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INDEXING INSTRUCTIONS:

**ORDINANCE NO. _____
OF THE CITY OF HATTIESBURG**

**AN ORDINANCE ESTABLISHING A POLICY FOR REGISTRATION
AND SAFETY ASSESSMENT OF CERTAIN RENTAL DWELLINGS**

SECTION 1.100. Purpose, Intent and Findings.

The purpose of this Section is to protect the health, safety and welfare of city residents and citizens; to prevent blight and property deterioration in neighborhoods; and to promote and maintain health and sanitary conditions in all single- and two-family rental dwellings located in the City, recognizing the importance of such to the persons who do or may reside in or are located in the vicinity of such dwellings. The City also recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe single- and two-family rental dwellings within the City which will provide for the maintenance of property values of nearby properties; and the reduction and elimination of blight and other negative factors affecting neighborhoods and the quality of life within the City.

The City finds that the nature of single-family, and two-family rental dwellings versus multiple family and non-residential rental buildings is unique because, in the City's experience:

- A. The maintenance of single- and two-family rental dwellings are typically the obligation of a non-owning tenant or a non-occupying, off-site owner rather than an on-site manager or management company;
- B. Unlike non-residential rental buildings and apartment units, single- and

two-family rental dwellings are typically located in neighborhoods consisting of owner-occupied single-family dwelling units where the deterioration and non-maintenance of homes has a much more significant and direct negative impact on the quality of life, character, vitality, appearance and value of properties in the surrounding neighborhood affecting residents on a broad and large scale basis within the City;

- C. Single- and two-family rental dwellings are more often located in proximity to other single-family residential structures and, therefore, have a greater effect on the general health, safety and welfare of the City's residents; and
- D. Accordingly, regulating single- and two-family rental dwellings is the most effective way to reduce neighborhood and city blight with the resources available to the City. Thus, to address this unique situation and help to protect residents of neighborhoods surrounding single- and two-family dwellings, the City finds that a single- and two-family rental dwelling registration with a limited safety assessment program is warranted and necessary

SECTION 1.101. Scope.

The provisions of this Code shall apply to single- and two-family rental dwellings, including any accessory buildings or structures, and the land upon which such rental dwelling is located, including any standalone accessory structures used as single- or two-family rental dwellings located on otherwise non-residential property.

SECTION 1.102. Definitions.

For purposes of this chapter, the following terms, words, phrases, and their derivatives shall have the meanings as given herein and below, unless the context clearly indicates otherwise. Terms, words, and phrases not defined herein and/or not defined in the Hattiesburg, Mississippi Land Development Code shall have their customary dictionary meaning.

Accessory use areas are areas and buildings around a rental dwelling which provide space for amenities and facilities, including but not limited to pay phones, picnic areas, recreation areas, laundry rooms, recreation rooms, refuse collection facilities and accessory storage buildings.

Agent is a person authorized by the owner of a rental housing unit to make or order repairs or service to the unit and authorized to receive notices on behalf of the owner.

Architectural pool is a constructed or excavated exterior area designed to contain a regular supply of water other than a swimming pool or a spa.

Boarding house is any dwelling unit other than a hotel where for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for not more than three patrons.

Building official is that official designated by the City and charged with the responsibility of enforcing the Building Code and issuing building permits, and any such representative appointed by such official.

Certificate of rental compliance is a certificate issued by the City pursuant to this Code which certifies compliance with the provisions of this Code and with other applicable codes and ordinances of the City.

Change of occupant/tenant is when a rental unit is vacated and occupied by a new tenant.

City is the City of Hattiesburg, Mississippi.

Cooperative is a multiple-household owned and maintained by the residents. The entire structure and real property is under common ownership, as contrasted with a condominium dwelling where individual units are under separate individual occupant ownership.

Department is the Department of Urban Development or any successor department or division hereafter established.

Deterioration is a lowering in quality of the condition or appearance of a building, structure or premises characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay, neglect, damage or lack of maintenance.

