

ORDINANCE NO. 8840

AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, REPEALING EXISTING CHAPTER VI, ARTICLE 13 AND ENACTING, IN ITS PLACE, CHAPTER VI, ARTICLE 13 OF THE CODE OF THE CITY OF LAWRENCE, KANSAS, 2011 EDITION, AND AMENDMENTS THERETO, REGULATING THE RENTAL OF DWELLING UNITS.

WHEREAS, it is the goal of the Governing Body of the City of Lawrence, Kansas, that all persons renting, leasing, subleasing, or letting dwelling units within the City have a habitable and safe place to live and that residential rental property comply with all applicable building, land development, environmental, fire, and property maintenance codes of the City;

WHEREAS, it is the goal of the Governing Body of the City of Lawrence, Kansas, to remediate and to prevent housing conditions that adversely affect the life, safety, general welfare, and health, including the physical, mental, and social well-being, of persons occupying residential rental property;

WHEREAS, it is the goal of the Governing Body of the City of Lawrence, Kansas, to enforce certain minimum standards for the maintenance of residential rental property, thus preventing blighted conditions;

WHEREAS, it is the goal of the Governing Body of the City of Lawrence, Kansas, to prevent the overcrowding of residential rental properties by requiring that each dwelling unit comply with the occupancy limits established for each zoning district;

WHEREAS, it is the goal of the Governing Body of the City of Lawrence, Kansas, to preserve the value of land and buildings throughout the City and, ultimately, to protect the City's tax base;

WHEREAS, the Governing Body has determined that it can achieve those goals through the licensing and inspection of residential rental property within the City.

BE IT, THEREFORE, ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

SECTION 1. Existing Chapter VI, Article 13, of the Code of the City of Lawrence, Kansas, 2011 Edition, and amendments thereto, is hereby repealed in its entirety, it being the intent of the Governing Body that Section 2 of this Ordinance supersede it.

SECTION 2. Chapter VI, Article 13, of the Code of the City of Lawrence, Kansas, 2011 Edition, and amendments thereto, is hereby enacted:

ARTICLE 13. RENTAL OF DWELLING UNITS

6-1301

PURPOSE.

The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate certain activities, including the renting, leasing, subleasing, or letting of Dwelling Units within the City.

DEFINITIONS.

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings:

- (a) **"Code Enforcement Officer"** shall mean the Code Enforcement Officer, anyone fulfilling the duties of the Code Enforcement Officer on either a temporary or permanent basis, or any designee of the City Manager, the Director of the Department of Planning and Development Services, or the Code Enforcement Officer.
- (b) **"Dwelling Unit"** shall mean one room, or a suite of two or more rooms, designed for or used for living and sleeping purposes and having only one kitchen.
- (c) **"Let"** shall mean to provide or to offer for possession or Occupancy a Dwelling Unit to a person, who is not the Owner thereof, without compensation.
- (d) **"Licensee"** shall mean any Owner licensed by the City under this Article to Rent or Let a Dwelling Unit.
- (e) **"Occupancy"** shall mean residing or sleeping at a Dwelling Unit the majority of a person's time.
- (f) **"Owner"** shall mean the individual or individual(s), natural or corporate, in possession of lawful title to real property. As used in this Article, Owner may also include any authorized agent of the possessor of lawful title to real property.
- (g) **"Premises"** shall mean a lot, together with all buildings, structures, and appurtenances existing thereon.
- (h) **"Re-inspection"** shall mean any subsequent inspection conducted for the purpose of verifying that any violations reported during an initial inspection have been corrected and that the Residential Rental Property is compliant with applicable building, land development, environmental, fire, and property maintenance codes of the City.
- (i) **"Rent"** shall mean to provide or to offer for possession or Occupancy a Dwelling Unit to a person, who is not the Owner thereof, for consideration, pursuant to a written, oral, or implied agreement.
- (j) **"Resident Agent"** shall mean any person or business entity, however organized, appointed by an Owner, who shall be responsible for compliance with this Ordinance and who shall have the authority to receive communications, service of process, summons, notices, and other legal process in behalf of the Owner.
- (k) **"Residential Rental Property"** shall mean any Premises, having one or more Dwelling Units that are Rented or Let, whether for consideration or not, to one or more Tenants, none of whom are the Owner thereof.

