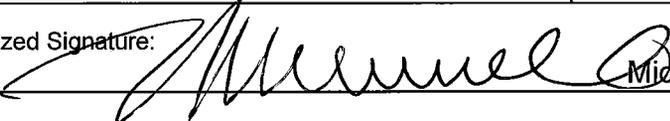


OGDEN CITY POLICY Office of the Mayor	Policy No: 1745
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Subject: GOOD LANDLORD PROGRAM	Effective Date: <u>9/28</u> , 20 <u>16</u> Replaces and Supersedes former Policy No., effective.
Department: COMMUNITY AND ECONOMIC DEVELOPMENT	Reviewed by: <u>MAB</u>
Division: CODE ENFORCEMENT	Review Date: <u>9/19/16</u>
Authorized Signature: 	Michael P. Caldwell, Mayor

1745-1: [PURPOSE:]

Ogden City's good landlord incentive program is operated in conjunction with the city's landlord training program, established pursuant to title 12, chapter 16 of the Ogden municipal code, and the city's adoption of disproportionate impact fees as it affects rental dwellings. The goal of the program is to provide a financial incentive to landlords who implement the objectives of the landlord training program, keep their properties free of criminal activity, and also maintain their properties free of certain code violations. The program authorizes a discount towards disproportionate impact fees assessed against rental dwellings under the city's business licensing regulations. Disproportionate impact fees are assessed based on the disproportionate amount of police and fire services provided to rental dwellings, as an overall business licensing classification. The discount is provided to landlords who help the city in attempting to reduce such disproportionate services, by implementing the objectives of the landlord training program and attempting to reduce criminal activities occurring on rental properties. The program also attempts to encourage and reward those landlords who maintain their properties free of code violations.

1745-2: [POLICIES:]

- A. It is the policy of the city that applications be made online in order to maximize program accessibility and to increase the city's efficiency and use of resources in operating the program. The city will provide resources at city offices to assist applicants without access to online resources, or who need special assistance in using such resources.
- B. The aspects of property management implemented in this program are hereby found to be related to the control and prevention of illegal activity on rental property.
- C. Ogden's good landlord incentive program recognizes exemptions for certain businesses and landlords in accordance with Utah Code Annotated section 10-1-203.5 et seq., as amended.

1745-3: [RESPONSIBILITIES:]

- A. The primary responsibility for coordinating the program shall be delegated to the management services director, with the day to day operations managed by the business license coordinator or any successor division manager responsible for business licensing.
- B. The IT division of the management services department shall provide the support services necessary to allow online program applications, and to assist in establishing the internal mechanisms for determining program compliance among the various departments of the city.
- C. The planning division and the building services division, or any successor division responsible for code enforcement, shall assist IT in identifying rental dwellings not in compliance with city codes.
- D. The police department shall be responsible for developing procedures for the identification of landlords or rental dwellings that may not be in compliance with those aspects of the program related to criminal activity on the premises or the failure to adequately screen tenants.

1745-4: [PROGRAM REQUIREMENTS:]

The landlord incentive program requirements are of two (2) types. The first type of requirements are related to overall requirements that must be met by the landlord for all rental properties owned and licensed by the landlord before any incentive may be provided. The second type of requirement is directly related to the rental dwellings themselves. Failure to meet the second type of requirement at one rental dwelling will not affect incentives earned related to other rental dwellings owned by the landlord. Any new property owned by a participating landlord must be brought into compliance with the overall landlord requirements set forth in subsection A of this section within one year of initial business licensing for that rental property, or by the time of renewal of the rental agreement for that property, whichever occurs sooner.

