

CITY OF GLASCO, KANSAS

ORDINANCE NO. _____

AN ORDINANCE EMPOWERING THE GOVERNING BODY OF THE CITY OF GLASCO, KANSAS, TO LICENSE RESIDENTIAL RENTAL UNIT OWNERS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GLASCO:

Section 1. PURPOSE.

The purpose of this Ordinance is to protect the public health, safety and general welfare of the residents of the City of Glasco in occupied rental dwellings by recognizing that the offering of rental dwellings units is a business and classifying and regulating such rentals as a rental housing business and further, to do the following:

- (a) Protect the character and stability of residential areas;
- (b) Correct and prevent housing conditions that adversely affect or are likely to adversely affect the safety, health and general welfare of residents of rental properties;
- (c) Enforce minimum standards necessary for health and safety;
- (d) Enforce minimum standards for the maintenance of existing residential buildings and, thus, prevent slums and blight;
- (e) Protect the public from increased criminal activity that tends to occur in residential areas that are unstable due to dwellings that may be blighted or substandard;
- (f) Preserve the value of land and buildings throughout the City; and
- (g) Provide a mechanism for enforcement and the administration of the City Code and ordinances to insure that the above purposes are accomplished.

It is not the intention of this City to intrude upon contractual relationships between tenants and landlords. The City does not intend to intervene as an advocate of either party, or to act as an arbiter, or to hear complaints by landlords or tenants which are not specifically and clearly related to the provisions of this Ordinance.

Section 2. DEFINITIONS.

When used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

- (a) **DWELLING:** A building or structure or portion of a building or structure designed for or used for human habitation, including any rental unit or rooming unit.

- (b) DWELLING UNIT: Any room or group of rooms located within a dwelling and forming a single habitable unit with cooking, living, sanitary and sleeping facilities.
- (c) OPERATOR/MANAGER: Any person who, alone or jointly or severally with others, shows rental dwelling units to prospective tenants and/or enters lease agreements on the owner's behalf and/or receives rent from tenants.
- (d) TENANT/OCCUPANT: Any person living, sleeping, cooking or eating at or actually having possession of a rental dwelling, dwelling unit or a rooming unit.
- (e) OWNER: Any person who, alone or jointly or severally with others:
 - (1) Has legal title to any building with or without accompanying actual possession thereof; or
 - (2) Has charge, care or control of any building or structure or part thereof as agent or personal representative of the person having legal title to the building or structure or part thereof; or
 - (3) Has possession or right to possession under a contract for deed.
- (f) PERSON: Any individual, firm, corporation, association, partnership, cooperative or governmental agency.
- (g) PREMISES: The building in which the unit is located and all land appurtenant to such building.
- (h) REGISTERED AGENT: The person designated by the owner to be the agent required by Section 5-i-(1) of this Ordinance.
- (i) RENTAL HOUSING COMPLEX: Any residential rental units of any nature or character on one property or on adjacent property under common ownership.
- (j) ROOMING UNIT: Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes.
- (k) UNIT: Any dwelling unit or rooming unit.

Section 3. APPLICABILITY.

The provisions of this Ordinance shall apply to all rental dwellings, including rented single-family and multi-family dwellings and rented dwelling units in owner occupied dwellings.

One (1) license shall be issued for each owner and shall be deemed to cover all of owner's rental dwellings within the City; and

The City shall have authority to exercise its powers under this Ordinance, including the power to issue, renew, deny, revoke and suspend a license or to declare one or more of owner's rental dwellings in violation of this Ordinance.

The provisions of this Ordinance shall not apply to hotels and motels licensed by the State of Kansas, convents, monasteries, parish houses or rectories, mosques, temples, synagogues, hospitals, licensed nursing homes or assisted living facilities

subject to inspection by other government agencies, jails, and residential dwelling units owned and operated by any housing authority.

Section 4. LICENSE REQUIREMENT; PENALTY.

No person shall allow to be occupied or rent to another for occupancy any rental dwelling unless the owner has first obtained a license under the terms of this Ordinance. This applies to persons who rent to another for occupancy on or after the effective date of this Ordinance.

Failure to comply with any term of this Ordinance shall be unlawful. Each day that a person fails to comply as required by this Section shall constitute a separate offense and penalized as follows:

- (a) A fine of not more than two thousand five hundred dollars (\$2,500.00); or
- (b) Imprisonment for not more than one (1) year; or
- (c) Both such fine and imprisonment not to exceed subsections A and B of this Section.
- (d) Those found guilty of violating any provision of this Ordinance may have all licenses and permits issued by the City revoked.

