ORDINANCE NO. 2340

AN ORDINANCE OF THE CITY OF DUNCANVILLE, TEXAS, AMENDING CHAPTER 5 OF THE DUNCANVILLE CODE OF ORDINANCES TO ADD ARTICLE VII, "RESIDENTIAL RENTAL REGISTRATION REGULATIONS", SECTIONS 5-200 THROUGH 5-211; PROVIDING FOR DEFINITIONS; PROVIDING THE POWERS AND DUTIES OF THE BUILDING OFFICIAL AS THE DESIGNATED ADMINISTRATOR; PROVIDING FOR THE ESTABLISHMENT OF A RESIDENTIAL RENTAL REGISTRATION PROGRAM FEE; PROVIDING A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS ($2,000.00); PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Duncanville, deems it necessary for the purpose of promoting the health, safety and general welfare of the City and its residents, to adopt and enforce regulations regarding residential rental properties which are offered for lease, barter or rent in the City,

WHEREAS, the City Council finds that there is an increase in property maintenance and housing violations on residential property that is leased, bartered, or rented when compared with owner occupied properties,

WHEREAS, violations of the minimum property maintenance and household standards can impact the safety, health and welfare of the residents and diminish property values in the City of Duncanville;

WHEREAS, the City Council finds that the annual registration and periodic inspection of rental unit buildings within the City can minimize potential negative impacts to the safety, health and welfare of the occupants of the buildings as well as the surrounding neighborhood; and

WHEREAS, the residential rental registration program shall be implemented Citywide and shall apply to each single-family, two-family (duplex), and townhouse, as defined, rental units within the City.

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

SECTION 1. The Chapter 5 of the Duncanville Code of Ordinances be, and the same is, hereby amended by adding Article VII, "Residential Rental Registration Program Regulations", which shall read as follows:

"CHAPTER 5-
MISCELLANEOUS OFFENSES AND PROVISIONS

.....

ARTICLE VII. RESIDENTIAL RENTAL REGISTRATION PROGRAM REGULATIONS

Sec. 5-200 General

The City of Duncanville recognizes a need for a residential rental property registration and inspection program within the City to ensure compliance with City and State life, safety, health, fire, and zoning codes and to further provide a means to encourage both absentee and local landlords to correct violations and to maintain their residential rental property in a safe and habitable condition for tenants.

Sec. 5-201 Definitions

For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Building. Any structure having a roof that is built, maintained, or intended for use for the shelter or enclosure of persons, animals, or property of any kind.

Building Official. The building official, or his/her designee, for the City of Duncanville, Texas.

City. The City of Duncanville, Texas, including all areas within its corporate limits.

City Council. The City Council of the City of Duncanville, Texas.

City Manager. The City Manager for the City of Duncanville, Texas, or his/her designee.

Dwelling. Any enclosed space wholly or partly used or intended to be used for human habitation, living, sleeping, cooking, eating, and sanitation and shall include any on-site septic system or appurtenance belonging thereto.

Dwelling Unit. A room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single family for human occupancy such as living, sleeping, cooking, and eating purposes.

Family. Means individuals living and cooking together as a single housekeeping unit in which not more than two individuals are unrelated by blood, marriage or adoption, foster children excepted.

Landlord. Any person who leases, barters, or rents a rental unit to a tenant.

North Central Texas Council of Governments (NCTCOG). A voluntary association of, by and for local governments, and was established to assist local governments in planning for common needs, cooperating for mutual benefit, and coordinating for sound regional development that serves a 16-county region of North Central Texas.

Owner. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

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.

Property Manager. The owner or the person appointed or hired by the owner to be responsible for the daily operation of a rental unit that must reside or do business within the defined NCTCOG geographical service area.

Rent. The offering, holding out or actual leasing of a rental unit to a person other than the owner and generally involves the payment of an amount of money as consideration for the right to occupy the Rental Unit, although other forms of consideration or no consideration at all may be involved.

Residential Rental Certificate of Occupancy (RRCO) – a valid registration document from the City for a landlord to own, operate, manage and maintain a residential rental property or portion for a specific location or locations and authorizing occupancy.

