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Property owners to face city charges

By Lucy Weber

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Madison has charged the first property owners with violating the city's 6-month-old rental ordinance. With more than 300 rental homes in the city, all but 60 owners have complied with the law that requires them to pay \$100 for a rental license on each property and post a \$10,000 bond to cover repair costs for possible maintenance violations. The city last week filed misdemeanor charges in Municipal Court against eight of the 60 property owners. Potential charges are pending in six more cases. If found guilty, a property owner faces a fine of not more than \$300 per day for each offense. "All but 60 complied. There are 52 (of the 60) who have not responded to us, period. They've not responded to our letters," said Bill Foshee, director of buildings and permits and code enforcement for the city. "We're giving them every opportunity to comply." The intent of the ordinance, which went into effect in August, is to protect tenants in who live in rental homes and to uphold property values in the city, Mayor Mary Hawkins Butler said. "This is a way to maintain those rental homes. We are finding there are those who own, five, 10 or 15 homes, and it's a business. They have taken residential zones and turned them into commercial use," Butler said. "They need to maintain those income-producing properties so they don't depreciate and decrease property values." The list of 338 rental properties the city has found so far includes at least one rental home in most of the city's neighborhoods, including Annandale, Reunion, Cross Creek, Cobblestone, Highland Ridge, Summertree and Hunter's Creek. Owners include residents of all four cities in Madison County as well as other states like California and Maryland. On the current list of rental houses, Northplace has the most properties with 50 and Traceland North has the second highest number at 39. The houses on which the charges are pending against owners for not getting a rental license or securing the necessary bond are located in Northbay, Cypress Creek, Cobblestone, North Place, Stonegate, Traceland North and two in Post Oak. The city has not been forced to use the bonds to get repair work done on any of the houses where owners secured their licenses, Foshee said. About 75 percent of those licensed houses have been found to need maintenance under the city's property standards codes and ordinances, he said. "If the landlord doesn't act, we will (through using the bond)," Foshee said. But, the ordinance is doing what it was intended because owners are cooperating. "Owners have voluntarily corrected the deficiencies," he said. "If the toilet is leaking, why wouldn't you (as landlord) want to fix it?" Many of the problems found have been minor, like the grass needs cutting, windows are painted shut or shutters are loose, Foshee said. Major problems have also been discovered in driveways, foundations, plumbing, roofing and other areas. One rental home was condemned, and the owner decided not to continue renting it. Some problems were discovered in the required annual inspection for the license, and others have been reported by those renting the homes. "If we get a report, we're going to act on it," Foshee said. The current charges of violating the rental ordinance came about after the city granted about several months of grace period to owners to apply for the permits. The city follows a multi-step process to determine if the house is being used as rental property for profit. The city sent out two letters to owners alerting them to the new ordinance and the consequences of not acting. A follow-up questionnaire is used to determine if the property is rental and who is the owner. "We had a few go on the market after letters were sent," Foshee said. "Some answered us on the first letter. Some on the second. Some don't answer us at all." Mike Crook, a former Ridgeland alderman, owns one rental house in Madison and manages two others. He disagrees with the ordinance because he said "it's a double standard. "it's not being enforced fairly and equitably," he said, since persons who live in their own homes are not subject to a similar ordinance. The owners who live in their houses are not required to secure a license or be subject to inspections to find maintenance violations, Crook said. "There's a stricter standard on rental properties than owner-occupied. "If it's good for the goose, it's good for the gander. Why isn't your (owner-occupied) house being inspected?" he said. "If you have an ordinance, apply it to every homeowner. Period." Crook said he questions whether the rental ordinance is constitutional since it treats rental and owner-occupied houses differently. "I think most courts have the good sense to know the difference between houses people live in and those that are a commercial investment," city attorney John Hedglin said. Butler said the rental ordinance can stand up to legal challenges and was written with that in mind. "This ordinance was prepared by professionals who usually try to shred city ordinances," she said. Crook said there are houses in the Traceland North neighborhood where his rental property is located that have obvious deficiencies but the city hasn't cited them. "I believe the city came up with the ordinance to discourage rental properties," Crook said. "If they want to run every landlord out of the city of Madison, they're probably on the right path to do that." Foshee said the code enforcement office will address any complaint against any properties that do not meet standards of the International Property Maintenance Code that Madison follows. "If we're aware of it and it's a legitimate complaint, we'll investigate," he said. City officials want every home, all 8,904 residences in Madison, to be safe and habitable, Foshee said.