Dwelling is one or more rooms providing complete living facilities for one family, including kitchen facilities or equipment for cooking or provisions for same, and including a room or multiple rooms for living, sleeping, sanitation, and eating. Also known as “dwelling unit.”

Exterior opening is an open or closed window, door or passage between interior and exterior spaces.

Family is one or more persons, occupying a dwelling and living together as a separate housekeeping unit, but not more than four (4) unrelated persons living together.

Fee schedule is the schedule of fees established by resolution or ordinance of the City Council from time to time and as may be listed specifically herein.

Gang boxes are a group of postal service mail boxes clustered together serving a residential area.

Habitable room is a room or enclosed floor space within a rental unit used, intended to be used or designed to be used for living, sleeping, eating or cooking and excludes bathrooms, laundry rooms, halls, closets and storage places. As defined in the International Residential Code adopted by the City, to be habitable, at least one room contains at least 120 square feet and no other room, excluding closets, toilets, laundry, and/or storage, is less than 70 square feet.

Impervious means incapable of being penetrated or affected by water or moisture.

IPMC is the International Property Maintenance Code adopted by the City.

Infestation is the presence or apparent presence of insects, rodents, vermin or noxious pests of a kind or in a quantity that endangers health within or around a dwelling or may cause structural damage to the dwelling.

Inoperable vehicle or junk vehicle is a vehicle which is physically incapable of operation, stripped, substantially damaged, lacking of a current license plate, discarded or unable to be safely and legally operated.

Landscaping is the combination of elements such as trees, shrubs, ground covers, vines and other organic and inorganic material for the express purpose of creating an attractive and pleasing environment.

Lessee is a person or entity who receives the use and possession of leased property (e.g., real estate) from a lessor in exchange for a payment of funds. The person to whom a lease is made.

Legal entity is an association, cooperation, partnership or individual that has legal standing in the eyes of the law. A legal entity has legal capacity to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right, and be held responsible for its actions.

Makeshift means not in accordance with the requirements of this Code, any ordinance of the City or rules or regulations adopted thereunder, accepted practices, prevailing standards, design of a licensed contractor or manufacturer's recommendation.

Manager is any person who has charge, care or control of a rental dwelling unit.

Occupant is a tenant, lessee, renter and/or any person residing in or occupying a rental dwelling unit who is not an owner thereof.

Owner is the record owner of property as established by a written document that has been fully and properly recorded at the office of the Chancery Clerk. For the purposes of this Code, owner does not include a person with a possessory interest pursuant to a lease with an option to purchase, lease to purchase nor any similar possessory interests.

Parking area is any area adjacent to a rental dwelling unit which was designed for or is used for the purpose of parking vehicles. This does not include landscaped, unpaved or yard areas.

Proof of ownership is a title or deed to a piece of property signed before a notary public.

Rent or rented means a lease or other contractual arrangement whereby a person is to pay or provide monetary or other consideration to another person for the right or privilege to use and occupy a residential dwelling for any period of time. Such arrangements may or may not be in writing, and for the purpose of this ordinance, may or may not be identified by typical monetary or other considerations for use.

Rental dwelling is a residential single- and two-family dwelling, or any portion thereof, that is not occupied as a primary residence by the owner and is rented or available to be rented; provided, however, said rental dwelling shall exclude any structure or building the principal use of which is licensed and inspected by the State of Mississippi, and, therefore, preempted from regulation by the City pursuant to federal or state law.

Slum-like means the unsightly condition of a building, structure or premises characterized by deterioration or similar conditions, and the visible outdoor storage of junk, garbage or rubbish, regardless of the condition of other properties in the neighborhood.

Sound condition means free from decay or defects and in good working condition.

Specific lighting is the artificial illumination which was designed and installed to provide adequate lighting for a specific area.

Storage is the placing or leaving of personal property in a location for the purpose of preservation, seasonal or future use or disposal.

Vehicle is an automobile, truck, trailer, camper, recreational vehicle, boat or motorcycle.