- (l) **"Tenant"** shall mean any person, other than the Owner thereof, who occupies a Dwelling Unit.

6-1303 **RENTAL LICENSE REQUIRED.**

- (a) No Owner shall Rent or Let to another person, or other persons, unrelated to the Owner by blood, marriage, or adoption, whether or not for consideration, a Dwelling Unit located within the City without first obtaining from the Department of Planning and Development Services a Rental License.
- (b) In the case of multiple Owners of any Dwelling Unit subject to this Article, it shall be deemed sufficient for any one of the Owners to have obtained a Rental License for the Dwelling Unit.

6-1304 **RENTAL LICENSE FEES.**

The Rental License Fee shall be \$15.00 per Dwelling Unit. The Rental License Fee is due at the time of application. The Rental License Fee shall not be pro-rated or refundable for any reason, including denial, suspension, or revocation of a Rental License.

6-1305 **RENTAL LICENSE APPLICATION.**

Application for a Rental License shall be made to the Department of Planning and Development Services on a form provided by the Department for that purpose. In addition to paying the Rental License Fee, the Owner shall acknowledge that he or she is familiar with the occupancy limit for the zoning district in which the Residential Rental Property is located, as established in Chapter 20 of the City Code, and shall affirm that he or she agrees to comply with those terms as well as all applicable building, land development, environmental, fire, and property maintenance codes of the City. In addition, the Owner shall complete the application in full, in writing, and shall provide the following information:

- (a) The address of the Dwelling Unit and the approximate date of its construction.
- (b) The Owner's name, address, telephone number, cellular telephone number, and e-mail address.
- (c) (1) If the Owner has a local address, within forty miles of the City, then he or she MAY appoint a person or management company, also within forty miles of the City, to serve as his or her Resident Agent by checking the appropriate box and by providing the name, company name, if any, address, e-mail address, telephone number, and cellular telephone number of the Resident Agent. Any Resident Agent appointed by the Owner shall have actual authority to receive communications, service of process, summons, notices, and other legal process in behalf of the Owner.

- (2) If the Owner does not have a local address, within forty miles of the City, then he or she MUST appoint a person or management company, located within forty miles of the City, to serve as his or her Resident Agent by checking the appropriate box and by providing the name, company name, if any, address, e-mail address, telephone number, and cellular telephone number of the Owner's resident agent. Any Resident Agent appointed by the Owner shall have actual authority to receive communications, service of process, summons, notices, and other legal process in behalf of the Owner.
- (d) A statement as to whether the Dwelling Unit is Section 8 housing or other subsidized housing and, if so, the date of the most recent inspection.
- (e) The Owner's signature and the date of the Application.

6-1306

RENTAL LICENSE ISSUANCE; DENIAL.

- (a) The Code Enforcement Officer shall review each application for a Rental License. Within five business days of the application, the Code Enforcement Officer shall approve the application and shall issue to the Owner a Rental License, unless:
 - (1) The application is incomplete; or
 - (2) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement.
- (b) If the application is determined to be deficient because it is incomplete under Section 6-1306(a)(1), including the failure to pay the Rental License Fee, the Code Enforcement Officer shall give notice to the Owner and permit the Owner fourteen (14) days therefrom within which to provide a completed application.
- (c) If the application is denied under Section 6-1306(a)(2), or the Owner has failed to complete the application within the fourteen-day period of Section 6-1306(b), then the Code Enforcement Officer shall deny the application by giving Notice of Denial to the Owner or any Resident Agent. Notice of Denial shall be in writing, shall be mailed to the Owner or any Resident Agent, shall inform the Owner of the reason for denial, and shall state that the Owner has fourteen (14) days from the date of the Notice of Denial in which to file with the Department of Planning and Development Services any written Notice of Appeal in accordance with Section 6-1317.
- (d) The Code Enforcement Officer shall maintain a copy of the Notice of Denial in his or her files.

