BILL NO. B-3

ORDINANCE NO. 2017-5

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, ADDING ARTICLE 16 OF CHAPTER 10 TO THE FRESNO MUNICIPAL CODE ENTITLED THE "RENTAL HOUSING IMPROVEMENT ACT."

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

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

ARTICLE 16

RENTAL HOUSING IMPROVEMENT ACT

Section	10-1601.	Purpose and Intent.
	10-1602.	Definitions.
	10-1603.	Scope.
	10-1604.	Inspections; Compliance with Applicable Codes and Standards.
	10-1605.	Registration and Payment of Fees.
	10-1606.	Exemptions.
	10-1607.	Self-Certification Program.
	10-1608.	Correction Notices.
	10-1609.	Rules and Regulations.
	10-1610.	Enforcement; Penalties.
	10-1611.	Appeal.
	10-1612.	Delinquent Fees; Late Fees and Penalties.
	10-1613.	Performance Metrics.
	10-1614.	Tenant Education.
	10-1615.	Annual Review.

Date Adopted: 02/09/2017
Date Approved 02/10/2017
Effective Date: 03/13/2017

SECTION 10-1601. PURPOSE AND INTENT. This article shall be known as the "Rental Housing Improvement Act." The intent of this article is to safeguard and preserve the housing stock of decent, safe and sanitary residential rental units within the city and to protect persons residing in them by providing for a regular and comprehensive system of inspection and, through such inspections, identify and require the correction of substandard conditions. Additionally, the Council finds the safety of rental housing properties is increased through the participation of owners, tenants, the city and the community.

The purpose of this article is to identify substandard housing violations through an effective pro-active and re-active inspection program to ensure rental housing units in the city meet minimum health and safety standards required by the State of California and are safe to occupy, and provide: (1) adequate resources to effectively and timely remedy violations; and (2) to greatly reduce substandard housing in the city.

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

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

(b) "City" shall mean the City of Fresno and/or any agent hired to implement this article.

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

(d) "Owner" means the person or entity identified and listed as having title by the latest property tax assessment roll, maintained by the Fresno County Assessor.

(e) "Property" or "Residential Rental Property" means any lot or parcel of land containing Residential Rental Units, and all improvements thereon, including common areas.

(f) "Residential Rental Unit" means any structure or part of a structure that is used or may be used by one or more persons as a home, residence, dwelling, or sleeping place for longer than thirty days, including single family dwellings, duplexes, triplexes, or multi-family (four units or more) residential buildings, which is not an owner occupied unit, including rooming houses, boarding houses, apartment units, condominium units, and single room occupancies, but excluding: (1) mobile home parks; (2) any dwelling unit in a building that is registered as "vacant property" under Section 10-617 of this Code; (3) hotels, motels, and bed and breakfasts used for transient lodging; (4) any rental units in a state licensed hospital, hospice, community care facility, intermediate care facility, or nursing home; and (5) rental housing units owned, managed or operated by an educational, religious, or medical institution, or by a third party for an educational, religious, or medical institution, when units are used for the

sole purpose of housing employees, students, clergy, patients, or others directly related to the institution.

(g) "Tenant's Affirmative Obligations" shall mean the standards set forth in California Civil Code 1941.2. An Inspector's determination that a tenant is or is not in substantial violation of Tenant's Affirmative Obligations, or the cause of the existence of a dilapidation or violation, or interferes substantially with the Owner's obligation to effect necessary maintenance or repairs is not intended as evidentiary proof of the condition of the unit, and shall be used only for purposes of implementing and enforcing this article.

SECTION 10-1603. SCOPE.

(a) The provisions of this article shall apply to all Residential Rental Units located within the city.

(b) Provisions of this article shall be supplementary and complementary to all of the provisions of this Code, and any local, state or federal law. Nothing herein shall be construed or interpreted to limit any existing right or power of the city to abate and prosecute any and all nuisances or to enforce any other conditions in violation of state or local laws, including but not limited to any building, housing, property maintenance and public nuisance laws.

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

(a) Inspections. The Director, or his or her designee, hereinafter referred to as the Inspector, is authorized to inspect all Residential Rental Units to determine whether such Residential Rental Units meet minimum Health and Safety Standards. A reasonable fee may be charged for inspections, as set forth in the Master Fee Schedule, not to exceed $100.