A. [Overall Landlord Requirements:]

- 1. The landlord, or the landlord's bona fide agent for all aspects of property management, and all managers of the landlord responsible for the day to day management of the rental dwellings must complete either the city's landlord training program or a comparable program approved by the Ogden City police department within the two (2) year period immediately preceding the date of application or certification. (If the property is held in joint or common ownership only 1 of the owners need apply and qualify under the program.)
- 2. The landlord must require complete rental applications and background checks on all prospective adult tenants, in the manner suggested in the landlord training program. These minimum requirements are as follows:
 - a. The rental application shall require of each applicant:

- (1) Full name, including middle initial.
 - (2) Date of birth.
 - (3) Driver's license number or valid state or federal issued picture identification card number or passport.
 - (4) Social security number.
 - (5) Names, dates of birth, and relationship to tenant of all people who will occupy the premises.
 - (6) Name, address and phone number of two (2) previous landlords.
 - (7) Income and employment history for the past two (2) years.
 - (8) Asks the applicant whether he or she has ever been convicted of a crime, and if so, the nature of the offense.
 - (9) Asks the applicant whether he or she is presently on probation or parole, and if so, the nature of the offense.
 - (10) The landlord requires a complete application as described above on all adults occupying the premises, including any adults subletting the premises.
 - (11) The application provides that any false or incomplete information provided on the application will be grounds for denial or eviction.
- b. The following background checks are done on all adults occupying the premises:
- (1) The landlord contacts previous landlords listed on the application, and enquires about any lease violations or damage to property.
 - (2) A nationwide criminal history check, including data from both state and federal courts, is received from a law enforcement agency or a reputable agency providing the service.
 - (3) Valid picture ID is presented to verify the identity of the applicant.
 - (4) A credit report is obtained from a valid provider.
3. The landlord does not knowingly rent to any person who has been convicted within four (4) years from the date of a rental application, or who is presently on probation or parole, for any of the following crimes: [~~crime involving any threat or damage to property or person, nor for any crime which had it been committed on the landlord's premises would have disturbed the peaceful enjoyment of other tenants. This shall include the sale, manufacture or distribution, or possession of any controlled substance. A list of potentially applicable offenses is listed as exhibit A in this section as a guide to landlords and is not meant to be exhaustive.~~]

- a. a felony under Title 58, Chapter 37, Utah Controlled Substances Act;
- b. a class A misdemeanor or felony under Title 76, Chapter 5, Offenses Against the Person.
- c. a felony under Title 76, Chapter 4, Part 4, Enticing a Minor;
- d. a felony under Title 76, Chapter 6, Offenses Against Property;
- e. a felony under Title 76, Chapter 10, Part 5, Weapons;
- f. a felony under Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances.

[EXHIBIT A

**~~OGDEN CITY GOOD LANDLORD
INCENTIVE PROGRAM APPLICABLE OFFENSES
(Guide Only, Not Exhaustive)~~**

~~Abuse/neglect/exploitation of vulnerable adult
Abuse of disabled/elderly adult
Aggravated arson
Aggravated assault
Aggravated assault by prisoner
Aggravated assault causing serious bodily injury to another
Aggravated assault with weapon or force
Aggravated burglary
Aggravated kidnapping
Aggravated robbery
Aggravated sexual abuse of a child
Arson criminal offenses
Arson – property of another
Assault against a police officer
Assault by prisoner
Assault on a correctional officer
Assault with substantial bodily injury
Automobile homicide
Avoiding apprehension
Avoiding apprehension/fail to stop at the command of law enforcement
Burglary
Burglary of a building
Burglary of a dwelling
Burglary of a vehicle
Carrying concealed dangerous weapon
Causing a catastrophe
Child abuse
Child abuse homicide
Child abuse – inflict serious physical injury recklessly
Child abuse/neglect
Child injury or allows child injury
Child kidnapping
Child neglect (felony only)~~