6-1307

RENTAL LICENSE APPEARANCE; DISPLAY.

- (a) The Rental License shall contain the official seal of the City, the name of the Licensee and any Resident Agent, the address of the Dwelling Unit, the date of the Dwelling Unit's last inspection, and the expiration date of the Rental License.
- (b) The Rental License shall be displayed prominently on the inside of the main entrance door of the Dwelling Unit. Failure to display the Rental License shall, upon inspection, be deemed a Minor Violation, as that term is defined in Regulations promulgated by the City Manager.

6-1308

RENTAL LICENSE DURATION.

Unless revoked in the interim, the Rental License shall be valid from the time that it is issued until midnight of its next Expiration Date, which shall be in accordance with the following schedule:

Registration Name Begins With:	Expiration Date:
A, B	January 31
C, D	February 28
E, F	March 31
G, H	April 30
I, J	May 31
K, L	June 30
M, N	July 31
O, P, Q	August 31
R, S	September 30
T, U	October 31
V, W	November 30
X, Y, Z	December 31

6-1309

RENTAL LICENSE RENEWAL.

- (a) In order to retain a Rental License for a Dwelling Unit, the Licensee must renew the Rental License on an annual basis. At least three weeks before a Rental License expires, the Code Enforcement Officer will mail to a Licensee or any Resident Agent a renewal Notice. To renew a Rental License the Licensee must, BEFORE the Expiration Date set forth on the Rental License: (1) remit to the City the Rental License Fee of \$15.00 per Dwelling Unit and any Inspection Fee that may be due pursuant to Section 6-1311; (2) return the renewal stub to the Department of Planning and Development Services; and (3) the Dwelling Unit must have, unless otherwise exempted by this Article, have passed an inspection within the three years preceding the Expiration Date of the Rental License.
- (b) There shall be assessed a \$15.00 late fee per Dwelling Unit for any Licensee who fails to renew his or her license BEFORE the Expiration Date and seeks to renew his or her Rental License after that date.

6-1310

INSPECTIONS.

(a) In accordance with Section 6-1310(b), every Residential Rental Property shall be inspected by the Code Enforcement Officer on a three year cycle according to a schedule to be determined by the Department of Planning and Development Services. If a Residential Rental Property is scheduled to be inspected during the ensuing year, then the Department of Planning and Development Services shall notify the Owner/Licensee at the time of licensing or at the time of renewal. It shall be the obligation of the Owner/Licensee to pay the Inspection Fee at the time of application or renewal. The Licensee shall contact the Department of Planning and Development Services during that year to schedule an inspection. Failure to schedule and complete an Inspection shall be grounds for revocation of a Rental License or denial of a Renewal Rental License.

(b) The Code Enforcement Officer shall inspect Residential Rental Property according to the following schedule:

Residential Rental Property:	To be Inspected:
1-10 Dwelling Units	Premises and all Dwelling Units
11-50 Dwelling Units	Premises and 11 (or 50% of all) Dwelling Units, whichever is greater
More than 50 Dwelling Units	Premises and 26 (or 33% of all) Dwelling Units , whichever is greater

(c) Prior to the issuance of any Certificate of Occupancy for newly constructed Residential Rental Property, the Owner shall obtain a Rental License for each Dwelling Unit in accordance with Section 6-1303. Although each Dwelling Unit must be licensed, all newly constructed Residential Rental Property shall be exempt from inspection for a period not to exceed three years commencing on the date of the the issuance of Certificate of Occupancy.

6-1311

INSPECTION FEES; ADMINISTRATIVE FEES.

(a) Except as may otherwise be provided, the Inspection Fee shall be \$50.00 per Dwelling Unit. The Inspection Fee shall be remitted to the City ONLY in the year that the Dwelling Unit is scheduled for Inspection in accordance with Section 6-1310. The Inspection Fee shall be paid at the same time as the Rental License Fee.

(b) Any Licensee that fails to appear for a scheduled Inspection or any Licensee that refuses consent at a scheduled Inspection shall be charged an Administrative Fee of \$25.00 per Dwelling Unit that was scheduled for Inspection. A scheduled Inspection may be rescheduled with no less than seven (7) day's prior notice to the Code Enforcement Officer.

