ORDINANCE NO. 10-O-9

AN ORDINANCE TO ESTABLISH A RESIDENTIAL HEALTH AND SAFETY PROPERTY INSPECTION POLICY

WHEREAS, the City Council of the City of Anniston, Alabama considers its residential and commercial property to be an asset that is vital to Anniston's economy and quality of life; and

WHEREAS, the City has devised a city wide *Property Improvement Strategy* that enhances the quality, affordability, and availability of residential rental property which will provide sustainability to neighborhoods and allow residents to live in harmony and peaceful environmental existence; and

WHEREAS, The Alabama Uniform Residential Landlord and Tenant Act, Act. No. 2006-316, codified as Sections 35-9A-101 *et seq.,* 1975 Code of Alabama, becomes effective on January 1, 2007; and

WHEREAS, Section 35-9A-102(b) states that one of the purposes of the Act is to encourage landlords and tenants to maintain and improve the quality of housing;

WHEREAS, Section 11-40-10(b) authorizes a municipality to enforce police or sanitary regulations within the city limits and to prescribe fines and penalties for the violations of the regulations; and

WHEREAS, Section 11-45-8 (c) authorizes a municipality to adopt ordinances, rules, and regulations as a code for the construction, erection, alteration, or improvement of buildings, the installation of plumbing or plumbing fixtures, installation of gas or gas fixtures, fire prevention, health and sanitation, mechanical, housing, elimination and repair of unsafe structures, and other like codes; and

WHEREAS, Section 35-9A-204 (a) (1) requires a landlord to comply with the requirements of applicable building and housing codes materially affecting health and safety; and

WHEREAS, Section 35-9A-301(1) requires a tenant to comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety; and

WHEREAS, pursuant to Section 11-45-1, a municipality is authorized to adopt ordinances not inconsistent with the laws of the state to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the residents of the municipality; and

WHEREAS, in Opinion 2007-009, dated October 31, 2006, the Attorney General issued an opinion to Mayor Ronald K. Davis of the City of Pritchard, that a municipality has the authority to adopt an ordinance (1) requiring the annual inspection of apartments and rental houses to ensure compliance with the local building code, (2) charging a reasonable fee to defray the expense of performing the inspections, and (3) charging a reasonable fine or revoking the certificate of occupancy of any apartment or rental house failing to comply with the local building and housing code; and

WHEREAS, the City of Anniston now seeks to adopt an ordinance of the type approved by the Attorney General to provide for the safety and to preserve the health of persons residing in rental housing and to enhance the sustainability of our neighborhoods;

NOW, THEREFORE,

SECTION 1. be it ordained by the City Council of the City of Anniston, Alabama that Chapter 11, Article I, Sec. 11.2 of the Code of Ordinances of the City of Anniston, Alabama is hereby amended to delete the phrase "...except the interiors of private dwellings..." and to insert in its place the phrase"...except the interiors of private dwellings not subject to a landlord / tenant rental agreement or intended for such occupancy..." so that it is amended to read as follows:

Sec. 11.2. **Premises to be inspected by fire chief or officers of fire department.**

It shall be the duty of the chief of the fire department to inspect or cause to be inspected by fire department officers or members as often as may be necessary all buildings, premises and public thoroughfares, except the interiors of private dwellings not subject to a landlord/tenant rental agreement or intended for such occupancy, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or any violations of the provisions or intent of any law or ordinance

relating to fire hazards. If the fire chief or designee shall find any accumulations of trash, leaves or other combustible matter in alleys or other places that constitute fire hazards, he shall notify the director of public works.

SECTION 2. be it further ordained by the City Council of the City of Anniston, Alabama that Chapter 13 of the Code of Ordinances of the City of Anniston, Alabama is hereby amended to add a new Article III, as follows.

ARTICLE III. RENTAL HOUSING HEALTH AND SAFETY

Sec. 13.5 Purpose.

The purpose of this Article is to implement the policy of the City Council to encourage landlords and tenants to maintain and improve the quality and appearance of rental housing in the city and to protect the health and safety of persons.

Sec. 13.6 Definitions

For purposes of this Article, a *rental-housing unit* is defined as a structure or part of a structure, including a manufactured home, that is rented as a home, residence, or sleeping place by one or more persons. The definitions in *Section 35-9A-141 of the Code of Alabama* apply to other terms used herein.

