CITY OF OPELIKA
CITY COUNCIL
CALLED MEETING AGENDA

300 Martin Luther King Blvd.

February 21, 2022

TIME: 12:00 PM

1. CALL TO ORDER

2. ROLL CALL
    1. George Allen, Erica Norris, Tim Aja, Todd Rauch, Eddie Smith

3. ORDINANCES
    1. Amend Sections 12-46, 12-51, and 12-53 of the Code of Ordinances, Residential Rental Registration and Inspection Program - 2nd Reading.

4. ADJOURN

"In compliance with the Americans with Disabilities Act, the City of Opelika will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the ADA Coordinator 72 hours prior to the meeting at (334)705-2083."

ORDINANCE NO._____

AN ORDINANCE TO AMEND SECTIONS 12-46, 12-51 AND 12-53 OF THE CODE OF ORDINANCES OF THE CITY OF OPELIKA, ALABAMA, AS TO THE RESIDENTIAL RENTAL REGISTRATION AND INSPECTION PROGRAM

WHEREAS, the City of Opelika, Alabama, (the "City") instituted a Residential Rental Registration and Inspection Program, pursuant to Ordinance No. 020-21, which is codified at Sections 12-40 through 12-66, *Code of Ordinances* of the City of Opelika, Alabama; and

WHEREAS, it has been determined that certain amendments are necessary in order to more efficiently enforce these provisions while at the same time ensuring real property owners are given the maximum protection to which they may be entitled under the United States Constitution.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Opelika as follows:

Section 1. That Section 12-46 of the *Code of Ordinances* of the City of Opelika, Alabama, is hereby amended to read as follows:

Sec. 12-46. Application Requirements.

Applications for registration shall be filed with the building inspection department and accompanied by a registration fee as established in Sec. 12-49. Such application shall include the following information:

(a) Name, street address and telephone number of the owner of the rental unit.

(b) Name, street address and telephone number of the owner's agent responsible for the management of the premises of the rental unit.

(c) Legal address of the rental unit.

(d) Number of units in each building within the rental property.

(e) Description of rental unit (i.e.) house, condominium, townhouse, apartment, manufactured home, mobile home, etc.

f) The name and address of the registered agent, if the owner is a corporation.

(g) Number of rental units, if property is an apartment complex or multi-unit facility. A list of unit numbers must accompany the registration.

(h) The owner's signature and date of registration.

Section 2. That Section 12-51 of the *Code of Ordinances* of the City of Opelika, Alabama, is hereby amended to read as follows:

Sec. 12-51. Rental Property Inspection Upon Change in Occupancy.

(a) **Inspections Required.** With the exception of rental units identified in Section 12-44, all residential rental units are subject to routine periodic inspection as provided in this section to ensure that the rental unit complies with the Property Maintenance Code as adopted by Section 5-207 of the City Code and the checklist set out below.

(b) **Frequency of Inspections.** Beginning January 1, 2022, all residential rental dwelling units shall be inspected for compliance with the provisions of this article as follows:

(1) Upon first-time registration, if unoccupied
(2) Each time there is a change in tenancy, provided no rental unit shall be subject to inspection by the Building Official more often than every three years from the date of the issuance of the initial rental occupancy certificate except for re-inspections by the Building Official under Section 12-52 and inspections in response to citizen-based complaints under Section 12-53.

(c) **Standards for Inspections.** In determining whether a residential rental dwelling unit is in compliance with the provisions of the Property Maintenance Code, the Building Official and his or her designees shall use the following maintenance standards checklist as the list of items to be inspected during the inspection process:

Maintenance Standards Checklist

ADMINISTRATIVE COMPLIANCE

1. Property and units registered with the City of Opelika.

2. Ownership and contact information clearly defined on the registration form.

3. Registration fees paid.

4. Landlord contact information posted visibly on site.

EXTERIOR AREAS/STRUCTURE

1. Property has house numbers clearly visible from the street with numbers not less than 4 inches.

2. Roof and walls are not deteriorated and free from holes breaks and loose or rotting materials and maintained weatherproof.
3. Foundation appears to be adequate and in good repair and free from open cracks or breaks and shall be kept in such condition to prevent the entry of pests.
4. Accessory buildings and fences in good repair.
5. Exterior doors are operable and able to be locked.
6. Windows and skylights are in good repair and weather tight. Windows are free from cracked, broken or missing panes.
7. Chimneys appear to be structurally safe and in good repair.
8. Property does not have broken, rotten, split, or buckled walls.
9. Stairways, porches, decks, and balconies have flooring, supports, and handrails in good condition and are properly anchored.
10. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstruction.
11. Known cisterns, wells, or other hazards are fenced, covered, or filled.
12. Property does not have an accumulation of garbage, junk, or debris.
13. Property is not providing habitation for rodents, wild animals, or other vermin.
14. Property does not have unsafe storage of combustible material.

