

ORDINANCE NO. 6671

AN ORDINANCE AMENDING CHAPTER 32, "NEIGHBORHOOD SANITATION AND HOUSING SERVICES", OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY UNDER THE PROVISIONS OF SEC. 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Sec. 32.01 of Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas is hereby amended by adding the following definitions and by appropriately renumbering the other definitions of Sec. 32.01:

" () *Clean* means free from dirt, impurities or multiple stains; hygienic conditions and practices that serve to promote or preserve health.

() *Communicable disease* means an illness that occurs through the transmission of an infectious agent or its toxic products from a reservoir to a susceptible host, either directly, as from an infected person or animal, or indirectly through an intermediate plant or animal host, a vector, or the inanimate environment.

() *Easily cleanable* means surfaces that are readily accessible, and made of such materials and finishes and so fabricated that residue may be effectively removed by normal cleaning methods.

() *Equipment* means any items used in connection with the operation of a lodging establishment including but not limited to any washer, dryer, ice machine, fans, air conditioning units, heaters, refrigerators, or cooking units.

() *Excessive* means more than a usual, multiple or an unreasonable number.

() *Extended stay* means guests that stay for a week or longer in length.

() *Fixtures* means any sinks, bathtubs, showers, toilet fixtures, or any other such items used in connection with the operation of a lodging establishment.

() *Furnishings* means any bedding, furniture, lamps, carpeting,

floor coverings, wall coverings, ceiling tiles, or similar items furnished or used in connection with the operation of a lodging establishment.

() *Guest* means any person who occupies a guest room in a lodging establishment.

() *Linens* means the sheets, top sheets, and pillow covers for a bed, excluding coverlets and comforters.

() *Lodging establishment* means any building, group of buildings, structure, facility, place, or places of business where guest rooms are provided, kept, used, maintained, advertised or held out to the public for hire. The term is inclusive of a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabins, tourist home, bunkhouse, bed and breakfast, or other similar place by whatever name called. The term does not include multifamily dwellings, medical treatment facilities such as hospitals, nursing homes/convalescent centers or similar uses, nor does it include jails or detention centers.

() *Lodging room* means any room where sleeping accommodations are regularly offered to the public.

() *Single service articles or utensils* means cups, containers, ice bucket liners, stirrers, paddles, straws, napkins, doilies, wrapping materials and similar articles intended to be used one time and then discarded."

Section 2

That Sec. 32.03(3) of Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas is hereby amended by adding a subsection (c) to read as follows:

"(c) A lodging establishment shall be equipped with smoke detectors as required by Chapter 792, TEX. HEALTH & SAFETY CODE."

Section 3

That Sec. 32.04(D) (5) (a) of Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas is hereby amended to read as follows:

"(a) Refrigerated air equipment shall be provided in any dwelling unit or lodging room that is occupied by, rented or leased to a party other than the owner and shall be maintained in operable condition and must be capable of maintaining the inside of the dwelling unit

or lodging room at a comfortable temperature zone, not to exceed a maximum temperature of 81 degrees Fahrenheit from May 1 through October 1."

Section 4

That Sec. 32.04(D)(6) of Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas is hereby amended to read as follows:

"(6) Each owner of a multifamily dwelling or lodging establishment which utilizes a cooling tower as a functional portion of an HVAC system shall, at the owner's expense, perform annual testing of the cooling tower for the presence of Legionella pneumophila. The testing shall be performed by a third-party entity using analytical and collection procedures approved by the City. In the event that the property owner cannot provide a proper sampling technique, the property owner, on a form provided for such use by the City, may request that the sample be obtained and tested by the City Health Department and reimburse same for incurred expenses. The owner shall provide the laboratory test report to the City within 10 days of receipt for negative results and within 48 hours of receipt for positive test results."

Section 5

That Sec. 32.04 of Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas is hereby amended by adding subsection 32.04(F) to read as follows:

" (F) Lodging establishments. All of the provisions of this Sec. 32.04 apply to lodging establishments with the exception of Sec. 32.04(A)(2); Sec. 32.04(A)(4); Sec. 32.04(B)(1); Sec. 32.04(B)(2); and Sec. 32.04(C)(2). The following additional standards shall apply to lodging establishments but do not apply to single-family or multi-family dwellings unless required by another provision of this Code:

(1) Furnishings shall be maintained in good condition and clean. Furnishings with excessive wear, tears, or stains shall be replaced.

(2) After each occupancy, the guest room shall be vacuumed, the linens in the guest room shall be replaced with clean linens, smooth surfaces on all fixtures shall be cleaned and sanitized, and trash shall be removed from the room. Glasses, pitchers, ice buckets, coffee pots, and eating and cooking utensils (other than disposable, single-use utensils) shall be cleaned and

sanitized.