(c) Any Re-inspection required after the initial Re-inspection shall be charged a Re-inspection Fee of \$50.00 per Dwelling Unit.

6-1312

INCENTIVE.

If the Code Enforcement Officer reports an average of five (5) or fewer Minor Violations, as that term is defined in Regulations promulgated by the City Manager, per Dwelling Unit inspected on any Residential Rental Property, then the Inspection Fee for the next Inspection of that Residential Rental Property shall be reduced to \$25.00 per Dwelling Unit. Any Residential Rental Property having one or more Major Violations or averaging more than five (5) Minor Violations per Dwelling Unit inspected shall not qualify for the incentive.

6-1313

RIGHT OF ENTRY.

Absent exigent circumstances, whenever it is necessary to make an Inspection or to enforce any provisions of this Article, or whenever the Code Enforcement Officer has reasonable cause to believe that there exists on any Residential Rental Property subject to this Article, any condition or violation that makes such Residential Rental Property unsafe, dangerous, hazardous, or a public nuisance, the Code Enforcement Officer shall have the right to enter the Premises or any Dwelling Unit, at all reasonable times to inspect the same or to perform any duty imposed by this Article, provided that such entry is made in accordance with the law. If any Residential Rental Property is occupied, then the Code Enforcement Officer shall first attempt to make contact with the occupant, present proper credentials, and request entry. If the Residential Rental Property is unoccupied, the Code Enforcement Officer is unable make contact with the occupant, or the Code Enforcement Officer is denied consent to enter, then the Code Enforcement Officer shall have the right to seek entry by way of an administrative search warrant or by any other lawful means.

6-1314

VIOLATIONS.

- (a) Any violation of one or more of the following ordinances shall, for the purposes of this Article, be deemed to be the maintenance of a public nuisance and shall be a violation of this Article:
 - (i) Noise Ordinance (Sections 14-413, *et seq.*)
 - (ii) Anti-litter Ordinance (Chapter 14, Article 1)
 - (iii) Disorderly House Nuisance Ordinance (Chapter 14, Article 11)
 - (iv) Property Maintenance Code (Chapter 5, Article 10)
 - (v) Environmental Code (Chapter 9, Article 6)
 - (vi) The Land Development Code (Chapter 20)

- (b) Any violation of one or more of the following ordinances shall, for the purposes of this Article, be a violation of this Article:
 - (i) Building Code (Chapter 5, Article 2)
 - (ii) Residential Code (Chapter 5, Article 3)

- (iii) Electrical Code (Chapter 5, Article 4)
 - (iv) Plumbing Code (Chapter 5, Article 5)
 - (v) Mechanical Code (Chapter 5, Article 6)
 - (vi) Existing Building Code (Chapter 5, Article 9)
 - (vii) Fire Code (Chapter 8, Article 2)
- (c) Violations of the foregoing shall, in Regulations promulgated by the City Manager under Section 6-1323, shall be classified as Major Violations or Minor Violations.

6-1315

OCCUPANCY LIMITS.

- (a) Occupancy limits for a Dwelling Unit for each Zoning District shall be determined and set forth in the Land Development Code, Chapter 20.
 - (i) For the purposes of this Section, (A) children of a Tenant are not included in the Occupancy count and (B) a person shall be deemed to be living in a Dwelling Unit if he or she resides or sleeps at a Dwelling Unit a majority of that person's time.
- (b) Exceeding the Occupancy Limits shall, for the purposes of this Article, be deemed to be the maintenance of a public nuisance and shall be deemed a Major Violation, as that term is defined in Regulations promulgated by the City Manager in accordance with Section 6-1323, of this Article.

6-1316

NOTICE OF VIOLATION.

