

ORDINANCE NO. _____

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Title 10 of the Kent City Code by adopting a new chapter 10.02 establishing a residential rental housing registration, inspection, and licensing program.

RECITALS

A. Some rental housing units with substandard conditions exist within the City of Kent, and as a result of extensive community engagement, several common health and safety issues have been identified.

B. The Residential Landlord-Tenant Act, specifically RCW 59.18.125, authorizes local governments to require landlords to provide a certificate of inspection as a business license condition.

C. The City Council has determined ensuring rental housing in the City meets specific minimum health and safety standards requires a rental housing registration, inspection, and licensing program to promote code compliance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. – *New Chapter.* Title 10 of the Kent City Code is amended by adding a new chapter 10.02, entitled “Rental Housing Registration and Inspection Program,” to read as follows:

CHAPTER 10.02

RENTAL HOUSING REGISTRATION AND INSPECTION PROGRAM

Sec. 10.02.010. Purpose. The City of Kent finds that the establishment of a rental housing registration and safety inspection program and the continuation of its rental housing business license requirements will protect the public health, safety, and welfare of tenants by encouraging the proper maintenance of rental housing by identifying and requiring correction of substandard housing conditions. By establishing this program, the City intends to prevent conditions of deterioration and blight that would adversely impact the quality of life in Kent.

Sec. 10.02.020. Applicability – Conflicts. The provisions of this chapter shall apply in addition to the provisions of any other code provision or ordinance. Where there is a conflict, the more restrictive provision shall apply.

Sec. 10.02.030. Definitions. For the purpose of this chapter, the following words or phrases have the meaning prescribed below:

A. “Accessory dwelling unit” or “ADU” means a second, subordinate housing unit that is accessory to a single family residence, and meets the definition and requirements of KCC 15.02.003 and 15.08.160 for accessory dwellings.

B. “Building” means a structure having a roof supported by columns or walls used for supporting or sheltering a use of any kind.

C. "Building Code" means all code provisions adopted in and throughout Chapter 14.01 KCC.

D. "Business License" means a business license as required by Chapter 5.01 KCC.

E. "Certificate of Inspection" means the document signed and dated by a qualified rental housing inspector and submitted to the City as the result of an inspection conducted by a qualified rental housing inspector that certifies that the residential housing units that were inspected comply with the requirements and standards of this chapter.

F. "Declaration of Compliance" means a statement submitted to the City, by the owner or the landlord that certifies that, to the best of his or her knowledge, after an on-site review of the conditions of the rental unit, each residential housing unit complies with the requirements and standards of this chapter.

G. "Department" means the City of Kent Economic and Community Development Department.

H. "Director" means the Director of the Economic and Community Development Department or the Director's designee.

I. "Fire Code" means all code provisions adopted in and throughout Chapter 13.01 KCC.

J. "Landlord" means the owner, lessor, or sublessor of the rental unit or the rental property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

K. "Mobile home" means a mobile home or a manufactured home as defined in Chapter 59.20 RCW.

L. "Owner" has the meaning as defined in RCW 59.18.030.

M. "Qualified rental housing inspector" and "RHI" mean a private inspector who possesses at least one of the following credentials and who has been approved by the Director as a RHI based on a process developed by the Director consistent with the intent of this Chapter:

1. American Association of Code Enforcement Property Maintenance and Housing Inspector certification;

2. International Code Council Property Maintenance and Housing Inspector certification;

3. International Code Council Residential Building Code Inspector;

4. Washington State licensed home inspector; or

5. Other acceptable credential the Director establishes by rule.

N. "Rental property" means all residential dwelling units rented or leased on a single parcel of land managed by the same landlord.

O. "Rental property complex" means all residential dwelling units rented or leased on a contiguous parcel or parcels of land managed by the same landlord as a single rental complex.

P. "Rental unit" means a residential housing unit occupied or rented by a tenant or available for rent by a tenant.

Q. "Residential housing unit" means any building or part of a building in the City of Kent that is used or may be used as a home, residence or

sleeping place by one or more persons, including but not limited to single-family residences, accessory dwelling units, duplexes, tri-plexes, four-plexes, townhouses, multifamily dwellings, apartment buildings, condominiums, and similar living accommodations.

R. "Residential rental housing registration" means registration required under this chapter.

S. "Shelter" means a facility with overnight sleeping accommodations, owned, operated, or managed by a nonprofit agency or governmental entity, the primary purpose of which is to provide temporary shelter for the homeless in general or for specific populations of the homeless.

