

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, ADDING ARTICLE 16 OF CHAPTER 10 TO THE FRESNO MUNICIPAL CODE RELATING TO RESIDENTIAL RENTAL INSPECTIONS.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Article 16 is added to Chapter 10 of the Fresno Municipal Code to read:

ARTICLE 16

RESIDENTIAL RENTAL INSPECTION PROGRAM

- Section 10-1601. Purpose and Intent.
- 10-1602. Definitions.
- 10-1603. Scope.
- 10-1604. Inspections; Compliance with Applicable Codes and Standards.
- 10-1605. Registration and Payment of Fees.
- 10-1606. Notification of Inspection and Procedures.
- 10-1607. Inspection Cycle.
- 10-1608. Inspection Compliance.
- 10-1609. Exemptions.
- 10-1610. Self-Certification Program.
- 10-1611. Violations.
- 10-1612. Enforcement; Penalties.
- 10-1613. Relocation of Tenant.
- 10-1614. Appeal.
- 10-1615. Retaliatory Eviction Prohibited.
- 10-1616. Recovery of Attorney's Fees.
- 10-1617. Delinquent Fees; Late Fees and Penalties.

Date Adopted:
Date Approved
Effective Date:
City Attorney Approval: _____

Ordinance No.

SECTION 10-1601. PURPOSE AND INTENT. The purpose of this article is to safeguard and preserve the housing stock of decent, safe and sanitary residential rental units within the City and to protect persons residing in them by providing for a regular and comprehensive system of inspection and, through such inspections, identifying and requiring the correction of substandard conditions. Additionally, the Council finds the safety of rental housing properties is increased through the participation of owners, tenants, the City and the community.

The intent of this article is to proactively ensure rental housing units in the City of Fresno meet minimum health and safety standards required by the State of California and are safe to occupy.

SECTION 10-1602. DEFINITIONS. For purposes of this article, unless the particular provision or the context otherwise clearly requires, the definitions in this section shall govern the construction, meaning and application of words and phrases used in this article:

(a) “Director” shall mean the Director of the Development and Resource Management Department, or his or her designee.

(b) “City” shall mean the City of Fresno and/or any agent hired to implement the program.

(c) “Health and Safety Standards” shall mean the standards set forth in California Civil Code 1941.1.

(d) “Inspection Fees” mean the fees imposed to inspect each Residential Rental Unit subject to inspection.

(e) “Nuisance” shall have the same meaning as set forth in California Civil Code Section 3479 and/or defined as a nuisance in this Code, or any condition declared a nuisance by the Council, or any violation of this Code.

(f) “Owner” means the person or entity identified and listed as having title by the latest property tax assessment roll, maintained by the Fresno County Assessor, and any authorized agent, trustee, or legal representative thereof.

(g) “Registration Fee” means the fee that is established for the administration and implementation of this article, imposed annually by Property assessor’s parcel number (APN).

(h) “Property” or “Residential Rental Property” means any lot or parcel of land containing Residential Rental Units, and all improvements thereon, and includes any alley, sidewalk, park strip, or unimproved public easement abutting such lot or parcel.

(i) “Residential Rental Unit” means any structure or part of a structure that is used or may be used by one or more persons as a home, residence, dwelling, or sleeping place for longer than thirty days, including single family dwellings, duplexes, triplexes, or multi-family (four units or more) residential buildings, which is not an owner occupied unit, including rooming houses, boarding houses, apartment units, condominium units, residential hotels, and single room occupancies, but excluding: (1) mobile home parks; (2) any dwelling unit in a building that is properly registered

as “vacant property” under Section 10-617 of this Code; (3) hotels, motels, and bed and breakfasts used for transient lodging; (4) any rental units in a state licensed hospital, hospice, community care facility, intermediate care facility, or nursing home; and (5) rental housing units owned, managed or operated by an educational or mental institution, or by a third party for an educational or medical institution, when units are used for the sole purpose of housing employees, students, patients, or others directly related to the institution.

SECTION 10-1603. SCOPE.

(a) The provisions of this article shall apply to all existing Residential Rental Units located within the City, and shall include the Property on which such Residential Rental Units are situated, including parking lots, driveways, landscaping areas, accessory structures, and fences.

(b) Provisions of this article shall be supplementary and complimentary to all of the provisions of this Code, and any local, state or federal law. Nothing herein shall be construed or interpreted so as to limit any existing right or power of the City to abate and prosecute any and all Nuisances or to enforce any other conditions in violation of state or local laws, including but not limited to any building, housing, property maintenance and public Nuisance laws. The City Manager retains discretion to inspect any Residential Rental Unit in the City at any time.

