ORDINANCE NUMBER 2012-670-F

An Ordinance amending Article II of Chapter 58, of the Brownsville City Code of Ordinances, and adopting the 2006 Edition of the International Property Maintenance Code (IPMC) and dealing with related matters.

WHEREAS, it is in the public interest that the City continues its efforts to insure that all housing within the City is safe and sanitary; and

WHEREAS, the City of Brownsville is not presently using the 2006 Edition of International Property Maintenance Code (IPMC); and

WHEREAS, the adoption of the 2006 version of the IPMC will be a step forward in keeping housing within the City of Brownsville safe and sanitary;

NOW, THEREFORE, be it hereby ordained, by the City Commission of the City of Brownsville, that Article II of Chapter 58. of the Brownsville City Code of Ordinances be, and is hereby, amended to read as follows:

ARTICLE II. - HOUSING CODE

Sec. 58-26. - Adopted.

The 2006 edition of the International Property Maintenance Code, published by the International Code Council, Inc. is hereby adopted as the housing code of the City of Brownsville, State of Texas. This is for the protection of the public, health, safety, and welfare in all existing structures and properties regardless of occupancy or use.

Sec. 58-27. - Conflicts.

If there is any conflict with the provisions of the housing code adopted by this article and this Code of Ordinances, state law or city ordinances, rules or regulations, this Code of Ordinances, state law or city ordinances, rules or regulations shall prevail and be controlling. (Code 1971, § 17-17)

Sec. 58-28. - Enforcement.

The housing code, adopted by this article, shall be enforced by the Building Inspections director. (Code 1971, § 17-18)

Sec. 58-29. - Authority to issue citations for violations; penalty.

The Building Inspections director, or duly authorized representative, is authorized and directed to issue citations to any owner, lessee or occupant of premises within the city limits for violations of the housing code adopted in this article and/or the city building code. The citation issued shall state the alleged violation, the date of the violation, and the section of the code violated. Such citations are returnable to the municipal court, and each violation cited shall be fineable as provided in Chapter 1. General Provisions; Section 1-13, General Penalty, of the Code Book. (Code 1971, § 17-18.1)

Sec. 58.30. - Definitions.

Apartment complex shall mean two (2) or more apartment buildings under common ownership or management which are situated on one (1) lot or adjacent lots and operated or managed as a single entity;

Apartment building shall mean a structure containing (2) or more self-contained groups of common rooms which are designed, constructed and used as dwelling units;

City shall mean the City of Brownsville, acting through its City Manager or his designee(s).

Director shall mean the director of the Building Inspections Department or his duly authorized representative.

Dwelling unit shall mean any room or group of rooms which are used for the purpose of human habitation and which are typically rented or leased to tenants for a period of one (1) month or longer;

Family shall mean an individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit.

Habitable room shall mean any room meeting the requirements of this article for sleeping, living, cooking, or eating purposes excluding such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms, and similar spaces.

Improper shall mean not approved, inadequate, deteriorated, defective, insufficient or not in good working order.

Landlord shall mean owner or lessor, and additionally includes management company, or managing agent, including on-site manager, of a multi-family dwelling complex.

Manager means the person responsible for leasing and collecting the rents for any multi-unit complex and in charge of the complex.

Master-metered complex means any multi-unit complex as defined herein in which one or more utility services are provided to the residents for which they do not pay the utility company directly.

Multi-family dwelling complex:

(a) Multi-family dwelling complex means:

(1) Three (3) or more dwelling units that are under common ownership or that are managed by the same person, and that are on the same lot or tract or on adjoining lots or tracts; and/or

(2) A lodging house or boarding house.

(b) The term also includes any accessory structures and facilities incidental to the use thereof, including, but not limited to, yards, courts, parking areas, storage buildings, offices, maintenance buildings, equipment buildings, mail rooms, laundry facilities, swimming pools, spas, ponds, wells, cabanas, play rooms and play yards, recreational and picnic facilities, public assembly rooms, garages, carports, fences, walls, and all other similar buildings, structures, and facilities on the premises.

