

Memorandum

City of Lawrence

Planning & Development Services

TO: David L. Corliss, City Manager

FROM: Planning Staff

Date: For December 3, 2013 City Commission Regular Meeting

RE: Rental Expansion

At the November 5, 2013 City Commission study session, the Commission provided additional direction on expanding the rental licensing and inspection program city-wide. This memo, the attached revised Ordinance 8840, and the revised draft Administrative Regulations implement that direction.

The following items have been addressed in the revised ordinance and Administrative Regulations.

Ordinance Revisions

1. 10% sampling size – the ordinance reflects the direction to sample 10% of units owned by any one entity, regardless of location, age or structure type.
2. Incentive program – the criteria for becoming eligible for the incentive has been revised. Originally, if a unit was found to have more than 5 minor violations or 1 major violation, it was not eligible to qualify for the extended inspection cycle. The 5 minor violation threshold has been deleted and so now only the presence of one major violation will prevent a property from qualifying for the incentive of longer inspection periods. Also, the inspection cycle for incentive-eligible properties has been revised from the proposed 5-year cycle to a 6-year cycle to better align with the normal 3 year cycle for those units not qualifying for the incentive.
3. Disorderly House Nuisance Ordinance (Chapter 14, Article 11) – Staff has reviewed the list of codes that should, under the direction of the Commission to address life-safety issues and neighborhood blight, be applied to the rental inspection program and finds that the Disorderly House Nuisance Ordinance is not an appropriate fit for the rental program. It is a complex process and is better suited to be applied outside the scope of the rental program. It is recommended that the following city code sections apply to the rental program:
 - a. Property Maintenance Code (Chapter 9, Article 6)
 - b. The Land Development Code (Chapter 20)

Administrative Regulation Revisions

1. Tenant / property owner responsibilities – The ordinance has been revised to allow staff to cite tenants for code violations determined to be the responsibility of a tenant. Staff views the issue in terms of real and personal property. Real property issues are those related to the structure and property itself such as plumbing repairs, broken windows, and other miscellaneous property issues. Real property issues are the responsibility of the property owner. Personal property issues, such as unlicensed vehicles, upholstered furniture on porches, trash in yard, etc., are usually the responsibility of a tenant, unless left by a tenant at which time the responsibility may be transferred to the owner. In such instances where a violation can be linked to a tenant, the code provides that the tenant can be cited. The Administrative Regulations clarify this distinction and provides staff the guidance to cite tenant or property owner, depending on the circumstance.
2. Initial start of inspection program – The Administrative Regulations have been revised to reflect the Commission's direction to not begin inspections until after September 1, 2014. Staff proposes to begin inspections in 2015 according to the schedule established in the Administrative Regulations, providing ample time for owners and staff to prepare for implementing the program. Licensing will begin according to the schedule established in the Administrative Regulations.
3. Inspection times during the year – The Administrative Regulations have been revised to reflect the Commission's direction to not require inspections in the months of July and August, but leaves open the option for owners to request an inspection during this time period.
4. Major/Minor list – The major/minor list, which provides the basis for meeting the incentive program, has been revised as noted. The potential tenant based list has been removed given the new language addressing the ability to cite tenants for personal property issues.
5. Compliance times – A new section on typical times to resolve violations has been added to the Administrative Regulations. Staff must maintain discretion in determining when a violation must be resolved and there is a range of circumstances by which staff must consider when determining a compliance time frame. Some violations will be of such a nature as to warrant immediate condemnation of a property. Others that qualify as minor in nature will typically be given 30 days to correct, though staff will typically extend the compliance time when owners demonstrate that they are moving toward compliance.

Property Maintenance Code Revisions

1. As noted in the November 5, 2013 memo, any existing structure should comply with the codes adopted at the time of construction. Thus any structure found during inspection to be deficient of fire protection standards, which may include sprinklers, and built at a time when such standards were required would be made to be brought up to standard at a potentially significant cost to the owner.

However, staff recognizes that there is potential for many structures, primarily in the Oread Neighborhood, to exist in a condition devoid of any permit record in the city. Verifying construction dates of all questionable units is simply too resource intense for the staffing being provided to the program expansion.

Because of this, and to ensure minimum life-safety standards are maintained, staff offers the following Property Maintenance Code amendment, which may need further development and will need to be considered at a future City Commission meeting:

702.4.1 Emergency egress for habitable spaces more than two stories above grade.

Buildings and structures are required to meet the code standards for emergency egress in place at the time of construction. For those existing structures that contain habitable space in areas more than two stories above grade, for which no building permit exists or for which no building permit can be found, the following conditions shall be met:

1. A safe, continuous and unobstructed interior path of travel shall be provided from any point in the building or structure to the public way. The means of egress shall comply with the *International Fire Code*.
2. Either provide a sprinkler system with a dedicated alarm system *or* provide egress to the ground level from each story above the second floor (ladder or stairs) through a properly sized window as identified in 702.4.1.3.
3. All habitable spaces used for living and sleeping shall have at least one openable window with a minimum of 5.0 sq. feet of net clear opening with a minimum clear opening height and width of 22 inches and a maximum finished sill height of 48 inches above the floor.
4. Each dwelling unit within the structure shall be equipped with the required number of smoke alarms as required in section 704.2. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.
5. One portable fire extinguisher, with a minimum rating of 1-A:10-B:C, shall be required in each dwelling unit. Service personnel providing or conducting maintenance on portable fire extinguishers shall possess a valid certificate issued by an approved governmental agency, or other approved organization for the type of work performed.
6. Existing fire detection, alarm, and extinguishing systems shall be maintained in an operative condition at all times, and shall be replaced or repaired where defective.

Other Considerations

Vice-Mayor Amyx requested information related to the nature of complaints/violations for the non-RS complaints noted in the February 7, 2013 memo for the year 2012. Thirty-four (34) complaints in non-RS districts were processed that year. Nineteen (19) of the complaints were related to a trailer park in North Lawrence. The below list summarizes the violations noted of the fifteen (15) non-trailer park complaints.

- Broken staircase banister - Oread neighborhood
- Thermostat not working – apartment complex
- Dryer vent either clogged or not vented properly - apartment complex
- Roof leaks in 3 different apartments under one case (could have had two more cases opened) – apartment complex
- Water leak with mold, fire extinguisher out of date, exterior lights not working – apartment complex
- Water leak – apartment complex with individually owned units
- Mold like fungus in bedroom – apartment complex
- Rotted boards, leaks, inoperable stove, walls separating, soft floor, no smoke detectors, no fire extinguisher, rotted trim, paint needed, - old house
- Water leak, no smoke detectors – four-plex apartment building
- Multiple leaks, floor rot, mold in several places - mobile home
- 2 windows leaking water and mold due to leaks – apartment complex
- Clogged drains completely backed up, missing numerous cover plates for electrical outlets – multi-dwelling unit structures
- Air leaks at door, inoperable toilet, inoperable window, missing multiple smoke detectors, missing handrail – duplex structure
- Window leaks, wet basement, mold on sheetrock, etc. - duplex structure
- No lighting in hallway, missing handrail, damaged door frame, broken door handle, leak, wood rot, moldy vents, no smoke detectors, exposed electrical wiring - triplex structure

Action Requested

Adopt Ordinance No. 8840, if appropriate.