T. "Single family residence" means a single detached building containing only one residential housing unit that is completely separated by open space on all sides from any other structure, except its own garage or shed.

U. "Tenant" means a person entitled to occupy a residential housing unit pursuant to a rental agreement or who pays rent for occupancy or possession.

V. "Transitional housing" means residential housing units owned, operated, or managed by a nonprofit agency or governmental entity in which supportive services are provided to individuals or families that were formerly homeless, with the intent to stabilize them and move them to permanent housing within a period of not more than 24 months.

W. "Unit unavailable for rent" means a residential housing unit that is not offered or available for rent as a rental unit, and that prior to offering or making the unit available as a rental unit, the owner is required to obtain a residential rental registration for the rental property in which the unit is located and comply with applicable regulations adopted pursuant to this chapter.

Sec. 10.02.040. Scope.

A. Exempt Residential Housing Units: This chapter does not apply to the following residential housing units:

1. Owner-occupied single family residences;
2. Units unavailable for rent;
3. Housing accommodations in a hotel, motel, or other similar transient lodging;
4. Housing accommodations at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, religious, educational, recreational, or similar services, including but not limited to correctional facilities, licensed nursing homes, monasteries and convents, and hospitals;
5. Owner-occupied mobile homes or manufactured homes, both as defined in Chapter 59.20 RCW; and
6. Shelters and transitional housing.
7. Rental units that a government unit, agency or authority owns, operates or manages, or that are specifically exempted from such a registration requirement by State or federal law or administrative regulation. This exemption does not apply once the governmental ownership, operation or management is discontinued.

B. Registration Required.

1. No person shall make available for rent, or rent, lease, or let, to the public any residential housing unit that is not exempt under KCC 10.02.040(A) without first registering the rental unit with the Department.

2. A residential rental housing registration expires on December 31st of the calendar year following registration or renewal.

3. The residential rental housing registration is transferable to any person who has acquired ownership of a registered rental property for the unexpired portion of the one-year term for which it was issued.

4. Application. Application for a residential rental registration shall be made to the City on a form and through a process established by the Director. The application shall include a declaration of compliance and such other information as required by the Director in order to carry out the intent of this chapter.

5. Renewal. A residential rental registration may be renewed for the ensuing year on or before the date of the expiration of the current registration, submitting a renewal application on a form and through a process established by the Director updating the information contained in the original application.

6. Penalty. Any person who fails to properly register any residential housing unit or fails to submit the required documentation for renewal on or prior to the expiration date of the registration shall be subject to a \$50 penalty.

C. License Required: As a condition of operation, each and every owner or landlord renting or leasing a residential housing unit within the city limits shall, in accordance with Chapter 5.01 KCC, obtain and maintain a business license. The issuance of such a license shall be considered a privilege and not an absolute right of the landlord, and the possession of such license shall not entitle the landlord to a new business license for subsequent years.

1. *Exemptions*: Landlords are exempt from the requirement to obtain a business license for the following rental units:

- a. Single-family residences;
- b. Mobile homes or manufactured homes, both as defined in Chapter 59.20 RCW;
- c. Condominiums and townhomes; and
- d. All residential housing units exempt from the residential rental housing registration requirements under KCC 10.02.040(A).

2. *Penalty for not obtaining license.* In addition to the penalties set forth in Chapter 5.01 KCC, there shall be assessed a penalty of \$100 per day for each day that a residential housing unit operates without a valid and current business license for the first 10 days of noncompliance with this chapter, and up to \$400 per day for each day in excess of 10 days of noncompliance with this chapter.

3. *Display of Program Information:* Information regarding the rental housing and safety inspection program shall be posted on the inside of each residential housing unit or in a common area; provided, that the Director may by rule establish one or more alternative or additional methods for conveying the information to tenants.

4. *Declaration of Compliance.* As a condition to the issuance and/or renewal of a business license, an applicant shall provide a valid declaration of compliance addressing each rental unit in the rental property prior to the issuance of a license. A declaration of compliance submitted under this chapter must state that each unit complies with the requirements of this chapter and that there are no conditions presented in the units that endanger or impair the health or safety of a tenant.

Sec. 10.02.050. Business license period – Application and relicensing – Fee. The business licensing period shall run from January 1st through December 31st of each year. Any application for a license

required by this chapter shall be accompanied by a certificate of inspection and a fee as established in Chapter 5.01 KCC and any resolution established in accordance with that chapter. Residential rental housing business licensing applications shall comply with the requirements of KCC 5.01.090 and 5.01.110.

