

ORDINANCE NO: 2019-61
INTRODUCED BY: ADMINISTRATION

**AN ORDINANCE ENACTING CHAPTER 757 OF THE
BUSINESS REGULATION CODE OF THE CITY TITLED
“REGISTRATION AND INSPECTION OF RENTAL
PROPERTY,” AND DECLARING AN EMERGENCY**

WHEREAS, the City of Lyndhurst currently has approximately 450 one, two or three family dwelling units available for rental; and

WHEREAS, this Council has seen the number of registered rental units increase greatly over the past 5 years; and

WHEREAS, although legally located and existing in residential zoning districts, this Council wishes to designate those rental uses as the commercial enterprises they represent; and

WHEREAS, this Council believes that a non-owner occupied dwelling unit is more prone to require interior and exterior repair and maintenance more frequently than an owner occupied unit; and

WHEREAS, this Council recognizes that all costs for maintaining a commercial rental unit can be passed on to the tenant; and

WHEREAS, continued and adequate maintenance of residential property is an important consideration in the City; and

WHEREAS, maintenance of residential property is a proper function to protect the public health, welfare and safety of the City of Lyndhurst, its residents and its residential property owners; and

WHEREAS, for the above reasons this Council has determined to enact regulations regarding the maintenance and repair of rental property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNDHURST, CUYAHOGA COUNTY, STATE OF OHIO, THAT:

SECTION 1. Chapter 757 of the Codified Ordinances titled “REGISTRATION AND INSPECTION OF RENTAL PROPERTY” is hereby enacted to read as follows:

757.01 DEFINITIONS.

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

(a) “Designated City Official” means the Building Commissioner the City of Lyndhurst, Ohio or his/her designee.

(b) “Dwelling unit” means a space within a dwelling, comprised of a living, cooking and dining area, a sleeping room or rooms, storage closets and bathing and toilet facilities, all used by only one family.

(c) “Property Owner” means the person claiming, or in whom is invested, the ownership or title to real property, including but not limited to: the holder of a fee-simple title; the holder of a life-estate; the holder of leasehold estate for a term of five years or more; a buyer under contract for deed; a mortgagee, receiver, executor or trustee in control of real property; but not including the holder of a leasehold estate an initial term of less than five years.

(d) “Person” means an individual, corporation, business trust, estate, trust, partnership or association, two or more persons having a joint interest, or any other legal or community entity.

(e) “Property Manager” means a person other than the Property Owner that has managing control of a rental unit with or without compensation.

(f) "Renting" means the offering, holding out or actual leasing of a rental unit to an occupant other than the Property Owner, and generally involves the payment of a rental amount in cash, check or money order, although other forms of consideration (such as property safekeeping) may be involved; or no consideration at all may be involved.

(g) "Rental unit" means a one, two or three-family dwelling unit, including a town home dwelling unit, a condominium, apartment condominium or apartment dwelling that is not continuously occupied by the Property Owner twelve months out of the year. A tax mailing address which is not the address of the dwelling unit creates a rebuttable presumption that the dwelling unit is a rental unit.

(h) "Tenant" means any person, other than the Property Owner, who occupies, rents or leases a rental unit for any period of time for living or dwelling purposes with the consent of the owner or the landlord.

(i) "Vacant building" means any structure that is unoccupied. A vacant building is subject to the provisions of Chapter 1395 of these Codified Ordinances.

(j) "Tax mailing address" means the address shown on the Cuyahoga County Fiscal Officer's website as being the location to which the property tax bill is to be mailed.

757.02 RENTAL REGISTRATION.

(a) Each Property Owner of a rental unit within the City shall register each such rental unit with the Designated City Official, and shall renew such registration annually on the date prescribed by the Designated City Official pursuant to Section [757.03\(a\)](#) and the provisions of this Section regarding registration fees. A separate registration shall be required for each rental unit.

(b) (1) Each new Property Owner of a rental unit within the City shall make application for registration with the Designated City Official within 30 days after the date of acquiring ownership of a rental unit, or within 30 days of non-owner occupancy of a dwelling unit. Each initial application for rental registration or renewal of a rental registration shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00) for each one family dwelling unit; two hundred dollars (\$200.00) for each two family dwelling unit; and three hundred dollars (\$300.00) for each three family dwelling unit, or a non-refundable fee of Fifty Dollars (\$50.00) for each town home, condominium or apartment condominium dwelling unit. Registration and fees for apartment dwelling units, not to exceed Fifty Dollars (\$50.00) per apartment dwelling unit, may be required at the discretion of the Designated City Official.

(2) If a Property Owner as defined in Section [757.01](#) fails to register a property or properties by the prescribed date, the registration fee shall be doubled regardless of whether or not the dwelling unit was inspected. Said Property Owner shall also be subject to the appeals provisions as set forth in Section [757.06](#) of the Codified Ordinances.