(c) The term shall not include hotels, motels, or congregate residences. The term shall not include dwelling units which are owner-occupied. Owner-occupied units shall not count toward overall unit count.

Nuisance shall mean any of the following:

(1) Any attractive hazard which may prove detrimental to minors whether in a building, on the premises of a building or upon an occupied lot. This includes, but is not limited to, any abandoned wells, shafts, basements, septic tanks, or excavations; abandoned refrigerators or motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove to be a hazard for inquisitive minors.

(2) Whatever is dangerous to human life or is detrimental to health, safety and welfare.

(3) Overcrowding a room with occupants.

(4) Insufficient ventilation or illumination.

(5) Inadequate or unsanitary sewerage or plumbing facilities.

(6) General uncleanliness

(7) Whatever renders air, food, or drink unwholesome or detrimental to the health, safety and welfare of human beings.

(8) An abandoned structure, basin chamber, pool or tank located indoors or outdoors containing an artificial body of water intended to be used for swimming, diving or recreational bathing, including spas, or hot tubs, which becomes unfit to be used for the purpose intended.

Occupant shall mean any person living or sleeping in a building, or having possession of a space within a building.

Operating condition shall mean free of leaks, safe, sanitary and in good working order.

Placard shall mean a writing issued by the director which is intended to be affixed to a structure where the general public can see.

Premises shall mean a lot, tract or parcel of real property, including any buildings or structures on the land.

Property manager shall mean a person who, for any form of consideration, has managing control of a premise.

Required shall mean mandated by federal, state or local law, regulation or ordinance as necessary in order to place into operating condition.

Violation categories are defined as follows:

(a) *Life safety violation.* A violation of the maintenance code, health code, Fire Code, or Building Code that represents an imminent threat of death or injury to persons on the premises of a single-family or multi-family dwelling.

(b) *Critical violation.* A minimum housing standard violation or a health code violation that is capable of causing or contributing to injury or illness of occupants.

(c) *Non*-critical violation. A minimum housing standard or minor health code violation that:

(i) Represents defects, damage, or deterioration in or on a structure; or

(ii) Creates a decrease in general sanitation or hygiene.

Workmanlike means executed in a skilled manner; e.g., generally plumb, level, square, in line, matched, fitted, without leaks, properly connected, undamaged and without marring adjacent work.

Sec. 58.31 – Occupancy License required. (NEW)

(a) It shall be unlawful for any person to lease space in a multifamily complex without a current and valid occupancy license having been issued for said multifamily complex. A separate license will be required for each separate location.

(b) In the absence of a valid occupancy license no unit may be leased.

(c) A trade name for a multi-family complex may not be used unless it has been filed in the County Assumed Name Records of Cameron County, Texas.

(d) The owner shall file with the Building Inspections director a written application for an occupancy license, on the form provided for that purpose, signed by the owner. Should an applicant own dwellings at more than one (1) location, a separate application shall be filed for each location. A multi-family complex license is not assignable or transferable.

(e) The application shall be on a form prescribed by the director, and shall at a minimum contain the following information about the complex:

(1) The trade name, physical address, and business address;

(2) The names, addresses, and telephone numbers of the owner, property manager, resident manager, registered agent, and the type of business entity which owns the complex;

(3) The names and physical address of designated employees or authorized representatives who shall be assigned to respond to emergency conditions and a telephone number where said employees can be contacted during any twenty-four-hour period. Emergency conditions shall include fire, natural disaster, flood, burst pipes, collapse hazard, and violent crime. A post office box shall not suffice for the address requirements of this subsection;

(4) A copy of a site plan depicting the total number of all buildings within the complex, including a description of the use of each building and the location of each building within the complex;

(5) The total number of dwelling units;

(6) The number of dwelling units per category, with the categories based on the number of sleeping rooms in a unit;

(7) The number and type of security systems and fire alarm systems maintained on the premises and the names and telephone numbers of the alarm companies which respond to alarms or relay alarms to emergency services;

(8) If the property is owned by a corporation, limited liability company, partnership, limited partnership, trust or real estate investment trust, the name and physical address of any of the following:

a. For a corporation, a corporate officer;

b. For a partnership, a general partner;

c. For a limited liability company, the managing or administrative member;

d. For a limited partnership, a general partner;

e. For a limited liability partnership, a general partner;

f. For a trust, a trustee;

g. For a real estate investment trust, a general partner or an officer; or

h. For any other legal entity not named above, a duly authorized agent;

(9) If the property is owned by a person, or an entity located outside the State of Texas, the owner shall designate a registered agent, in the State of Texas, who will accept legal service on behalf of the owner and provide a physical address of that agent.