The payment of a fine or the serving of a jail sentence for failure to pay the required fee and secure a Residential Rental License shall not constitute payment of the required fee nor excuse the person from obtaining a license and making the required payment therefore, and the City may proceed by civil action to collect the fee and interest and penalties.

Section 5. APPLICATION FOR LICENSE.

The owner of each rental dwelling shall make written application to the City for a license to engage in the business of renting residential dwellings. In addition, after the effective date of this Ordinance, the owner of such rental dwelling acquired, constructed or converted to rental usage shall make written application to the City for a license as herein provided prior to initial occupancy. No application shall be considered without payment of the fee. The full amount of the license fee shall be required regardless of the time of year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year for which the license shall be issued. There shall be no refund in any case when a licensee quits business prior to the end of the calendar year or when the license is revoked as provided for under this Ordinance. A fee schedule pertaining to residential rental fees shall be adopted by ordinance, resolution, or as otherwise permitted. Such application shall be made on a form furnished by the City for such purpose and shall set forth the following information:

- (a) Owner's name, street and mailing address, and telephone number. If the owner is a partnership or limited liability company, the name of the entity and the name, residence address, and telephone number of the managing partner or member. If the owner is a corporation, the name and address of the corporation and the name, residence address, and telephone number of the chief operating officer. Further, a post office box is not acceptable for any such address as required in this section. A street address must be provided for any such person.
 - (1) In cases where the owner of a rental dwelling resides outside the State of Kansas or more than 25 miles outside of the City of Glasco, Kansas, the owner shall designate a registered agent who shall reside within a 25-mile radius of the corporate limits of the City of Glasco, Kansas and within the State of Kansas. The registered agent's name, street and mailing address, and telephone number must be included on the application. The registered agent shall be jointly and severally responsible with the owner for:
 - (2) The upkeep and maintenance of the premises;
 - (3) Compliance with this Ordinance and all other Ordinances regulating the premises; and
 - (4) Acceptance of service of process and of all notices under this Ordinance.
- (b) Manager's name, street and mailing address, and telephone number. If some natural person other than the owner, manager or agent is actively involved in and responsible for the maintenance and management of the premises, that person's name, street and mailing address, and telephone number must be given in the application.
- (c) Address identifying location of the rental dwelling owned by the owner.
- (d) Number and type of rental units in building (dwelling units, rooming units or shared bath units).
- (e) The name, address, street and mailing address, and telephone number of the person designated as responsible for maintaining a current register of all tenants and other persons with a lawful right of occupancy to a rental dwelling as provided in Section 9.

Section 6. EXPIRATION; RENEWAL.

All licenses issued under this Ordinance shall be due on January 1 of each year and expire on December 31 of each year and shall be subject to renewal annually as described in this Ordinance. All owners shall apply for renewal on a form provided by the City. The renewal application may be in such abbreviated form as deemed sufficient by the City to verify current information on file concerning the owner. No renewal shall be granted without payment of the required annual license fee. License renewals for less than one full calendar year shall not be prorated.

Section 7. LICENSE TRANSFERABLE.

A license issued herein shall be transferable as to any rental dwelling or dwelling unit(s) transferred, to any person who has acquired new ownership of the registered rental dwelling for the unexpired portion of the one-year term for which it was issued, provided that an application to transfer the license is filed with the City within thirty (30) days following title transfer. If an application for transfer of title is not filed with the City within thirty (30) days, the residential rental license with respect to the transferred rental dwelling or dwelling unit shall be cancelled and the new owner shall make new application and pay all required fees.

Section 8. LICENSING STANDARDS.

The following standards and conditions shall be met in order to hold a residential rental license under this Ordinance:

- (a) The owner or applicant shall have paid the required license fee;
- (b) The rental dwelling shall not exceed the maximum number of dwelling units permitted by the zoning district and the rental agreement for the rental dwelling shall address maximum occupancy limits;
- (c) The rental dwelling shall not be declared or found to be unsafe or dangerous for human habitation under this Code or a State Statute; and
- (d) The rental dwelling shall remain in compliance with any and all other applicable City Ordinances.

Section 9. DUTIES OF LICENSEE.

Every holder of a residential rental license shall:

- (a) Receive a license certificate, which shall contain the name and address of the owner of the rental property.
- (b) Permit the Public Officer to enter the premises for the purpose of conducting inspections to verify compliance with this Ordinance. The owner or an authorized representative shall be present during any internal inspection requested by the owner.
- (c) Notify the City in writing of any changes of information contained in the last license application filed within thirty (30) days of the changed information.

