-2005; Ord. No. 2009-11, 8-11-09)

Sec. 19-183. Registration of Rental Units.

The owner, manager agent or person in control of any rental dwelling or dwelling unit covered by this division and located in rental inspection districts shall register with the codes compliance office units covered by this program within 60 days of the ordinance implementation date. Future rental conversions will require registration and initial inspection prior to the first rental. Registration will be required to be on forms provided by the codes compliance administrator.

Sec. 19-184. Enforcement and Notifications.

a) Enforcement

Enforcement of this article shall be the responsibility of the code enforcement department. However, the city manager is authorized to delegate the authority to enforce this article to any city department, employee, agent or representative.

b) Notification to owners of residential rental dwelling units.

The code enforcement department shall make reasonable efforts to notify owners of residential rental dwelling units in the designated rental inspection district, or their designated managing agents, and provide information and an explanation of the rental inspection ordinance and the responsibilities of the owner thereunder.

c) Notification by owners of dwelling units to the city.

The owners of the residential rental dwelling units located in the rental inspection district shall notify the code enforcement department in writing if the dwelling unit is or becomes used for residential rental purposes. Such notification and registration shall be provided by owners within ninety (90) days after the adoption of this ordinance, or within thirty (30) days after the property becomes a residential rental dwelling unit, whichever is later. Failure to comply with this notification and registration requirement, within ten (10) days after personal or written notice to the property owner of the requirement, shall be punished by a

civil penalty of one hundred dollars (\$100.00). Notice sent by regular first class mail to the last known address of the owner of the residential rental dwelling unit as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient personal or written notice to the property owner of the notification and registration requirements of this section. (Ord. No. 2005-12, §III, 9-13-2005)

Sec. 19-185. Inspections.

- a) Initial inspections. The code enforcement department may, in conjunction with the written notifications provided for in section 19-184 above, proceed to inspect dwelling units in the designated rental inspection district to determine if the dwelling units are being used as residential rental property and for compliance with the provisions of the building code that affect the safe, decent and sanitary living conditions for the tenants of such property.
- b) Initial and periodic inspections. If a multifamily development has more than ten (10) dwelling units, in the initial and periodic inspections, the code enforcement department shall inspect only a sampling of dwelling units, of not less than two (2) and not more than ten (10) percent of the dwelling units, whichever is greater, of a multifamily development, which includes all of the multifamily buildings which are part of that multifamily development. If the code enforcement department determines upon initial or periodic inspection of the sampling of dwelling units in a multifamily development that there are violations of the building code that affect the safe, decent and sanitary living conditions for the tenants of such development, the code enforcement department may inspect as many dwelling units as necessary to enforce the building code, in which case, the fee shall be based upon the charge for inspection per dwelling unit inspected.
- c) Follow-up inspections. Upon inspection of a residential rental dwelling unit subject to this article, the code enforcement department has the authority under the building code to require the owner of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the code enforcement department deems necessary, until such time as a follow-up inspection reveals that the dwelling unit has been brought into compliance with the provisions of the building code that affect the safe, decent and sanitary living conditions for the tenants.
- d) Periodic inspections. Except as provided under subsection (c) above, following the initial inspection of a residential rental dwelling unit subject to this article, the code enforcement department may inspect such unit, not otherwise exempted in accordance with this article, no more than once each calendar year. All rental dwelling or dwelling units in rental inspection districts are required to schedule and obtain an inspection at the time of tenant(s) change and at the time of rental property sale, but no inspection would be required if one was performed in the previous 12 months.

- e) An annually exterior inspection of all registered units will be conducted by the codes compliance office regardless of ownership change or tenant change. Notice shall be provided by the codes compliance office 14 days in advance of the inspection.
- f) Scheduling of inspections. Any owner of a residential rental dwelling unit in the rental inspection district who is notified by the code enforcement department that the unit is subject to inspection under this article shall, within ten (10) days from such notification, contact the code enforcement department to schedule such inspection. (Ord. No. 2005-12, §IV, 9-13-2005)

Sec. 19-186. Fees.

There shall be no registration fee for the initial inspection. If any repairs or corrections are deemed necessary and a second inspection is required, the owner shall not be charged an additional fee for the first re-inspection.