SECTION 1.103. Registry of Owners and Premises.

Annually, owners of rental dwellings shall register such dwelling units with the Department as provided in this Code before they are rented. An owner shall register the rental dwelling with the Department in order to be entitled to collect rent from tenants and occupants residing or located in the rental dwelling. After the initial registration, an annual registration shall be filed with the Department.

- A. Registration shall be on a form provided by the Department. Required information shall include the following:
1. The name, address and telephone of the owner and, if any, the management agent or entity;
 2. For each individual owner or agent, a driver's license number or other appropriate identification number approved by the State of Mississippi;
 3. Proof of ownership of the dwelling and property;
 4. The location and PPIN number of the property on which the rental dwelling is located; and
 5. Such other information as may be requested by the Department to enable it to determine if the proposed rental dwelling or complex will comply with all codes and ordinances of the City.

This registration form shall be signed by owners. If there is an agent, then owner must furnish written proof of this agency.

- B. A registration fee, as listed in Section 1.112 and/or the Fee Schedule shall be paid at the time of submitting the application for registration. Failure to register and/or failure to renew registration within the time frames set out herein will result in a late registration fee as listed in Section 1.112 and/or the Fee Schedule until the rental dwelling is registered and all fees are paid.
- C. Any changes, at any time, in the information provided by an owner on a registration form must be submitted to the Department in writing within thirty (30) days of the change. Failure on the part of the owner to notify the City in sufficient time of a change in information shall not waive the owner's responsibility for response and/or action should the City attempt to make contact.
- D. If the owner is a business entity, other than an individual, the names, addresses and telephone numbers of corporate officers, partners, members or managers as applicable to the form of the organization shall be listed. If such business entity

is controlled in whole or in part or by one or more other business entities, then the names, addresses, drivers' license numbers or other proper identification numbers, and telephone numbers of those entities and their officers, partners, members and/or managers shall be listed.

- E. All rental dwellings existing at the effective date of this Code shall be registered in accord with implementation process set out in Section 1.104 herein. Registration shall remain effective for a one-year period or until a change of ownership, whichever may occur first.
- F. Any existing non-rental dwelling that is converted to a rental dwelling after the effective date of this Code shall be registered prior to the date on which the property is first occupied for rental purposes.
- G. All other rental dwellings shall be registered prior to any use or occupancy as a rental dwelling.
- H. Except as otherwise expressly provided for in this Code, occupancy of and dwelling by any person other than the owner of record (with his or her family, as defined herein) shall be considered renting and shall require registration and a safety assessment of the dwelling pursuant to this Code.
- I. A new owner shall register a rental dwelling which has been sold, transferred or conveyed to such new owner within thirty (30) days after the date of the sale, transfer or conveyance.
- J. After the registration of each rental dwelling, the City may, at the Department's discretion, place such rental dwelling on a schedule of safety assessments for a certificate of rental compliance that allows the administrative burden of the Department to be evenly distributed from year to year. Following the implementation period (See Section 1.104), safety assessments may be scheduled up to six (6) months following registration, providing a Certificate of Registration until such time that the safety assessment is scheduled.
- K. Upon each annual registration, staff will identify whether or not the unit is in a flood zone. Annually, the City will provide education material about flood zones and rental insurance to owners of registered rental units within flood zones. It will be required that the owner supply said information to occupants of said properties.

SECTION 1.104. Implementation.

In order to encourage expedient compliance with this ordinance, and recognizing the potentially cumbersome demands on City resources should this Code be implemented immediately, the City shall phase implementation in the manner herein described.