The owner of any rental dwelling that is required to be licensed by this Ordinance shall, prior to the time of sale or transfer of title of the dwelling, notify the buyer or transferee in writing of all unabated orders and violations issued by the City pertaining to such rental dwelling, as well as the requirement of law that the new owner must be licensed with the City. A copy of the notification shall be mailed to the City within five (5) days of furnishing the notification to the buyer or transferee. Time of sale is the time when a written purchase agreement is executed by the

buyer or, in the absence of a purchase agreement, upon the execution of any document providing for the conveyance of a dwelling required to be licensed.

The owner of any rental dwelling that is required to be licensed by this Ordinance shall, prior to becoming licensed, be jointly and severally liable to the City of Glasco for the amounts due and owing by a tenant/occupant to the City of Glasco according to the terms of any agreement between the City of Glasco and the tenant/occupant of the rental unit.

Section 10. RENTAL INSPECTION PROGRAM.

Requested Internal Inspections: Upon the request of the owner or tenant of a rental dwelling, the City shall conduct an internal inspection of said rental dwelling to determine compliance with this Code. In the case of tenants requesting internal inspections concerning the dwelling or dwelling unit in which they reside, such tenant shall first request an inspection and correction by the owner and shall provide a dated copy of the notice in which they requested the owner to correct the alleged violation at the time of the City's inspection, unless the matter pertains to an emergency situation as determined by the Public Officer.

- (a) In the event that the rental dwelling to be inspected is occupied, the Public Officer shall obtain the tenant's or occupant's written consent prior to entry into or upon such dwelling. A tenant or person who otherwise possesses common authority over the premises may give consent to inspect. A person possesses "common authority" if the person reasonably appears from an objective standpoint to have joint access or use of the property through permission of the person who pays the rent. The Public Officer shall obtain the owner's written consent prior to an inspection of any unoccupied rental dwelling.
- (b) Every tenant of a rental dwelling, shall give the owner or operator/manager or his or her agent or employee access to any part of such rental dwelling for the purposes of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this Ordinance; provided, that the tenant shall be given twenty-four (24) hours written notice prior to any inspection, except in case of emergency when immediate access shall be granted.
- (c) If, after an internal inspection, a rental dwelling is deemed to be out of compliance with any provision of this Ordinance, the owner and tenant, shall be provided a list of the violations and any corrective actions by the Public Officer with a stated time in which to comply. Upon compliance, the owner and/or tenant, as determined by the Public Officer, shall schedule a reinspection of the property to confirm compliance. If the initial reinspection does not result in a determination of compliance and additional reinspection(s) is necessary, or the owner and/or tenant fails to attend said additional reinspection(s) that is mutually scheduled by the Public Officer and

owner and/or tenant, the owner and/or tenant shall pay any and all reinspection fee(s) upon completion of said reinspection(s) or upon said failure to attend said reinspection(s). A fee schedule pertaining to residential rental fees shall be adopted by ordinance, resolution, or as otherwise permitted.

Complaints: All persons making complaints concerning alleged violations of the City's Ordinances as to rental dwellings shall provide; as complete an address as known of the premises and shall provide the nature of the alleged violation with specificity.

Minimum Inspection Standards:

- (a) The minimum standard to be used for inspection by the City for compliance with this Ordinance shall include the inspection of the building exterior and the common areas.
- (b) As to any inspection of the interior of any rental dwelling, the Public Officer will utilize a form checklist intended to ensure the dwelling's compliance with this Ordinance.
- (c) At the time of the issuance of a license pursuant to Section 5, the City will provide to the applicant information on the minimum requirements for exterior and interior maintenance of rental dwellings. Nothing herein contained shall be construed to relieve the owner of responsibility for compliance with all applicable codes.

Right of Entry; Unlawful Interference:

- (a) Whenever necessary to make an inspection to enforce any of the provisions of this Ordinance, or whenever the Public Officer has reasonable cause to believe that there exists in or about any rental dwelling any condition in violation of this minimum standard outlined in this Ordinance, the Public Officer is hereby expressly authorized to enter such rental dwelling or upon private property at all reasonable hours to inspect the same or to perform any duty imposed by this Ordinance, including abatement of violations; provided, that if such rental dwelling or private property be occupied, he shall first present proper credentials and demand entry, and if such structure or private property be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the structure or private property and demand entry. If such entry is refused, the City shall have recourse to every remedy provided by law to secure entry.
- (b) It shall be unlawful for any person to interfere with a Public Officer or agent of the City in performing his/her duties pursuant to this Ordinance.