Any Licensee maintaining a public nuisance or Residential Rental Property that is otherwise in violation of Section 6-1314, 6-1315, or 6-1323(b) shall be sent a Notice of Violation. The Notice of Violation shall be served on the Licensee or Resident Agent by hand-delivery, by electronic mail, or by first class mail addressed to the Licensee or any Resident Agent. The Notice of Violation shall state:

- (a) The condition that has caused the alleged Violation(s);
- (b) Whether the alleged Violation is a Major Violation or a Minor Violation, as those terms are defined in Regulations promulgated by the City Manager;
- (c) Whether the Code Enforcement Officer seeks: (1) remediation; (2) to place a Licensee on probation, or to extend a pre-existing probationary period, or (3) to revoke the Rental License; and
- (d) That the Licensee has fourteen (14) days from the date of the Notice of Violation to appeal the Notice of Violation by filing with the Department of Planning and Development Services a written Notice of Appeal in accordance with Section 6-1317.

6-1317

APPEAL.

- (a) Any Owner/Licensee aggrieved by the action of the Code Enforcement Officer in issuing a Notice of Denial or Notice of Violation shall have the right to appeal that action to the Building Code Board of Appeals. Such appeal shall be taken by filing with the Department of Planning and Development Services a Notice of Appeal within fourteen (14) days of the date of the Notice. The Notice of Appeal shall be in writing and shall set forth in sufficient detail why the Owner/Licensee believes that the Notice of Denial or Notice of Violation was issued erroneously. After the Notice of Appeal is filed, the Building Code Board of Appeals shall set a time and place for a public hearing. Notice of Hearing shall be given to the Owner/Licensee in the same manner as the Notice of Denial or Notice of Violation. To prevail on appeal, the Licensee must prove that it is more probably true than not true that the Notice of Denial or Notice of Violation was issued erroneously. If it fails to take formal action at the public hearing, the Building Code Board of Appeals shall, no later than thirty days after the public hearing, issue its final order, which shall be transmitted to the Licensee or any Registered Agent in the same manner as the Notice of Denial or Notice of Violation.
- (b) There shall be a \$25.00 Docketing Fee due and payable at the time that any Notice of Appeal is filed.
- (c) The filing of a timely Notice of Appeal under Section 6-1317(a) shall stay any enforcement action under this Article until the Building Code Board of Appeals has issued its final order.

6-1318

PROBATION.

The Code Enforcement Officer or, in the case of an appeal from a Notice of Violation, the Building Code Board of Appeals, shall have the authority to place a Licensee on probation. The purpose of probation is to provide the Licensee a reasonable time to remediate any condition or conditions that create(s) a public nuisance or cause(s) a violation of this Article. Probation may be conditioned to include reasonable reporting requirements, a reasonable time period to remediate violations, or other reasonable requirements necessary to bring the Residential Rental Property into compliance with the City Code. Failure to successfully complete any and all conditions of probation shall be grounds for revocation of a Rental License.

6-1319

REVOCAION.

The Code Enforcement Officer or, in the case of an appeal from a Notice of Violation, the Building Code Board of Appeals, shall have the authority to revoke a Rental License. In making that determination, the Code Enforcement Officer or the Building Code Board of Appeals shall take into account the severity of the alleged violation and all other relevant mitigating and aggravating circumstances, including, but not limited to whether or not the Licensee has had other revocations or convictions under this Article. Any revocation shall be effective for a minimum of two (2) years and no subsequent Rental License shall be issued for the Dwelling Unit in question until it is inspected by the City and found to be in compliance with all applicable codes.

6-1320

UNLAWFUL ACTS.

- (a) It shall be unlawful for any person to rent, lease, sublease, or let to another person, or other persons, unrelated to the Owner by blood, marriage, or adoption, whether or not for consideration, a Dwelling Unit located within the City without first obtaining from the Department of Planning and Development Services a Rental License.
- (b) It shall be unlawful for any Owner to maintain Residential Rental Property as a public nuisance by violating any of the ordinances listed at Section 6-1313(a).
- (c) It shall be unlawful for any Owner to Rent or Let Residential Rental Property in violation of Section 6-1313(b).
- (d) It shall be unlawful for any Owner to be in violation of Section 6-1315.
- (e) It shall be unlawful for any Tenant living in a Dwelling Unit subject to this Article to be in violation of Section 6-1315. For the purposes of this section, "living in a Dwelling" shall mean residing or sleeping at the Dwelling a majority of the person's time.

