

ORDINANCE 2023 – 10 – 03

AN ORDINANCE OF THE CITY OF COMMERCE, AMENDING CHAPTER 22 “BUILDINGS AND BUILDING REGULATIONS”, ARTICLE XII “RENTAL PROPERTIES”, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE, PROVIDING A PENALTY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Commerce is a Home-Rule Municipality and has the jurisdiction to inspect and enforce land use codes, zoning codes, and building life safety codes; and

WHEREAS, the City has a significant number of residential rental properties in the forms of residential structures, boarding houses, and apartment/multi-family complexes; and

WHEREAS, the City desires to insure that tenants within rental properties are assured that the properties are in compliance with basic life and safety standards; and

WHEREAS, the City has the authority to deny water service to rental units that do not comply with basic life and safety standards; and

WHEREAS, the current Ordinance places an undue administrative burden on rental property owners, rental property occupants, and City staff; and

WHEREAS, the City Council has determined it appropriate to adopt this ordinance amending Chapter 22 of the Code of Ordinances of the City to revise rental safety inspection provisions and improve the administrative process for Residential Safety Inspections (RSI).

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

SECTION 1. AMENDMENT. That Article XII of Chapter 22 of the Code of Ordinances for the City of Commerce is hereby amended to read as follows:

ARTICLE XII. RENTAL PROPERTIES¹

Sec. 22-371. Purpose.

The city recognizes the need for implementation of a policy that requires the issuance of a certificate of occupancy and performance of a life, health and safety inspection before water utility

¹Editor's note(s)—Ord. No. 15-01, adopted January 20, 2015, repealed art. XII, §§ 22-371—22-380, in its entirety; and §§ 1—5 enacted a new art. XII, to read as set out herein. Former art. XII was titled "Residential Rental Property Licensing," and was derived from Ord. No. 01-03, §§ 2—11, adopted January 16, 2001 and Ord. No. 12-06, adopted March 20, 2012.

services can be connected or reconnected to any residential structure in the city in an effort to monitor ownership and standards of all residential **rental** structures, thereby reducing the number of demolitions of dilapidated and/or abandoned residential structures within the city. The city also recognizes the need for an organized inspection program for ~~new and~~ aging residential rental units in order to ensure that all rental units meet city and state safety, health, fire and zoning codes and to provide a more efficient system for compelling both absentee and local landlords to correct violations and to maintain, in proper condition, rental property within the city. The city recognizes that implementation of the certificate of occupancy and life, health and safety inspection policy is the most efficient system to monitor occupancy and standards of all residential rental units and **rental structures** thereby ensure that orderly inspection schedules can be maintained by city officials.

(Ord. No. 15-01, § 1, 1-20-15; Ord. No. 15-04, § 1, 3-17-15)

Sec. 22-372. Definitions.

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

Apartment complex means a building or buildings comprised of three or more consecutive rental units each.

Bedroom means a room used or intended to be used for sleeping purposes and not as a kitchen, bathroom, living room, closet, hallway, utility space, entryway, garage, patio, or breezeway.

Building inspector means a properly identified building official for the city, or his/her designee.

Certificate of occupancy means a certificate issued by the city upon submission, review and approval of an executed residential occupancy application, which lists any and all occupants of the property, as well as the owner(s) of the property.

City means the City of Commerce, Texas.

Life safety inspection means an inspection completed by the building inspector on all residential **rental** structures and residential rental units which must be completed and submitted to the city prior to connection of water utility services ~~to each respective residential structure~~ and must be completed annually. ~~or at change of occupancy, whichever occurs first, on all residential rental units.~~

Owner means the person claiming, or in whom is invested, the ownership, dominion, or title of real property including but not limited to: holder of fee-simple title; holder of life-estate; holder of leasehold estate for an interim 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 or a tenancy for initial term of less than five years.

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.

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.

Property manager means a person whom, for compensation, has control of the day-to-day operations of the residential rental unit or units or the person in a partnership or corporation, or any other legal entity, who has managing control of the residential rental unit(s).

Residential occupancy application means an application to be completed by an owner of a residential structure that lists all occupants and owners for each residential rental unit or residential **rental** structure, with said application to be submitted to the city prior to water utility services being connected by city.

