

ORDINANCE 13-02

AN ORDINANCE PROVIDING FOR THE INSPECTION OF RENTAL PROPERTY

WHEREAS, the City of Cammack Village, desires to safeguard the stock of decent, safe and sanitary rental housing within the City of Cammack Village and to protect the owners, tenants and their invitees by providing for systematic citywide inspections of rental housing and the public areas therein to insure housing code compliance; and

WHEREAS, the concerns the City of Cammack Village are due to: (i) the age of the rental housing stock; and (ii) the fact that Owners of said rental housing stock without an Ordinance providing for the systematic inspection of such rental housing stock may not take the required steps needed to make sure that their Rental Housing Unit (or Units) are Code compliant; and

WHEREAS, in the interests of the health, safety and welfare of Owners, tenants, their invitees and all citizens of Cammack Village, it is necessary that the City of Cammack Village institute a program of systematic citywide inspection of Rental Housing Units; and

WHEREAS, the provisions of this ordinance shall apply to all Rental Housing Units located within the City of Cammack Village.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAMMACK VILLAGE.

SECTION 1: Scope.

(a) Every Rental Housing Unit shall conform to the requirements of this Ordinance irrespective of when such building may have been constructed, altered or repaired of which said

Ordinance shall be known as the “Residential Rental Housing Unit Inspection Program of the City of Cammack Village.”

(b) To facilitate uniformity of all Rental Housing Units within the City of Cammack Village, the City of Cammack Village does hereby adopt by reference as if set forth herein word for word those editions of Volume I and II of the Arkansas Fire Prevention Code (“Standard Building Code”), the National Electric Code and the Arkansas State Plumbing Code as have been adopted by the City of Little Rock in its Ordinance Sections 8-28, 8-172 and 8-475. Further, Cammack Village Ordinances 95-6 and 95-7 shall remain in full force and effect except to the extent that such Ordinances may conflict with Ordinance 13-02, the Standard Building Code, National Electric Code, Arkansas State Plumbing Code and/or any subsequent editions, supplements and/or amendments to these respective Codes. Further editions, supplements and/or amendments of these respective Codes as mentioned herein shall apply to the City of Cammack Village without necessity of any amendment to this Section 1(b) of Ordinance 13-02, Cammack Village Ordinance 95-6 or Cammack Village Ordinance 95-7. Notwithstanding any language in the above referenced Codes and/or Ordinances, the City Council of Cammack Village shall be vested with interpretative and enforcement authority regarding this Ordinance.

(c) This Ordinance establishes minimum standards for Rental Housing Units (as outlined in the above referenced Building, Electric and Plumbing Codes) that apply to all Rental Housing Units irrespective of when said building was constructed, altered or repaired.

SECTION 2: Definitions. For the purposes of this Ordinance certain abbreviations, words, phrases, terms and their derivatives shall be construed as specified herein. Abbreviations, words, phrases and terms used in this Ordinance but not specifically defined herein, shall have the meaning stated in the Standard Building Code, the National Electric Code, the Arkansas State

Plumbing Code and/or as otherwise revised by the City of Little Rock within its respective Ordinances as they apply to Rental Housing Units. Where not defined in this Ordinance or in the Housing Code, such abbreviations, words, phrases and terms shall have the meaning generally prescribed by dictionary definition.

(a) **Building Official.** The “Building Official” is defined as the officer or other person (or persons), charged with the administration and enforcement of Ordinance 13-02 or his duly authorized representative as appointed by the City of Cammack Village.

(b) Building Official Exceptions. The term “Building Official Exceptions” as used in this Ordinance shall mean those items of non-compliance with the Codes revealed by the initial inspection contemplated hereunder that meet the following criteria:

(i) the item of non-compliance does not materially affect the renter’s use and enjoyment of the rented premises (including any appliances included in the rented premises);

(ii) the tenants of the property have executed and delivered to the City and the landlord a written waiver and release waiving the correction of the items of non-compliance (any tenants subsequent to the tenant(s) occupying the property at the time of the inspection shall be furnished a copy of the inspection report prior to occupying the property and provided a similar written waiver and release failing which the Building Official Exceptions shall no longer apply);

AND

(iii) the item of non-compliance does not constitute a Life Safety Violation or a Life Threatening Violation.