- a) If after Re-inspection, **minor violations** have not been remedied the owner shall be charged an additional fee of \$100.00 per dwelling unit for each re-inspection until the violation is corrected.
- b) If after Re-inspection, **major violations** have not been remedied within the specified time period a notice of violation will be mailed. Owners will be subject to a penalty of a minimum of \$500.00 and up to \$2,500.
- c) The Virginia Statewide Building Code allows a locality to fine an owner who fails to comply with a notice of violation within the specified time period, not more than \$2,500. Each day the violation(s) continues is considered a separate offense. The fine is given by a judge after a conviction in court. Code of Virginia §36-106.
- d) Failure to schedule a required follow-up inspection shall result in the assessment of an administrative fee of one hundred dollars (\$100.00) on the owner of the unit, in addition to the follow-up inspection fee. (Ord. No. 2005-12, §VI, 9-13-2005)

Sec. 19-187. Issuance of Certificate.

Tiered Compliance

- Certificate of Compliance (good for 4 years)
- Temporary Certificate of Compliance (allowed for minor violations not life and safety issues)
- Rejection (major issues, uninhabitable, life and safety issues)

- A Certificate of Compliance can be revoked, if violations are found within the 4 year grace period.

(a) The owner, managing agent or person in control of covered rental dwellings or dwelling units shall promptly notify the administrator of the codes compliance office of any pending change of occupancy of such property and shall request an inspection thereof. Such inspection shall be performed within ten working days of receipt of the request. If the inspection does not take place within ten working days of receipt of the request, the owner, managing agent or person in control shall be entitled to apply for a temporary certificate of approval, provided that all inspection fees shall have been remitted in advance to the issuance of such temporary certificates of approval, and further provided that such temporary certificate of approval shall expire within seven days of issuance or upon the completion of the requested inspection, whichever event is that last to occur.

(b) There shall be no registration fee for the initial inspection. If any repairs or corrections are deemed necessary and a second inspection is required, the owner shall not be charged an additional fee for the first re-inspection.

If after Re-inspection, **minor violations** have not been remedied the owner shall be charged an additional fee of \$100.00 per dwelling unit for each re-inspection until the violation is corrected.

If after Re-inspection, **major violations** have not been remedied within the specified time period a notice of violation will be mailed. Owners will be subject to a penalty of a minimum of \$500.00 and up to \$2,500.

The VA Statewide Building Code allows a locality to fine an owner who fails to comply with a notice of violation within the specified time period, not more than \$2,500. Each day the violation(s) continues is considered a separate offense. The fine is given by a judge after a conviction in court. State Code Section 36-106.

(c) Requests for an inspection may be made by telephone; provided that, however, the administrator of the codes compliance office shall, in all cases, receive payment of the applicable inspection fee prior to conducting any inspection required under this division.

(d) The administrator of the codes compliance office shall issue a certificate of approval if, upon inspection, the dwelling or dwelling unit complies with Chapter 34 of the Virginia Uniform Statewide Building Code as adopted by reference in Virginia Uniform Statewide Building Code, and any amendments thereto, and further complies with any other applicable law, ordinance, regulation, or standard set forth in, or adopted or incorporated by, the Code. The certificate or approval may be issued immediately upon completion of an inspection.

(e) If the dwelling or dwelling unit fails to comply with any one or more of all applicable laws, ordinance, regulations and standards of this Code, the administrator of the codes compliance office shall furnish the owner, managing agent or person in control with a written list of specific violations. Failure to list any violation shall not be deemed a waiver of such violation. Upon the completion of all corrections and repairs, the owner, managing agent or person in control shall request a re-inspection of the dwelling or dwelling unit.

(f) Retrofitting of property subject to the provisions of this article shall be required only if mandated under the Virginia Uniform Statewide Building Code. Unless otherwise provided in the Virginia Uniform Statewide Building Code, dwellings and dwelling units shall be subject to 1996 BOCA Property Maintenance Code or the edition of the Virginia Uniform Statewide Building Code in effect at the time of their construction as noted in USBC Sections 124.2 and 124.2.1.

