

THIRD MOTION BY COUNCILMEMBER GRAY

I hereby move that Ordinance No. 41767 on the April 9, 2019 Agenda of the City Council, be amended in the whole by deleting it in its entirety and substituting, in lieu thereof, the attached Ordinance, with additions shown with underlining and deletions shown with strike-throughs:

ORDINANCE NO. _____

1 AN ORDINANCE to adopt a new Article II of Chapter 48 of the Omaha Municipal Code, entitled
2 "Rental Property Registration and Inspection"; to provide for the required registration of
3 all residential rental properties; to provide for a program of annual or ten-year
4 inspections of all residential rental properties ~~in phases~~; and to provide the effective date
5 thereof.

6 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

7 Section 1. The Omaha Municipal Code is amended by adding a new Article II to
8 Chapter 48, consisting of new sections 48-201 through 48-209, reading as follows:

9 **Article II. Rental Property Registration and Inspection.**

10 **Sec. 48-201. – Findings and purpose.**

11 (a) The city council makes the following findings:

12 (1) A significant portion of residential rental properties within the city are not being
13 properly maintained as required under this Code. Residential rental properties
14 comprise a disproportionate number of property maintenance cases for the
15 code enforcement section of the planning department. Repeat offenders also
16 comprise a disproportionate number of the cases. Recent cases involving
17 severe violations and resulting vacation orders have illuminated these
18 problems.

19
20 (2) Residential rental properties pose unique problems for the enforcement of
21 property maintenance rules. Contributing to these problems are: the transitory
22 nature and inexperience of the tenants; tenant reluctance or fear to complain
23 about housing conditions; lack of attention by non-occupying owners; and
24 difficulties in identifying, and holding accountable, owners or local
25 representatives of owners.

- (3) There is an increasing need to properly identify and contact owners and local representatives of owners of residential rental properties in violation of the code. Enrollment of a rental property in the registration program will help the city establish the location of rental properties and rental dwellings, and develop rental inventory information for future planning purposes. This will help the city to gauge fluctuations in the number of rental dwellings over time, which will help plan for its growth or reduction, and manage situations like the foreclosure crisis.
- (4) There is also an increasing need for the regular inspection of all residential rental properties, phased in accordance with their history of code violations.
- (5) Code violations and deteriorating conditions of residential rental properties are harmful to the health and welfare of the city and its citizens, particularly the occupants of such properties. Such violations and conditions negatively impact the appearance, health, safety, and property tax base of the city.
- (6) Said problems may be addressed by the requirement of registration of all residential rental properties. They may also be addressed by the implementation of a regular inspection, phased in accordance with the history of code violations on the property. They may also be addressed by the education of owners and tenants, regarding property maintenance and rental rights and duties.
- (7) Similar programs have been implemented in other cities, with success in addressing similar problems.
- (8) The fees set forth in this article are reasonable in amount, and are based on and do not exceed the city's related cost of implementing the programs provided in this article.

(b) Based on the foregoing, the city council has determined that it is necessary, desirable, appropriate and in the public interest to implement uniform residential rental property registration, and a regular inspection program that is phased in accordance with the history of code violations on each property. The purpose of these programs is to address the issue of substandard rental properties, promote greater compliance with health and safety standards, and preserve the quality of the city's neighborhoods and available housing. The programs are expected to achieve greater compliance with health, safety, and welfare Code provisions, the violation of which are a threat to the occupants' safety, structural integrity of the building, and a negative impact on the surrounding neighborhoods. The intent of these programs includes (1) promoting the health, safety, and welfare of the persons living in and near residential rental properties; (2) preserving the existing housing supply in neighborhoods; (3) helping to maintain property values for the city's tax base; (4) working toward preventing or eliminating substandard and deteriorating rental housing; and (5) maintaining a living environment that contributes to healthful individual and family living.

Sec. 48-202. – Applicability.

1 This article applies to all rental properties within the corporate limits of the city or within
2 the city's three-mile extraterritorial jurisdiction.

3
4 **Sec. 48-203. – Definitions.**

5
6 For the purpose of this article the following definitions shall apply unless the context
7 clearly indicates or requires a different meaning. Other terms used in this article and not
8 expressly defined herein, but defined elsewhere in this Code, shall have the meaning as
9 set forth in the Code, unless otherwise provided by the context.

10
11 “Annual inspection” shall mean the inspection required under this article on an annual
12 basis.

13
14 “Code” or “this Code” shall mean the Omaha Municipal Code.

15
16 “Code official” shall mean the structural superintendent of the permits and inspections
17 division of the planning department, or his or her authorized designees.

18
19 “Inspection” shall mean an on-site examination of a rental property or rental dwelling
20 under this article.

21
22 “IPMC” shall mean the International Property Maintenance Code, published by the
23 International Code Council (ICC), as from time to time adopted, amended, or
24 superseded by the City, and as incorporated in chapter 48 of this Code. The terms of the
25 IPMC are incorporated herein by this reference.

26
27 “Person” shall mean any individual, corporation, partnership, limited liability company,
28 trust or any other entity or association.