Section 11. DETERMINATION OF NONCOMPLIANCE.

If the Public Officer determines during an inspection that an owner and/or tenant fails to comply with the licensing standards or code requirements, the Public Officer shall utilize the administration and enforcement proceedings as provided the City of Glasco Ordinances. The notice also shall provide:

- (a) That, following the initial inspection, the owner and/or tenant as determined by the Public Officer, shall be responsible for scheduling a reinspection of the property to confirm compliance. That if the initial reinspection does not result in a determination of compliance and additional reinspection(s) is necessary or the owner and/or tenant fails to attend said additional reinspection that is mutually scheduled by the Public Officer and owner and/or tenant, the owner and/or tenant shall pay any and all reinspection fee(s) upon completion of said reinspection(s) or upon said failure to attend said reinspection(s).
- (b) That the City may also schedule inspection of any and all rental dwellings owned by said owner upon a finding by the City that one of the owner's rental properties is out of compliance with this Ordinance.
- (c) The time periods for compliance as determined by the Public Officer shall not be renewed nor extended by the sale or transfer of any interest in the property or dwelling.

Section 12. DENIAL; NONRENEWAL; REVOCATION OF LICENSE.

If, after any time for compliance has expired, the Public Officer determines that the dwelling continues to fail to meet one or more applicable standards as set out in the Notice of Violation, the Public Officer may mail the owner a notice of denial, nonrenewal or revocation of the license. The notice shall provide:

- (a) That the Public Officer has determined that the rental dwelling or dwelling unit(s) fails to comply with the licensing standard for rental dwellings;
- (b) A copy of the Notice of Violation specifying the reasons why the rental dwelling or dwelling unit(s) fails to comply;
- (c) That the City has denied, refused to renew or revoked the license as to the affected dwelling or dwelling unit and that the affected rental dwelling or affected dwelling unit(s) must be vacated by a date certain, and shall not be reoccupied until a license is issued by the City; and
- (d) That the City shall mail a copy of the notice of denial, nonrenewal or revocation to the tenant and cause a notice to tenants to be prominently posted on the building. The notice shall indicate that the residential rental license for the affected rental dwelling has been denied, not renewed or revoked; clearly indicate which dwelling units are affected if applicable; and indicate the date upon which tenants must vacate the premises.

Vacation of Affected Dwelling Units: Whenever an application for residential rental license has been denied, not renewed or revoked, the City shall order the affected rental dwelling or the affected dwelling unit(s) therein, as appropriate, vacated, giving tenants and occupants a reasonable time to arrange new housing and to move their possessions. The Public Officer may authorize in writing an extension of the order to vacate if determined appropriate by the Public Officer.

- (a) It shall be unlawful for any person to fail to vacate a rental dwelling or dwelling unit that has been ordered vacated in the time period set forth in the Notice. Each such day that the tenant remains unlawfully in possession of the rental dwelling shall constitute a separate offense.

Removal of Posting Prohibited: No person shall deface or remove a posting provided by this Ordinance from any rental.

Section 13. UNSAFE OR DANGEROUS.

When a rental dwelling or dwelling unit is determined to be unsafe for habitation or dangerous pursuant to this Ordinance and minimum standard or applicable Kansas Statutes, the residential rental license shall be revoked on the effective date of said determination and rental dwelling ordered vacated immediately. Notice indicating the above information shall be immediately posted on the rental dwelling. The owner shall be able to hold a residential rental license only after the inspection, approval and pursuant to the conditions established by the Public Officer.

Section 15. REMEDIES IN THIS Ordinance ARE NOT EXCLUSIVE.

The remedies provided in this Ordinance are not exclusive. They are in addition to and do not supersede or pre-empt other remedies such as a declaration of being unsafe or dangerous, written violation orders and warnings and criminal charges for violation of substantive provisions of any City or State Code relating to housing maintenance, fire safety, Building minimum standards, zoning, health and the like. Further, the remedies in this Ordinance do not supersede or affect the legal rights and remedies of tenants provided under State law or this Ordinance.

Section 16. This Ordinance shall be in full force and effect from and after its adoption and publication in the official city newspaper.

ADOPTED AND APPROVED by the Governing Body, this _____ day of _____, 20__.

Charles Wilson, Mayor

(SEAL)

ATTEST:

Brenda Wisby, City Clerk

APPROVED AS TO FORM:

Scott R. Condray
CONDRA Y & THOMPSON, LLC
Attorneys for the City of Glasco, Kansas