

ORDINANCE NO. 8692

AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, REPEALING EXISTING CHAPTER VI, ARTICLE 13 AND ENACTING CHAPTER VI, ARTICLE 13 OF THE CODE OF THE CITY OF LAWRENCE, KANSAS, 2011 EDITION, AND AMENDMENTS THERETO, REGULATING THE RENTAL OF DWELLINGS IN RS ZONING DISTRICTS.

BE IT 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Chapter VI, Article 13, of the Code of the City of Lawrence, Kansas, 2011 Edition, and amendments thereto, is hereby repealed in its entirety, it being the intent of the Governing Body that Section 2 of this Ordinance supersede it.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 and shall read as follows:

ARTICLE 13. RENTAL OF DWELLINGS IN RS ZONING DISTRICTS

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 various activities, including the leasing, subleasing, renting, or other occupancy of Dwellings within the City's RS Zoning Districts.

6-1302

DEFINITIONS.

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

- (a) **"Code Enforcement Officer,"** shall mean the Code Enforcement Officer, anyone fulfilling the duties of the Code Enforcement Officer on either a temporary or a permanent basis, or any designee of the City Manager or the Code Enforcement Officer.
- (b) **"Dwelling"** shall mean a building or any portion thereof designed or used exclusively as the residence or sleeping place of one or more persons.
- (c) **"Family"** shall mean (1) A person living in a Dwelling alone; (2) two or more persons related by blood, marriage, or legal adoption, living in a Dwelling together; or (3) a group of not more than three persons, not related by blood, marriage, or legal adoption, living in a Dwelling together. For the purposes of this definition, "living in a Dwelling" shall mean residing or sleeping at a Dwelling the majority of a person's time.
- (e) **"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.

6-1303

RENTAL LICENSE REQUIRED.

- (a) No Owner shall lease, sublease, or rent to another person, or other persons, unrelated to the Owner, whether or not for consideration, a Dwelling located within any RS Zoning District without first obtaining from the Department of Planning and Development Services a Rental License.
- (b) No Owner shall allow or permit another person, or other persons, unrelated to the Owner, whether or not for consideration, to occupy any Dwelling within any RS Zoning District without first obtaining from the Department of Planning and Development Services a Rental License.
- (c) In the case of multiple Owners of any Dwelling subject to this Article, it shall be deemed sufficient for any one of the Owners to have obtained a Rental License for the Dwelling.

6-1304

RENTAL LICENSE FEE.

The Rental License Fee shall be \$25.00. The Rental License Fee is not pro-rated or refundable for any reason, including denial or revocation.

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 has read Section 20-202(g), and shall affirm that he or she agrees to comply with its terms. In addition, the Owner shall complete the application in full, in writing, providing the following information:

- (a) The address of the Dwelling and the approximate date of its construction;
- (b) The Owner's name, address, telephone number, cellular phone 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 agent by checking the appropriate box and by providing the name, company name, if any, address, telephone number, and cellular telephone number of the Owner's agent (the Owner's agent will be deemed to have the authority to accept correspondence and other communications 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, telephone number, and cellular telephone number of the Owner's resident agent (the Owner's resident agent shall be deemed to have the authority to accept service of process, summons, notices, and other legal process in behalf of the Owner);

- (d) A statement as to whether the rental property is Section 8 housing and, if so, the date of its last inspection; and
- (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 (5) 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;
 - (2) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement;
 - (3) The City has, for any reason, within the preceding two (2) years, revoked a Rental License of the Owner; or
 - (4) The City has, for any reason, within the preceding two (2) years, revoked a Rental License involving that Dwelling.
- (b) If the application is determined to be deficient for any of the reasons set forth at Section 6-1306(a), then the Code Enforcement Officer shall deny the application by giving Notice of Denial to the Owner. Notice of Denial shall be in writing, shall be mailed to the Owner and any agent, shall inform the Owner of the reason for denial, and shall inform the Owner that he or she has fifteen (15) days from the date of the Notice of Denial in which to appeal the denial of the application to the Governing Body. The Code Enforcement Officer shall maintain a copy of the Notice of Denial in his or her files.