~~Communications fraud (felony only)~~
~~Criminal homicide~~
~~Criminal mischief (felony only)~~
~~Dealing in harmful materials to a minor~~
~~Disarming a police officer~~
~~Discharge firearm~~
~~Discharge firearm from vehicle/highway~~
~~Distribution/arranging distribution of controlled substance~~
~~Domestic violence offenses~~
~~Enticing a minor over the internet~~
~~Exploitation of disabled/elder adult~~
~~Exploiting disabled/elder adult with intent to profit >\$5000~~
~~Falsely making/encoding/signing financial card~~
~~Falsely obtaining/dispensing prescription~~
~~Falsifying/forging/altering controlled substance prescription~~
~~Falsifying/forging/altering prescription for controlled substance~~
~~Forcible sexual abuse~~
~~Forcible sodomy~~
~~Forgery~~
~~Fraudulently obtaining housing benefits~~
~~Graffiti~~
~~Identity fraud crime~~
~~Incest~~
~~Inflicting serious bodily injury on a child intentionally~~
~~Kidnapping~~
~~Lewdness involving a child~~
~~Manslaughter~~
~~Manufacture/distributing controlled substance~~
~~Murder~~
~~Operating clandestine drug lab~~
~~Possession/distribution of controlled substance school/public place (felony only)~~
~~Possession/distribution of controlled substance within 1000' school/public place (felony only)~~
~~Possession of altered/forged prescription (felony only)~~
~~Possession of another's ID/documents (felony only)~~
~~Possession of clandestine lab equipment/supplies~~
~~Possession of controlled substance analo~~
~~Possession of controlled substance in correctional facility~~
~~Possession of controlled substance in PA~~
~~Possession of controlled substance without container~~
~~Possession of dangerous weapon by restricted person~~
~~Possession of drug paraphernalia~~
~~Possession of forged writing device~~
~~Possession of marijuana (felony only)~~
~~Possession of prescription drug for any unlawful purpose (felony only)~~
~~Possession/purchase dangerous weapon by restricted person~~
~~Possession/use of controlled substance (felony only)~~
~~Possession/use of controlled substance not obtained under valid prescription (felony only)~~
~~Possession with intent to distribute controlled substance (felony only)~~

~~Possession with intent to manufacture/produce controlled substance (felony only)~~
~~Public assistance fraud~~
~~Purchase/possession dangerous weapon~~
~~Purchase/transfer/possession/use handgun~~
~~Rape~~
~~Rape of a child~~
~~Receive or transfer of stolen vehicle~~
~~Reckless endangerment~~
~~Reckless endangerment of a child or elder adult~~
~~Recklessness—incendiary device~~
~~Retail theft (shoplifting) (felony only)~~
~~Rioting (felony only)~~
~~Robbery~~
~~Sex crime/other~~
~~Sex offender registration violation~~
~~Sexual abuse of a child~~
~~Sexual abuse of a minor~~
~~Sexual assault/aggravated~~
~~Sexual battery~~
~~Sexual exploitation of a minor~~
~~Sexual solicitation~~
~~Sodomy on a child~~
~~Stalking~~
~~Theft by deception (felony only)~~
~~Theft by embezzlement (felony only)~~
~~Theft by receiving stolen property (felony only)~~
~~Theft by rental agreement (felony only)~~
~~Theft—evidence to support accusation (felony only)~~
~~Theft (felony only)~~
~~Theft of a firearm (felony only)~~
~~Theft of a vehicle (felony only)~~
~~Theft of rental vehicle (felony only)~~
~~Theft of services (felony only)~~
~~Threatening use of dangerous weapon in fight~~
~~Unlawful acquisition/possession financial transaction card~~
~~Unlawful possession of schedule I-V controlled substance~~
~~Unlawful sexual activity with a minor~~
~~Unlawful sexual conduct with a 16 or 17 year old~~
~~Unlawful use of financial transaction/ATM card~~
~~Voyeurism~~
~~Wrongful appropriation (felony only)~~

Excluded Offenses

Allow possession of controlled substance on premises or in vehicle
Assault (simple)
Bail jumping
Communications fraud (misdemeanor)
Criminal mischief (misdemeanor)