- A. **Through June 30, 2018:** Property owners or agents that register property(ies) before June 30, 2018 shall NOT be required to remit a registration fee for initial registration. Late fees as described in this ordinance shall not apply for properties registered within this date range. These properties will be issued a Certificate of Registration, will be required to renew the Certificate of Registration on the first anniversary, but will not be subject to a safety assessment pursuant to rental registration until renewal at the second anniversary.
1. The above referenced safety assessment waiver applies only to the initial safety assessment that this ordinance describes as a part of the registration process and does not preclude other inspections for cause or inspections based upon complaint or the awareness of an enforcing office with proper jurisdiction, regardless of the agency.
 2. The two-year period referenced above is an approximation. For the purpose of properly managing safety assessment workload, City staff may, at its discretion, schedule safety assessments up to sixty (60) days in advance of the two-year renewal without affecting the registration/renewal terms.
- B. **July 1, 2018 through September 30, 2018:** Property owners or agents that register their property(ies) between July 1, 2018 and September 30, 2018 SHALL be required to remit a registration fee. Late fees as described in this ordinance shall not apply for properties registered within this date range. These properties will be issued a Certificate of Registration, will be required to renew the Certificate of Registration on the first anniversary, but will not be subject to a safety assessment pursuant to rental registration until renewal at the second anniversary.
- C. **Post-Implementation (October 1, 2018 and beyond):** Following the period through September 30, 2018, described above, all properties, regardless of their original registration date, shall be subject to the entirety of this ordinance, including all fees, safety assessments, schedules, etc.

SECTION 1.105. Certificate of Rental Compliance Required.

No person shall occupy, and no owner shall rent, or allow occupancy of rental dwellings unless a certificate of rental compliance has been applied for and issued by the Department as provided in

this Code, except rental dwellings existing on the effective date of the Code may continue to be rented and occupied after such effective date without a certificate of rental compliance provided the owner complies with the registration requirement under Section 1.103, pays all applicable fees under Section 1.112, complies with the requirements of Sections 1.108 and 1.109 for the scheduling and performance of any safety assessments necessary for the issuance of a certificate of rental compliance, and undertakes all actions necessary to meet the requirements for and obtains a certificate of rental compliance under the provisions of the Code.

SECTION 1.106. Issuance of Certificate of Rental Compliance.

- A. The application to register a rental unit pursuant to this ordinance shall constitute an application for a Certificate of Rental Compliance. Such application shall be made at the time the owner initially registers the dwelling as a rental dwelling, and subsequent thereto, shall apply for renewal not later than thirty (30) days prior to each anniversary of successful registration or Certificate of Rental Compliance.

Prior to processing each application for registration or renewal, staff shall ensure the following:

1. All registration, safety assessment and other fees have been paid and the dwelling has been registered and all registration information is current and correct as provided in Section 1.103; and
 2. All property taxes, water and sewer bills, and any other City assessments or charges for which the property owner is responsible and are associated with the dwelling, are current.
- B. Following application to register a rental unit, the following may occur depending upon the results of a safety assessment:
1. If all conditions are found to be satisfactory, the Department shall issue a Certificate of Rental Compliance.
 2. If the safety assessment identifies conditions that present immediate threats to life, health, or safety of potential occupants or the public, the staff person performing the assessment shall notify the owner of the requirement to correct such violations and to schedule a re-assessment so that the corrections can be confirmed. Until the owner corrects such violations, a Certificate of Rental Compliance will be withheld.
 3. If the safety assessment identifies conditions that are violations to the

IPMC or present other visibly apparent violations of any code or safety concern, but those concerns and violations are not immediate threats to life, health, or safety of potential occupants, the staff person performing the assessment may issue a Certificate of Rental Compliance with Conditions. It shall be the responsibility of the property owner or their designated agent to provide a copy of all noted conditions to all renters/occupants. Conditions that are also code violations shall be the responsibility of the owner to correct.

- C. In the event, upon any safety assessment or inspection, the rental dwelling is determined not to comply with the requirements of this Code, the owner shall be sent a written notice of the violations noted. The owner shall correct such violations within the period stated within the written notice. When a certificate of rental compliance is withheld pending compliance and correction of violations, no rental dwelling that has not been occupied shall be so occupied, and a rental dwelling that has been or is occupied may be ordered vacated by the Building Official when conditions warrant, until re-inspection by the Department and a Certificate of Rental Compliance has been issued.
- D. A Certificate of Rental Compliance is issued conditioned upon the requirement that the rental dwelling remains in a safe, habitable and fit condition for occupancy thereof.