Rental Unit. Means a single-family dwelling, two-family dwelling (duplex) and townhouse, or portion thereof that is rented or offered for rent for longer than thirty (30) days as a residence to a non-family member.

Single-Family Dwelling. Means a freestanding building or manufactured home on one lot occupied by one or more persons considered a family.

Tenant. Any person who rents or leases a rental unit for living or dwelling purposes.

Townhouse. A single-family house of multiple stories that is usually connected to a similar house by a common sidewall and are conjoined units occupied by individual families.

Two-Family Dwelling (Duplex). Means a freestanding building or manufactured home on one lot with a shared common wall but having separate accommodations for and being occupied by more than two persons or families in each dwelling unit.

Sec. 5-202 City Manager / Building Official, Power and Duties.

The City Manager, Building Official or designee is hereby designated as the administrator of the provisions of this Article. In addition to the powers and duties otherwise prescribed for the building official, as administrator of this Article, the building official shall have the authority to:

1) Administer and enforce all provisions of this ordinance.

2) Keep records of all registrations issued in the program.

3) Adopt rules and regulations, not inconsistent with the provisions of this Article, with respect to the form and content of application for registration, the investigation of applicants, and other matters incidental or appropriate to his powers and duties as may be necessary for the proper administration and enforcement of the provisions of this Article.

4) Conduct periodic inspections of residential rental properties throughout the City to ensure compliance with this Article and all other City ordinances and State laws, and applicable adopted codes including but not limited to the Residential Code, 2015 and the Property Maintenance Code, 2015 related to the purpose and/or enforcement of this Article.

Sec. 5-203 Registration Required

(a) Each owner of a residential rental unit within the City shall register each such rental unit with the City in accordance with procedures contained in this Article. A separate registration shall be required for each rental unit for each registration. Every owner of a residential rental unit as of the date of adoption of this Article shall complete an initial registration application and pay an initial registration fee as set by fee schedule on or before January 1, 2019 and annually thereafter.

(b) Unless otherwise provided in Section 5-204, each owner of a residential rental unit within the City shall make application for registration with the City and schedule an inspection of said rental unit with the building official within thirty (30) days after the date of acquiring ownership of a rental unit or within thirty (30) days after the date an owner of a dwelling unit converts the dwelling unit into a rental unit.

(c) Application for residential rental registration shall be made upon a form provided by the City for such purpose, and shall include, at a minimum, the following information:

(1) Owner's name, address, and work and home telephone number, driver's license number, or identification card number and state of issuance of the owner;

(2) If owner is a partnership, the names of all partners, the principal business address, and telephone number of each partner;

(3) If owner is a corporation, the Person registering must state whether the corporation 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 main individual in charge of the local office 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;

(4) Name, address and telephone number of the Property Manager or person having the authority to act on behalf of the owner;

(5) Name, address, telephone number of mortgagee (if there is a mortgage against property);

(6) Street address of the rental unit;

(7) Number of persons that the unit is designed to occupy as determined by the 2015 International Residential Code and 2015 Property Maintenance Code, as amended; and

(8) Signature of the owner or owner's agent.

(d) The City shall, within thirty (30) days after receipt of the registration application, either issue an RRCO or notify the owner that the application does not comply with the requirements of this Article.

(e) Unless otherwise provided in this Article, a residential rental registration application shall be valid for each rental unit for one year, unless there is a change in ownership for that unit. A change in ownership shall be deemed to have occurred upon any of the following:

(1) Any change in the individual ownership of the unit;

(2) Any change in the ownership of any entity(s) in whose name(s) the current registration for the unit is issued;

(3) Where the unit is managed by a Property Manager, upon any change in the individual Property Manager and/or the Property Manager's ownership; or

(4) Upon the dissolution of any entity(s) having ownership over the unit or upon said entity: (i) petitioning for reorganization under the Bankruptcy Code, (ii) being adjudged bankrupt, or (iii) becoming insolvent or having a receiver appointed due to the insolvency.