INTERIOR AREAS/STRUCTURE

1. Walls, ceilings, and floors structurally sound and in good repair.
2. The building is maintained in a safe and sanitary condition.
3. All stairs are in sound condition and good repair. All stairs must have handrails and balusters or similar feature that prevents a fall hazard from open-sided stairs.
4. Handrails firmly fastened and in good repair for all stairs.
5. All floor coverings are free from tripping hazards and capable of being cleaned.
6. All habitable rooms are provided with adequate electrical service for proper illumination.
7. Every habitable space has at least one operable window or exterior door that faces directly to the outdoors.

8. The bathroom or toilet room have either an operable window or a mechanical means of ventilation.
9. Every habitable room, except the kitchen, have a plan dimension of not less than seven (7) feet wide.
10. The kitchen or non-habitable spaces used for their intended purposes.

PLUMBING

1. Rental unit has use of operable kitchen sink, toilet, and bathtub or shower.
2. All applicable plumbing fixtures have hot (capable of not less than 110°F) and cold water and are connected to sanitary sewer system with proper clearance for usage and cleaning.
3. Plumbing fixtures are maintained in a safe and functional condition and free of leaks.
4. Bathrooms provide adequate privacy.
5. Clothes dryer, if present, is properly vented to the outside with metal vent pipes.
6. The water heating equipment is properly installed and equipped with a temperature and pressure relief valve and relief valve discharge pipe.

ELECTRICAL/MECHANICAL

1. Electrical service is properly maintained and is sufficient to support the electrical load.
2. Adequate clearance for service is provided on the control side of all HVAC and utility appliances.
3. Each unit has heating facilities capable of maintaining a room temperature of 65°F degrees in all habitable rooms and bathrooms. Cooking appliances and portable heating units shall not be used to provide heating to meet requirement.
4. All electrical equipment, wiring, lighting, and appliances are properly installed and maintained in a safe and approved manner.
5. Electrical panels are accessible, clearly marked, and circuits are properly labeled.

6. Fuel fired equipment has appropriate and operable flues and shutoff valves.

7. Every habitable room and every bathroom contain at least one (1) properly installed electrical outlet.

8. Every laundry room if present, contains at least one (1) grounded-type receptacle or a ground-fault circuit interrupter (GFCI).

9. There are cover plates on all outlets, switches, and junction boxes.

10. GFCI outlets installed for all outlets within six (6) feet of a water source.

FIRE SAFETY REQUIREMENTS

1. Place one smoke alarm in each sleeping room. Place one smoke alarm immediately outside of all sleep areas (e.g., hallway). Place at least one smoke alarm on each floor, including the basement.

2. All sleeping rooms have safe and appropriate access to an operable window for egress.

3. Place one carbon monoxide detector immediately outside of sleeping rooms, such as in the hallway. There must be at least one carbon monoxide detector on each floor, including the basement. (Only applies to properties with gas or propane appliances.)

4. Fire alarm and suppression systems properly installed and operational where required.

5. Two clear and passable egress routes exist for each floor above the first floor.

6. All egress doors and windows are operable without need for keys, special knowledge or effort.

7. All existing fire resistance rating of walls, fire stops, floors, and doors, etc. are properly maintained.

The checklist shall be used solely to determine if a rental unit meets the requirements of this article. If all checklist items pass, then the Building Official shall issue a rental occupancy certificate. If any checklist item fails, then the inspection fails.

(d) **Notice Regarding Inspections.** If upon first-time registration, the residential rental dwelling unit is unoccupied, the property owner or his or her local agent shall provide written or electronic notice to the Building Official of the unoccupied status of the residential rental dwelling unit. Except as provided

below, the property owner or his or her local agent shall provide written or electronic notice to the Building Official upon each and every change in the tenant's occupancy that requires a new lease, sublease or an assignment of rights under an existing lease. Notwithstanding any other provision of this article to the contrary, the property owner shall not be required to give notice of a change of occupancy when the rental dwelling unit has passed inspection within the preceding three (3) year period.

Except as provided below, an inspection of the rental dwelling unit shall be required upon the City's receipt of written notice from the owner or his or her local agent as provided herein. Inspections required under this section shall be performed within ten (10) working days of the City's written or electronic notice from the property owner or his or her local agent. Any temporary rental occupancy certificate issued under Section 12-45 shall terminate upon a change of occupancy.