~~Criminal nonsupport
Criminal trespass
Damaging jails
Driving on suspended license
Driving with measurable controlled substance
DUI alcohol/drugs
DUI prior conviction
DUI with minor in vehicle
Escape from official custody
Failure to appear
Failure to comply with citation
Failure to pay drug stamp tax
Failure to stop at command of conservation officer
Failure to stop at command of police
False evidence—title/registration/plates
False/fraudulent insurance claim
False/inconsistent material claim
False personal info to peace officer
False personal info to peace officer using information of another actual person
Giving false alarm
Impaired driver
Issue bad check/draft/presumption
Library theft
Money laundering—accept/receive money
Money laundering—unlawful activity
No proof of insurance
Obstructing justice
Obtain info from controlled substance database
Out of state offense/property
Pattern of unlawful activity
Propel substance/object at correctional officer
Tampering with witness/juror
Telephone/electronic communications harassment
Theft offenses (misdemeanors)
Unauthorized control of vehicle for extended time
Unemployment compensation—false statement
Unlawful control of motor vehicle—joyride
Violation of protective order
Wanton destruction of protected wildlife
Workers' compensation insurance fraud]~~

4. The landlord provides in its leases or rental agreements that tenants may be evicted if they or their guests or invitees engage in illegal drug use, possession, sale, manufacture, distribution, or other criminal activity on or near adjacent to the rental premises, or if they permit another adult to occupy the premises who has not been screened by the landlord, and commences and pursues eviction proceedings within thirty (30) days of receiving information [when the landlord is aware] that a violation of any such provision exists.

5. The landlord is current on all other fees owed the city.
6. If participating in the waiver program, the landlord or agent must contact Ogden City business licensing to verify the validity of a waiver, and provide the rental address and number of rental units at that address.
7. If participating in the waiver program, the landlord or agent must provide in its leases or rental agreements that a waiver tenant may be evicted if the tenant is convicted of a crime listed in subsection 1745-4.A.3. of this policy, or who fails to renew the waiver or who has a waiver that has been revoked or terminated, and commences and pursues eviction proceedings within thirty (30) days of receiving information that a violation of any such provision exists.

B. [Rental Dwelling Requirements:]

1. The rental dwellings are an allowed or otherwise legal use (permitted, conditional, nonconforming, or conforming legal) under the city's zoning ordinances.
2. The landlord obtains and keeps current all business licenses and licensing fees applicable to all of the landlord's rental dwellings.
3. The rental dwellings and the surrounding premises are owned and maintained in compliance with city ordinances affecting the use, care or maintenance of real property (zoning ordinances, property maintenance regulations, fit premises regulations, property maintenance code, housing codes, health codes, etc.), and the premises are kept free of any public nuisance as defined by city ordinance or state law. A landlord will be considered to be in compliance with this requirement if violations are corrected within any time frame required for compliance under any notice of violation.
4. The landlord has paid any outstanding civil penalties assessed against the landlord for failing to correct a notice of violation applicable to the landlord's rental dwelling.

1745-5: [LANDLORD APPLICATION:]

The landlord application shall be completed by each landlord, or his or her authorized representative, and shall identify all rental dwellings owned by the landlord within the city. Landlords must provide an e-mail address and notify the city of any change in contact information or property ownership information. Provision of false information in the application will result in disqualification. This information is to be provided online on the city's website. If the landlord does not have online access, the landlord may use city computers provided on the city's one stop counter (for licensing and permits), located on the second floor of the municipal building, located at 2549 Washington Boulevard. The landlord must retain copies of rental applications and background checks for current tenants, and agree to provide the city with reasonable access to its rental records and to the rental premises, as necessary for the city to make a determination of program compliance from time to time.

