

ORDINANCE NO. 01-03

AN ORDINANCE OF THE CITY OF COMMERCE REQUIRING RESIDENTIAL RENTAL LICENSES FOR RESIDENTIAL RENTAL UNITS; PROVIDING A [REDACTED] REINSPECTION FEE; PROVIDING STANDARDS; PROVIDING FOR INSPECTION OF CERTAIN RECORDS AND THE PREMISES; PROVIDING FOR AN APPEAL TO THE CITY COUNCIL; PROVIDING FOR INJUNCTIVE RELIEF AND PROVIDING FOR AND EFFECTIVE DATE.

WHEREAS, the City of Commerce has a substantial number of residential dwelling units located within property zoned, developed and operated as multiple-family residences; and

WHEREAS, the City has a concern about the population density within the residential rental property residences and a further concern that the units be not only constructed in accordance with all of the applicable City ordinances, but that the units be maintained in compliance with all such applicable ordinances; and

WHEREAS, the City finds that it is in the best interest of its citizens in the promotion and protection of the health, safety, morals and general welfare of the community that the City establish a licensing procedure applicable to residential rental property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE, TEXAS:

SECTION 1. That all the foregoing premises and findings are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety

SECTION 2. TITLE. The ordinance shall be known as the "Residential Rental Property Licensing Ordinance" of the City of Commerce, Texas.

SECTION 3. DEFINITIONS. For the purpose of this ordinance, the following words and phrases have the meanings respectively ascribed to them by the section:

1. **Residential Rental License.** License issued by Building Inspector pursuant to this ordinance and referred to as "License" in this ordinance.
2. **Bedroom.** Room used or intended to be used for sleeping purposes and not as a kitchen, bathroom, living room, closet, hallway, utility space, entry way, garage, patio or breezeway.

3. **Building Inspector.** Properly identified Chief Building Official of the City or his designated representative.
4. **City.** City of Commerce.
5. **Dwelling Unit.** Means a structure, or that part of a structure, which is used as a home, residence, or sleeping place by one or more persons maintaining a common household to the exclusion of all others.
6. **Efficiency Unit.** Efficiency unit is defined as the equivalent of a one-bedroom unit.
7. **Family.** Any number of individuals living together as a single housekeeping unit in which not more than two (2) individuals are unrelated by blood, marriage, or adoption when residing in a dwelling containing one or two bedrooms; or not more than three (3) individuals unrelated by blood, marriage or adoption when residing in a dwelling unit containing three (3) or more bedrooms. Foster children shall be considered as a related member of the family.
8. **Residential Rental Property** Any building or portion thereof which is rented, leased or let to be occupied for compensation as one (1) or more dwelling units or which is occupied as a home or place of residence by one (1) or more families living in independent dwelling units located in the City of Commerce.
9. **Owner.** Means a person claiming, or in whom is vested, the ownership, dominion or title of real property, including, but not limited to:
 - a) Holder of fee simple title;
 - b) Holder of life estate;
 - c) Holder of a leasehold estate for an initial term of five (5) years or more;
 - d) The buyer in a contract for deed;
 - e) A mortgagee, receiver, executor or trustee in control of real property; but not including the holder of a leasehold estate or tenancy for an initial term of less than five years.
10. **Person.** Includes an individual, corporation, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or community entity.
11. **Premises.** Means a lot, plot or parcel of land, including any structure thereon, and furthermore, including a dwelling unit, appurtenances thereto, grounds and facilities held out for the use of tenants generally and any other area or facility whose use is promised to the tenant.
12. **Property Manager.** Means a person who for compensation has managing control of residential rental unit for owner.

13. Resident Manager. Means a property manager or agent of a property manager who resides in the residential rental unit.
14. Single Location. Single location is defined as property held in common ownership that is compact and contiguous property separated only by public streets.
15. Tenant. Means any person who occupies a dwelling unit for living or dwelling purposes with the landlord's consent.

SECTION 4. LICENSE REQUIRED.

- a) It shall be unlawful for any person to own, operate, manage, or maintain a residential rental unit or residential rental property in the City without a current and valid License having been issued for said residential rental unit. Any person owning, operating, managing or maintaining a residential rental unit at more than one location shall obtain a License for each separate location.
- b) An owner, or the owner's authorized agent, of a residential rental unit shall file with the Building Inspector the Trade Name of his residential rental unit and it shall be unlawful for any person to use or permit to be used more than one Trade Name at a single location.

SECTION 5. LICENSE APPLICATION, PLACE OF BUSINESS, ISSURANCE, RENEWAL AND EXPIRATION.

- a) An applicant for a License shall file with the Building Inspector a written application upon a form provided for that purpose which shall be signed by the owner, or his agent, and the property manager. Should an applicant own a residential rental unit at more than one location, a separate application shall be filed for each location. The following information shall be required in the application:
- Name, address, telephone number of owner, property manager, resident manager, mortgagee (if there is a mortgage against property); Trade Name of residential rental unit; names and addresses of all registered agents of the owner; number of dwelling units broken down as to number of efficiencies, one-bedroom, two-bedroom, and three-bedroom; acknowledgment of receipt of copy of "Residential Rental Property Licensing Ordinance" and agreement to abide by same as a condition to receiving and maintaining a License.
- b) For new apartment complexes or residential rental units, a License shall be obtained prior to the occupancy of any dwelling unit.
- c) All Licenses expire one (1) year from the date issued.