6-1321

MUNICIPAL OFFENSE.

Engaging in any of the unlawful acts set forth at Section 6-1320 shall be a separate municipal offense. Any person violating a provision of Section 6-1320 of this Article shall, upon an adjudication of guilt or the entry of a plea of no contest, be subject to a minimum fine of \$500.00 and a maximum fine of \$2,500.00 for each unlawful act. The municipal court judge shall have no authority to suspend all or any portion of the minimum fine.

6-1322

GROUND FOR TERMINATION OF MUNICIPAL UTILITY SERVICES.

If, upon application by the Code Enforcement Officer and after a public hearing, the Governing Body finds that continued occupancy or habitation of Residential Rental Property that is in violation of the provisions of this Article shall constitute a hazard to the public health, safety, and welfare and that the City's provision of water, sanitary sewer, and sanitation services is reasonably related to the ability to occupy or inhabit said Residential Rental Property, then the Governing Body shall, by Resolution, direct the Code Enforcement Officer to serve a Certified Copy of the Resolution on the Owner/Licensee, any Resident Agent, and any Tenant(s) of the Residential Rental Property. After the Resolution is served, the Code Enforcement Officer shall have the authority to proceed with the disconnection of City water, sanitary sewer, and sanitation services at said Residential Rental Property. Disconnection of City services may only be ordered if the Governing Body finds specifically that disconnection of City services is necessary to deter occupation or habitation in a structure in which the public health, safety, or welfare is harmed or endangered by continued occupancy or habitation of the Residential Rental Property.

6-1323

REGULATIONS.

- (a) In order to protect the health, safety, and welfare of the community, the City Manager or his or her designee shall have the power to promulgate reasonable Administrative Regulations governing Rental Licenses and Inspections. Any Regulations promulgated in accordance with this Article shall be dated and shall be available for inspection by the public at the City Clerk's Office during reasonable business hours. A Licensee shall receive a copy of the Regulations at the time of the issuance of Rental License(s) or the renewal of Rental License(s).
- (b) The Licensee shall comply with all Regulations promulgated by the City Manager or is or her designee in accordance with this Article. Failure to comply with the regulation shall be deemed a violation of this Article under Section 6-1314.

6-1324

REVIEW OF FEES.

The Governing Body shall, from time to time, at its discretion, review the Rental License Fees, Inspection Fees, and Fines of this Article and shall adjust them as may be necessary to fulfill the goals of this Article.

6-1325

EXEMPTIONS.

The provisions of this Article shall not apply to the following:

- (a) Dwelling Units occupied by the Owner or the Owner's immediate family.
- (b) Accessory Dwelling Units, as that term is defined at Section 20-1701.
- (c) Group Homes or Adult Care Homes, as those terms are defined at Section 20-1701.
- (d) Assisted Living, as that term is defined at Section 20-1701.
- (e) Extended Care Facility, Dependent Living Facility, or Nursing Care Facility, as those terms are defined at Section 20-1701.
- (f) Extended Stay Lodging, as that term is defined at Section 20-1701.
- (g) Greek Housing, including fraternity houses and sorority houses, as that term is defined at Section 20-1701.
- (h) Hotels or motels.
- (i) Owners of Section 8 housing or other housing subsidized by the State or United States, that is regularly inspected and is being rented, leased, subleased, let, or otherwise being lived in by persons other than the Owner, must register each Dwelling Unit and obtain a Rental License in accordance with this Article. However, Owners of such Residential Rental Property are exempt from paying the Rental License Fee under Section 6-1304 and are exempt from Inspections under Section 6-1310.

SECTION 3. If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 4. This ordinance shall take effect and be in full force and effect immediately following its adoption and publication as provided by law.

ADOPTED by the Governing Body of the City of Lawrence, Kansas, this ____ day of February, 2013.

APPROVED:

Robert J. Schumm
Mayor

ATTEST:

Jonathan M. Douglass
City Clerk

APPROVED AS TO FORM AND LEGALITY:

Toni R. Wheeler
City Attorney

NOTICE TO PUBLISHER

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.