SECTION 10-1604. INSPECTIONS; COMPLIANCE WITH APPLICABLE
CODES AND STANDARDS.

(a) Inspections. The Director, or his or her designee, hereinafter referred to as the Inspector, is authorized to inspect all Residential Rental Units and their associated Properties to determine whether such Residential Rental Units and Properties meet minimum Health and Safety Standards.

(b) Number of Units Subject to Inspection. For Properties containing the foregoing number of Residential Rental Units, the following percentage of units shall be randomly selected and subject to inspection:

- (1) One unit: 100% of units inspected.
- (2) Two to four units: 50% of units inspected.
- (3) Five to fifteen units: 30% of units inspected.
- (4) Sixteen to fifty units: 20% of units inspected.
- (5) Fifty-one units and over: 10% of units inspected.

(c) In the event that any unit fails the initial inspection and the initial compliance re-inspection, all of the remaining units in the Property shall be subject to inspection.

(d) Compliance with Codes and Standards. Residential Rental Units shall be required to be in conformance and maintained in accordance with the code standard that was in effect at the time the Residential Rental Unit(s) was constructed, altered, remodeled, erected,

or converted, except for any additional requirements mandated by this Code or state law.

SECTION 10-1605. REGISTRATION AND PAYMENT OF FEES.

(a) All Residential Rental Properties are required to be registered annually.

(b) A Residential Rental Property is registered with the City when the Owner submits the following to the City:

(1) A completed registration form, made available by the City that contains the following information:

(i) Description of the Residential Rental Property, including but not limited to, the street address and APN;

(ii) Number and description, including identifying number, of all Residential Rental Units on the Property;

(iii) Name and current contact information of the Owner;

(iv) Name and current contact information for a local contact representative with full authority to act on behalf of the Owner for all purposes under this article, including the acceptance of service of all notices from the City. If the principal residence or place of doing business of the Owner is within Fresno, Madera, Tulare or Kings Counties, s/he may serve as the local contact representative.

(v) Any other information as reasonably required by the Director.

(2) Payment of the annual Registration Fee in the amount set forth in the Master Fee Schedule. The annual Registration Fee will be used to finance the cost of administration and implementation of this article, and processing and maintaining current ownership and property information and program records by City staff. The City will establish a program to credit some portion or all of the Registration Fee towards payment of the Owner's business license tax associated with operation of the registered Residential Rental Property.

(3) Payment of the Inspection Fee. The Inspection Fee is imposed once every three years for each Residential Rental Unit on the Owner's property that is subject to inspection pursuant to this article.

(a) The Inspection Fee will not exceed \$100 per unit.

(b) For any property subject to more frequent inspections as provided in Section 10-1607, the inspection fee shall be paid at the time each inspection is required.

(4) Payment of any outstanding fees that were previously imposed pursuant to this article.

(c) It is unlawful for any person to knowingly make a false statement or knowingly omit any information that is required to register a Residential Rental Unit pursuant to this section.

(d) Registration shall be valid for a period of one year or until one of the following circumstances occurs, whichever is sooner:

(1) The Owner fails to notify the Director of any change in the information submitted pursuant to this section within thirty days of such change; or

(2) The Owner fails to pay any fees established in this article when payment is due.

SECTION 10-1606. NOTIFICATION OF INSPECTION AND PROCEDURES.

(a) A written notice of inspection shall be provided to the Owner of the Property stating the date and time of the inspection. The notice of inspection shall provide a minimum fourteen days' notice. It shall be the responsibility of the Owner to provide actual notice to individual tenants to facilitate access to the units to be inspected.

(b) If an inspection is cancelled or rescheduled by the Inspector, a written notice shall be provided to the Owner at least three days prior to the scheduled inspection date.

(c) If an inspection is cancelled or rescheduled by the Owner, the new inspection date must be within fourteen days of the prior scheduled inspection date.

(d) If an Owner or tenant in possession of the Property refuses to allow access to conduct the inspection, the City Attorney may use all legal remedies permitted by law, provided reasonable cause exists to believe a violation of the Municipal Code or state law exists on the Property. Inspections for the purpose of this article are a “necessary service” for which entry by the Owner, upon proper notice, is allowed per Civil Code 1954.

SECTION 10-1607. INSPECTION CYCLE. Following the initial inspection, periodic re-inspections shall occur as follows:

(a) Properties that passed the initial inspection shall be inspected again no sooner than three years after the date of the initial inspection.