- d) The Building Inspector may, at any time, require additional relevant information of the owner or property manager to clarify items on the application.
- e) Upon changing ownership of the residential rental property, a new License shall be obtained within thirty (30) days of the change with the fee charged for the change on a prorated basis. The owner shall notify the City within 30 days of the change of ownership, property manager or resident manager.

SECTION 6. LICENSE FEES. There will be no fee for the initial license. The fee for issuing a replacement for a lost, destroyed or mutilated License is \$10.00.

SECTION 7. LICENSE DISPLAY, REPLACEMENT AND TRANSFERABILITY.

- a) Each License issued pursuant to this ordinance residential rental unit shall be posted and displayed in the residential rental unit office in a conspicuous place to which tenants have access.
- b) A replacement License may be issued for one lost, destroyed or mutilated upon application on the form provided by the Building Inspector. A replacement License shall have the word "Replacement" stamped across its face and shall bear the same number as the one it replaces.
- c) A residential rental unit License is not assignable or transferable.
- d) The form of the License shall be prepared by the Building Inspector.

SECTION 8. LICENSE STANDARDS.

- a) Standards. Continued maintenance and observance of the standards contained in this Section are conditions that shall be complied with in order to retain a License and to obtain any renewal of a License.
- b) It shall be unlawful for any person to permit or allow more than one (1) family to reside in any residential rental dwelling unit.
- c) All City building, electrical, plumbing, health, zoning and other applicable ordinances including the Minimum Housing Code and Property Maintenance Code, shall be complied with at all times.
- d) Notwithstanding the provisions of all other City ordinances, the maximum number of persons per dwelling unit density for dwelling units in a residential rental unit is as follows:
 - 1. No more than two (2) persons per each bedroom are permitted to reside in a unit plus one additional person. For example: in a one-bedroom or efficiency unit, the

density shall not exceed three (3) persons; in a two-bedroom unit, the density shall not exceed five (5) persons; in a three (3) bedroom unit, the density shall not exceed seven (7) persons.

- 2) To assist compliance with this requirement, all Licensees shall display, in a conspicuous place, contiguous to the displayed License, the following notice, the form of which shall be furnished by the City:

**CITY OF COMMERCE, ORDINANCE NO. 01-03 IMPOSES
FOLLOWING MAXIMUM DENSITY REQUIREMENTS:**

- 1-Bedroom or Efficiency Unit - No more than three (3) persons per unit.
- 2-Bedroom - No more than five (5) persons per unit.
- 3-Bedroom - No more than seven (7) persons per unit.

Or in the alternative, a Licensee may display a similar notice, contiguous to the displayed License that states Licensees density requirements provided said requirements are as strict or stricter than the standards set be Section 9(d).

- 3) Licensee shall keep records that reflect the following information:

- (i) Names of all tenants in each unit.
- (ii) Head of the household.

Said records shall be available for review by the Building Inspector during regular working hours and upon receipt of reasonable notice.

- 4) It shall be unlawful and a violation of this ordinance for an owner, property manager, or resident manager, to knowingly permit or allow a violation of any of the terms of Section 9. It shall be unlawful for a tenant to violate any of the terms of Section 9 or to permit or allow any persons to reside in the unit in violation of Section 9.
- 5) An owner shall not be prohibited from establishing a more restrictive density for each residential rental unit, provided the density is based upon persons per each established bedroom. The established density shall be posted contiguous to the displayed License and shall be on a form provided by the City.
- e) The owner and/or property manager shall require a Lease Contract be executed between the Residential rental unit owner and the tenant and/or tenants who will occupy a dwelling unit. The lease shall contain a provision which allows the owner or property manager to show the

dwelling unit to city or government inspectors. If the standard lease form does not contain the above stated provision, the owner and/or property manager shall require the tenant to sign, as a condition for occupancy of a dwelling unit, a document provided by the City which will allow the owner or property manager to show the apartment or dwelling unit to the Building Inspector.

SECTION 9. INSPECTIONS, REINSPECTIONS AND CERTIFICATE OF OCCUPANCY.

