

ORDINANCE NO. 6498

AN ORDINANCE AMENDING ORDINANCE NO. 6458 PERTAINING TO THE PROPERTY MAINTENANCE CODE OF THE CITY OF HOT SPRINGS, ARKANSAS; AND FOR OTHER PURPOSES

WHEREAS, pursuant to A.C.A. § 14-55-207, the Hot Springs Board of Directors adopted the 2021 Edition of the International Property Maintenance Code by the enactment of Ordinance No. 6458 on February 7, 2023; and

WHEREAS, the stated purpose and intent of this Code is to ensure the public health, safety, and welfare insofar as they are affected by the conditions and maintenance of existing structures and premises and to ensure consistent community standards are applied to all property; and

WHEREAS, A.C.A. § 18-17-502 provides for certain implied residential quality standards; and

WHEREAS, the foregoing sets forth respective civil remedies afforded to landlords and tenants; and

WHEREAS, notwithstanding the foregoing, A.C.A. § 18-17-502(h) provides that “[t]his section does not relieve the landlord from having to comply with any stricter applicable housing standard of a local government with jurisdiction.”; and

WHEREAS, the Board of Directors finds that a tenant's sole remedy under A.C.A. § 18-17-502(d), being the termination of the lease or rental agreement, provides inadequate protection for tenants who have no other viable residential options available, and as such, amendments to Ordinance No. 6458 as set forth hereunder are warranted.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF HOT SPRINGS, ARKANSAS, THAT:

SECTION ONE. Ordinance No. 6458 is hereby amended by adding the following:

17-2-4.6. Additional Provisions.

(i) Pursuant to A.C.A. § 18-17-502(h), the following are adopted as additional housing standards for residential rentals within the Hot Springs Property Maintenance Code - 2023 Edition, as amended:

(1) A landlord shall provide:

- (i) An available source of hot and cold running water;
- (ii) An available source of electricity;
- (iii) A source of potable drinking water;
- (iv) A sanitary sewer system and plumbing that conform to applicable building and housing codes in existence at the time of installation;
- (v) A functioning heating system and
- (vi) A functioning roof and building envelope.

- (2) A landlord shall provide the tenant(s) with a signed and dated disclosure statement, duly acknowledged by signature of the tenant, prior to the time possession is delivered to the tenant, or prior to the renewal of any term of a leasehold, month to month or otherwise, as the case may be. Said disclosure statement shall declare whether an air conditioning system, portable or otherwise, serves the subject residential premises at the commencement a lease-term, or prior to the renewal of any term of a leasehold, month to month or otherwise, as the case may be, and if so, whether the landlord or the tenant shall be responsible for the maintenance and/or the electrical utility expense for same. Such disclosure statement shall be in a form substantially similar to the disclosure form attached hereto as Exhibit "A." In the event that such disclosure statement assigns the maintenance of an air conditioning system, portable or otherwise, to the landlord, then same shall be a housing standard obligation of the landlord hereunder, and shall be subject to the fines and penalties set forth hereunder.

Said Exhibit "A" shall not be codified, but shall be on file in the office of the City Clerk, and shall be accessible via the City of Hot Springs' website. The exhibit will be placed on the Neighborhood Services subpage of the Planning and Development Department page on the city's website unless and until a more conspicuous location on the website is identified.

- (3) The provisions of this Section One shall not apply to:
- (i) a licensed short-term residential rental otherwise regulated;
 - (ii) single family residential dwellings; or
 - (iii) the negotiated terms of a valid written lease agreement duly entered into by and between a landlord and tenant.
- (4) The following are affirmative defenses, to be proven by a preponderance of the evidence:
- (i) Failure to comply the housing standards under this Section One when temporarily prevented by an act of God, the failure of, or caused by, public utility service, or other force majeure events to include without limitation any epidemic or pandemic that causes work stoppages, labor or material shortages, or required social distancing that impacts the ability to maintain or repair the premises;

- (ii) Failure to comply the housing standards under this Section One could not be remedied because the tenant refused the landlord entry to the premises for the purpose of correcting the defect; or was caused by the deliberate or negligent act or omission of:
- (A) The tenant;
 - (B) A member of the tenant's family;
 - (C) Another occupant of or visitor on the premises; or
 - (D) Any person other than the landlord or the landlord's agent.

SECTION TWO. This ordinance shall supplement the provisions of A.C.A. § 18-17-502 by enacting additional housing standards pursuant to A.C.A. § 18-17-502(h), and is not intended to diminish any of the other provisions thereof.

SECTION THREE. Fines and penalties. See H.S.C. § 17-2-5.

SECTION FOUR. All ordinances and resolutions or parts of ordinances and resolutions in conflict herewith are hereby amended or repealed, as the case may be, to the extent of any such conflict.

SECTION FIVE. This ordinance shall be codified in the Code of Ordinances and the sections may be renumbered or re-lettered to accomplish such intention.

PASSED: July 2, 2024

APPROVED: 

PAT McCABE, MAYOR

ATTEST: 

HARMONY HURST MORRISSEY, CITY CLERK

APPROVED AS TO LEGAL FORM:


BRIAN W. ALBRIGHT, CITY ATTORNEY