Sec. 10.02.060. Denial or revocation of business license – Appeal.

A. *Denial or revocation of license.* A residential rental housing business license may be denied or revoked for the following reasons:

1. Failure to obtain a certificate of inspection as required by this chapter;
2. The certificate of inspection or business license was procured by fraud or false representation of fact;
3. The applicant or registration holder has failed to comply with any of the provisions of this chapter;
4. The applicant or registration holder is in default in any fee due to the City under this chapter;
5. Any reason set forth in KCC 5.01.130;
6. The property is subject to a notice of violation for a code violation which has been deemed committed or found to have been committed pursuant to Chapter 1.04 KCC or violation of the Revised Code of Washington.

B. *Process – Appeal.* The denial or revocation of a residential rental housing business license shall comply with the business license revocation procedures set forth in Chapter 5.01 KCC. The denial or revocation of a business license required by this chapter may be appealed in conformance with the requirements of Chapter 5.01 KCC.

C. If a residential rental housing business license is revoked, or an application for a license is denied, the landlord will be granted a business license only after:

1. Any and all deficiencies on which the revocation or denial was based have been corrected;

2. In the event an inspection has been required, the applicant has provided to the City a valid certificate of inspection that meets the requirements of this chapter; and

3. The applicant pays a license fee as determined by ordinance.

D. Tenant relocation assistance shall be provided as required by RCW 59.18.085, and pursuant to the process set forth therein.

Sec. 10.02.070. Certificates of inspection.

A. All residential rental properties subject to the business license requirements of this chapter must be inspected once every three years by a qualified rental housing inspector and will require a certificate of inspection within a time period established by the Director. The property selection process shall be based on a methodology determined by the Director that will further the purpose of this chapter.

B. The Director is authorized to create and publish a checklist to be used for declarations of compliance and inspections submitted or conducted under this chapter, and is authorized to include additional standards including, but not limited to, those within the Building Code, Fire Code, or RCW 59.18.060.

C. All certificates of inspection submitted under this chapter must state that all units subject to inspection have been inspected, that all units inspected comply with the requirements of the checklist.

D. A certificate of inspection shall be based upon a physical inspection by the qualified rental housing inspector of the residential housing units conducted not more than 90 days prior to the date of the certificate of inspection.

E. The certificate of inspection shall list and show compliance with the minimum standards for each residential housing unit that was inspected using the checklist provided by the city and shall contain such other information as determined by the Director to carry out the intent of this chapter.

F. Limitations and conditions on inspection of units for certificate of inspection.

1. The unit selection process shall be based on a methodology determined by the Director that will further the purpose of this chapter.

2. The City may only require a certificate of inspection on a rental property no more frequently than once every three years in accordance with RCW 59.18.125.

3. A rental property that has received a certificate of occupancy within the last four years and has had no code violations reported on the property during that period is exempt from inspection.

4. For properties that require an inspection, the owner or landlord must send written notice of the inspection to all units at the rental property. The notice must advise tenants that some of the units at the property will be inspected and that the tenants whose units need repairs or maintenance should send written notification to the landlord as provided in RCW 59.18.070. The notice must also advise tenants that if the landlord fails to adequately respond to the request for repairs or maintenance, the tenants may contact City of Kent officials. A copy of the

notice must be provided to the inspector upon request on the day of inspection.

5. If a rental property has twenty or fewer rental units, no more than four rental units at the rental property may be selected by the City to provide a certificate of inspection as long as the initial inspection reveals that no conditions exist that endanger or impair the health or safety of a tenant.

6. If a rental property has twenty-one or more rental units, no more than twenty percent of the units, rounded up to the next whole number, on the rental property, and up to a maximum of fifty units at any one property, may be selected by the City to provide a certificate of inspection as long as the initial inspection reveals that no conditions exist that endanger or impair the health or safety of a tenant.

7. If an owner or landlord is asked to provide a certificate of inspection for a sample of units on the rental property and a selected unit fails the initial inspection, the City may require up to one hundred percent of the units on the rental property to provide a certificate of inspection.

8. If a rental property has had conditions that endanger or impair the health or safety of a tenant reported since the last required inspection, the City may require one hundred percent of the units on the rental property to provide a certificate of inspection.

9. An inspector conducting an inspection under this chapter may only investigate a rental property as needed to provide a certificate of inspection.