(f) A nonrefundable annual registration fee shall be paid to the City by the owner at the same time as the registration application for each residential rental unit is submitted to the City.

(g) A nonrefundable inspection fee shall be paid to the City by the owner for the inspection of each residential rental unit at the same time the annual registration fee is paid. A RRCO shall not be issued for a rental unit until the registration and inspection fees for the unit are paid in full to the City and the property passes inspection. In the event a re-inspection is required, the Property Owner is responsible for paying for the re-inspection.

(h) No residential rental unit may be occupied by a tenant without first having a valid RRCO. It is an offense for an owner of a residential rental unit within the City to permit or allow a tenant to occupy any rental unit without first being issued a valid RRCO for the rental unit in accordance with this Article. If an owner is required to register more than one rental unit, the owner's failure to register any individual rental unit shall constitute a separate offense for each and every day that the owner continues to fail to register a residential rental unit within the City.

(i) It shall further be unlawful for any person to make and/or file false information on their residential rental registration application with the City.

Sec. 5-204. General Requirements.

(a) Residential Rental Certificate of Occupancy (RRCO) Required. In addition to annual registration, it shall be unlawful for any person to own, operate, manage, or maintain a residential rental property or portion or otherwise occupy or offer for occupancy thereof in the City without a current and valid RRCO having been issued for said property by the City, or to violate any other requirement of this Article. Any person owning, operating, managing or maintaining residential rental property shall obtain an RRCO for each separate location.

(b) Residential Rental Certificate of Occupancy (RRCO) issuance, renewal and expiration. An RRCO shall be required for each residential rental property offered under lease and/or occupancy upon the effective date of this Article and shall be in full compliance on or before January 1, 2019. For residential rental properties, offered leased or occupied for rent after the effective date, an RRCO shall be obtained prior to occupancy.

(1) All RRCOs shall expire with the change of a new tenant or every two (2) years, whichever occurs first.

(2) An applicant for an RRCO shall file a written application with the City upon a form provided for that purpose. The application shall be signed by the owner or his agent and the property manager. Should an applicant own more than one residential rental property at more than one location, a separate application shall be filed for each rental property. The following information shall be required in the application:

A. Address of Property

B. Name of tenant and all other residents of the rental property;

C. Acknowledgment by property owner (or property manager) and tenant of receipt of copy of "Residential Rental Property Ordinance"; and,

D. Signed agreement by property owner (or property manager) and tenant to abide by "Residential Rental Property Registration Ordinance" as a condition to receiving and maintaining an RRCO.

(3) The City Manager, or designee, may, at any time, require additional relevant information of the owner or property manager to clarify items on the application and to assure compliance with this Article.

(4) Upon a change of tenant of residential property, a new inspection shall be required and a new RRCO shall be obtained before the new tenant may occupy the property. An inspection fee and administrative fee, the amount of which shall be established from time to time by the City Council, shall be charged for the issuance of such new inspection and RRCO.

(5) Upon a change of ownership, the owner or his agent shall notify the City within thirty (30) days of the change of ownership of the residential rental property. A new Residential Rental Registration Application shall be submitted by the new owner within thirty (30) days of the change of ownership. An administrative fee will be charged on the change of the new ownership within a registration year.

(6) No person shall make connections from a utility, source of energy, power or water to rental unit regulated by this code and requiring a permit until they are in compliance with this Article.

(c) An RRCO shall be issued for residential rental property that is subject to registration and this Article for which such property owner has made the application, paid the required fee, has been inspected, and is in compliance with the current adopted International Residential Code and the current adopted International Property Maintenance Code and other applicable city ordinances and adopted codes.

(d) Residential Rental Certificate of Occupancy Fees. The fee for an RRCO, reinstatement of an RRCO, or renewal and all other fees provided for in this article shall be established by Resolution of the City Council.

(1) The fee for an RRCO to be effective upon issuance as provided in fee schedule resolution.

(2) When fees are delinquent, the City Manager may seek to enforce this Article as provided herein including, but not limited to, issuance of a citation to municipal court and/or revocation of the RRCO.