(b) Baseline Inspection. All Residential Rental Properties in the city shall be subject to a baseline inspection. A percentage of units at each Property shall be randomly selected and inspected. The city shall have the right to select those Properties it has identified as frequent health and safety code violators, and/or to select all Residential Rental Properties within a given census tract or precinct, using statistical and case information and other data sources, and inspect those Properties first when implementing the program.

(c) Compliance with Codes and Standards. Residential Rental Units shall be required to be in conformance and maintained in accordance with the code standard that was in effect at the time the Residential Rental Unit was constructed, substantially altered, or remodeled, erected, or converted, except for any additional requirements mandated by this Code or state law.

SECTION 10-1605. REGISTRATION AND PAYMENT OF FEES.

(a) All Residential Rental Properties are required to be registered and updated whenever there is a change of ownership or contact information.

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

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

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

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

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

(iv) Name and current contact information for a local contact representative with full authority to act on behalf of the Owner for all purposes under this article, including the acceptance of service of all notices from the City.

(v) Date of first occupancy.

(vi) The registry will only include the information specified in subparagraphs (i) through (v) of this section.

(vii) To the extent legally permissible, the contact information shall remain confidential and for internal city use only, and not available to any member of the public.

(2) Payment of any outstanding fees, business taxes, or other monies owed to the city related to the Property.

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

(d) Registration shall remain valid unless or until one of the following circumstances occurs:

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

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

SECTION 10-1606. EXEMPTIONS.

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

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

(2) Government Regulated, Subsidized Residential Rental Units or those with Government-Sponsored Financing. Those Properties that are subject to routine inspections by another government agency or government-sponsored enterprises (i.e., Fannie Mae, Freddie Mac, etc.).

(b) An Owner is required to provide an affidavit signed under penalty of perjury certifying the Property is exempt.

(c) A Residential Rental Unit that is determined to be exempt shall become subject to the requirements of this article if a notice and order relating to the Property is issued pursuant to the provisions of this code. A Property that loses its exemption pursuant to this subsection may reinstate its exemption if:

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

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

SECTION 10-1607. SELF-CERTIFICATION PROGRAM.

(a) The city shall develop a self-certification program. A Property may be placed in the self-certification program if the Property is inspected at least once every twelve months (plus a thirty day grace period), and re-inspected upon change of tenancy, by a professional property management company licensed by the State of California, or the

Owner can provide adequate documentation that such annual and routine inspections take place and the substance of such inspections. Such documentation shall be on forms provided by the city, or forms that the Director determines to be substantially equivalent to those forms.

(b) Self-certification forms shall be signed under penalty of perjury. It shall be unlawful to knowingly falsify any material information on a self-certification form, and any such falsification may be prosecuted as a misdemeanor.

(c) 10% of Residential Rental Properties in the self-certification program, and a sampling of the units thereon, will be inspected by the city on a random basis each year. A Property that is selected for random inspection and passes will be exempt from further random inspections for five years. A Property in which any unit contains violations posing imminent danger of death or serious injury to occupants shall immediately be removed from the self-certification program.

SECTION 10-1608. CORRECTION NOTICES.

(a) Correction Notices.

(1) Content. Whenever it is determined by the Inspector that a violation of Health and Safety Standards exists, the Inspector shall issue a written correction notice. The notice shall contain a description of the violation, the specific action required to correct the violation, and a demand the violations be corrected within the specified time period listed in the notice. The notice shall contain

the scheduled re-inspection date and time, and shall otherwise comply with any pertinent Regulations promulgated pursuant to Section 10-1609 of this article.

(2) Time for Correction. The notice shall provide a reasonable time for correction. The time shall depend on the time it would take a reasonably diligent person to complete the required action; the potential harm to the public welfare, health and safety; the harm to the tenant or nearby properties; and the extent of the corrections required. Certain imminently dangerous life-safety violations in occupied units shall require immediate correction.

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

SECTION 10-1609. RULES AND REGULATIONS. The City Manager, with the assistance of the Director, may make rules and regulations enforceable hereunder, which are not inconsistent with the provisions of this article and which may be necessary or desirable to aid in the administration or enforcement of the provisions of this article.

