

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 190935

Amending various sections of Chapter 2, "Administration," Chapter 34, "Health and Sanitation," Chapter 38 "Human Relations", and Chapter 78, "Water," of the Code of Ordinances for the purposes of creating a Rental Housing Assistance Operating Unit, modifying healthy homes enforcement, expanding housing discrimination enforcement, and authorizing the request for water usage reports; and amending the Code of Ordinances by enacting a new Chapter 35, "Housing," which sets out the responsibilities of the Rental Housing Assistance Operating Unit.

WHEREAS, City Council recognizes that the lack of access to safe, stable and affordable housing has significant negative impacts on the health and safety of Kansas City residents; and

WHEREAS, forty-six percent of Kansas City residents live in housing that is not owner-occupied, and the City of Kansas City recognizes the need to protect their welfare by ensuring that they have knowledge of and access to applicable legal processes that protect their rights; and

WHEREAS, the health and safety of those residents must be protected with comprehensive and enforceable standards for rental housing; and

WHEREAS, the City Council desires to establish uniform standards for the conditions in rental housing; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 2, Code of Ordinances of the City of Kansas City, Missouri, "Administration," is hereby amended by repealing Section 2-525, Division of housing and community development, and enacting in lieu thereof a new section of like number and subject matter, to read as follows:

Sec. 2-525. Division of housing and community development.

The division of housing and community development shall be supervised by the director and will be comprised of six operating units: planning and special projects; project implementation; human services; housing rehabilitation and repair; rental housing assistance; and fund management and compliance monitoring. Generally, the division shall be responsible for the planning and preparation of the grant application for the city's participation in the federal community development block grant program, HOME investment partnership program, emergency solutions grant program and housing opportunities for persons with AIDS program, in cooperation with the health department, and the implementation and maintenance of administrative procedures for the management and monitoring of program operations conducted with funds received through these grant programs; serving as the principal contact with the federal government for all matters pertaining to planning and implementation of these grant programs; educating and assisting residents regarding the rules and processes related to

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healthy and safe living conditions for residential rental housing; and developing and administering programs to increase new housing.

Section 2. That Chapter 34, Code of Ordinances of the City of Kansas City, Missouri, "Health and Sanitation," is hereby amended by repealing Sections 34-831, 34-848, 34-861, 34-863, 34-865, 34-866, and 34-868, and enacting in lieu thereof new sections of like numbers and subject matters; and enacting new Sections 34-848.1, 34-848.2, and 34-869, to read as follows:

Sec. 34-831. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Direct family member means one's child, grandchild, mother, father, sibling, mother-in-law, father-in-law, grandparent, or the step equivalent of each of those.

Director means the director of health.

Hazardous area means areas of structures or buildings posing a degree of hazard greater than normal to the general occupancy of a building or structure, such as areas used for the storage or use of combustibles or flammable, toxic, noxious or corrosive materials, or heat-producing appliances.

Health hazard violation means a violation when in noncompliance, is more likely than other violations to contribute to injury, illness, or environmental health hazards.

Non-health hazard violation means a violation that poses a lesser threat to health and safety, but negatively affects health, and if left unaddressed, could become a health hazard violation.

Offer to rent means to extend an offer to enter into a written or oral agreement with a prospective tenant under which the prospective tenant shall occupy rental property as the tenant's residence.

Owner means any person not a tenant who, acting alone or jointly or severally with others:

- (1) Has legal title to any building or structure with or without accompanying actual possession thereof;
- (2) Has charge, care or control of any building or structure or part thereof as agent or personal representative of the person having legal title to the building or structure of part thereof; or
- (3) Is an agent or designee of a person listed in subsections 1 or 2 herein.

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Permit means a permit issued by the director for making an offer to rent to a prospective tenant or owning, operating or managing rental property. The terms "permit" and "rental permit" are used interchangeably.

Permit holder means a person who is responsible for the operation of the rental property, such as the owner or the owner's agent, and who possesses a valid permit to operate a rental property.