1745-6: [DISQUALIFICATION:]

- A. **[Determination:]** Disqualifications concerning code violations shall be determined by accessing the records of the city's various code enforcement officers or through available court records. It shall be presumed that a disqualification exists if a civil penalty has been imposed for failing to correct a violation within the time frame required under any notice of violation or notice and order.
- B. **[Requirements Involving Criminal Activity And Tenant Screening:]**
1. Whenever OPD, acting through the community policing division, identifies a potential disqualification for a landlord's failure to comply with the program requirements described in subsections 1745-4A2 through A5 of this policy, the potential disqualification shall be submitted to the management services director for a final determination.
 2. In reviewing the potential disqualification, the management services director may:
 - a. Request additional information from or follow up by the community policing division;
 - b. Obtain the advice and/or recommendation of the city attorney's office; and
 - c. Consult with representatives of the Northern Utah Association Of Landlords, or other similar association, regarding customary practices and constraints that may exist in program compliance.
- C. **[Timing Of Disqualifications; Disallowance Of Discounts:]**
1. Program requirements shall be met during the entirety of the licensing term.
 2. If it is determined that a landlord or a rental property is no longer qualified under the program, the business license coordinator shall notify the landlord and proceed to collect the amount of the disallowed discount pursuant to the provisions of section 5-1A-15 of the Ogden municipal code.
 3. Any disqualifications involving the failure to maintain a rental dwelling in compliance with Ogden City codes (subsection 1745-4B of this policy), will result only in the disallowance of the discount pertaining to the rental dwelling where the code violation(s) occurred.
 4. Except for a first time violation involving a single rental dwelling, any disqualifications involving the failure to follow the overall landlord requirements described in subsection 1745-4A of this policy, will result in the disallowance of the discount applicable to all rental dwellings owned and licensed by the landlord during the applicable licensing year. In the event a landlord is identified as having failed to follow one or more of the requirements described in subsection 1745-4A of this policy with respect to a single rental dwelling, and the landlord has no prior history of such violations, the disallowance of the discount will

pertain only to the address and/or apartment complex where the violation(s) occurred.

5. After disqualification, the landlord or rental dwelling may only qualify for the program in the next licensing year only if the landlord has corrected the problems leading to the disqualification and paid all amounts disallowed in the prior year, together with any other outstanding fees owed the city.

1745-7: [APPEALS:]

- A. Any person denied admission to or disqualified under the program may appear before a hearing officer by filing a written application in the office of the city recorder for a hearing and present and contest such denial or disqualification before a hearing officer. Such application shall be filed within thirty (30) days of the denial or disqualification and shall include the required twenty five dollar (\$25.00) filing fee.
- B. Unless the city has contracted with a hearing officer for the hearing of such appeals, the manager of the division, or if no manager the director, responsible for business licensing is hereby designated as the officer responsible for hearing such appeal.
- C. The hearing shall be conducted as provided in title 4, chapter 4, article A, "Administrative Hearings", of the Ogden municipal code.
- D. The burden of proving qualifications or compliance shall be on the appellant.

1745-8: RETROACTION [APPLICATION OF DISCOUNT:]

If approved by a hearing officer, the discount provided under the landlord incentive program may be applied retroactively under the following conditions:

- A. The landlord obtained a rental dwelling license immediately after acquiring a new rental property and was not an owner of a rental dwelling during the same or immediately preceding licensing year;
- B. The landlord qualifies for the landlord incentive program either within six (6) months of obtaining such license or before the end of the licensing year, whichever occurs first; and
- C. The landlord applies for the retroactive application of the discount and a refund of the excess payments within six (6) months of obtaining the license or before the end of the licensing year, whichever occurs first.

1745-9: [RENTAL DWELLINGS BROUGHT INTO COMPLIANCE:]

If a rental dwelling has been disqualified because of an owner's failure to correct a code violation, a hearing officer may extend the discount to an otherwise qualifying landlord if the hearing officer finds that:

- A. All outstanding code violations have now been corrected; and
- B. Either:
 - 1. Good cause existed for the failure to correct the violations in a timely manner; or
 - 2. It has been determined that the current landlord could not reasonably be held responsible for the failure to correct.