Residential rental unit means any building or portion thereof which is rented, leased or let to be occupied for compensation as a residence, including apartments.

*Residential **rental** structure* means a structure in which a person or persons live; a residence; abode; habitation.

Resident manager means a property manager or agent of a property manager who resides in the residential rental unit.

Tenant means any person who rents, leases, or occupies a dwelling unit for living or dwelling purposes with the consent of the owner, landlord, or property manager.

(Ord. No. 15-01, § 2, 1-20-15; Ord. No. 15-04, § 2, 3-17-15)

Sec. 22-373. Application and issuance of certificate of occupancy.

- (a) Each owner of a residential **rental** structure within the city shall make application for occupancy for said residential structure and each residential rental unit therein, if applicable, with the building inspector within ~~60~~ 30 days of the passage of the ordinance, from which this article is derived, and shall renew such application per the terms of subsection (g), ~~or at such time that there is a change in occupancy of said structure or any respective unit.~~
- (b) Each new owner of a residential **rental** structure shall make application for occupancy with the building inspector by submitting to the city a residential occupancy application, within ten business days after the date of acquiring ownership.
- (c) Application for occupancy shall be made upon a form provided by the city for such purpose, and shall include at least the following information:
 - (1) Owner's name, address, work and home telephone number or property owner;
 - (2) If the owner does not live within 50 miles of the city, then in addition to the information in subsection (c)(1), the same information shall be provided for a local contact that has the authority to represent the owner in all matters relating to maintenance of the residential structure and all respective units therein, if applicable;
 - (3) If the owner is a partnership, the name of all partners, the principal business address of the person in charge of the property, and telephone number of each partner;
 - (4) If 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, name of the primary individual in charge of the property of such

corporation, if any, and the names of all officers and directors or trustees of such corporation, and, if a foreign corporation, the place of incorporation and the agent for service;

- (5) Name, address, and telephone number of the property manager, if applicable;
 - (6) Street address of the residential **rental** structure;
 - (7) Street and mailing address of the residential rental unit, if applicable;
 - (8) Total square feet of living area and number of bedrooms;
 - (9) Number of persons occupying the structure or unit;
 - (10) Whether there has been a change of occupancy or an additional adult person to take up residence in structure or unit since the date of last application; and
 - (11) Signature of the owner or owner's agent.
- (d) A separate residential occupancy application is to be completed and submitted for each residential rental unit within a residential **rental** structure.
 - (e) A fee, set and reviewed annually by the city manager, shall be charged for each respective application.
 - (f) The building inspector shall either issue a certificate of occupancy or notify the owner that the premises does not comply with the requirements of this article.
 - (g) A certificate of occupancy for apartment residential rental units **and/or residential rental structures** shall be valid for a period of 12 calendar months following issuance thereof and renewal shall be applied for at least 15 business days prior to the expiration date of the existing certificate of occupancy if there has been and is not expected to be any change in occupancy. ~~A certificate of occupancy for all other residential units and structures shall be valid until there is a change in occupancy of said structure.~~
 - (h) It is an offense for an owner to fail to register or fail to renew application of any structure or unit within the city, and each and every day that the owner continues to fail to register or renew the application of each respective structure or unit shall constitute a separate offense.
 - (i) It shall be unlawful for any person to file a false residential occupancy application with the city.
 - (j) ~~Properties which are owner occupied or have a Homestead Exemption are exempted from this ordinance as it related to rental properties only.~~
 - (k) ~~The owner or property manager may apply with the city Utility Services department concurrent with the residential occupancy application to activate a landlord account for future change of occupancy within the 12-month annual issuance of a certificate of occupancy for rental properties managed or owned within the City limits.~~

(Ord. No. 15-01, § 3, 1-20-15; Ord. No. 15-04, § 3, 3-17-15)

Sec. 22-374. Life, health and safety inspections.

- (a) The building inspector, or his/her designee, shall inspect each residential **rental** structure and residential rental unit therein at the time of application to determine compliance with minimum

housing standards and interior safety, city ordinances, international property maintenance code, city code, all applicable state and local laws, and other conditions as determined by the city. Inspections shall also be conducted if a ~~change-of-occupancy tenant request~~ has occurred for residential ~~rental~~ structures, annually or ~~at change-of-occupancy~~, whichever occurs first, for residential rental units, or at any other time deemed necessary by the building inspector to maintain compliance with minimum housing standards.

