

TOWN OF LITTLE ELM

ORDINANCE NO. 1091

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS, REPEALING ORDINANCE 1082 IN ITS ENTIRETY, BY REVISING AND REPLACING THE DEVELOPMENT SERVICES COMPREHENSIVE FEE SCHEDULE; AND AMENDING THE CODE OF ORDINANCES OF THE TOWN, BY AMENDING CHAPTER 22 (BUILDINGS AND BUILDING REGULATIONS), IN PART, BY REVISING THE FEE AND PROCESS OF THE RENTAL REGISTRATION PROGRAM; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Little Elm ("Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Charter adopted on May 1, 2001; and

WHEREAS, the Town of Little Elm has adopted various ordinances and codes with construction and development regulations requiring the submittal of plans and applications for review and approval by Town Staff; and

WHEREAS, it is the general expectation of Council for development to bear the financial burden of review and approvals, and not the citizens of the Town of Little Elm; and

WHEREAS, the Town Council has determined that the long-term sustainability of development, both residential and commercial, is critical to the graceful aging of Little Elm, to its tax base, to property values, to the image and reputation of the community, and to the prevention of decline; and

WHEREAS, the Town Council has further determined that the registering of rental properties with their associated safety inspections and the annual inspection of commercial sites is fundamental to the long-term sustainability of Little Elm; and

WHEREAS, the Town Council has further determined that the this ordinance revision encourages compliance with minimal and reasonable standards of maintenance and repair of development; and

WHEREAS, the Town desires to discuss and potentially revise the fee associated with the rental registration program; and

WHEREAS, after due deliberations and consideration of the recommendation of staff and any other information and materials received at the regular open meeting, the Town Council has determined that the amendments set forth herein should be adopted, and that such amendments are in the best interest of the public health, safety, and welfare of the citizens of the Town of Little Elm.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. ADOPTION. The attached Development Services Comprehensive Fee Schedule is hereby officially and formally adopted in its entirety.

SECTION 3. AMENDMENT. That Chapter 22 (Buildings and Building Regulations) of the Town of Little Elm Code of Ordinances is hereby amended, in part, by revising the fee and process of the rental registration program, to read as shown on the attached document.

SECTION 4. SAVINGS. This Ordinance shall be cumulative of all other ordinances of the Town affecting planning related applications and reviews and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance

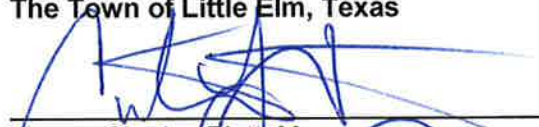
SECTION 5. SEVERABILITY. The sections, paragraphs, sentences, phrases, and words of this Ordinance are severable, and if any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason held invalid or unconstitutional by a court of competent Jurisdiction, the adjudication shall not affect any other section or provision of this ordinance or the application of any other section or provision to any person, firm, corporation, situation or circumstance, nor shall adjudication affect any other section or provision of the Comprehensive Zoning Ordinance of the Town of Little Elm, Texas, and the Town Council hereby declares that it would have adopted the valid portions and applications of the ordinance without the valid parts and to this end the provisions of this ordinance shall remain in full force and effect.

SECTION 6. REPEALER. That all ordinances of the Town of Little Elm in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of that conflict.


SECTION 7. EFFECTIVE DATE. That this Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law and the Town Charter.

PASSED AND APPROVED this the 13th day of December, 2011.

The Town of Little Elm, Texas


Curtis Cornelious Mayor Pro-tem
Town of Little Elm, Texas

ATTEST:


Kathy Phillips, Town Secretary

**Little Elm Code of Ordinances
Chapter 22 (Buildings & Building Regulations)
ARTICLE V. – Community Integrity Programs**

Sec. 22-141. - Rental Registration.