(g) A temporary certificate of approval may be issued for any dwelling or dwelling unit which is inspected pursuant to this article and fails comply with this Code upon written petition the administrator of the codes compliance office. The petition shall be on a form provided by the administrator of the codes compliance office and shall contain the information therein requested and shall also include a written statement, signed by the owner, managing agent or person in control of the dwelling or dwelling unit, acknowledging the actions needed, specifying the anticipated date of beginning and completion of the work and, if known, the name of the person or company that will perform the work. Upon review of the aforementioned information and written statement, the administrator of the codes compliance office shall issue a temporary certificate of approval where it is determined that:

- (1) The delay in the correction of the violation is reasonable, taking into consideration the availability of qualified persons to perform the work; and
- (2) The work can be reasonably undertaken and completed while the premises are occupied without endangering the safety of the occupants of the property, or subjecting the occupants to any conditions rendering the dwelling unit uninhabitable; and
- (3) The dwelling or dwelling unit can be brought into compliance with all code requirements within 60 days of the issuance of the temporary certificate of approval.

(g) A temporary certificate of approval shall authorize the occupancy of the dwelling or dwelling unit for such period of time as is reasonably necessary to remedy or correct all defects of violations by reason of which the certificate of approval was refused. Every temporary certificate of approval shall set forth the period of time for which temporary occupancy is authorized, such period of time not to exceed 60 days. The willful failure of the owner, managing agent or person in control to complete all corrections within the specified period of time shall constitute a violation of this division.

The director of the department of inspections may extend the temporary certificate of approval for an additional period of not more than 60 days if the owner, managing agent or person in control has diligently and in good faith attempted to bring the dwelling or dwelling unit into compliance within the time given, and will suffer undue hardship should additional time for repairs be denied.

Sec. 19-188. Exemptions.

Upon the initial or periodic inspection of a residential rental dwelling unit in the rental inspection district for compliance with the building code, provided that there are no violations of the building code that affect the safe, decent and sanitary living conditions for the tenants of such residential rental dwelling unit, the code enforcement department shall provide, to the owner of such residential rental dwelling unit, an exemption from the rental inspection ordinance for four (4) years. Upon the sale of a residential rental dwelling unit, the code enforcement department may perform a periodic inspection as provided in subsection 19-185(b) above, subsequent to such sale. If a residential rental dwelling unit has been issued a certificate of occupancy within the last four (4) years, an exemption shall be granted for four (4) years from the date the certificate was issued. If a residential rental dwelling unit becomes in violation of the building code during any exemption period, the code enforcement department may revoke the exemption previously granted hereunder. (Ord. No. 2005-12, § V, 9-13-2005}

Sec.19-189. Violations and penalties.

(a) No residential rental dwelling unit within the rental inspection district shall be occupied unless the unit is in compliance with this article and the provisions of the Virginia Uniform Statewide Building Code, Code of Virginia § 36-97, et seq., and any amendments thereto.

(b) Failure to abate any violation cited during an inspection of a residential rental dwelling unit within the rental inspection district within thirty (30) days from the citation shall constitute a violation of this article.

(c) The penalties for a violation of this article, unless otherwise provided herein, shall be the same as the penalties provided in the Virginia Uniform Statewide Building Code, Code of Virginia § 36-97, et seq., and any amendments thereto.

(d) The provisions of this article shall not alter the duties or responsibilities of the local building department and code official to enforce the Building Code pursuant to Code of Virginia § 36-105, and any amendments thereto. Nothing in this article shall relieve the obligation of property owners and tenants in the rental inspection district, and elsewhere in the city, to comply with all applicable building codes. Penalties for violation of this article shall be in addition to any penalties for violation of applicable building codes. (Ord. No. 2005-12, §VII, 9-13-2005)

Sec. 19-190. Appeals; Effects.

(a) Any person aggrieved by any determination or decision of the administrator of the codes compliance office made pursuant to this division shall have the right to appeal such determination or decision in accordance with the provisions of the Virginia Uniform Statewide Building Code, and amendments thereto.

(b) Nothing in this division 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 division 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 division shall be construed to limit the authority of the administrator of the codes compliance office to perform housing inspections in accordance with applicable law.

This ordinance shall become effective on _____.

Adopted: _____

,Mayor

Clerk of Council