1745-10: [WAIVER PROGRAM]

A. [Background:]

- 1. This section implements a pilot program between Ogden City and Adult Probation and Parole ("AP&P") effective October 1, 2016, to allow a landlord whose property is licensed under Ogden's good landlord incentive program to rent to an individual who would otherwise not qualify to reside in such property due to the individual's criminal background. This pilot program recognizes the goal of the Utah legislature, through adoption of the Utah Justice Reinvestment Initiative, to maintain secure communities, while recognizing the risks and treatment needs of individual offenders.
- 2. Pursuant to the terms of this pilot program, such individual may reside in a good landlord property provided that:
 - a. The individual has been granted a waiver pursuant to this section;
 - b. Such waiver has not been revoked or terminated; and
 - c. The landlord otherwise meets the requirements of title 12, chapter 16 of the Ogden municipal code and this policy.
- 3. Business licensing may adopt procedures not inconsistent with this policy to implement this pilot program as necessary.

B. Waiver Application

- 1. An individual who has been processed into the AP&P system who desires to reside in a property that is licensed under Ogden's good landlord program shall fill out a waiver application with Ogden City business licensing.
- 2. The waiver application is classified as a private record pursuant to the Utah Government Records Access and Management Act, Utah Code Ann. §63G-2-101 et seq.
- 3. The waiver application shall require the following information:

- a. Applicant's full name;
 - b. Applicant's date of birth;
 - c. Applicant's contact telephone number;
 - d. Name and contact telephone number of applicant's parole officer;
 - e. A copy of applicant's current BCI report, except that a first-time applicant coming from a half-way house need not provide a BCI report until the time of renewal.
4. An individual applying for a waiver agrees that the Ogden City Police Department is authorized to contact the applicant's parole officer and that AP&P is authorized to release the applicant's RIM level (or equivalent), any changes to the RIM level, and other private information to the Ogden City Police Department, if requested. OPD shall notify business licensing in the event a waiver is revoked, and business licensing shall notify the landlord.
 5. An individual granted a waiver ("waiver tenant") must present a current BCI report to Ogden City business licensing every twelve (12) months.

C. Acceptance or Denial of a Waiver Application

The decision to accept or deny a waiver application shall be made by Ogden business licensing. An applicant may be denied a waiver if the application contains incomplete or false information.

D. Duration of Waiver

A waiver shall be valid for one year. A waiver tenant is required to renew a waiver on an annual basis.

E. Revocation of Waiver

1. A waiver shall be revoked under the following circumstances:

- a. Waiver tenant fails to renew the waiver annually;

- b. Waiver tenant fails to present a current BCI report to Ogden City business licensing every twelve (12) months;
- c. Waiver tenant is convicted of any crime listed in subsection 1745-4.A.3 of this policy;
- d. Waiver tenant obtains a disqualifying RIM level.

F. Appealing a Denial or Revocation of a Waiver

An applicant or waiver tenant may appeal the denial or revocation of a waiver to a hearing officer pursuant to the procedure set forth in subsection 1745-7 of this policy.

G. Landlord Participation in the Waiver Program

- 1. A landlord's participation in the waiver program is voluntary.
- 2. A landlord participating in the waiver program must otherwise meet the qualifications of the good landlord incentive program.
- 3. Upon being presented with a waiver application by a prospective tenant, the landlord or landlord's agent shall contact Ogden City business licensing to confirm that the waiver is valid and provide the City with the rental property address, including the number of units, and whether any other waiver tenants are presently residing there.
- 4. A landlord participating in the waiver program must provide in its leases or rental agreements that a waiver tenant may be evicted if the tenant is convicted of any crime listed in subsection 1745-4.A.3 of this policy, or if the tenant fails to renew the waiver or who has a waiver that has been revoked or terminated, and agrees to commence and pursue eviction proceedings within thirty (30) days of receiving information that a violation of any such provision exists.

H. Non AP&P Applicants

An individual who does not otherwise qualify to reside in a good landlord property due to his or her criminal background and who is not supervised by AP&P may apply for a waiver under this program. Such applications will be considered on a case by case basis.