G. Notice to Tenants.

1. The landlord shall provide written notification of his or her intent to allow an inspector to enter an individual unit for the purposes of

providing the City with a declaration of compliance or certificate of inspection in accordance with RCW 59.18.150(6). The written notice must indicate the date and approximate time of the inspection and the company or person performing the inspection, and that the tenant has the right to see the inspector's identification before the inspector enters the individual unit. A copy of this notice must be provided to the inspector upon request on or before the day of inspection.

2. A tenant who continues to deny access to his or her unit is subject to the penalties in RCW 59.18.150(8).

Sec. 10.02.080. Notice that rental is unlawful when certificate not provided. When a certificate of inspection or a declaration of compliance is required for a specified residential housing unit under this chapter and a valid certificate of inspection or declaration of compliance has not been provided to the City, the Director is authorized to notify the owner or landlord that until a valid certificate of inspection or declaration of compliance is provided to the City, it is unlawful to rent or to allow a tenant to continue to occupy the residential housing unit. It shall be unlawful to rent or allow a tenant to occupy or continue to occupy such unit.

Sec. 10.02.090. Other inspections. Nothing in this chapter precludes additional inspections conducted under RCW 59.18.150, Chapter 1.04 KCC, or at the request or consent of a tenant, pursuant to a warrant, or pursuant to the tenant remedy provided by RCW 59.18.115 of the Residential Landlord-Tenant Act.

Sec. 10.02.100. Director is authorized to make rules. The Director is authorized to adopt, publish and enforce rules and regulations, consistent with this chapter and the standards in this chapter for the purpose of carrying out the provisions of this chapter, and it is unlawful to violate or fail to comply with any such rule or regulation.

Sec. 10.02.110. Correction notice prior to enforcement.

Before the City suspends or revokes a registration or imposes the penalties set forth in this chapter, an attempt shall be made to give the owner or landlord a written notice by personal service or by certified mail, return receipt requested, stating the existence of a violation, that enforcement action is contemplated, and that such person shall have a specified period of time in which to correct the violation.

Sec. 10.02.120. Immediate health and safety threats.

Nothing in this chapter shall limit the City's ability to inspect properties and issue citations for property-related conditions that may constitute an immediate health or safety threat.

Sec. 10.02.130. Immunity, no warranty by City, and no private right of action.

The purpose of this chapter is to promote the safety and welfare of the general public and not to create or designate any particular class of persons who will or should be specially protected by its terms. Nothing contained in this chapter is intended nor shall be construed to create any liability on the part of the city or its employees for any injury or damage resulting from the failure of an owner, landlord, inspector, or other individual to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the City or its employees. By enacting and undertaking to enforce this chapter, neither the City, its agents or employees, nor the City Council warrant or guarantee the safety, fitness or suitability of any dwelling in the City or any unit inspected under this program. Owners, landlords, and occupants shall take whatever steps they deem appropriate to protect their interest, health, safety and welfare. Nothing contained in this chapter is intended to create a private right of action.

Sec. 10.02.140. Notice - Additional Penalties.

A. Prior to imposing any penalties set forth in this chapter, the City shall provide notice and an opportunity to correct pursuant to Chapter 1.04 KCC.

B. Any person who knowingly submits or assists in the submission of a falsified certificate of inspection, or knowingly submits falsified information upon which a certificate of inspection is issued, is guilty of a gross misdemeanor and must be punished by a fine of not more than five thousand dollars as provided in RCW 59.18.125.

C. The penalties imposed in this chapter are not exclusive when the acts or omissions constitute a violation of another chapter of the Kent City Code. In addition to all other penalties, remedies, or other enforcement measures established within this chapter, or as otherwise provided by law, the acts or omissions that constitute violations of this chapter may be subject to penalties and enforcement provisions as provided by other chapters of the Kent City Code, and such penalties and enforcement provisions may be imposed as set forth therein. All remedies under this chapter are cumulative unless otherwise expressly stated. The exercise of one remedy shall not foreclose use of another. Remedies may be used singly or in combination; in addition, the City of Kent may exercise any rights it has at law or equity.

Sec. 10.02.150. Consistency with RCW 59.18. The provisions of this chapter shall be interpreted in a manner that is consistent with the provisions of Chapter 59.18 RCW.

SECTION 2. – *Severability.* If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 3. – Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

SECTION 4. – Effective Date. This ordinance shall take effect and be in force thirty days from and after its passage, as provided by law.

DANA RALPH, MAYOR

Date Approved

ATTEST:

KIMBERLEY A. KOMOTO, CITY CLERK

Date Adopted

Date Published

APPROVED AS TO FORM:

ARTHUR "PAT" FITZPATRICK, CITY ATTORNEY