Person means an association, corporation, individual, firm, partnership, other legal entity, government, governmental subdivision or agency.

Re-inspection means an inspection conducted by the director to ensure corrective action is taken by fee permit holder subsequent to a previous inspection where noncompliance or violations of this article were found.

Rental property means a structure which consists of one or more rental units, where none of the tenants are owners or direct family members of owners. Duplexes in which one of the rental units is owner-occupied and rental units within an owner-occupied, single-family dwelling that is in compliance with the city's zoning codes shall not be considered rental property.

Rental unit means a rental property or part of a rental property used as a home, residence, or sleeping unit by a single person or household unit, or any grounds, or other facilities or area promised for the use of a tenant and includes, but without limitation, apartment units, boarding houses, rooming houses, mobile home spaces, and single and two-family dwellings.

Tenant means:

- (1) A person, not the legal owner, occupying a building or portion thereof as a rental unit; or
- (2) For purposes of this article, a purchaser under a contract for deed, rent-to-own agreement, or comparable executory agreement, where the purchaser resides in the premises and is not the legal owner of record, unless any such instrument or affidavit of equitable interest which specifically identifies the instrument is properly executed and filed of record with the recorder of deeds for the applicable county and a file stamped copy thereof, along with a copy of the referenced instrument, is provided to the director.

Utilities means all services necessary for a property to have lawful heat, lighting, wastewater, and potable hot and cold water, in accordance with habitability standards.

DIVISION 3. INSPECTION AND ENFORCEMENT

Sec. 34-848. Complaint by tenants; retaliation prohibited.

(a) In an attempt to provide an opportunity for corrective action to occur without the initiation of a field investigation, unless there are allegations of health hazardous conditions, the director may request a complainant to first communicate concerns to the owner, permit holder or designated management.

(b) The director is given discretion to consider instances where the tenant is the obvious source of damage or reoccurrence of issues in determining whether to conduct a re-inspection or to charge the permit holder for a re-inspection.

(c) Retaliation prohibited.

(1) No person shall file an action for eviction or fail to renew a lease or alter the terms of a lease because the occupant has reported a violation of this article or a related provision of the city Code to the director, to another city employee or to any other person, or because the occupant has sought to organize or participate in a tenants' association or collectively bargain with the property owner.

(2) No person shall cause any service, facility, equipment or utility required under this article to be removed, shut off or discontinued in retaliation for making a complaint, participating in a tenant's association, or bargaining collectively.

(3) No person shall charge or demand reimbursement of any fees arising from this article, including late fees, annual permit review fees and re-inspection fees, to a tenant. The passing of fees from an owner or permit holder to a tenant shall be considered retaliation.

(d) If the director finds violations during a complaint investigation, a re-inspection may be required to ensure collective action is taken and violations no longer exist.

(e) It shall be considered a violation of this article for a permit holder to include in any lease a term which seeks to waive any right or protection furnished to the tenant under this article.

Sec. 34-848.1 Prohibitions.

(a) No owner shall commit any act of housing discrimination, as described in Section 38-105 of this code.

(b) For all residential leases and rental agreements first entered into after the effective date of this ordinance, no owner shall require a security deposit or any deposit of money or property, however denominated, which is furnished by a tenant to a property owner to secure the performance of any part of the rental agreement, including damages

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to a unit, that exceeds the amount of two months' rent charged to the tenant for that residential unit. Such payment shall only be charged once.

- (c) An owner shall not enter the tenant's premises unless:
 - (1) the tenant gives written consent; or
 - (2) during reasonable hours, after giving notice to the tenant not less than twenty-four hours in advance and attempting to coordinate with the tenant to schedule a mutually acceptable time. Such notice shall specify the date and time of intended entry, the identity of the person or persons to enter, and the reason therefore.