- a) The owner, resident manager, and property manager, as a condition to the issuance of the License required by this ordinance, shall consent and agree to permit and allow the City's building inspector to make the following inspections of the residential rental unit when and as needed to ensure compliance with this ordinance:
 - 1) Right and access to inspect all portions of the premises and structures located on the premises that are not dwelling units. This includes all storage areas, community buildings, swimming pools, athletic facilities, club rooms, equipment rooms and all other portions of the facilities not constructed as dwelling units, upon reasonable advance notice being given to the owner, property or resident manager.
 - 2) Right and access to inspect all unoccupied dwelling units upon giving reasonable notice to owner, resident or property manager.
 - 3) Right and access to inspect all occupied dwelling units when, upon reliable information, the building inspector has reason to believe that violations of the ordinances of the City or State law exist that involve serious threats to life, safety, health and property.
 - 4) Annually, once each twelve months, the owner, resident manager, or property manager shall make all dwelling units in the residential rental unit available for inspection by the Building Inspector. The Building Inspector and the owner, resident manager, or property manager shall agree on a reasonable date and time for each annual inspection. In the event the parties cannot agree on an inspection time said semi-annual inspections shall occur between December 15 and December 31 and between June 15 and June 30 of each year.
- b) The building inspector may enforce the provisions of this ordinance and upon presentation of proper identification and notification to the property manager or resident manager may enter, any unit between the hours of 8:00 a.m. and 5:00 p.m; provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life or severe property damage, the building inspector may enter the aforementioned dwellings at any time and the requirement for presentation of identification and notification to the management shall not apply. Whenever the Building Inspector is denied admission to inspect any premises under this provision, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection.

In applying for such a warrant, the building inspector shall submit to the magistrate an affidavit setting forth his belief that a violation of this ordinance exists with respect to the place sought to be inspected and the reasons for such belief. Such affidavit shall designate the location of such place and the name of the person believed to be the occupant thereof. If the magistrate finds that probable cause exists for an inspection of the premises in question, he may issue a warrant authorizing the inspection, such warrant describing the premises with sufficient certainty to identify the same. Any warrants issued will constitute authority for the Building Inspector to enter upon and inspect the premises described therein.

- c) Reinspection Fee. A fee of twenty dollars (\$20.00) for each reinspection of each noted violation in a dwelling unit, but not to exceed forty dollars (\$40.00) per unit, within a residential rental unit and a reinspection fee of twenty dollars (\$20.00) for each exterior violation item reinspected shall be assessed for inspections that are required to verify that a violation has been repaired or corrected. Failure of a reinspection fee to be paid shall be considered a violation of this ordinance and subject to penalties herein.
- d) Certificate of Occupancy. Failure to comply with the terms of this ordinance after receipt of written notice of the violation from the building inspector setting out the violations and the time allowed to rectify the violations, the owner's certificate of occupancy may be withdrawn and the License authorized by this ordinance may be cancelled. The building inspector may notify all, public utility companies serving the residential rental unit that the Certificate of Occupancy has been withdrawn and request that all public utility services be discontinued.
- e) Reinstatement. Any person requesting a reinstatement or reissuance of the Certificate of Occupancy shall be required to apply for and receive a new License issued under this ordinance as a condition precedent to the reissuance or reinstatement of the Certificate of Occupancy.

SECTION 10. APPEALS TO THE CITY.

- a) The owner, resident or property manager of such property may appeal any decision or order of the Building Inspector to the City Council of the City of Commerce, by filing at the Office of the City Manager, within five (5) working days (Monday through Friday) of such decision or order, a written appeal to the City Council on a form to be supplied by the City Manager.
- b) As soon as practicable after receiving the written appeal, the City Manager shall fix a date, time and place for the hearing of the appeal by the City Council. Written notice of such date, time and place of the hearing shall be given to each appellant by the City Manager, either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the written appeal.

- c) Failure of any person to file an appeal in accordance with the provisions of this Code shall constitute a waiver of his right to a hearing by the City Council and the building Inspector's decision shall be final.
- d) Orders of the Building Inspector are stayed pending appeal.
- e) Decision of the City Council are final.

SECTION 11. That any person, firm, corporation violating any of the provisions of this ordinance or amendment thereto shall be deemed guilty of a misdemeanor and upon conviction in the Municipal Court shall be subject to a fine not to exceed the sum of Two Thousand (\$2000.00) Dollars for each offense, and each and every day that such violation continues shall constitute a separate offense. Those fines shall be in addition to and accumulative of the provisions for the abatement of a nuisance and the obtaining of injunctive relief.

SECTION 12. Should any word, phrase, sentence, paragraph or section of this ordinance be held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining provisions of this Ordinance and the amendments herein shall remain in full force and effect.

SECTION 13. Injunctive Relief. In addition to, and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this Ordinance.

SECTION 14. This Ordinance shall take effect immediately from and after its date of passage.

PASSED AND APPROVED on the **FIRST READING** by the City Council of the City of Commerce, Texas on the 2nd day of January 2001.

PASSED AND APPROVED on the **SECOND AND FINAL READING** by the City Council of the city of Commerce, Texas on the 16th day of January 2001.

ATTEST:

Marty Cunningham
Marty Cunningham, City Secretary

(seal)

APPROVED:

John R. Sands
John R. Sands, Mayor

I, Marty Cunningham, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of an Ordinance, and that the same has not been repealed and is in full force and effect.

(seal)

Marty Cunningham
Marty Cunningham, City Secretary
City of Commerce

Sworn to and subscribed before me, on this the 23rd day of January 2000, to certify which witness my hand and seal of office.

(seal)



Melisa Pope
Notary Public, State of Texas