(10) If any change in the information required by this section occurs, the owner shall notify the director within thirty (30) days of the change, in a manner prescribed by the director.

(11) Present evidence that the multifamily complex has been sprayed and treated for insects, rodents, and vermin, within the preceding six (6) months by a person licensed under the Texas Structural Pest Control Act.

(12) All licenses shall expire on December 31 of each year.

(13) Upon change of ownership of a multifamily complex the license shall expire and a new license shall be obtained within thirty (30) days of the change. The owners shall also notify the City of Brownsville within thirty (30) days of any change of multifamily complex manager or resident landlord.

(14) Upon request, official rental records shall be made available to the inspector, including but not limited to, lease agreements and other records which indicate the number of occupants per apartment unit. Also made available upon request a log of all repairs and replacement costing more than two hundred dollars ($200.00) made to the complex.

(15) A license issued pursuant to this article shall be posted and displayed in the multi-family dwelling office or a conspicuous place to which occupants have access.

Sec. 58.32 - Annual occupancy license fee. (NEW)

The landlord of a multi-family dwelling complex shall pay the city fee of $50.00 to offset the city's cost of administration, registration and inspection.

(a) The annual occupancy licensing shall be provided for multifamily complex with three (3) or more units. In addition, there will be an annual inspection fee of twelve dollars ($12.00) per unit.

(b) The unit inspection fees shall be due and payable to the City of Brownsville Building Inspections Department on or before the expiration date of the license.

(c) A late fee of 1/12th of the annual license fee is due for each month the payment of the annual fee is delinquent.

(d) A replacement license may be issued for lost, destroyed, or mutilated licenses upon application of the form provided by the administrator for a fee of five dollars ($5.00).

(e) The fee requirements described above shall not include a dwelling unit on a college, university, or seminary occupied by a student or a student and the student's family and in which the dwelling unit is owned by the respective college, university, or seminary.

(f) Exemption. A multi-family dwelling complex whose original construction was completed on or after January 1, 2012, shall be exempt from the director's periodic inspection for two (2) years from the date the original certificate of occupancy was issued for the complex. However, an inspection of the complex shall be triggered during the exemption period if:

(1) Ownership of the complex changes, in which case an inspection shall be made; or

(2) The director receives a valid complaint of, or otherwise becomes aware of, a violation at the complex.

Sec. 58.33 - Master-metered complexes. (NEW)

(a) The owner or manager of a master-metered multi-unit complex shall post and maintain a notice containing the name, address and telephone number of the person with the authority and responsibility for making payment to the utility companies for utility bills.

(b) The notice shall be posted and displayed in the leasing office or conspicuous places to which occupants have access.

(c) The owner or property manager shall correct the notice within the ten (10) days of any change in information given in the notice.

(d) It is a violation of this chapter to fail to pay a utility bill when the nonpayment results in the interruption to any dwelling unit of service essential to the habitability of the unit, and health of the occupants. Essential utility services are gas, electric, water, and waste water services.

Sec. 58.34 - Owner responsibilities—Minimum standards. (NEW)

(a) The owner shall present evidence that the multi-unit complex has been sprayed and treated for insects, rodents, and vermin, within the preceding six (6) months by a person licensed under the Texas Structural Pest Control Act.

(b) An owner shall:

(1) Provide an adequate number of solid waste receptacles or containers on the premises, and provide adequate removal services.

(2) Keep the doors and windows of a vacant structure or dwelling unit properly secured, in order to prevent unauthorized entry.

(3) Not store junk, junked or wrecked vehicle or parts thereof on the premises.