The owner shall enter the premises only in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers or contractors; except that the owner may enter the dwelling unit without notice to the tenant in case of an extreme hazard involving the potential loss of life, property damage, ongoing criminal activity or in the case of tenant abandonment as determined by state law. The owner shall not abuse the right of access or use it to harass the tenant.

(d) No owner shall refuse to accept and acknowledge receipt of a tenant's lawful rent payment.

(e) No owner shall harass a tenant, as defined in Section 50-159.

(f) No owner shall violate Chapters 441, 534 or 535 RSMo.

Sec. 34-848.2. Disclosure to Tenants.

Before entering into a contract to rent a residential property the owner shall furnish to each tenant:

- (a) For every utility provider used to service a dwelling unit, the phone number that a perspective tenant may use to obtain a summary or statement of past utility usage. Upon request, the owner shall provide their consent and any facilitation necessary for the tenant to access the utility history.
- (b) A written description of all notices of deficiencies and citations issued to the owner of the property of which the rental unit is a part during the prior twenty-four months under Chapter 34, Chapter 48 and Chapter 56 and of any other deficiencies prohibited under these chapters existing at the time of the notice of which the landlord is aware.
- (c) A copy of the tenants bill of rights as published by the Rental Housing Assistance Unit under Section 35-10, also available on the city website.

Sec. 34-861. Appeals; permit suspension or revocation.

Appeal request. A permit holder whose permit has been suspended or revoked, or whose property has been ordered vacated, may appeal the director's decision within thirty calendar days following the notice to vacate or of suspension or revocation of a permit to the rental housing appeal board. If a request for an appeal is not filed by the permit holder within the thirty day period, the action or order is final.

Sec. 34-863. Violations generally; penalty; failure to obtain permit or renew.

- (a) Any person violating any provision of this article, the rules and regulations of the director, or the conditions and requirements contained in the permit, as any or all of such provisions, rules, regulations, conditions or requirements may be amended, shall be deemed guilty of an ordinance violation, and upon conviction thereof shall be punished as provided in section 34-864. Such violations apply to actions or inactions taken by the owner, permit holder, their agents, designees or employees.
- (b) Failure of any person to obtain a permit or keep the permit in force and effect by proper renewal thereof, where a permit is required, shall constitute a violation of this article.

Sec. 34-865. Judicial remedy.

The director may seek a judicial remedy to achieve compliance with the provisions of this Code.

Sec. 34-866. Notices; how served.

A notice issued in accordance with this article shall be considered to be properly served if it is served by one of the following methods: (1) The notice is personally served by the director, a law enforcement officer, or a person authorized to serve a civil process to the permit holder or the tenant, (2) For notice to the owner, notice shall be deemed sufficient if sent by first class mail to the owner at the address specified in the last permit application filed under this article. If the owner lacks a required permit under this article, notice is deemed sufficient if sent by first class mail to the person listed on applicable county records for purposes of paying property taxes on the subject rental property, to an officer of a corporation, to a person in charge of owner's local business office, or to a registered agent or any other agent authorized by appointment or required by law to receive service of process; or (3) For notice to the tenant, notice shall be deemed sufficient if sent by first class mail to the tenant, whether by name or by the term "occupant."

Sec. 34-868. Rental housing appeal board.

- (a) There is hereby established a rental housing appeal board with the following powers and duties:

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- (1) to hear appeals of orders and actions of the director taken in enforcement of this article.
- (2) to conduct hearings required for duties, including the authority to grant extensions of time and continuances, to administer oaths and affirmations, to issue subpoenas compelling the presence of witnesses and production of evidence, to cause all hearings to be suitably recorded, and to render its decision in writing.
- (3) to advise the director on the processes undertaken by the healthy rental homes inspection program including, but not limited to, regulations, and code revisions.

(b) The board members shall be appointed by the mayor for terms of two years and shall include: a representative of the rental housing industry, a member representing tenants, a representative of a local neighborhood association, and four members at large. The mayor may remove members upon written notice. Each member shall have been a resident of the city for at least one year prior to appointment.