1. *Definitions.*
 - a. *Single-family rental dwelling.* Any single-family dwelling or individual unit of a two-family dwelling which is rented, leased, or otherwise occupied by a person other than the owner.
 - b. *Multifamily rental building.* A residential building containing 3 or more attached units available for rental. Under this definition an apartment complex can consist of multiple rental buildings.
2. *Rental Permit required.* All owners of a single-family rental dwelling or a multifamily rental building shall obtain a rental permit issued under the provisions of this section for each single-family rental dwelling or multifamily dwelling unit owned. Rental permits are valid for the calendar year in which they were issued. It shall be unlawful to submit a false or fraudulent application for a rental permit. A property owner who rents a dwelling unit knowing that a rental permit has not been issued for that dwelling or building or who knows that the permit issued has been revoked commits an offense each day the dwelling or building is occupied by a tenant and may permanently lose the rental permit.
3. *Registration required.* An applicant for a rental permit shall file with the Town a written registration form, on the form provided for that purpose, signed by the owner of the single-family rental dwelling or multifamily rental building to be permitted, by no later than February 15th of each year. An applicant who owns more than one single-family rental dwelling shall file a separate registration form for each. Owners of multifamily rental buildings can file based on complex, if desired. Registration must be completed in order to receive a permit and must be kept updated with current information.
4. *Registration form contents.* The registration shall include:
 - a. The name, mailing address, physical street address, telephone number, email address, and driver's license or other government-issued identification number of the owner and/or agent assigned to the property for which the registration is being submitted;
 - b. If the owner is other than an individual, the legal name, all trade names, and the registered agent, managing partner, or other person authorized to accept service of process on behalf of the owner; and
 - c. A signed agreement to comply with the stated maintenance and safety conditions of the rental dwelling unit.
5. *Agent for service.* An applicant may designate on the registration an agent for service of process who shall be the authorized agent for purposes of notice and other communications provided in this section. If an owner designates an agent for service as

provided in this subsection, service of any notice under this Section (106-22, Art. V) on the designated agent shall constitute service upon the owner unless the director of development services receives actual notice from the owner that the designated agent is no longer authorized to accept service on behalf of the owner.

6. *Accessibility of permit; replacement.* A rental permit issued pursuant to this section shall be maintained by the Town, with a copy provided to the permittee.
7. *Permit nonassignable; surrender.* A permit issued under this section is valid for the calendar year in which it was issued and is not assignable or transferable. A permit is valid only for the premises for which it is issued. It shall be unlawful for any person to counterfeit, forge, change, deface or alter a permit. A permit may be canceled upon written request of the owner(s) and surrender of the permit itself to the director of development services. The surrender of a permit shall be effective immediately upon its filing in the office of the director.
8. *Landlord responsibility.* The landlord/owner is responsible for ensuring the dwelling unit on the permitted property is compliant with all standards within this Section (106-22, Art. V). Any repair required to meet these conditions will be the responsibility of the landlord and not passed on to the tenant. The landlord must acknowledge this responsibility on the annual registration form for the property.
9. *Permit term and fee.*
 - a. Each rental permit issued under this section shall be valid for the calendar year in which it was issued, unless suspended or revoked.
 - b. Annual rental permits shall be per the Development Services fee schedule, and as amended. Uncollected fees shall apply retroactively, unless otherwise authorized by the Director.
 - c. Inspections, when required, shall be per the Development Services fee schedule, and as amended.
 - d. A monthly late fee of \$10 shall be assessed for each month, or partial month, a dwelling unit fails to register with a maximum of \$50 in late fees assessed per year.
 - e. Permit fees for owner-occupied dwelling units converted to rental dwelling units during a calendar year may be pro-rated on a monthly basis for the year in which the conversion occurred, provided a rental permit application is submitted to the Development Services Department within 10 days of tenant occupancy.
 - f. The fees stated herein may be increased in the future, as shown on the Comprehensive Fee Schedule maintained by the Development Services Department.
10. *Temporary tenancies.* It shall be an affirmative defense to prosecution that the single-family residential dwelling was rented or leased for a period of less than 60 days to a person who was the immediate past owner of the dwelling or who shall be the immediate next owner of the dwelling.

11. *Suspension of permit.* A rental permit shall be temporarily suspended by the Town:

- a. If a life safety violation exists on the premises of the permitted rental dwelling unit;
or
- b. If, after notice and a period of correction as provided here within, a violation remains on the premises of the permitted single-family rental unit; or
- c. If, the owner of the property has not paid all amounts then due and outstanding to the Town (other than amounts for ad valorem taxes) directly related to such property, including, without limitation, the payment of any amounts secured by liens filed against the property by the Town and fines owed by the owner.