(c) Application for rental registration shall be made upon a form provided by the City for such purpose, and shall include at least the following information:

(1) Property Owner's name, address (no post office box), work and home telephone number, and email address;

(2) If the Property Owner is a partnership, the name of all partners, and the principal business address, telephone number and email address of each partner;

(3) If the Property Owner is a corporation, the person registering must state whether it is organized under the laws of this State or is a foreign corporation, and must show the mailing address, business location, telephone number, email address, name of the person in charge of the local office of such corporation, if any, and the names of the registered and statutory agent, and, if a foreign corporation, the place of incorporation;

(4) Name, address, telephone number and email address of the property manager, if applicable;

(5) Street address of the rental unit;

(6) Name, phone number and email address of each primary or principal tenant;

(7) Number of adults and children under eighteen (18) years of age occupying the rental unit;

(8) Name and age of children attending school and name of school;

(9) Whether there has been a change of occupancy or an additional tenant of the rental unit since the date of last registration;

(10) Be signed by the Property Owner or Property Owner's agent.

(d) The Designated City Official shall, within 30 days after receipt of the registration application, either issue a certificate of registration or provide notification to the Property Owner that the application does not comply with the requirements of this Chapter.

(e) A certificate of registration shall be valid until June 1 following issuance thereof, provided, however, the Designated City Official may in his or her discretion prorate the fee proportionately for any certificate issued after December 31.

(f) Rental registration is not assignable or transferable.

(g) It is an offense for a Property Owner to fail to register and/or fail to renew the registration for the Property Owner's rental units within the City. Each day that the Property Owner continues to fail to register and/or renew the registration of the Property Owner's rental units within the City shall constitute a separate offense.

(h) It shall be unlawful for any person to file a false registration application with the Designated City Official.

757.03 RENEWAL OF REGISTRATION.

(a) Recognizing that the initial implementation of this Chapter may be difficult because of the number of rental units, the inspections of rental units and limited manpower, the Designated City Official may by administrative order divide the City into geographical areas.

(b) A registered Property Owner of a rental unit within the City, or the Property Owner's agent, shall renew the registration for each rental unit on or before the date prescribed by subsection (a) hereof. All renewal applications must be filled out completely and correctly; incomplete or incorrect renewal applications will be returned, with the possibility that late fees will be assessed.

(c)(1) Each renewal of a rental registration shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00) for each one family dwelling unit; two hundred dollars (\$200.00) for each two family dwelling unit; and three hundred dollars (\$300.00) for each three family dwelling unit, or a non-refundable fee of fifty dollars (\$50.00) for each town home, condominium or apartment condominium dwelling unit. Registration and fees for apartment dwelling units, not to exceed fifty dollars (\$50.00) per apartment dwelling unit, may be required at the discretion of the Designated City Official.

(2) If a Property Owner as defined in Section 757.01 fails to renew the registration of a property or properties by the prescribed date, the renewal registration fee shall be doubled regardless of whether or not the dwelling unit was inspected. Said Property Owner shall also be subject to the appeals provisions as set forth in Section 757.06 of the Codified Ordinances.

757.04 INSPECTION.

(a) The Designated City Official may inspect a rental unit to determine compliance with applicable state and local laws either:

- (1) On an annual or periodic basis, or
- (2) With the permission of the Property Owner, or agent of the Property Owner, or
- (3) With the permission of the tenant or occupant, or
- (4) At any other time authorized by law.

(b) Such inspection shall be as authorized by the statutes of the State and the Ordinances of the City, and as limited by the Federal and State Constitutions with respect to unreasonable searches and seizures.

(c) The City is authorized to obtain a search warrant to conduct an inspection permitted by this Section when probable cause to believe that a fire or health hazard or violation or unsafe building condition is present on the premises sought to be inspected. A search warrant is not authorized based solely upon the failure of a Property Owner to allow an inspection under this Section.

(d) In the case of an existing emergency entry may be made at any time, and no search warrant is necessary. No person shall refuse to permit such emergency entry or inspection.

757.05 SEVERABILITY.

Nothing in this chapter is intended to eliminate the requirement of a Property Owner to comply with the requirements of Chapter 5323 of the Ohio Revised Code.

757.06 APPEALS.

If a property owner is not satisfied with a decision of the Designated Building Official regarding the requirement to register, an appeal in writing may be made to the Mayor. If the property owner is not satisfied with the decision of the Mayor, an appeal may be taken to the Board of Zoning Appeals, as provided in Section 1154.06. Each appeal shall be filed within ten days of the decision appealed from.

SECTION 2. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City of Lyndhurst and its residents for the reason that it is necessary to assure that all non-owner occupied dwelling units in the City are safe for those living there. Therefore, this Ordinance shall take effect immediately upon the affirmative vote of not less than five (5) members elected to Council, and signature by the Mayor, or otherwise at the earliest time allowed by law.

PASSED: October 7, 2019

MAYOR

VICE MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Ordinance by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City on October 17, 2019 and October 24, 2019.

Clerk of Council

First Reading: September 3, 2019

Second Reading: September 16, 2019

Third Reading: October 7, 2019