(3) Fee resolution shall assess a fee for replacement of lost, destroyed or mutilated RRCO.

(e) Replacement and Transferability. A replacement RRCO may be issued for one lost, destroyed or mutilated upon application on a form provided by the City. A replacement RRCO shall have the word "Replacement" stamped across its face and shall bear the same number as the one it replaces.

(1) A residential rental property RRCO is not assignable or transferable.

(2) The form of the RRCO shall be prepared by the City Manager.

(3) The RRCO shall be held by the owner and a second copy kept on the premises and available for inspection upon request by the City.

(f) Standards of Maintenance. In addition to the requirements set forth in this article, all exterior and interior residential rental properties whether occupied or vacant, shall be maintained in accordance with this Article.

(g) Responsibility.

(1) The owner of any property in the City, whether vacant or occupied, shall be responsible for maintenance of all structures, equipment, appliances and accessories to the property in compliance with all applicable ordinances and permit requirements in force in the City.

(2) No owner shall permit the occupancy of property that is not in safe and sanitary condition, or that does not comply with all ordinances in force in the City.

(3) The owner shall be responsible for paying all abatement fees, taxes and liens assessed on the property. This shall include ultimate responsibility for satisfying all overdue or unpaid utility bills owed the City.

(4) The owner shall notify the City at least 48 hours prior to an eviction notice. Furthermore, the owner shall provide to the City a plan for the clean-up and removal of personal items from the property 24 hours after the eviction.

(5) Tenants of any property shall be responsible for keeping the interior and exterior of the property in clean, orderly and sanitary condition as provided in this Article.

(6) No tenant or owner shall willfully or wantonly or by neglect or negligence damage, deface or destroy any part of the property or cause or allow to exist any condition detrimental to safety or sanitation or in violation of any ordinance.

(7) In the event of any dispute between owner and tenant, or when the tenant is absent or unwilling or unable to correct violations, the property owner shall be held responsible for compliance with all ordinances that affect the property.

(8) Rubbish, trash, debris, filth, and garbage. All exterior property, and the interior of every structure, shall be free from any accumulation of rubbish, trash, debris, filth, or garbage.

(h) Inspections after Occupancy. Upon the request of a tenant, the Building Official may inspect a property for structural, electrical, mechanical or plumbing problems, ceiling leaks, smoke detector checks, and insect or rodent infestation. Owner or landlord has thirty (30) days to correct or repair any inspection failures or misgivings.

Sec. 2-205 Change of Ownership Registration

(a) An RRCO issued under Section 5-204 shall remain in effect until such time as a change of ownership occurs in the manner defined in Section 5-204.

(b) Upon a change of ownership, the new owner of each residential rental unit shall complete a new residential rental property registration application for each unit in the manner provided by this Article and deliver the same together with all applicable registration and inspection fees to the Building Official's office within thirty (30) days of the change in ownership. A new residential rental property registration application submitted after thirty (30) days following the change of ownership shall be considered a late registration and the owner shall pay to the City a nonrefundable late registration fee.

(c) The Building Official shall not be required to send notice to an owner for a change of ownership registration required under this Section 5-204.

Sec. 5-206 Inspection Required Upon Change in Occupancy.

(a) The owner shall provide written notice to the City upon each and every change in occupancy. A change in occupancy shall mean a change in all tenants occupying a rental unit. The notice required by this section shall clearly indicate whether there was a change in tenant(s)

or whether the rental unit was vacated by the previous tenant(s) and is presently unoccupied.

(b) An inspection of the rental unit shall be required upon the City's receipt of written notice of a change in occupancy required to be submitted pursuant to Section 5-204. Inspections required under this Section 5-205 shall be performed in the same manner as and in accordance with the applicable inspection procedures established by this Article for the rental unit.

Sec. 5-207 Single, Two-Family (Duplex) and Townhouse Inspections.