12. *Reinstatement of suspended permit.* A person whose rental permit has been suspended may, at any time, make written application for a reinspection for the purpose of reinstating the permit. Within ten days following receipt of a request, which shall include a statement signed by the applicant that in the applicant's opinion, all of the violations that caused suspension of the permit have been corrected, the Town shall make a reinspection. Upon reinspection, if all life safety, critical and noncritical violations have been corrected, the permit shall be reinstated.

13. *Revocation of permit.* For serious or repeated violations of any of the requirements of this chapter, or for interference with the Town or any of its agents in the performance of their duties, the single-family rental permit may be permanently revoked after the Town has provided an opportunity for a hearing. Prior to such action, the Town shall notify the holder of the permit in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of ten days from the service of such notice unless a request for a hearing is filed with the Town, by the permit holder, within such ten-day period. A permit shall be suspended for cause pending its revocation or a hearing relative thereto.

14. *Hearings.* The hearings provided for shall be conducted at a time and place designated by the board of adjustment. Based on the record of such hearing, the Board shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the Town.

15. *Fire Code Applies.* This article does not include, nor exempt commercial residential properties from any inspection required or allowed by the most current adopted fire code.

16. *Municipal Immunity.* The Town is not liable for the condition of an inspected/uninspected rental dwelling unit. Successful rental permit registration and/or safety inspection in no manner makes the Town responsible for anything that may occur on private property.

17. *Penalty.* Failure to register, failure to pay all fees assessed by the Town pursuant to this Section (106-22, Art. V), or the suspension or revocation of a permit may result in suspension of water service and/or judicial action resulting in liens filed against the property.

Sec. 22-142. – Safety Inspection.

1. *Safety Inspection.* An exterior and interior safety inspection shall be conducted by the Town on all single-family and two-family rental dwelling units (including foreclosure homes) within 30 days of occupancy of a new tenant or upon request of a new water utility account. Inspections shall also be made based upon code violation complaints or at the Town's discretion on any rental property. Inspections shall include, but are not limited to:
 - a. The International Property Maintenance Code, and as amended
 - b. Town nuisance codes, and as amended
 - c. Driveways and other hardscape
 - d. Interior safety (plumbing, electrical, heat/air, means of egress, etc)
 - e. Trees and landscaping
 - f. Other conditions as determined by the Town
2. *Code violations.* Any code violations which are the responsibility of the landlord to correct must be corrected within ten days of notice by the Town or have work plan approved by the Development Services Department. Property owner must obtain all applicable permits, if any are required, prior to starting any work. Failure to do so will result in citations and possible loss of rental permit.
3. *Entry.* The agent(s) of the Town administering this program is authorized and directed to make inspections to determine conditions of dwellings and premises located within the Town. This chapter shall not be construed to require an occupant, operator, or owner to consent to a warrantless inspection of a dwelling or premises, except as provided by law.
4. *Foreclosure home.* Prior to an electrical connection being made, the owner or agent of a foreclosed property must request a safety inspection (electrical release) from building safety division. A single-family or two-family dwelling unit that has been vacated by the owner/occupant, and has been foreclosed upon by the lender, is considered a foreclosure home.

Sec. 22-143. – Commercial Site Integrity.

1. *Inspection Required.* Each year, the Town shall inspect its commercial, institutional, HOA common areas, multifamily developments, and other non-residential sites to ensure continued compliance with development regulations and safety regulations and to ensure completion of deferred maintenance. Commercial sites are typically determined by the lotting pattern on the approved plat. All inspections required by this section are exclusive to any inspections required by the currently adopted fire code or any complaints made as to perceived existence of any fire code violations.
2. *Fee.* The charge for this service is \$25 to be paid by the property owner or its agent. Institutional uses [churches, schools, government facilities, etc – as defined within Chapter 106 (Zoning)] are exempt from the fee, but not the mandatory annual inspection. This fee may change in the future per the Development Services fee chart, and as amended.
3. *Code violations.* Any code violations are the responsibility of the landlord to correct and

should be corrected within ten days of notice by the Town or have work plan approved by the Development Services Department. Property owner must obtain all applicable permits, if any are required, prior to starting any work. Failure to do so will result in citations and possible loss of certificate of occupancy.

Secs. 22-144—22-150. - Reserved.