(c) **Certificate of Compliance.** A “Certificate of Compliance” is a document issued by the City of Cammack Village that certifies:

- (i) A particular Rental Housing Unit has been inspected and found to be in Code Compliance; and
- (ii) The Owner of a Rental Housing Unit or the agent of the Owner is available to receive and to respond to notices and civil and/or criminal processes and/or Notices of the City of Cammack Village regarding Code enforcement; and
- (iii) The Owner of a Rental Housing Unit or the agent of the Owner has a current business license from the City to rent Residential Housing Units as provided under Cammack Village Ordinance 13-03 (which supersedes Cammack Village Ordinance 08-02).
- (d) **Codes.** The 2012 International Residential Code for One and Two Family Dwellings, the Arkansas State Plumbing Code, Cammack Village Ordinance 95-06, Cammack Village Ordinance 95-07, and any further editions, supplements or amendments to said Codes or Ordinances.
- (e) **Code Compliance.** The standards enumerated in the Codes are the minimum housing code requirements of the City of Cammack Village. For purposes of this Ordinance, reference to the term “Code Compliance” shall mean compliance with all provisions of the Codes in effect at the time of the initial inspection of the Residential Housing Unit with the exception of those items designated by the Building Official as Building Official Exceptions. The Building Official Exceptions shall only be applicable with respect to the initial owner of the rental property at the time the inspection occurs. Upon the voluntary or involuntary transfer of the property, all outstanding Building Official Exceptions are required to be corrected prior to entering into any new lease of the property or a change in occupancy of the rental property.

(f) **Life Safety Violation.** A “Life Safety Violation” is defined as a failure to comply with the Codes that is deemed by the Building Official to constitute an unsafe condition presenting a likelihood of danger to human health, safety or welfare.

(g) **Life Threatening Violation.** A “Life Threatening Violation” means a Life Safety Violation that is deemed by the Building Official or his or her designee to pose an imminent danger of death or serious injury or serious disease.

(h) **Owner.** The term Owner is defined as the holder of the title to one or more Rental Housing Units in fee simple and any person, group of persons, company, association or corporation in whose name tax bills on the property are submitted. This shall include any person having charge, care or control of any dwelling or dwelling unit, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possession, assignee of rents, lessee, or other person, firm or corporation, in control of a building, or their duly authorized agent. Any such person thus representing the actual Owner shall be bound to comply with the provisions of this Ordinance 13-02, and of the rules and regulations adopted pursuant thereto, to the same extent as if he were the owner and said individual shall notify the actual owner of reported infractions as they pertain to the property owned by the Owner.

(i) **Rental Housing Unit.** A “Rental Housing Unit” is defined the same way as the term “Dwelling” within Section 13(f) of Ordinance 95-7 except that a Rental Housing Unit is intended to be leased or rented to the occupant. A unit shall not be deemed a Rental Housing Unit for purposes of this Ordinance if the Owner of record shall provide to the City of Cammack Village satisfactory evidence that another person in possession and control of the premises has a contractual right to purchase the unit on a date certain for a specified price and is entitled to receive a warranty deed when the purchase price is paid.

SECTION 3: Administration. The Building Official is authorized to administer the provisions of this Ordinance.

SECTION 4: Rental Inspection Program. This systematic rental inspection program is part of the overall effort by the City of Cammack Village to encourage conservation of existing residential rental properties. Owners of Rental Housing Units are required to bring and to maintain these units to Code Compliance.

SECTION 5: Systematic Inspection. The City of Cammack Village hereby institutes a systematic Code enforcement program that will insure that all Rental Housing Units within the City of Cammack Village are inspected over time.

SECTION 6: Implementation of Systematic Inspection. Areas of implementation will be selected and priority will be established by the City Council of the City of Cammack Village.

SECTION 7: Certificate of Compliance Required.

(a) **Certificate of Compliance.** It is unlawful to rent, let or allow the occupancy of any Rental Housing Unit without a Certificate of Compliance for each unit.

(b) **Requirement for Issuance and Maintenance of Certificate of Compliance.**

(1) In order to obtain and maintain a Certificate of Compliance, the Owner or agent of the Owner shall maintain a current business license as provided for in Ordinance 13-03 and shall comply with the provisions of this Ordinance to ensure that the Owner or someone authorized to act as agent of the Owner:

a. Maintains with the Clerk of the City of Cammack Village a current name and home or business address at which the Owner and/or the agent of the Owner can be served personally or by certified mail,

and a current telephone number at which the Owner and/or agent of the Owner can be reached telephonically or by facsimile, and an e-mail address if available; and

- b. Has the authority to consent to an administrative search of the unit and provides access for such search; and
- c. Has written authorization to receive and to accept on behalf of the Owner any notices of Code violations and civil and criminal legal process from the city.