(3) All rooms, furnishings, and bedding shall be free from an accumulation or infestation of insects or ectoparasites. If a lodging room becomes infested with insects of any type, the room shall not be occupied until the infestation is controlled. Lodging establishments shall, at a minimum, perform monthly pest control for all lodging rooms, or at more frequent intervals as required by the Director, in order to prevent infestation. Records of pest control treatments shall be made available for review on request by the Director.

(4) Soap shall be provided in every lodging room by means of dispensed liquid or with new, individually wrapped bar soap. Used bar soap shall be removed from the lodging room when the guest ends the occupancy. Other toiletries provided by the lodging establishment which have been opened by the guest shall be removed when the guest ends the occupancy. Used soap and toiletries shall be discarded and shall not be used for any other purpose. A dispensed liquid soap shall be provided in all common and public bathrooms and toilets.

(5) Single service utensils and single service articles shall be replaced after each occupancy when visibly damaged or evidence of tampering or contamination exists.

(6) Ice provided to guests in any manner shall be produced only from potable water. Ice machines shall be free from visible trash and sediment. Ice shall not be made or stored in an owner's or manager's private refrigerator or private living areas. Ice that is not produced at the lodging establishment shall be obtained from an approved source and shall be properly labeled and protected from contamination during transportation and storage. Ice machines shall be of sanitary, durable, corrosion-resistant, and easily cleanable construction. Ice machines shall be kept sanitized and in good repair. Ice storage bins shall be drained into an approved sewage system and must have a physical air gap. When replacement of a self-service ice machine becomes necessary or additional machines are added, an automatic self-serve ice dispensing machine shall be installed instead. Ice machines shall be located in a place that provides protection from the elements and possible sources of contamination. Exterior ice machine locations shall have, at a minimum, overhead protection. The area shall be kept clean and shall be free of accumulation of excessive moisture, drippage, or trash. An ice machine with a storage bin for ice shall be equipped with an ice scoop that is attached to the ice bin with a tether of easily cleanable

material. The tether shall be of such a length to prevent the scoop from touching the ground and shall be maintained in a clean and sanitary condition.

(7) Lodging rooms shall be provided with clean linens for every bed in the room and enough towels for at least two occupants. All linens, towels, and laundry provided to a guest shall be provided in a clean, sanitary condition without excessive stains or damage. During laundering, clean linens, towels, and laundry shall be kept in separate carts and stored away from soiled linens, towels, and laundry. Clean linens, towels, and laundry shall be protected from dust, dirt, vermin, or other contamination.

(8) Lodging establishments with non-guest laundry facilities shall use the laundry only for the washing and drying of linens, towels, uniforms, and aprons necessary to the operation of the lodging establishment; other uses of the laundry are prohibited. Laundry equipment such as washers and dryers shall be of commercial-grade and shall be installed and used according to manufacturer's instructions and specifications. Laundry facilities shall be separated from any other permanent living quarters by complete partitioning and solid self-closing doors. Traffic through or use by guests of a non-guest laundry facility is prohibited. Laundry facilities for the use of guests, if provided, shall be located separate from non-guest laundry facilities. Guest laundry facilities shall be clean and maintained in good repair.

(9) Lodging establishments shall in general be kept in a clean and sanitary condition and in good repair. Kitchen amenities in guestrooms with kitchens or kitchenettes shall be properly maintained and in good working order.

(10) The lodging establishment shall keep, for a period of no less than ninety days, records of the cleaning frequency of rooms that are used for extended guests stays. The records shall include information regarding the last cleaning performed and any room damage or repairs.

(11) No employee of a lodging establishment who is a carrier of or infected with a communicable disease (as specified by the Health Authority), or who is affected with a boil, an infected wound or an acute respiratory infection, shall work in a lodging establishment in any capacity in which there is a likelihood that the employee may transmit the disease to other persons. Employees who work with or handle single service items, such as clean laundry, ice or beverages or who perform tasks that would

contaminate their hands shall thoroughly wash their hands and exposed areas of their arms before starting work, after smoking, eating or using the toilet. Employees shall keep their fingernails trimmed evenly and clean. Employees involved in guest services and housekeeping functions shall wear clean clothing, in good repair. When performing cleaning functions that could bring the employee into contact with human waste or bodily fluids, the employee shall be provided protective gloves for optional use.

(12) Not more than ten percent of the lodging rooms in lodging establishment may be used for storage purposes. At least ninety percent of the lodging rooms in a lodging establishment shall be available for occupancy or occupied by a guest.