(4) The owner must also certify that all dwelling units are equipped with a smoke detector that complies with the applicable state law at the time of leasing the unit.

(5) All apartment complexes shall have functioning interior and exterior lighting in all areas accessible to the general public including, but not limited to, common areas and parking lots.

(6) Emergency numbers. The names of designated employees or other authorized persons who shall be assigned to respond to emergency conditions, and a telephone number where said employees can be contacted during any twenty-four-hour period. The sign shall be prominently displayed in exterior, publicly accessible areas of the complex. If the complex has an on-site management office, one (1) sign shall be posted on the exterior of the office.

Sec. 58.35 - Substandard Premises. (NEW)

A premise is considered substandard under this article if any one or more, in any combination, of the following conditions exists on the premises:

(1) Inadequate sanitation.

(a) Lack of a bathroom or the existence of an improper bathroom.

(b) Lack of or an improper kitchen

(c) Lack of hot and cold running water to plumbing fixtures.

(d) Lack of or improper required heating, mechanical ventilation or electric facilities.

(e) Lack of or improper space or floor area.

(f) Lack of required electrical lighting.

(g) Dampness of habitable space.

(h) Infestation of insects, vermin or rodents.

(i) The existence of dead trees, tree limbs, holes, excavations or other conditions reasonably capable of causing injury to a person.

(j) Lack of or improper connection to required sewage disposal.

(k) Lack of or improper garbage and rubbish storage and removal facilities.

(l) Lack of or improper drainage, so as to prevent standing or stagnant water on the premises.

(2) Structural hazards.

(a) Improper foundations.

(b) Improper flooring or floor supports.

(c) Flooring or floor supports of insufficient size to carry imposed loads safely.

(d) Members of walls, partitions or other vertical supports that split, lean, list, or buckle due to defective material, deterioration, or improper construction.

(e) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads safely.

(f) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads safely.

(g) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective material, deterioration, or improper

construction.

(h) Fireplaces or chimneys which list, bulge, or settle due to defective material, deterioration, or improper construction.

(i) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads safely.

(j) Lack of or improper required railings, stairs, steps and balconies.

Sec. 58.36 - Utility standards. : (NEW)

The owner shall:

(a) Provide and maintain, in operating condition, connections to discharge sewage from a structure or land into a public sewer system when available.

(b) Provide and maintain a supply of hot water of a constant minimum temperature of one hundred ten degrees Fahrenheit (110F), within each dwelling unit.

(c) Provide and maintain electrical circuits and outlets sufficient to safely carry a load imposed by normal use of appliances and fixtures and comply with the electrical code of the City of Brownsville, as it now exists or may hereinafter be amended.

(d) Maintain all electrical, plumbing, heating and other facilities supplied by the owner in good working condition at all times.

(e) If a fixed air conditioning system is furnished, it must be designed to cool to a twenty-degree differential between inside and outside temperatures, or at least seventy-eight (78) degrees Fahrenheit. If mechanical air conditioning is not supplied, there shall be insect screens attached to all windows and doors as provided in PM 304.15 of the BOCA PM Code 1996.

Sec. 58.37 - Interruption of utilities. (NEW)

(a) A landlord or a landlord's agent may not interrupt or cause the interruption of utility service, whether paid by the landlord or the tenant unless the interruption results from bona fide repairs, construction, or an emergency.

Sec. 58.38 - Inspections. (NEW)

(a) Application for the operation of a multifamily dwelling license constitutes consent for the City to inspect individual dwelling units to determine compliance with this article. For the purpose of ascertaining whether violations exist, the director, or duly authorized designee, is authorized to inspect at reasonable times:

(1) The exterior of the structure;

(2) The interior and exterior of vacant multi-family units;

(3) The interior of occupied multifamily units if permission is granted by the occupant; or

(4) Enter, using the license or permit holder's authority, to inspect the license or permit holder's property (after allowing the license or permit holder to provide a 24-hour-notice-of inspection to the tenant).

(5) Occupied dwelling units upon receipt of complaint by the unit's tenant during a periodic inspection.