(2) Once issued, a Certificate of Compliance shall remain in full force and effect until an inspection reveals Code violations which are not subsequently corrected within the time allowed by the City of Cammack Village and results in a suspension or revocation by the Clerk of the City of Cammack Village or until the Rental Housing Unit is sold to a third party who intends to use the property as a Rental Housing Unit in which case a new inspection shall be required and any Building Official Exceptions shall be corrected.

(3) Any Rental Housing Unit found to be occupied without a current Certificate of Compliance shall be inspected and the Owner or agent of the Owner shall be required to obtain such certificate within the time permitted by subsection (d)(4) of Section 7 of Ordinance 13-02. Such unit may continue to be occupied prior to the initial inspection in accordance with Section 8.

(c) **Local Agent for Service.**

- (1) Any rental property owner who resides outside the state shall designate an agent for receipt of notice and process on behalf of the Owner. To qualify for designation, such agent shall reside or maintain a place of business within the limits of Pulaski County, Arkansas.
 - (2) Out-of-state owners shall ensure the agent for service:
 - a. is provided current contact information specified in the previous section; and
 - b. is provided written authorization to accept service of civil or criminal process and to provide access for the search conducted.
 - (3) It is the responsibility of the agent to forward to the Owner all Code compliance notices and civil and criminal process received by the agent.
 - (4) Any agent appointed by an Owner pursuant to this subsection shall not have civil or criminal liability for action or inaction of the Owner, notwithstanding any provision of common law, contractual provision, statute, ordinance or directive which may be contrary.
- (d) **Effect of Noncompliance.**
- (1) Failure to comply with the provisions of this section is deemed to constitute an imminent threat to the public health, safety and welfare of the citizens of Cammack Village and may lead to a declaration by the city that the Rental Housing Unit is a public nuisance.
 - (2) Any Rental Housing Unit that has been declared a public nuisance shall be subject to the following remedial actions at the option of the City of

Cammack Village, in addition to any other legal or equitable remedies available to the City of Cammack Village.

- a. Revocation of suspension of the Certificate of Compliance;
- b. Condemnation of the unit;
- c. Condemnation of the Unit that leads to the Unit being closed, boarded and secured in which case the Building Official may direct that utilities be terminated to the Unit.

(3) If the City of Cammack Village requires the closing of any Rental Housing Unit the Building Official shall post on the structure written notice of its hazardous condition and shall immediately send notice by first class mail and by a form of delivery for which there is a receipt to show proof of delivery to the tenant and to the Owner or agent of the Owner which describes the action taken by the city, the date, and the reason for such action.

(4) The Owner shall come into compliance with the provisions of this section within the following timelines measured from the date the notice is served by the city:

- a. Ten (10) business days to designate an agent as directed by this section; or,
- b. Ten (10) business days to correct any life safety violations;
- c. Thirty (30) days to correct all nonlife safety, nonlife threatening violations; provided, that in appropriate circumstances as set forth

in this section, the building inspector may extend the time to sixty (60) days.

- (5) No person occupying a structure after the city has posted on the structure a notice of its unsafe condition shall be considered a displaced person nor shall such a person be entitled to relocation assistance from the city.

(e) **Penalty.**

- (1) Each violation of this section shall be punishable as provided herein in addition to any remedial action set forth above or which shall be deemed necessary pursuant to the inherent power of the court, or which is otherwise authorized by state law.
- (2) Each day a violation continues after a compliance date specified in this section or in any notice served by the city shall be deemed a separate offense.
- (3) Except as otherwise provided, a person convicted of a violation of Ordinance 13-02 shall be punished by a fine not to exceed one thousand dollars (\$1,000.00). For each repetition of the same offense said fine amount shall double. Furthermore, if any such violation is continuous in nature, the penalty for allowing the continuance nature of such violation to continue thereof shall be a fine not to exceed two-hundred and fifty dollars (\$250.00) for each day that the same is unlawfully continued.
- (4) If a violation of this Ordinance is also a misdemeanor under state law, the penalty for the violation thereof shall be prescribed by Arkansas law for the state offense.

- (5) Any imposition of a penalty herein does not prevent the revocation or suspension of any applicable license or permit.
- (6) Violations of this Ordinance that are continuous in nature with respect to time shall be deemed to be a public nuisance and may be abated by injunction or other equitable relief. The imposition of a “penalty” herein shall not prevent the simultaneous granting of equitable relief in appropriate cases.

SECTION 8: Occupancy.

As of the effective date of this article, all Rental Housing Units which have not been inspected as required by this article may continue to remain occupied until such time as the initial biennial inspection is conducted, whereupon the provisions related to occupancy as provided by this article shall apply.

SECTION 9: Frequency of Inspections.