6-1307

RENTAL LICENSE DURATION.

Once the applicant is issued the Rental License, it shall remain valid and in effect so long as (a) the Owner pays the annual Renewal Fee BEFORE the Rental License expires, as established at Section 6-1308(b); (b) the Owner files with the Code Enforcement Officer a Renewal Application on a form provided by the Department of Planning and Development Services BEFORE the Rental License expires, as established at Section 6-1308(b); and (c) the Rental License has not, for any reason, been revoked.

6-1308

RENTAL LICENSE RENEWAL FEE; EXPIRATION.

- (a) To retain a Rental License, the Owner must renew his or her license on annual basis (1) by paying to the to the City a \$25.00 Renewal Fee and (2) by completing, signing, and dating the Renewal Application on a form provided by the Department of Planning and Development Services. The Renewal Fee and Renewal Application must be submitted to the Code Enforcement Officer BEFORE the expiration of the Rental License.

- (b) The Rental License shall expire at midnight on the noted Expiration Date, in accordance with the following schedule:

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

6-1309 **RENTAL LICENSE INSPECTIONS.**

The Code Enforcement Officer shall establish a periodic schedule for the inspection of the exterior and interior of each Dwelling subject to this Article. Each Dwelling shall be inspected a minimum of at least once every three (3) years.

6-1310 **VIOLATIONS.**

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:

- (a) Noise Ordinance (Sections 14-413-416);
- (b) Anti-litter Ordinance (Chapter 14, Article 1);
- (c) Disorderly House Nuisance Ordinance (Chapter 14, Article 11);
- (d) Property Maintenance Code (Chapter 5, Article 10);
- (e) Environmental Code (Chapter 9, Article 6); or
- (f) The Land Development Code (Chapter 20);

6-1311 **OCCUPANCY LIMITS.**

In RS Districts, no more than one Family, as that term is defined at Section 6-1302(c), shall occupy a Dwelling. On properties in RS Districts that have an Accessory Dwelling Unit, established in accordance with Section 20-534, no more than one Family, as that term is defined at Section 6-1302(c), plus one additional person shall, in the aggregate, occupy a Dwelling and Accessory Dwelling Unit. Exceeding the Occupancy Limits 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.

6-1312

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 in any Dwelling or on any property subject to this Article, any condition or violation that makes such Dwelling or property unsafe, dangerous, hazardous, or a public nuisance, the Code Enforcement Officer shall have the right to enter such Dwelling or property 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 the Dwelling or 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 Dwelling or 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 to the Dwelling or property by way of an administrative search warrant or by any other lawful means.

6-1313

NOTICE OF VIOLATION.

Any Owner determined by the Code Enforcement Officer to be maintaining a public nuisance or otherwise to be in violation of Section 6-1310 or 6-1311 shall be sent a Notice of Violation. The Notice of Violation shall be sent by certified mail, postage prepaid, and return receipt request to the Owner and any agent. The Notice of Violation shall state:

- (a) The condition that has caused the Violation;
- (b) Whether the Code Enforcement Officer seeks (1) to place the Owner on probation, or to continue a pre-existing probationary period or (2) to revoke the Owner's Rental License; and
- (c) That the Owner shall have fifteen (15) days from the date of the Notice of Violation to appeal the determination of the Code Enforcement Officer to the Governing Body.

6-1314

APPEAL.

- (a) Any Owner aggrieved by the action of the Code Enforcement Officer in denying an application for a Rental License, in placing a Rental License on probation, or in revoking a Rental License shall have the right to appeal that action to the Governing Body. Such appeal shall be taken by filing with the Code Enforcement Officer a Notice of Appeal within fifteen (15) days of the date of the Notice of Denial or the Notice of Violation. The Notice of Appeal must be in writing and must set forth why the Owner believes that the Notice of Denial or the Notice of Violation is in error. After the Notice of Appeal is filed, the Governing Body shall set a time and place for hearing the appeal. Notice of the hearing shall be given to the Owner in the same manner as the Notice of Denial or the Notice of Violation. The Governing Body's decision and order on such appeal shall be the final order of the City.