(c) The board is hereby authorized to establish its own rules and regulations to implement this charge.

(d) The board shall conduct business as promptly and efficiently as is possible without compromising any rights of the parties.

(e) The method of judicial review of any decision of the board shall be as provided in Chapter 536 RSMo.

Sec. 34-869. Costs of emergency housing and relocation assistance.

In the event the director orders a property or areas of violation to be vacated, locked or secured, the director may provide emergency housing and relocation assistance to qualified tenants whose incomes are so low as to prevent them from accessing affordable relocation options, as determined by the director, including payments for:

- (a) The relocation of the tenant to appropriate accommodations for a term not exceeding three months;
- (b) The moving and storage of personal property for a term not exceeding three months;
- (c) Rental application fees, security deposits and utility deposits;
- (d) The first month's rent; and
- (e) Delinquent rent, late fees, and utility bills, for a term not exceeding three months.

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Section 3. That the Code of Ordinances is hereby amended by enacting a new chapter, Chapter 35, "Housing," to read as follows:

ARTICLE I. IN GENERAL.

Sec. 35-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Department means the department of neighborhoods and housing services

Director means director of the neighborhoods and housing services department

Owner means a person who (1) has legal title to any building or structure with or without accompanying actual possession thereof; (2) has charge, care or control of any building or structure or part thereof as agent or personal representative of the person having legal title to the building or structure of part thereof; or (3) Is an agent or designee of a person listed in subsections 1 or 2 herein.

Person means any natural person or legal entity including a partnership, corporation, limited liability corporation, trust, or like entity.

Tenant means a tenant, subtenant, lessee, sublessee, or other who is person entitled to the possession, occupancy or benefits of a rental unit within a housing accommodation.

ARTICLE II. RENTAL HOUSING ASSISTANCE OPERATING UNIT

Sec. 35-10. Duties of the Rental Housing Assistance Unit

The Rental Housing Assistance Unit shall provide the following services to residents of Kansas City whose incomes are so low as to prevent them from accessing affordable rental housing assistance, as determined by the director:

(a) Provide education and outreach to the community—in an accessible fashion—about laws, rules, and other policy matters, including but not limited to, the rights of tenants to safe and quality housing and owners' and tenants' rights to organize and form owner and tenant organizations, and their rights to representation prior to adversarial processes;

(b) Provide information about resources that may be available for legal representation and other assistance regarding rental housing;

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(c) Educate the community regarding the processes and regulations related to residential rental housing, including the city's Healthy Homes program, Article XIX of Chapter 34, and housing discrimination program, Section 38-105.

(d) Operate a Rental Housing Hotline and Rental Housing Center; and

(e) Publish a tenants bill of rights, which shall be updated semi-annually, or more frequently as needed when relevant laws are adopted or amended.

Sec. 35-11. Annual Report

The Rental Housing Assistance Division shall provide an annual report to the City Council on or before September 30 of each year setting forth for the prior fiscal year:

- (1) each request for assistance; and
- (2) an enumeration and analysis of inquiries made to the Rental Housing Hotline and Rental Housing Center.

Section 4. That Chapter 38, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 38-105 and enacting in lieu thereof a new section of like number and subject matter, to read as follows:

Sec. 38-105. Housing.

(a) It is the policy of the city to provide, within constitutional limitations, for fair housing throughout the corporate limits of the city.

(b) Within this section "protected trait" shall mean actual or perceived race, color, religion, national origin, sex, mental or physical disability, marital status, familial status, age sexual orientation or gender identity, gender expression, ethnic background, or being a victim of domestic violence, sexual assault or stalking.

(c) If the director finds probable cause of a violation of this section, the director shall notify the director of health of the violation and assist the director of health in any related investigation, in addition to pursuing any enforcement authorized by Chapter 213 RSMo.

(d) The following discriminatory housing practices shall be unlawful:

- (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of property offered for sale or rental, or otherwise make unavailable or deny a dwelling to any person, because of a protected trait.
- (2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of a protected trait.