(e) **Orders Directing Inspections; Voluntary Inspections.** To facilitate inspections as required by this Section, the Building Official or his or her designee shall issue an order commanding the property owner or his or her local agent to allow the Building Official or his or her designee to inspect the residential rental dwelling unit at a date and time appointed by the Building Official. The Building Official or his or her designee shall mail the order to the property owner or rental agent to the rental address provided on the registration application and shall contemporaneously send such order electronically to the email address provided on the registration application at least three (3) calendar days prior to the date of inspection. The order shall specify the grounds for the inspection and the scope of the inspection. Permissible grounds for an inspection shall be as follows:

(1) Inspections of unoccupied residential rental dwelling units upon first-time registration pursuant to Section 12-51(b)(1) of this article.

(2) Inspections of residential rental dwelling units upon a change in tenancy; provided, however, that no residential rental dwelling unit shall be subject to inspection on the grounds of a change in tenancy if the rental dwelling unit has passed inspection within the preceding three (3) year period, pursuant to Section 12-51(b)(2) of this article.

(3) Re-inspections of non-compliant residential rental dwelling units pursuant to Section 12-52 of this article.

(4) Inspections based on a citizen complaint made pursuant to Section 12-53 of this article. If the residential rental dwelling unit that is made the subject of a citizen complaint is occupied at the time of the complaint, the Building Official or his or her designee shall serve the order on both the property owner and on the tenant(s) of the unit.

Nothing herein shall prevent the property owner or his or her local agent from voluntarily contacting the Building Official or his or her designee to schedule an

inspection at a mutually convenient date and time. Such inspections will be conducted on a scheduled basis based upon consent. The property owner and/or his or her local agent have the right to be present at any inspection.

(f) **Enforcement of Orders of the Building Official.** A property owner may seek relief from any inspection order issued by the Building Official by filing a proper petition with the Circuit Court of Lee County, Alabama. Further, if the property owner refuses to permit the Building Official or his or designee to inspect the property pursuant to an Order issued by the Building Official or his or her designee in accordance with this Section, the Building Official or the City of Opelika may file an action in the Circuit Court of Lee County for the enforcement of the order issued pursuant to the terms of this section. In either event, the order of the Building Official shall be upheld if the Court finds that the Building Official's order is sufficiently limited in scope, relevant in purpose, and specific in directive so that compliance will not be unreasonably burdensome; and that at least one of the grounds for an inspection set forth in Section 12-51(b) of this article is present with respect to the residential rental dwelling unit to be inspected. These standards shall be satisfied where one of the following circumstances exist:

(1) For a residential rental dwelling unit to be inspected upon first-time registration, that the residential rental dwelling unit is in fact unoccupied by a tenant(s) pursuant to Section 12-51(b)(1) of this article; or

(2) For a residential rental dwelling unit to be inspected based on a change in tenancy, that the residential rental dwelling unit has not been inspected in the preceding three (3) year period pursuant to Section 12-51(b)(2) of this article; or

(3) For a re-inspection of a previously non-compliant residential rental dwelling unit pursuant to Section 12-52 of this article, that the unit to be inspected was in fact non-compliant upon its previous inspection; or

(4) For a residential rental dwelling unit to be inspected based on a citizen complaint pursuant to Section 12-53 of this article, that the unit was in fact the subject of a legitimate and non-frivolous citizen complaint not made for the purposes of harassment; and

(5) That the inspection will in fact be limited to the permissible scope of inspections established by Section 12-51(c) of this article.

It shall be unlawful and in violation of this article for the property owner of a residential rental dwelling unit to refuse to allow the Building Official or his or her designee to inspect a residential rental dwelling unit if the Building Official obtains an order from the Circuit Court of Lee County directing compliance with the Building Official's order issued pursuant to the provisions of this Section; provided, however, that nothing in this article shall be construed to allow the Building Official or his or her designee to inspect a residential rental dwelling unit in the absence of (1) consent from the property owner if the property is not

occupied by a tenant(s); (2) consent from the tenant(s), if the property is occupied by a tenant(s); or (3) an Order for the Circuit Court of Lee County directing compliance with the order issued pursuant to this Section.