SECTION 1.107. Term and Revocation of Certificate of Rental Compliance.

- A. Unless revoked in accordance with the provisions of this Code, a certificate of rental compliance shall be valid for a period of two (2) years from the date it is issued. The Department may revoke a certificate of rental compliance if an inspection reveals violations of this Code or upon a determination that the owner is not otherwise in compliance with any provision of this Code. Though the Certificate of Compliance covers a period of up to two (2) years, it is still incumbent upon the owner to register the property annually. Certificates of Registration shall be provided upon renewal registration in the years between safety assessments.
- B. The owner shall schedule a safety assessment for an existing certificate of rental compliance not later than thirty (30) days before the expiration thereof. Failure to schedule the safety assessment within such thirty (30) day period prior to expiration shall result in the immediate suspension of the existing certificate of compliance, the imposition of an additional late fee as listed in Section 1.112 and/or the Fee Schedule until the new certificate of rental compliance is issued, and the imposition of the penalties as set forth in Section 1.114 hereof.

SECTION 1.108. Safety Assessment Frequency.

- A. The frequency of regular safety assessments of rental dwellings under this Code shall be one (1) such safety assessment every two (2) years.
- B. Rental dwellings shall be subject to inspection at any time there is a credible complaint or other indication of a violation of the City's Code of Ordinances.

SECTION 1.109. Safety Assessment Procedures.

The owner shall schedule with the Department the date and time of the safety assessment; and the Department shall notify the owner of the fees that must be paid before the safety assessment. The owner shall be responsible for notifying each tenant or occupant of the rental dwelling of the date and time of the safety assessment. The owner or agent is required to provide the Department's designated staff person with access to the rental dwelling and accompany the staff person during the performance of all safety assessments, and in the event that the tenant or occupant is not present, the owner or agent must provide access to the staff person by unlocking the door of the tenant or occupant's dwelling unit, verifying that no occupant is present and securing the dwelling unit after the safety assessment is completed. During these safety assessments, the owner or agent must insure that all pets within the premises are restrained.

SECTION 1.110. Safety Assessment and Maintenance Guidelines.

- A. The director of the Department shall prepare and maintain a list of safety assessment guidelines to be used in performing safety assessments related to the administration of this ordinance. The safety assessment guidelines shall be based on this ordinance and other applicable code and ordinance requirements, and shall set forth the requirements and conditions and scope of repairs necessary for obtaining a certificate of rental compliance.
- B. In all events, rental dwellings and the premises upon which they are located shall be maintained in a manner consistent with the criteria set forth in the IPMC, as may be amended from time to time.
- C. The interior of the rental dwelling and the premises shall be subject to inspection during the two (2) year certificate of rental compliance period if one or more of the following conditions have been reported to the City or have been identified by an exterior inspection of the dwelling as possibly existing:

1. The rental dwelling is, or is in or part of, a structure that is unsafe, unfit for human occupancy, unlawful, dangerous or that includes unsafe equipment as defined and regulated under the IPMC, as amended from time to time;
2. A violation of any maintenance standard in the IPMC that may allow rain, moisture, surface or roof drainage or animals to enter the exterior walls, structure or living space of the rental dwelling;
3. The rental dwelling is, or is in part of, a structure that includes an unsafe condition pursuant to any other provision of this Code or any other code adopted by reference in this Code; or
4. Any other code violation is reported or believed to exist, which is in any way under the purview of the City to inspect and/or enforce and is believed to present a clear and immediate threat to the safety of occupants or the public at large.

SECTION 1.111. Transfer and Termination of Certificates of Rental Compliance.

Upon receipt of a written notice that the owner will begin to occupy a unit, or upon written notice and documentation of a sale, transfer or conveyance of a rental dwelling to a new owner who will occupy the premises with no portions rented, the Department shall terminate any certificate of rental compliance and remove the dwelling unit from the City's registry of rental dwellings.