(b) Fees.

- (1) *Residential ~~rental~~ structures and residential rental units (non-apartment complex).* Inspection on all residential ~~rental~~ structures and residential rental units therein shall have a fee of \$25.00, respectively, with said fee covering an initial inspection and one follow-up inspection, if needed. This fee will be assessed per residential rental unit ~~or residential rental structure~~ at each ~~change-of-occupancy annual~~ inspection. If additional inspections are conducted on any one residential structure or residential rental unit due to failure to pass inspection on the initial and follow-up inspections, the fee will be \$50.00 for each additional inspection.
 - (2) *Apartment complexes.* Inspection on each rental unit within an apartment complex shall have a fee of \$10.00, respectively, with said fee covering one initial inspection. This fee will be assessed per rental unit at each annual inspection. If a second inspection is conducted on any rental unit due to failure to pass inspection on the initial inspection, the fee will be \$30.00 for each unit's second inspection. If additional inspections are conducted on any rental unit due to failure to pass inspection on both the initial and second inspections, the fee will be \$75.00 for each additional inspection on each unit.
- (c) If, upon completion of the inspection, the premises are found to be in compliance with all standards and codes mentioned in subsection (a), the city shall issue an inspection slip/report to the owner.
- (d) Failure to give the city building inspector or his/her designee access to the residential structure or any individual rental unit(s) therein shall constitute a violation and grounds for denying a passing inspection for each said structure or unit, and the fees associated for said inspection and all additional inspections shall be assessed as if the initial inspection was completed and judged as a failure to pass inspection.

(Ord. No. 15-01, § 4, 1-20-15; Ord. No. 15-04, § 4, 3-17-15)

Sec. 22-375. Offenses and penalties.

If any person commits an offense, knowingly performs an act prohibited by this article or knowingly fails to perform an act required by this article shall be in violation of this article and is subject to a fine of not more than \$2,000.00 for each offense, and each and every day such offense or violation shall continue shall be deemed a separate offense and fined accordingly.

(Ord. No. 15-01, § 5, 1-20-15; Ord. No. 15-04, § 5, 3-17-15)

Secs. 22-376—22-385. Reserved.

Chapter 22, "Building and Building Regulations", Article XII, "Rental Properties" of the Code of Ordinances of the City of Commerce is hereby amended to be and read as follows with all other sections and subsections not expressly amended hereto to remain in full force and effect:

SECTION 2. All ordinances and parts of ordinances inconsistent with or in conflict with the provisions of this Ordinance shall be and the same are hereby expressly repealed.

SECTION 3. If any section, subsection, word, sentence, or phrase of this ordinance is declared to be invalid it shall not affect the validity of the balance of this ordinance.

SECTION 4. If any person commits an offense, knowingly performs an act prohibited by this article or knowingly fails to perform an act required by this article shall be in violation of this article and is subject to a fine of not more than \$2,000.00 for each offense, and each and every day such offense or violation shall continue shall be deemed a separate offense and fined accordingly.

SECTION 5. This ordinance shall be effective from and after its date of final passage.

PASSED AND APPROVED on the **FIRST READING** at a regular meeting of the City Council of the City of Commerce, Texas on this the 19th day of September 2023.

PASSED AND APPROVED on the **SECOND READING** at a regular meeting of the City Council of the City of Commerce, Texas on this the 17th day of October 2023.

ATTEST:

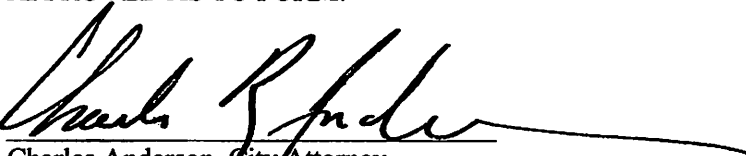
CITY OF COMMERCE, TEXAS


Molly Jacobsen, City Secretary


Teddy Reel, Mayor

(seal)

APPROVED AS TO FORM:


Charles Anderson, City Attorney

I, Molly Jacobsen, 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)


Molly Jacobsen, City Secretary
City of Commerce, Texas