This Article does not govern the following circumstances of occupancy.

(1) Occupancy at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service;

(2) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to the interest of the purchaser; and whereby non-payment of a periodic payment means the occupants may not be evicted without the necessity of either a statutory mortgage foreclosure procedure, a statutory termination of contract for deed procedure, or a statutory repossession procedure;

(3) Occupancy by a member of a fraternal or social organization in that portion of a structure for the benefit of the organization;

(4) Transient occupancy in a hotel, motel, or other commercial lodging facility governed under more stringent building codes of the City or state.

(5) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.

Sec. 13.7 Certificate of Occupancy Required

All rental-housing units which are or which become vacant after July 1, 2010 must be inspected for compliance with the city's adopted property maintenance codes and a *Certificate of Occupancy* issued, if such unit is found to be so by the housing official, prior to occupancy by a new tenant.

(1) The *Certificate of Occupancy* is valid for twelve (12) months from the date of issue, or is valid until the dwelling becomes vacant following the expiration date. A dwelling unit may be occupied more than once during the twelve (12) month period without the need for another inspection.
(2) If, upon inspection of a residential rental-housing unit, the housing official determines that the unit is in violation of any property maintenance code and informs the owner of the violations, no *Certificate of Occupancy* may be issued until the unit is brought into compliance with the code provisions cited.

Sec. 13.8 Inspection Fees

Owners of residential rental-housing units are responsible for notifying the housing official that a vacancy has occurred and scheduling the required inspection.

(1) The city shall charge a fee of $50 for the initial inspection following the adoption of this ordinance and one follow-up inspection, if necessary. Additional follow-up inspections shall cost $15 each. Payment is due at the time the inspection is scheduled with the Building Inspections Division. No inspection will be granted until payment has been received.
(2) The fee for a *Certificate of Occupancy* based on approval by an outside inspection agency shall be $10.
(3) In the event the unit has been occupied without a *Certificate of Occupancy* having been issued, subsequent inspections shall cost the owner as follows: $100 for the first un-permitted occupancy, $250 for a second un-permitted occupancy, and $500 for a third un-permitted occupancy. Further violations shall be adjudicated in City Court.
(4) In lieu of an inspection by the Anniston housing official, owners of residential rental-housing units may submit inspection reports, in a form acceptable to the city, from qualified and credentialed private inspectors who demonstrate to the satisfaction of the housing official that all applicable and adopted codes are complied with. Such credentialed Inspectors must be
    a) licensed by the Alabama Building Commission pursuant to the Alabama Home Inspectors Registration Act (Section 34-14B-1, et seq. of the Alabama Code of 1975);
    b) an architect registered with the Alabama Board of Registration of Architects pursuant to Section 34-2-1 et seq. of the Alabama Code of 1975);
    c) a professional engineer licensed by the Alabama Board of Licensure for Professional Engineers, pursuant to Section 34-11-1 et seq. of the Alabama Code of 1975); or
    d) A residential building inspector or building official certified by the International Code Council, Inc. to inspect residential construction.

Sec. 13.9 Enforcement and Penalties

Certificates of Occupancy shall be withdrawn or withheld for noncompliance of the unit with the International Property Maintenance Code (2003 Edition) and the landlord cited the violation of this Code, according to provisions of Section 11-45-9 of the Code of Alabama.

SECTION 3. be it further ordained by the City Council of the City of Anniston, Alabama that the provisions of this ordinance shall be effective on ~~January 1, 2010.~~ **July 1, 2010.**

SECTION 4. be it further ordained by the City Council of the City of Anniston, Alabama that the provisions of this ordinance are severable so that if any provision is declared unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect the validity of any other provision. The Council declares it is its intent that it would have adopted this ordinance without such invalid or unconstitutional provision.

PASSED AND ADOPTED THIS 22nd DAY OF June, 2010

CITY COUNCIL OF THE CITY OF ANNISTON, ALABAMA

BY: _____
Gene D. Robinson, Mayor

BY: _____
John D.R. Spain, Council Member

BY: _____
Herbert N. Palmore, Council Member

BY: absent
Benjamin L. Little, Council Member

BY: _____
M. David Dawson, Council Member

ATTEST:

_____
Alan B. Atkinson, City Clerk