SECTION 1.112. Fees.

- A. Fees relative to the administration of this ordinance are set forth herein, which may be amended from time-to-time by the City Council by amendment of the same or by inclusion in other codified Fee Schedules that may hereafter incorporate and/or amend fees for this purpose.
- B. Except as may otherwise be expressly provided in Section 1.113 hereof, the owner of the rental dwelling shall be responsible for payment of registration, safety assessment, certificate of rental compliance and other fees involved in the administration and enforcement of this ordinance, which fees shall be set for in the Fee Schedule.
- C. A safety assessment fee shall include the initial safety assessment plus one follow-up safety assessment, if needed, to determine whether the violations noted in the initial safety assessment have been corrected. Additional re-assessments necessitated for correction of violations or based upon complaints shall be

assessed additional re-assessment fees set forth in the Fee Schedule.

D. Fees:

Registration Fee: \$25 per dwelling unit (includes initial safety assessment and one follow-up, if needed, per Section 1.112 (C))

Re-Assessment Fee: \$25 per re-assessment per unit (necessitated for correction of violations or based on validated complaints)

Registration Late Fee: \$100 per dwelling unit per month

Late Fee (Other): \$25 per dwelling unit, per month

SECTION 1.113. Collection of Fees.

A. All required fees shall be paid at the time of submitting application materials and before commencement of scheduled safety assessments, unless otherwise authorized by the Director or designee.

B. In the event of complaints regarding conditions affecting a rental dwelling that present threats to life and safety, which have not been addressed by the owner, the Department shall have the right to require an inspection of the rental dwelling between regular safety assessment periods, provided that the owner shall be responsible for payment of a re-assessment fee in accordance with the fee schedule if the complaints are confirmed to exist.

C. If for any reason, fees that are due and payable under this ordinance are not paid, a statement of the fees shall be mailed to the owner and shall be paid within fifteen (15) days. In addition to other remedies as the law may allow, amounts not paid within fifteen (15) days will accrue a late fee for each month the amount goes unpaid. Statements will be mailed quarterly. An owner may not renew a registration unless/until all past due amounts are paid.

SECTION 1.114. Violation and Penalty.

A. A violation of any provision of this ordinance shall constitute a municipal civil infraction, and shall be subject to the relief provided for municipal civil infractions under Section 1-10 of the Code of Ordinances for the City.

B. In addition, any use or activity in violation of the terms and provisions of this Code is hereby declared to be nuisance per se and may be abated by order of any court of competent jurisdiction. The City, in addition to other remedies, may

cause to be instituted any appropriate action or proceeding to vacate the premises and/or prevent, abate or restrain the nuisance violation.

SECTION 1.115. Validity.

Should any section, clause or paragraph of this Code be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Code as a whole or part thereof other than the part declared to be invalid.

SECTION 1.116. Conflict.

Should a provision of this Code be found in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the City, existing at the effective date of this Code, the provision which established the higher standard for the promotion and protection of the health, safety and welfare of the community at large shall prevail.

SECTION 1.117. Repealer.

All ordinances or parts of ordinances in conflict with this Code are hereby repealed only to the extent necessary to give this Code full force and effect.

SECTION 2. Effective Date.

That this Ordinance take effect and be in force thirty (30) days from and after passage as provided by law.

The foregoing Ordinance having been reduced to writing, the same was introduced by Council member _____, seconded by Council member _____, and was adopted by the following vote, to-wit:

YEAS:

NAYS:

ABSENT:

The President thereby declared the motion carried and the Ordinance adopted, this the ____ day of, A.D., 2018.

(SEAL)

ATTEST:

ADOPTED:

CLERK OF COUNCIL

PRESIDENT

The above and foregoing Ordinance, having been submitted to and approved by the Mayor, this the day of, A.D., 2018.

ATTEST:

APPROVED:

CITY CLERK

MAYOR

DRAFT