(b) The inspector also has the right to inspect all portions of the premises and structures located on the premises that are not dwelling units. These include all storage areas, community buildings, swimming pools, athletic facilities, equipment rooms, and other facilities that are not constructed as dwelling units. The inspector has the right to inspect whenever necessary.

(c) Whenever necessary to make an inspection to enforce any provision of this code, whether the director or his/her authorized designee has reasonable cause to believe that there exists in any building in or upon any premises any substandard condition or code violation, he shall first present proper credentials and request entry. If such buildings be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building. If such entry is refused, or if the owner or other person having charge or control of the premises cannot be found, then the inspector or building official shall have recourse to every remedy provided by law to gain entry, as through an inspection warrant.

(d) The City shall inspect a representative sample, as determined by the City, of those individual dwelling units specified in the most recent multi-family license application. When a representative sample reveals that greater than ten percent of inspected dwelling units are substandard, the City may perform a comprehensive premises inspection to determine compliance with this article

Sec. 58.39 - Occupancy limits. (NEW)

A landlord shall not permit a dwelling unit within the complex to be occupied by other than a family, as that term is defined within this code, and shall not permit the number of persons occupying a dwelling unit to exceed the occupancy load of the unit based on the standards set in the 2006 edition of the International Building Code.

Sec. 58.40 - Violations; notices; penalties. (NEW)

(a) It shall be unlawful for any person to:

(1) Remove or destroy a placard placed by the director;

(2) Occupy a vacant structure or dwelling unit on which the administrator has placed a placard;

(3) Authorize, as owner or manager, a person to occupy a vacant structure or dwelling unit on which the administrator has placed a placard;

(4) Knowingly violate any provision of this chapter, or to fail to correct any violation after notification by administrator; or

(5) Not obtain the necessary permits for repairs and replacements as may be required by the ordinances of the City of Brownsville.

Sec. 58.41 - Disconnection of utilities and placarding. (NEW)

(a) The administrator may authorize the disconnection of utility service to any unit deemed unfit for human habitation. The administrator may place, or cause to be placed, a placard on a structure or dwelling unit that is deemed to be in an unsafe or unsanitary or dangerous condition.

(b) In the event a dwelling unit is deemed unsafe, the administrator shall give the owner or manager a statement of the particulars which make the dwelling unit a dangerous dwelling unit, and an order requiring the same to be put in such condition as to comply within a specified time with the terms of this chapter.

(c) In addition, the administrator may place a placard notice on all dwellings which are determined to be dangerous dwelling units which shall read as follows:

Date_____/_____/_____ Case #_____

WARNING — THIS STRUCTURE HAS BEEN FOUND TO BE A DANGEROUS DWELLING UNIT OR UNSAFE EQUIPMENT OR UNFIT FOR HABITATION BY THE BUILDING OFFICIAL OR HIS DESIGNATED REPRESENTATIVE. THE DWELLING UNIT IS TO BE VACATED IMMEDIATELY. THIS NOTICE IS TO REMAIN ON THIS BUILDING UNTIL IT IS REPAIRED OR DEMOLISHED IN ACCORDANCE WITH THE NOTICE WHICH HAS BEEN GIVEN THE OWNER, OCCUPANT, LESSEE, MORTGAGEE, OR AGENT OF THIS DWELLING UNIT AND ALL OTHER PERSONS HAVING AN INTEREST IN SAID DWELLING UNIT AS SHOWN BY THE DEED RECORDS IN OFFICE OF THE CAMERON COUNTY CLERK OF BROWNSVILLE, TEXAS. IT IS UNLAWFUL TO REMOVE THIS PLACARD UNTIL SUCH NOTICE HAS BEEN FULLY COMPLIED WITH (PENALTY = $500).

(d) That statement and placard notice shall also be given to the occupant, lessee, mortgagee, and all other persons having an interest in such dwelling unit as shown by the city's tax roll or the deed records of the county clerk, stating that:

(1) The owner or landlord shall vacate, or cause the dwelling unit to be vacated, immediately and not rented until all violations are corrected; or

(2) The owner or landlord shall repair or demolish the dwelling unit.