- (b) The filing of a timely Notice of Appeal under Section 6-1314(a) shall stay any enforcement action under this Article until the Appeal is resolved by final order of the Governing Body.
- (c) If the Owner does not bring a timely appeal, then the determination of the Code Enforcement Officer shall be the final order of the City.

6-1315

PROBATION.

The Code Enforcement Officer or, in the case of an appeal from a Notice of Violation, the Governing Body shall have the authority to place an Owner on probation. The purpose of probation is to provide the Owner a reasonable time to correct any condition or conditions that created a public nuisance or caused the violation of this Article. Probation may be conditioned to include reasonable reporting requirements, a reasonable time period to make corrections, or other reasonable requirements necessary to bring the Dwelling or property into compliance with the City Code. Failure to successfully complete any and all conditions of probation shall be grounds for revocation of the Rental License.

6-1316

REVOCAION.

The Code Enforcement Officer or, in the case of an appeal from a Notice of Violation, the Governing Body shall have the authority to revoke an Owner's Rental License. In making that determination, the Code Enforcement Officer or the Governing Body shall take into account all aggravating and mitigating circumstances, including, among other things, whether or not the Owner has had other revocations or convictions under this Article.

6-1317

UNLAWFUL ACTS.

- (a) It shall be unlawful for any person to lease, sublease, or rent to another person, or other persons, unrelated to the Owner, whether or not for consideration, a Dwelling located within any RS Zoning District without first obtaining from the Department of Planning and Development Services a Rental License.
- (b) It shall be unlawful for any person to allow or permit another person, or other persons, unrelated to the Owner, whether or not for consideration, to occupy any Dwelling within any RS Zoning District without first obtaining from the Department of Planning and Development Services a Rental License.
- (c) It shall be unlawful for any Owner to maintain a public nuisance by violating any of the ordinances listed at Section 6-1310(a)-(f).
- (d) It shall be unlawful for any Owner to maintain a public nuisance by being in violation of the occupancy limits established at Section 6-1311.
- (e) It shall be unlawful for any tenant or any other person living in a Dwelling subject to this Article to be in violation of the occupancy limits established at Section 6-1311. 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.

6-1318

MUNICIPAL OFFENSE.

Engaging in any of the unlawful acts set forth at Section 6-1317 shall be a municipal offense. Any person violating a provision of Section 6-1317 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. The municipal court judge shall have no authority to suspend all or any portion of the minimum fine.

6-1319

GROUND FOR TERMINATION OF MUNICIPAL UTILITY SERVICES.

If, after a public hearing, the Governing Body finds that continued occupancy or habitation of a Dwelling or 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 Dwelling or property, then the Governing Body shall direct the Code Enforcement Officer to send lawful notice to the Owner, any agent, and the resident(s) of the Dwelling of the proposed disconnection of municipal services. After notice is sent, the Code Enforcement Officer shall then have the authority to proceed with the disconnection of City water, sanitary sewer, and sanitation services at said Dwelling or 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 Dwelling.

6-1320

EXEMPTIONS.

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

- (a) Dwellings occupied by the Owner or the Owner's immediate family.
- (b) Accessory Dwelling Units, as that term is defined at Section 20-170.
- (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) Congregate Living or Boarding House, as those terms are defined at Section 20-1701.
- (f) Extended Care Facility, Dependent Living Facility, or Nursing Care Facility, as those terms are defined at Section 20-1701;
- (g) Extended Stay Lodging, as that term is defined at Section 20-1701.
- (h) Greek Housing, including fraternity houses and sorority houses, as that term is defined at Section 20-1701.
- (i) Hotels or motels.

- (j) Owners of Section 8 housing, that is being rented, leased, subleased, or otherwise being lived in by persons other than the Owner, must register the Dwelling and obtain a Rental License in accordance with this Article. However, Owners of Section 8 housing are exempt from paying the Rental License Fee under Section 6-1304 and are exempt from Inspections under Section 6-1309.

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 this ____ day of January, 2011.

APPROVED:

Aron E. Cromwell, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk

APPROVED AS TO FORM AND LEGALITY:

Toni R. Wheeler
City Attorney

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