(13) A lodging room may not be occupied by more persons than allowed by Sec. 21.01 (Fire Code) or Sec. 30.01 (Building Code) which shall be calculated by taking into account the space taken up by luggage and other personal belongings of an occupant that are not stored in a closet, dresser or other building feature or furniture provided by the operator of the lodging establishment."

Section 6

That Sec. 32.07 of Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas is hereby amended to read as follows:

"Sec. 32.07 Multifamily/lodging license

(A) License required.

(1) A person who rents or leases to another person three or more residential dwelling units that are part of a multifamily dwelling or who operates a lodging establishment must obtain and maintain a current and valid multifamily/lodging license issued in accordance with the provisions of this section. Notwithstanding anything contained in this section, the provisions of section 32.09 relating to single-family dwelling units shall apply to any person who rents a residential dwelling unit in a multifamily dwelling to another person in a number, at different locations, or under circumstances that make the provisions of this section inapplicable. A person commits an offense if the person operates or causes to be operated a multifamily dwelling or a lodging establishment without a valid multifamily/lodging license issued by the City under the provisions of this section.

(2) As used in this section:

- (a) "Representative sample" means any number of dwelling units at the multifamily dwelling or lodging establishment as determined by the Director of Code Compliance based upon criteria such as, but not limited to, the age of the dwelling units, buildings, and structures, past inspection performance, and complaint history.
- (b) "Comprehensive inspection" means an interior and exterior inspection of all of the dwelling units and non-dwelling buildings and structures comprising a multifamily dwelling or lodging establishment, including without limitation common areas, offices, storage rooms, mail rooms, laundry facilities, and parking lots.
- (c) "Licensee" includes, unless the context clearly requires the restrictive meaning, an applicant for a multifamily/lodging license as well as the holder of a license.

(B) Application for license; required information and certifications. An applicant for a license shall file with the City a written application, on the form provided for that purpose, signed by the owner or an authorized agent of the owner.

(1) Applications for a license, whether an original or a renewal, must be made to the Director of Code Compliance by the intended operator of the multifamily dwelling or lodging establishment. A signed, completed copy may be initially filed (including filing by fax or electronic mail), but the applicant shall thereafter submit the original of the signed, completed application form to the Director of Code Compliance. An unsigned or incomplete application will not be processed. The application shall require, and the applicant shall provide, the following information:

(a) The full name of the owner (whether or not the owner intends to directly operate the multifamily dwelling or lodging establishment) and the full name of the property manager or other intended operator (if the multifamily dwelling or lodging establishment will be operated by a third-party);

(b) The owner's and the property manager's or operator's

(if any) street address, mailing address (if different), and telephone number.

(c) The name under which the multifamily dwelling or lodging establishment is or will be operated and the name of the multifamily dwelling or lodging establishment, if different from the name of the operator.

(d) The address of the tract of land on which the multifamily dwelling or lodging establishment is or will be located.

(e) The name, mailing address, and telephone number of a person who will act as the applicant's agent and liaison with the Director of Code Compliance for purposes of the license inspection(s) required under this section. Such person must be authorized to act for the applicant in matters relating to inspections of the premises as required by this section. In addition, the applicant shall designate a natural person who shall be the agent for purposes of notice and other communications provided in this article and shall provide a telephone number at which a representative of the owner may be contacted at any time in emergencies.

(f) For multifamily dwellings that contain individually-owned condominium units that are managed by a homeowners association or third-party property management company, the name, address, and telephone number of the homeowners association or third party management company.

(2) The original application shall be accompanied by the following:

(a) Payment in full, by certified check, cashier's check or money order, of the required multifamily/lodging license fee;

(b) A certified copy of the assumed name certificate filed in compliance with the Assumed Business or Professional Name Act (Texas Business and Commerce Code, chapter 36) if the multifamily dwelling or lodging establishment is to be operated under an assumed name;

(c) If the multifamily dwelling or lodging establishment is owned by a Texas corporation, a certified copy of the articles of incorporation, current as of the date of application;

(d) If the multifamily dwelling or lodging establishment is owned by a foreign corporation, a certified copy of the certificate of authority to transact business in this state, current as of the date of application;

(e) If the multifamily dwelling or lodging establishment is owned by a limited partnership formed under the laws of Texas, a certified copy of the certificate of limited partnership, together with all amendments thereto, filed in the office of the secretary of state under the Texas Business Organizations Code;

(f) If the multifamily dwelling or lodging establishment is owned by a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto, filed in the office of the secretary of state under the Texas Business Organizations Code;

(g) Proof of the current fee ownership of the tract of land on which the multifamily dwelling or lodging establishment is or will be located in the form of a copy of the recorded vesting deed;

(h) The zoning category or categories of the land on which the multifamily dwelling or lodging establishment is or will be located; and

(i) The number of dwelling units to be licensed under the multifamily/lodging license, specifying for a multifamily premises, the number of efficiencies, one bedroom, two bedroom, three bedroom, and four bedroom dwelling units; the floor area of habitable space in each unit; and the floor area habitable space in each bedroom (for a lodging establishment premises, only the total number of rooms available for let is necessary).