(g) **Notice to Correct Violations.** If upon inspection, the Building Official or his or her designee discovers one or more violations of the maintenance standards checklist, he shall cause to be issued to the property owner or his or her local agent, a notice and order to correct the violations. The order shall state in plain language the violations found and the conditions which cause the rental dwelling unit to be in non-compliance. The Building Official shall specify a reasonable time for correction of the violations, depending upon the severity of the condition and schedule a re-inspection of the rental dwelling unit. If the condition has not been corrected by the compliance date, but the property owner has made significant progress in correcting the violation(s), the Building Official may grant an extension of time. Nothing in this section precludes additional inspections conducted at the request of the property owner or his or her local agent, subject to the payment of all inspection fees as specified in Section 12-56.

All violations and deficiencies shall be corrected with all City required permits, approvals, inspections and re-inspections within the time specified in the notice before a rental occupancy certificate is issued. A provisional rental occupancy certificate may be issued if the residential rental dwelling unit is substantially but not entirely in compliance with this checklist and there are no imminent life, health or safety violations.

If, upon inspection, the Building Official finds no checklist violations, the Building Official shall issue to the property owner a rental occupancy certificate as provided in Section 12-54.

Section 3. That Section 12-53 of the *Code of Ordinances* of the City of Opelika, Alabama, is hereby amended to read as follows:

Sec. 12-53. <u>Complaint-based Inspection.</u>

Nothing contained herein shall prevent or restrict the authority of the Building Official to inspect any residential rental dwelling unit, or the premises thereof, in response to a citizen complaint alleging code violations at such unit and to pursue all code enforcement remedies permissible under this article or other laws following such a complaint-based inspection of a residential rental dwelling unit. Upon receipt of a citizen-based complaint, the Building Official shall inspect the pertinent residential rental dwelling unit and/or areas of the residential rental property. Prior to an inspection, the Building Official must provide occupants (tenants) of the property at least three days written and, where an email address is available, electronic notice that includes the following:

(1) The dwelling units that may be inspected;
(2) That an inspector intends to enter the dwelling unit to inspect the unit;
(3) That the occupant (tenant) has a right to see the inspector's identification before the inspector enters the residential rental dwelling unit; and
(4) Contact information for the Building Inspection Division.

An occupant may refuse an inspection except where the Building Official has produced a valid search warrant issued by a court of competent jurisdiction or an Order of the Circuit Court of Lee County directing compliance with an inspection order issued by the Building Official pursuant to the terms of this article. The owner must allow the Building Official or his/her designees entry if occupants (tenants) have agreed to it. The Building Official shall not hold an owner in violation of this article who has met the requirements of this section but has been unable to obtain the permission of the occupant (tenant).

The Building Official shall also provide the property owner or his or her local agent at least written or electronic notice of the date and time of the inspection. The property owner and/or his or her local agent shall have the right to be present at the inspection. The Building Official shall follow the inspection procedures specified in Section 12-51(e). If the residential rental dwelling unit that is made the subject of a citizen complaint is occupied by a tenant or tenants at the time of the complaint, the Building Official or his or her designee shall serve the order of the Building Official under Section 12-51(e) on both the tenant(s) and on the property owner pursuant to the provisions of Section 12-51(e).

It shall be unlawful for a property owner to refuse to permit the Building Official or his or her designee to inspect a residential rental dwelling unit that is occupied by a tenant or tenants if the Building Official or his or her designee has produced a valid search warrant issued by a court of competent jurisdiction; if the tenant(s) has consented to the inspection; or if the Circuit Court of Lee County has ordered the enforcement of an order of the Building Official issued pursuant to Section 12-51(e) of this article.

All violations shall be corrected with all City required permits, approvals and inspections and re-inspections within the time specified on the notice and order of the Building Official in order to maintain a current rental occupancy certificate for a residential rental property. Noncompliance with a notice and order of the Building Official shall automatically terminate the rental occupancy certificate and render it null and void.

Section 4. Severability. In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or other word of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this Ordinance, as if such invalid or unconstitutional provision was not originally a part of this Ordinance.

Section 5. Repealer Clause. All ordinances or parts thereof which are in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 6. Effective Date. This ordinance and the sections hereby amended shall become effective upon its passage and publication as required by law.

Section 7. Publication. The City Clerk of the City of Opelika, Alabama, is hereby authorized and directed to cause this ordinance to be published one (1) time in a newspaper published in and of general circulation published in the City of Opelika, Alabama.

ADOPTED AND APPROVED this the ____ day of _____, 2022.

_____
PRESIDENT OF THE CITY COUNCIL OF THE CITY OF OPELIKA, ALABAMA

ATTEST:

_____
CITY CLERK

TRANSMITTED TO MAYOR on this the _____day of _____, 2022.

_____
CITY CLERK

ACTION BY MAYOR

APPROVED this the _____day of _____, 2022.

_____
MAYOR

ATTEST:

_____

CITY CLERK