(a) The City Manager/Building Official, in addition to any other applicable requirement of this Article, shall inspect the interior and exterior of a rental unit to determine compliance with applicable state and local laws including, but not limited to, the current adopted International Residential Code and the current adopted International Property Maintenance Code. The City Manager/Building Official or his agent shall provide written notice of the date and time that the exterior inspection will be conducted. Upon request and/or consent of the owner if the rental unit is vacant, or tenant(s) if the rental unit is occupied, the Building Official may conduct an inspection of the interior of a rental unit.

(b) If the owner or tenant does not allow for reasonable accommodations for a scheduled inspection of the interior and exterior of the rental property, the Building Official or his agent may conduct the inspection from the public right-of-way. If the owner or tenant does not provide consent for the inspection and the Building Official to enter onto the property to conduct the inspection, the Building Official shall be required to obtain a warrant prior to entry on the property.

(c) The Building Official or designee shall enforce the provisions of this Article upon presentation of proper identification to the owner or tenant in charge of any residential rental unit and, with the owner or tenant's permission, may inspect the rental unit in accordance with this Section between the hours of 8:00 a.m. and 6:00 p.m. The Building Official's authority to conduct both exterior and interior inspections is subject to all limitations provided in state and federal law. If entry is refused by the owner or any occupant, or if consent to enter the rental unit could not be obtained, the Building Official is authorized to seek a warrant permitting the Building Official's entry pursuant to Vernon's Ann. Texas C.C.P. Art. 18.05, as the same may be amended from time to time. Any warrant issued will constitute authority for the Building Official to enter upon and inspect the premises described therein.

Sec. 5-208 Penalty

(a) It shall be unlawful for any person to be in violation of any provisions of this Article and a violation therefor shall constitute a Class C misdemeanor under the Code of Ordinances.

(b) Unless otherwise specified in this Article, no culpable mental state is required for the commission of an offense under this Article.

Sec. 5-209 Enforcement

(a) Nothing in this Article shall prohibit the City from enforcing any administrative, civil and/or criminal enforcement remedies concurrently herewith or availing itself of any other remedy allowed by law in connection with the administration or enforcement of this Article or conditions of any property applicable under this Article.

(b) The City may refuse to provide City utility service and/or approve an application for City utility service that is vacant at the time a registration application is required to be submitted for the unit until such time as the application is approved by the City and all applicable fees are paid as mandated by this Article.

(c) The City may initiate termination of City utility services or place a hold on reconnecting or reinstituting utility services that have been terminated, as the case may be, to or for a dwelling unit that is substandard, or unfit for human habitation by certifying, in writing, that the dwelling unit or property is substandard or unfit for human habitation. Upon initiating a utility termination or hold, the city shall promptly notify the owner by written notice. The owner may appeal the request by serving the building official with a written notice of appeal within fifteen (15) calendar days from the date the notice was mailed. Upon receipt of a timely appeal, the building official shall promptly review the owner's written notice of appeal for sufficiency and shall provide the owner with written information describing the appeal process. The City's determination upon appeal shall be in all things final and the owner shall not be entitled to further appeal under this subsection.

Sec. 5-210 Interpretation

In complying and enforcing the provisions of this Article concerning residential rental units should there be a conflict with any other ordinances or regulations under this Article or any other ordinances of the City, this ordinance shall govern.

Sec. 5-211 Appeals

The owner, resident or property manager of such property may appeal any decision or order of the Building Official to the Board of Adjustment of the City of Duncanville, by filing at the Permits and Inspections Services Office, within fifteen(15) calendar days of such decision or order a written appeal to the Board of Adjustment on a form to be supplied by the Building Official and the $125.00 application fee is submitted with the form."

SECTION 2. That all provisions of the Ordinances of the City of Duncanville, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. If any article, paragraph or subdivision, clause or provision of this shall be judged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so decided to be valid or unconstitutional.

SECTION 4. Any person, firm, corporation or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Duncanville, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars ($2000.00) for each offense. Every day that a violation occurs shall constitute a separate offence.

SECTION 5. This ordinance shall take effect immediately from and after the publication of its caption, as the law in such cases provides.

DULY PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS ON THIS THE 16TH DAY OF OCTOBER, 2018.

APPROVED:

Barry Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney
(REH:gd 3-5-18: TM 94559)