(e) If the owner of the property resides outside of Texas, the city may give notice to the multi-unit complex manager. In the event the city provides notice to the complex manager, such notice shall be deemed to be given to the owner. The owner shall be responsible for corrections of the violations identified in the notice provided to either the owner or the manager on the owner's behalf.

(f) If a deficiency is not corrected, the director may revoke the occupancy license as to the dwelling unit.

Sec. 58.42 - Penalty for violations and re-inspection fees. (NEW)

(a) Every person, firm, or corporation who shall violate any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine. Each day that a violation exists shall be deemed a separate offense.

(b) In the event any of the violations require a re-inspection, then a re-inspection fee of seventy-five dollars ($75.00) shall be paid prior to the re-inspection.

(c) Suspension of license. A multi-family license may be temporarily suspended by the City for:

(1) Repeated failure of the license holder to comply with the requirements of this article;

(2) For possessing one or more substandard units that have been substandard for greater than 60 days; or

(3) For possessing a multi-family dwelling that represents an imminent threat to occupants. The license holder shall be notified in writing that the license is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided, if a written request for a hearing is provided to the City by the license holder.

(d) Reinstatement of suspended license. Any person whose license has been suspended may, at any time, make written application for a re-inspection for the purpose of reinstating the license. Within ten (10) days following receipt of a request, which shall include a statement signed by the applicant that in the applicant's opinion, all of the violations that caused suspension of the license have been corrected, the City shall make a re-inspection. Upon re-inspection, if all life safety, critical, and noncritical violations have been corrected, the license shall be reinstated.

(e) Revocation of license. For serious or repeated violations of any of the requirements of this article, or for interference with the City or any of his/her agents in the performance of their duties, the multi-family dwelling license may be permanently revoked after the City has provided an opportunity for a hearing. Prior to such action, the City shall notify the holder of the license, in writing, stating the reasons for which the license is subject to revocation and advising that the license shall be permanently revoked at the end of ten (10) days from the service of such notice unless a request for a hearing is filed with the City, by the license holder, within such ten (10) day period. A license shall be suspended for cause pending its revocation or a hearing relative thereto.

(f) Hearings. The City Manager shall assign one or more hearings officer(s) to conduct hearings provided for in this section at a time and place designated by the hearings officer(s). Based on the record of such hearing, the hearings officer(s) shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the license holder by the City.

(g) Appeals. Appeals may be made to the Building and Standards Commission.

Sec. 58.43 - Notices. (NEW)

All notices required to be given to the city shall be given to the director.

Sec. 58.44 - Landlord/tenant. (NEW)

The terms of this article shall not be construed to alter the terms of any lease or other agreement between landlord and tenant or others relating to property that is the subject of the chapter; provided that no provision of any lease or other agreement shall be construed to excuse the compliance with this article by any person. It is the intent of this article to identify the parties that the city will hold responsible for compliance with and violations of this article rather than to determine the rights and liabilities of persons under agreements to which the city is not a party.

Sec. 58-45—58-55. - Reserved.

City of Brownsville established minimum habitability standards for multi-family rental buildings to reduce the risk to physical health or safety of tenants of multi-family rental buildings. (Texas Local Government Code, Chapter 214.219)

This Ordinance shall become effective on the date of its passage on Second and Final reading.

Introduced, Passed, and Approved on FIRST READING on the **4th** day of December, 2012.

Passed and Approved on SECOND and FINAL READING on the **11th** day of December, 2012.

Antonio "Tony" Martinez
Mayor

Attest:

Griselda Rosen for EVH

Estela Von Hatten
City Secretary

CITY SECRETARY
TEXAS
CITY OF BROWNSVILLE

Approved as to form: Approved as to legality of form this 12 day of December, 2012.

Name: [signature]
Title: Cito Atty

John Chosy, Assistant City Attorney
City of Brownsville, Texas

Office of the City Attorney
1001 E. Elizabeth St.
Brownsville, TX 78520
(956) 548-6011 Phone
(956) 546-4291 Fax

City of BROWNSVILLE Texas
On the Border By the Sea