(3) The applicant shall submit evidence with the application that the multifamily dwelling or lodging establishment has been treated for insects, rodents, and vermin within the preceding six (6) months by a person licensed under the Texas Structural Pest Control Act.

(4) The applicant shall acknowledge that, as a condition of obtaining and maintaining a valid multifamily/lodging license, an owner must comply with all applicable sections of article III (relating to nuisance abatement), article V (relating to noise control), and article VI (relating to public and semipublic

swimming pools) of chapter 22 of this Code and that the provisions of chapter 22 and this chapter that are applicable to dwelling units of a multifamily dwelling or lodging establishment apply equally to related non-dwelling structures of a premises, including but not limited to offices, storage rooms, laundry facilities, club houses, and swimming pool-related buildings.

(5) The applicant shall certify that each multifamily or lodging dwelling unit for which the application is submitted is equipped, in accordance with the provisions of section 32.03(3), with properly working smoke alarms; and

(6) The applicant shall certify that no multifamily dwelling unit will violate the occupancy limits established by section 32.04.

(C) Application deadline; term.

(1) Applications for a multifamily/lodging license are due by January 1 of each calendar year.

(2) A multifamily/lodging license is valid from the effective date stated on the issued license until December 31, unless sooner revoked or issued as a provisional license to a new owner under the provisions of subsection (G)(4)(c).

(D) Posting required; non-transferable.

(1) A license issued pursuant to this section shall be posted and displayed in the multifamily dwelling or lodging establishment office or a conspicuous place to which occupants have access. A replacement license may be issued for one lost, destroyed, or mutilated upon application on the form provided by the City. A replacement license shall have the word "replacement" stamped across the face and shall bear the same number as the one it replaces.

(2) A multifamily dwelling or lodging establishment license is not assignable or transferrable.

(E) License fees.

(1) The annual permit fee for a multifamily license is \$13.00 per dwelling unit, with a minimum fee of \$50.00. The fee for a new license shall be prorated based on the date the application is submitted in relation to the number of calendar months remaining in the calendar year of application. A late fee of 1/12th of the annual license fee is due for each month the payment of the annual fee is delinquent. A fee of \$10.00 shall be paid for the issuance of a replacement license.

(2) The annual permit fee for a lodging establishment is \$200.00.

(3) Upon a change in ownership of the multifamily dwelling or lodging establishment, a new license shall be obtained within thirty days (30) days of the change with the fee charged on a prorated basis.

(F) Inspections.

(1) Application for the issuance of a multifamily/lodging license constitutes consent to inspection by the City of the multifamily dwelling or lodging establishment and, subject to the rights of the occupants of a dwelling or lodging room, the dwelling units and lodging rooms that comprise a multifamily dwelling or lodging establishment, in order to determine compliance with this Code. A licensee shall make all exteriors, all interior and exterior public areas, and all vacant multifamily dwelling units or lodging rooms available to City representatives at all reasonable times for the purpose of making inspections to determine compliance with this Code.

(2) For purposes of inspecting an occupied multifamily dwelling unit or lodging room and unless otherwise authorized by consent, the Director and the Director's representatives are hereby designated and authorized to obtain a search warrant or other order of a court.

(3) No less than annually, the City shall inspect the multifamily dwelling or lodging establishment, including a representative sample of individual dwelling units or lodging rooms comprising a multifamily dwelling or lodging establishment. If an inspection reveals a violation, the City shall provide the licensee with notice of each violation and a demand for full compliance.

(4) The City will thereafter conduct subsequent follow-up inspections to determine compliance. In the event that two or

more re-inspections are required for a noted violation before the violation is corrected, the property owner shall be charged a one-hundred dollar (\$100.00) reinspection fee for the third and each subsequent reinspection for each dwelling unit in which a previously noted but uncorrected violation exists.

(G) Unsatisfactory performance on annual inspection.