(b) Properties that fail the initial inspection but pass the first compliance re-inspection shall be inspected again no sooner than three years after the date of the initial inspection.

(c) Properties that fail two consecutive compliance re-inspections shall be inspected annually for the next three years after the date of the initial inspection, and may be referred to the Code Enforcement Division for further review and action pursuant to applicable codes of the City of Fresno.

SECTION 10-1608. INSPECTION COMPLIANCE.

(a) Upon an initial inspection, the Inspector may require the Owner of a Residential Rental Unit to perform work, take action, or refrain from an action to ensure compliance with the health and safety inspection.

(b) During an inspection, the Owner may make immediate repairs to correct any violation noted in the course of inspection. If all necessary repairs are immediately made, the unit shall pass the inspection and shall not be subject to a Compliance Re-Inspection. Repairs that cannot be made immediately will require a Compliance Re-Inspection.

SECTION 10-1609. EXEMPTIONS.

(a) The following shall be subject to annual registration under this article, but shall be exempt from inspection:

(1) Newly Constructed Buildings. Newly constructed buildings shall be exempt from this article for a period of ten years. The ten year period begins to run on the date of issuance of the certificate of occupancy.

(2) Subsidized Residential Rental Units. Those Properties that are subject to routine annual inspections by another government agency, and the frequency and the scope of the inspections are to the satisfaction of the Director.

(b) A Residential Rental Unit that is determined to be exempt shall become subject to the requirements of this article if a notice and order relating to the Property is issued pursuant to the provisions of this

Code. A property that loses its exemption pursuant to this subsection may reinstate its exemption if:

(1) After the last inspection conducted pursuant to this article, the Inspector determines that no violations exist; and

(2) The Owner is not delinquent on any payment to the City of fees, penalties, taxes or other monies related to the Property.

SECTION 10-1610. SELF-CERTIFICATION PROGRAM.

(a) A Property may be placed in the self-certification program if:

(1) The Owner submits an application for each Property for participation in the self-certification program during the annual registration process;

(2) The Properties are annually inspected and re-inspected upon change of tenancy by a professional property management company licensed by the State of California and the Owner can provide adequate documentation that such annual and routine inspections take place and the substance of such inspections; such documentation shall be on forms provided by the City, or forms that the Director determines to be substantially equivalent to those forms.

(3) The Owner and property manager certify on forms provided by the City that the property(ies) are in compliance with all applicable provisions of this article; and

(4) The Owner is not delinquent on any payment to the City of fees, penalties, taxes or other monies related to the Property.

(b) If any of the following occur, one or more of an Owner's Properties may be removed from the self-certification program:

(1) A notice and order relating to a Property is issued pursuant to the provisions of this Code and the violations are not abated in a timely fashion;

(2) Two or more notices and orders relating to a Property are issued during any calendar year, even if the violations are abated within thirty days; or

(3) Any of the circumstances set forth in subsection (a) of this section cease to exist.

(c) Owners in the self-certification program shall inspect each and every Residential Rental Unit on the Property at least once every calendar year and upon each change in tenancy. Self-certification shall be accomplished as follows:

(1) Inspect each Residential Rental Unit for compliance with the requirements of the self-certification form provided by the City;

(2) Immediately make any repairs to the Residential Rental Unit that are necessary to achieve compliance with the requirements set forth in the self-certification form; and

(3) Complete the self-certification form and submit a copy to the occupants of the corresponding unit.

(d) If any Residential Rental Unit cannot be self-certified because necessary repairs cannot or will not be made, the Owner shall immediately notify the City and the Property shall immediately be removed from the self-certification program.

(e) It shall be unlawful to falsify any material information on the self-certification form and any such falsification may be prosecuted as a misdemeanor.

(f) The Owner's local representative shall retain all completed self-certification forms for at least three years from the date the inspection was made, and shall produce all completed self-certification forms to any City representative upon request.

(g) 10% of Residential Rental Properties in the self-certification program, and the units thereon, will be inspected by the City on a random basis each year. A property that is selected for random inspection and passes will be exempt from further random inspections for five years.

(h) If a residential unit inspected as part of the sample inspection program fails to comply with the provisions of this article, it shall be subject to re-inspection. If the unit fails to comply after the initial re-inspection, the Property shall immediately be removed from the self-certification program.

(i) If a Residential Rental Property in the self-certification program is transferred to a new Owner, the Property shall remain in the self-certification program for two years following the date of transfer, unless it is sooner removed from the self-certification program pursuant to subsection (b). After the two-year period, the residential rental housing property shall become subject to routine inspection in accordance with section 10-1604 unless the new Owner re-applies for self-certification.