All Rental Housing Units shall be systematically inspected for code compliance every two (2) years, sometimes referred to herein as the “biennial inspection.” Biennial inspections shall begin on January 1, 2014. A schedule of said inspections shall be prepared by the City of Cammack Village and approved by the City Council. Irrespective of the above, in the event a Housing Unit is converted from an Owner occupied unit to a Rental Housing Unit, the Owner shall notify the City of Cammack Village of such status change and an inspection shall be required under the terms of this Ordinance 13-02 within six (6) months of the premises being converted from an Owner occupied housing unit to a Rental Housing Unit.

SECTION 10: Additional Inspections.

In addition to the biennial inspection, each Rental Housing Unit may be subject to more frequent inspections upon the following events:

- (1) The owner requests an inspection of the Rental Housing Unit upon notice to the Clerk of the City of Cammack Village; or
- (2) The city receives a complaint regarding the condition of the Rental Housing Unit and inspection or reinspection is necessary; or
- (3) The Rental Housing Unit is affected by fire, vandalism, storm or other natural disaster; or
- (4) Title to the Rental Housing Unit is conveyed or otherwise transferred to another party, either voluntarily or involuntarily.

SECTION 11: Inspection Procedure.

- (a) It shall be the responsibility of the Owner, tenant or agent in charge of the Rental Housing Unit to provide access to the Building Official (or other individual as designated by the Building Official) into all areas subject to inspection under this Ordinance. The Building Official may obtain an administrative search warrant in order to gain access to the Rental Housing Unit. The legislative finding that Rental Housing Units should be inspected to ensure compliance with the housing code for the health, safety and welfare of the occupants shall be deemed to be probable cause for the issuance of the warrant.
- (b) Upon completion of inspection, the Building Official shall deliver to the Owner a list of items required to be addressed to bring the Residential Housing Unit into compliance with the Codes. The Building Official shall note which items on the list are deemed to be Life Safety Violations or Life Threatening Violations and

the Building Official's proposed Building Official Exceptions. If an Owner disagrees with the Building Official Exceptions, the Owner shall have the right to appeal the Building Official's determination by notifying the City Clerk in writing no later than 4:00 p.m. on the first Monday of the month following delivery of the Building Official Exceptions of the Owner's desire to appeal the Building Official Exceptions. The notice of intent to appeal shall include a specific listing of those items on the list the Owner disputes and contain a statement that the tenant of the Residential Housing Unit has agreed to allow the disputed items to be included in the list of Building Official Exceptions. The appeal shall be heard at the next regular City Council meeting (or a special meeting called for such purpose) and the decision of the City Council shall be final. The time for compliance shall be tolled except for Life Threatening Violations on the list until the City Council's decision on the appeal. The City of Cammack Village shall issue a Certificate of Compliance for the Rental Housing Unit when the Rental Housing Unit is deemed to be in code compliance.

- (c) If the premises are found to be in violation of one (1) or more provisions of code compliance, the City of Cammack Village shall provide written notice of such violations to the Owner. The notice shall:
- (1) Be in writing.
 - (2) Include a description of the real estate sufficient for identification.
 - (3) Include a statement why it is being issued.
 - (4) Include a statement to the Owner that all repairs must be completed as set forth in subsections (d) and (e) below.

- (5) Include a statement of the procedures for an Owner to request an administrative review of non-life safety violations. In this regard said administrative review shall first be conducted with the Building Official and if there still remains a disagreement between the parties said second review shall be undertaken between the Owner and the City Council (or some separate Board created by the City Council to review these situations).
- (6) Require that all necessary permits be secured before corrective work starts.
- (7) State that if repairs, reconstruction, alteration, removal or demolition are not completed within the stated time as set forth in the notice, the City of Cammack Village may initiate legal proceedings by charging the person with the violation of this Code.
- (8) Before utilities are terminated for life safety violations by vacant structures, the Rental Housing Unit shall also be posted with a notice that the utilities are subject to removal pending possible administrative review and with a list of violations deemed to be life safety violations. Additional notice shall be made as follows:
 - a. By delivery to the Owner personally, or by leaving the notice at the usual place of abode by the Owner with a responsible adult; or
 - b. By depositing the notice in the United States Post Office addressed to the Owner at this last known address by certified mail, return receipt requested, with postage prepaid thereon; and