(1) If the annual inspection of a representative sample of individual dwelling units or lodging rooms reveals life safety or critical violations totaling in number a sum that is greater than the number of dwelling units or lodging rooms inspected, the licensee shall pay a surcharge of half the amount of its standard annual fee for a multifamily/lodging license in addition to the annual license fee at the time of the next license renewal.

(2) Upon making a determination that a licensee is subject to a surcharge, the Director of Code Compliance shall provide notice of the increased renewal fee by certified mail, personal service, or courier-receipted commercial delivery sent to the address noted on the licensee's application. The licensee may appeal an assessed surcharge to the City Manager or a designated representative of the City Manager by filing a written notice of appeal with the Director of Code Compliance. The City Manager or a representative designated by the City Manager shall render a decision on the appeal within five days of the date of the hearing, which decision shall be final.

(3) A multifamily dwelling or lodging establishment operated by a licensee that is required to pay a surcharge under subsection (G)(1) is subject to a comprehensive inspection. Upon the completion of a comprehensive inspection, the City shall provide the property owner with notice of each violation and a demand for full compliance. Non-critical violations shall be corrected within sixty days of the date of the notice of violation. Life-safety and critical violations shall be corrected within the time specified in the notice of violation. If a follow-up inspection reveals the continuance of any violation after the applicable period for compliance has passed, the City may order the licensee to post a bond, letter of credit, or escrow deposit in the amount of twenty percent the multifamily dwelling's or lodging establishment's appraised value as appraised by the Dallas Central Appraisal District. The licensee shall post the bond or other security within thirty days after receipt of notice from the Director of Code Compliance. Any funds obtained by the City under a bond, letter of credit, or escrow account posted under this section shall be used only for the

purpose of reimbursing the City the costs associated with correcting uncorrected violations at the multifamily dwelling or lodging establishment or for demolishing buildings or structures that pose an imminent threat to the life, safety or welfare of the occupants or the public. The amount of any funds deposited shall not be part of the general fund.

(4) The bond or other posted security shall be maintained in the full amount originally posted for not less than one year from the date of posting. The City shall return or cancel the bond or other posted security (or such portions as may remain at the time):

(a) When the multifamily dwelling or lodging establishment becomes fully compliant prior to the City's intervention through usage of the proceeds of the bond or other posted security;

(b) If the property has not been cited with a life safety or critical violation within eight months following the posting of the bond or other security; or

(c) When the property is sold to a new owner that is unaffiliated with the current licensee; provided that:

(i) A license issued to a new owner for a property that is subject to the bond requirements of this subsection may be issued as a provisional license only and shall be valid for a period not to exceed 120 days; and

(ii) The bond shall remain in full force and effect until an annual, non-provisional license is issued for the property.

(H) Revocation of license. A multifamily/lodging license may be revoked:

(1) If the licensee has repeatedly failed to comply with the requirements of this chapter;

(2) If one or more dwelling units or lodging rooms covered under the license have been substandard for more than sixty days following the delivery of notice of violation; or

(3) If the multifamily dwelling or lodging establishment covered under the license represents an imminent threat to the life, health or safety of any person;

(4) If the licensee has failed to post or maintain the bond or other security as may be required by subsection (G)(3); or

(5) The licensee has failed to pay, after notice, a reinspection fee imposed under subsection (F)(4).

The Director of Code Compliance shall provide notice of revocation by certified mail, personal service, or courier-receipted commercial delivery sent to the address provided on the licensee's application. The licensee may appeal the revocation to the City Manager by filing a written notice of appeal with the Director of Code Compliance within ten days of delivery of the notice of revocation. The City Manager or a designated representative of the City Manager shall provide an opportunity for a hearing on the appeal, and shall render a decision on the appeal within ten days of the date of the hearing. The decision of the City Manager or the designated representative shall be final."

Section 7

That Sec. 32.57(B)(2) of Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas is hereby amended by adding subsection 32.57(B)(2)(e) to read as follows:

"(e) On the premises of a lodging establishment while the operator of the oversized vehicle is a registered guest of the lodging establishment and is occupying a lodging room at the lodging establishment."

Section 8

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 9

That Chapter 32, "Neighborhood Sanitation and Housing Services" of the Code of Ordinances of the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 10

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 11

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

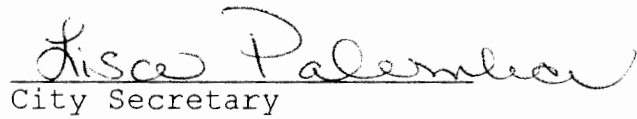
PASSED AND APPROVED this the 21st day of January, 2014.

CITY OF GARLAND, TEXAS



Mayor

ATTEST:



City Secretary

Published: 1/27/14 & 1/29/14