SECTION 10-1610. ENFORCEMENT; PENALTIES. If, after a correction notice has been issued, the Owner fails to abate the violations, the City may

proceed with all remedies available under law to compel compliance, including but not limited to issuing administrative citations, abatement proceedings, civil injunction, and/or criminal prosecution, or any combination of remedies, so long as violations are not caused by tenant's breach of Tenant's Affirmative Obligations. In any action or proceeding brought by the City to enforce this article, the City shall be entitled to recover its attorney's fees when it is the prevailing party. The City Attorney may, at his or her discretion, charge any violation of this ordinance as either an infraction or a misdemeanor.

SECTION 10-1611. APPEAL. The Owner of a Residential Rental Unit or a party with a legal property interest in the unit may appeal to the City's Administrative Hearing Officer in the manner provided in Chapter 1, Article 4 of this code.

SECTION 10-1612. DELINQUENT FEES; LATE FEE PENALTIES.

(a) Penalty for failure to register, or late registration:

(1) The City shall mail notice to Owners with an application for registration. Owners shall have thirty days from receipt of the notice to submit registration information either by mail or online. Any incomplete registration shall be mailed or emailed back to the Owner for correction and the Owner shall have thirty days to make necessary corrections without penalty. Failure to submit registry information within thirty days from receipt of notice from the City shall result in the following penalties:

(i) A fine of $100 dollars per Property for up to 30 days late.

(ii) A fine of $200 per Property for 31 to 60 days late.

(iii) A fine of $500 per Property for 61 to 120 days late; and

(iv) A fine of $1,000 per Property for over 120 days late, plus interest charges at 10% per annum. Properties will be placed in Tier 3.

(b) Penalties for making false statements regarding affidavit of exempt status. Knowingly making a false statement regarding the affidavit of exempt property status will be a $100 per unit fine for the first offense, and $250 per unit for any subsequent offenses by the same Owner for the same Property.

(c) Penalties for making false statements on self-inspection report. Knowingly making a false statement on a self-inspection of any individual unit or number of residential units shall be fined at $100 per unit for the first offense and $250 per unit for any subsequent offenses by the same Owner for the same Property.

SECTION 10-1613. PERFORMANCE METRICS. The city shall develop performance metrics to measure the success of this program. The City Manager shall provide a report annually to the Council that includes detailed statistics

showing the progress in reducing substandard rental housing units in the city. That report will be posted on the website after it is presented to the Council.

SECTION 10-1614. TENANT EDUCATION. A tenant education plan shall be developed and implemented partnering with the government agencies, non-profit organizations, and one or more local apartment associations. This shall be a voluntary program for tenants interested in learning their rights as tenants as well as their responsibilities as tenants.

SECTION 10-1615. ANNUAL REVIEW. This article shall require an annual review for the first three years following implementation. The city shall review all elements of this article to determine how effective provisions have been to improve substandard housing in the city and make appropriate adjustments to improve its efficiency.

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

SECTION 3. This Ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage. Inspections shall not begin before September 1, 2017 to allow time to develop the inspection program and hire appropriate staffing.

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

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing Ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the 9th day of February, 2017.

AYES : Baines, Caprioglio, Chavez, Soria
NOES : Brandau, Bredefeld, Olivier
ABSENT : None
ABSTAIN : None

Mayor Approval: February 10th, 2017
Mayor Approval/No Return: N/A, 2017
Mayor Veto: N/A, 2017
Council Override Vote: N/A, 2017

YVONNE SPENCE, CMC
City Clerk

BY: Yvonne Spence
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: 2/17/17
Katie B. Doerr Date
Chief Assistant

KBD:ns [73686ns/kbd]

February 10, 2017

RECEIVED
2017 FEB 10 PM 4 33
CITY CLERK, FRESNO CA

Council Adoption: 2/9/17
Mayor Approval:
Mayor Veto:
Override Request:

TO: MAYOR LEE BRAND

FROM: YVONNE SPENCE, CMC
City Clerk

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 2/9/17, Council adopted the attached Bill No. B-3 and Ordinance No. 2017-5, entitled, **Adopting the Rental Housing Improvement Act.** Item No. 1A, ID#17-0014, by the following vote:

Ayes	:	Baines, Caprioglio, Chavez, Soria
Noes	:	Brandau, Bredefeld, Olivier
Absent	:	None
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before February 21, 2017. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

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APPROVED/NO RETURN: _____

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

_____

_____

_____ Date: 2-10-17
Lee Brand, Mayor

COUNCIL OVERRIDE ACTION: Date: _____

Ayes	:	
Noes	:	
Absent	:	
Abstain	:	