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- (3) To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference or limitation based on a protected trait or an intention to make any such preference, limitation, or discrimination.
- (4) To represent to any person, because of a protected trait, that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- (5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of persons of a particular protected trait.
- (6) For a person in the business of insuring against hazards to refuse to enter into or discriminate in the terms, conditions or privileges of a contract of insurance against hazards to a dwelling because of a protected trait pertaining to persons owning or residing in or near the dwelling.
- (7) To discriminate in the sale or rental or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of:
 - a. That buyer or renter;
 - b. A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or
 - c. Any person associated with that buyer or renter.
- (8) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:
 - a. That person;
 - b. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
 - c. Any person associated with that person.
- (9) To sexually harass a property owner or tenant;
- (10) To refuse to rent or to make any distinction or restriction for the rental of a dwelling unit solely because of the type of reasonably verifiable and lawful source of income. As used in this section, lawful source of income shall mean the lawful manner by which an individual supports themselves or their dependents, including but not limited to pay, child support payments,

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and rental assistance from a federal, state, local or nonprofit-administered benefit or subsidy program. In no event shall an owner be compelled to participate in an otherwise voluntary benefit or subsidy program.

(e) While a person may examine a criminal background check or rental history in reviewing an application for rental housing, the person shall review additional information provided by the rental applicant, including, but not limited to, personal references, recency and severity of any convictions, recency and status of any evictions, and any actions taken by the rental applicant to resolve past evictions.

(f) For purposes of this section, the term "discrimination" includes:

- (1) A refusal to permit at the expense of the disabled person reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
- (2) A refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or
- (3) In connection with the design and construction of covered multifamily dwellings for first occupancy, a failure to design and construct those dwellings in a manner that:
 - a. The public and common use portions of such dwellings are readily accessible to and usable by disabled persons. This shall include at least one building entrance on an accessible route unless it is impracticable to do so because of the terrain or unusual characteristics of the site;
 - b. All doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
 - c. All premises within such dwellings contain the following features of adaptive design:
 1. An accessible route into and through the dwelling;
 2. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

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3. Reinforcements in bathroom walls to allow later installation of grab bars; and
4. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled persons, commonly cited as ANSI A117.1, suffices to satisfy that the requirements of subsection (b)(3)a of this section are met.

- (4) For purposes of subsections (a)(7) and (8) of this section, discrimination includes any act that would be discrimination under 42 USC 3604(f)(3) through (9).

(g) Nothing in this section shall apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner actually maintains or occupies one of such living quarters as the owner's residence, and if the dwelling contains any rooms, except hallways, which are shared by the families or the owner.

(h) Nothing in this section shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from discriminating in the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose on the basis of religion, sexual orientation or gender identity, or from giving preference to persons on those bases.

Section 5. That Chapter 78, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 78-12, Bills for metered water service, and enacting in lieu thereof a new section of like number and subject matter to read as follows:

Sec. 78-12. Bills for metered water service.

(a) Bills for metered water service shall be mailed to the service address or upon request by the accountholder to another location. The bill shall include:

- (1) The meter readings showing the amount of water used and its cost;
- (2) The last meter reading date and days of service;
- (3) All bills are due and payable on the billing date; and
- (4) The delinquent date, which shall be not less than ten days after the billing date.

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(b) In accordance with the Sections 610.010- 610.225 RSMo., upon request of an owner occupant, prospective owner or tenant, of a residential property connected to the city's water or sanitary system, the water services department shall provide a report showing the amounts billed for water and sanitary sewer service for the preceding 12 months.

Section 6. This ordinance shall become effective June 1, 2020.

Section 7. If any provision of this ordinance shall be determined to be unenforceable, invalid, or illegal under the law, it shall be regarded as stricken while the remainder of this ordinance shall continue to be in full effect.

Approved as to form and legality:

Emalea Black
Assistant City Attorney