- c. By depositing the notice in the United States Post Office addressed to the Owner at his last known address by regular mail with notarized affidavit stating the date it was deposited in the mail with postage prepaid thereon.
- (d) The Owner shall complete code compliance for life safety violations within ten (10) business days of the notification by the city. The city shall not issue a Certificate of Compliance until any violations listed in the notice are corrected.
- (e) If a good faith effort is demonstrated, all life safety violations were corrected within ten (10) business days of the notification by the city, and there is consistent and continuous progress shown, the Building Official may grant an extension for repair of all nonlife safety violations from thirty (30) days to a time not to exceed ninety (90) days from the notification by the city. The city shall not issue a Certificate of Compliance until any violations listed in the notice are corrected.
- (f) Owners of four (4) or more Rental Housing Unit are eligible to submit a plan for rehabilitation of all the units included in the plan in order to bring the units into code compliance. In such instances the Owner shall obtain an approved rehabilitation plan from the Building Official. The Building Official may allow up to twelve (12) months from plan approval for code compliance of all units included in the plan. Life safety violations shall not be eligible for inclusion in a rehabilitation plan.
- (g) Neither life safety violations nor any component of an approved rehabilitation plan shall be subject to appeal to the City Council.

- (h) If the Owner fails to abate the violations determined by inspection within the time periods prescribed, the city shall proceed with prosecution of the violations in District Court.
- (i) The city may direct the termination of utility service to a unit containing one (1) or more life safety violations. The city may also direct the termination of utility service to any unit in violation of this subsection upon notice of a change of occupancy or upon a determination that the unit is vacant. Utility service shall not be restored until all life safety violations have been corrected, as determined by the Building Official except to the extent necessary to complete repair work.
 - (1) With the exception in subsection (4) below, prior to such termination of utilities, the property shall be posted with a notice listing the life safety violations determined to exist and stating the review process available to the property owner if the owner desires to contest the finding of life safety violations. The Rental Housing Unit shall not be rented or otherwise occupied until life safety violations have been corrected or are no longer found to exist.
 - (2) Beginning January 1, 2014, if, within seventy-two (72) hours, excluding weekends and holidays, of the posting of the property, the Building Official receives a request by the Owner for an administrative review of the finding that one (1) or more life safety violations exist, such review shall be made within two (2) working days from the request for review. The review shall be conducted by the Building Official, or his designee, at the Rental Housing Unit where violations were found to exist. If the

Building Official affirms that one (1) or more life safety violation exists, the utility services may forthwith be terminated.

(3) If the Building Official is denied access to inspect the Rental Housing Unit to review the findings of life safety violations, utility services may then be terminated.

(4) If a life safety violation is deemed to be a life threatening violation, no administrative review shall be provided to the Owner prior to termination of utilities.

SECTION 12: Certificate of Transferability.

A Certificate of Compliance issued pursuant to this article may be transferable to succeeding Owners; provided that within five (5) business days of the transfer, the transferor shall provide written notice of said transfer to the Building Official. Such notice shall contain the name and address of the new Owners. A transfer shall not affect the time limits imposed by this article.

SECTION 13: Display of Certificate.

The Certificate of Compliance shall be displayed at all times in a readily viewable place on the premises of the Rental Housing Unit. Upon request of the city, an existing or prospective tenant, the owner or agent shall present the certificate.

SECTION 14: Annual Report.

The Building Official shall prepare a report each year concerning the administration of the Residential Rental Housing Unit Inspection Program. The annual report shall describe the number of inspections performed, the corrections made, enforcement measures taken, itemization of fees collected, fines imposed and any other administrative costs associated with

the Program. The annual report shall be submitted to the Mayor and the City Council in January of each year.

SECTION 15: Tenant Responsibility.

- (a) It is a violation of this article for any person having care, custody or control of a rental housing unit to damage, destroy or tamper with the unit thereby causing noncompliance with the housing code.
- (b) Before the city can issue a citation under this section, the Owner shall provide the Building Official with written documentation signed and dated by the tenant indicating the condition causing noncompliance did not exist when the tenant took possession of the premises. This document shall be in a form approved by the Building Official. Furthermore, the Building Official shall determine that the tenant in possession of the premises damaged, destroyed or tampered with the unit thereby causing noncompliance with the housing code.

SECTION 16: Repeal. This Ordinance repeals any other prior ordinance to the extent such other ordinance is in conflict with this Ordinance as to any part.

SECTION 17: Emergency Clause. The City Council for the City of Cammack Village finds and determines that the implementation of a process to inspect Rental Housing Units within the City of Cammack Village, Arkansas are essential for the orderly administration and operation of the City of Cammack Village, Arkansas and an emergency is declared to exist, and this Ordinance being necessary for the preservation of the public peace, health and safety shall be in full force and effect on and after January 1, 2014.

ADOPTED:

APPROVED:

DATE: _____

Harry A. Light, Mayor

ATTEST:

DATE: _____

Mary Lynn Walker, Recorder