SECTION 10-1611. VIOLATIONS.

(a) Notice of Violation.

(1) Content. Whenever it is determined by the Inspector that a violation of this article exists, the Inspector shall issue a written notice of violation. The notice shall contain a description of the violation, the specific action required to correct the violation, and a demand the violations be corrected within the specified time period listed in the notice. The notice shall contain the scheduled re-inspection date and time.

(2) Time for Correction. The notice shall provide a reasonable time for correction. The time shall depend on the Inspector's opinion of the time it would take a reasonably diligent person to complete the required action; the potential harm to the public welfare, health and safety; the harm to the tenant or nearby properties; and the extent of the corrections required. Certain

imminently dangerous life-safety violations may require immediate correction.

(3) Service of Notice. The notice of violation may be served personally on the Owner or local representative. If the Owner or local representative are not able to be personally served, a copy of the notice may be posted on the Property and/or by deposit in the United States mail, in a sealed envelope, postage prepaid, addressed to the Owner and local representative at the last known business or residence address as appears in the public records of the City or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed complete at the time of mailing.

(4) Compliance Re-inspections. Compliance re-inspections shall be conducted to verify the violations identified on the notice of violation have been abated. Violations that were not noted on the initial notice of violation but are discovered during any re-inspection due to subsequent activities, damage or deterioration, shall be subject to correction.

SECTION 10-1612. ENFORCEMENT; PENALTIES. If, after a notice of violation has been issued, the Owner fails to abate the violations, the City may proceed with all remedies available under law to compel compliance, including but not limited to issuing administrative citations, abatement proceedings, civil injunction, and/or criminal prosecution, or any combination of remedies.

SECTION 10-1613. RELOCATION OF TENANT. If any Residential Rental Unit is found to be unsafe to occupy, or is unfit to occupy pursuant to Health and Safety Code section 17920.3 et seq., or the unit is posted by the Director with an order not to enter or occupy as authorized by the California Code of Regulations, Title 24, of the Uniform Code for Abatement of Dangerous Buildings, the costs and expenses of relocation of any tenant from that unit shall be the responsibility of the Owner pursuant to applicable state and federal law. If the City is required to incur any relocation cost pursuant to this Section, and the Owner fails to reimburse the City in full within thirty days, the City shall take such action as it deems appropriate to recover the costs, plus accrued interest and penalties, using all remedies provided by law, including placing a special assessment lien against the Property.

SECTION 10-1614. APPEAL. The Owner of a Residential Rental Unit or a party with a legal property interest in the unit may appeal to the City's Administrative Hearing Officer in the manner provided in Chapter 1, Article 4 of this code.

SECTION 10-1615. RETALIATORY EVICTION PROHIBITED. It is unlawful for a landlord to recover possession of a Residential Rental Unit in retaliation against a tenant for exercising his or her rights pursuant to state law.

SECTION 10-1616. RECOVERY OF ATTORNEY'S FEES. In an action, administrative proceeding, or special proceeding to abate a violation of this article, the prevailing party may recover attorney's fees pursuant to Government Code Section 38773.5. Recovery of attorney's fees is limited to those individual

actions or proceedings in which the City elects, at the initiation of the individual action or proceeding, to seek recovery of its own attorney's fees. An award of attorney's fees to a prevailing party shall not exceed the amount of reasonable attorney's fees incurred by the City in the action, administrative proceeding, or special proceeding.

SECTION 10-1617. DELINQUENT FEES; LATE FEE PENALTIES. If an Owner fails to pay the Registration Fee, the Inspection Fee, and/or the Compliance Re-Inspection Fee within thirty days of invoice, the Owner shall be required to pay a penalty. The penalty shall be calculated as follows and paid in addition to the balance: (i) 31-60 days after due date, penalty of 20% of the balance due; (ii) 61-90 days after due date, penalty of 40% of the balance due; (iii) 91 days or more after due date, penalty of 50% of the balance due.

SECTION 2. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, the remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares it would have passed each section, subsection, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, paragraph, sentence, clause

SECTION 3. This Ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage. Inspections shall not begin before September 1, 2017 to allow time to competitively bid the services required by this program.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing Ordinance was adopted by the Council of the City of Fresno, at a regular meeting held

on the _____ day of _____, 2016.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2016
Mayor Approval/No Return: _____, 2016
Mayor Veto: _____, 2016
Council Override Vote: _____, 2016

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Katherine B. Doerr Date
Chief Assistant

KBD:ns [73112ns/kbd]