29
30 “Property manager” shall mean a person responsible for the management of the rental
31 property other than the property owner. A property manager shall be deemed to be an
32 agent to act on behalf of and bind the property owner in all matters arising out of or
33 under this article, except to the extent such authority shall be expressly limited as
34 provided in writing to the code official.

35
36 “Property owner” shall mean any person holding legal title to a rental property as
37 recorded with the Douglas County register of deeds, or otherwise having control of the
38 rental property as heir, assignee, guardian, conservator, receiver, trustee, executor,
39 administrator or other similar representative capacity of any such person or his or her
40 estate, to the extent proof of such control is presented to the satisfaction of the code
41 official; provided, however, that the term property owner does not include any person
42 whose only interest in a rental property is as a tenant pursuant to a lease.

43
44 “Registration,” or “register,” shall mean the filing of a registration of a rental property,
45 with the permits and inspections division of the city, as required by this article.

46
47 “Rental dwelling” shall mean one or more rooms for lease in an enclosed structure
48 arranged, designed, and intended for use as a residence or living quarters for shelter,
49 cooking, eating, sanitation and/or sleeping by one or more persons who are not its
50 owners for a duration longer than 30 days and contained within a rental property as
51 defined herein. In the case of a building containing multiple rental dwellings, each

1 separately identifiable unit for lease shall constitute a rental dwelling separate from all
2 other rental dwellings. For purposes of this article only, this definition of a rental dwelling
3 shall not include assisted living, convalescent services, and hotels and motels, as
4 defined by chapter 55 of this Code.

5
6 “Rental property” shall mean a lot or other parcel of real property with a separate and
7 distinct number or other designation shown on a plat, record of survey, parcel map, or
8 subdivision map recorded in the county register of deeds, and which contains one or
9 more rental dwellings leased or available for lease for occupancy.

10
11 “Ten-year inspection” shall mean the inspection required under this article once every
12 ten years.

13
14 ~~“Three-year inspection” shall mean the inspection required under this article once every~~
15 ~~three years.~~

16
17 “Transfer” shall mean when a property owner sells, gives or disposes ownership interest
18 of all or any part of a rental property to any other person; or when ownership of all or any
19 part of a rental property is in any other manner voluntarily or involuntarily transferred or
20 conveyed to any other person.

21
22 **Sec. 48-204. – Registration.**

23
24 (a) *Registration required.* It shall be unlawful for any person to offer for lease, lease, or
25 continue to lease a rental dwelling to any other person unless the rental property
26 containing the rental dwelling has been registered as such under this article with the
27 permits and inspections division.

28
29 (b) *Duration of registration.* A registration under this article shall be in effect until the
30 property owner transfers the rental property.

31
32 (c) *Ongoing compliance required.* To maintain a registration in effect requires ongoing
33 compliance with applicable requirements of this article and other laws, rules and
34 regulations during the duration of the registration, including ongoing compliance
35 with the IPMC and other requirements that are the subject of periodic inspections
36 hereunder or under other applicable laws, rules, or regulations. Any deficiency or
37 failure to comply shall be subject to such actions, orders, rights and remedies of the
38 code official as set forth in this article, the IPMC or other applicable laws, rules or
39 regulations as enacted or amended from time to time, up to and including issuance
40 of notices or orders under chapter 48 or other applicable chapters of this Code,
41 charges, and issuance or assessment of citations, fines, penalties and/or criminal
42 prosecutions, all of which shall be carried out in accordance with applicable law.

43
44 ~~(d) *Exemptions.* The following rental properties shall be exempt from the registration~~
45 ~~requirements of this article:~~

46
47 ~~(1) Rental properties owned or managed by the Omaha Housing Authority;~~

48
49 ~~(2) Rental properties currently rented under a voucher or other rental assistance~~
50 ~~program under section 8 of the federal Housing Act of 1937;~~

1 ~~(3) Rental properties currently rented under the federal low-income housing tax~~
2 ~~credit program;~~

3
4 ~~(4) Rental properties built within the last five years. Once such a rental property is~~
5 ~~older than five years, it shall be inspected and placed on the appropriate~~
6 ~~inspection list.~~

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8
9 **Sec. 48-205. – Registration application.**

10
11 (a) *Filing.* An application for the registration for a rental property shall be filed with the
12 permits and inspections division of the city. ~~Application under this article shall be~~
13 ~~accompanied by any applicable registration late fees as described in this section.~~

14
15 (b) *Deadlines.*

16
17 (1) Registration for a rental property newly completed or converted to a rental
18 property after the effective date of this article shall be filed prior to the issuance
19 of a final certificate of occupancy or final building code approval, except as
20 further allowed by subsection (b)(2) below. Registration for a rental property
21 newly converted to a rental property after the effective date of this article shall
22 be filed prior to residential occupancy, except as further allowed by subsection
23 (b)(2) below.

24
25 (2) During the first year that this article is in effect, all rental properties requiring
26 registration shall be duly registered within 90 days of the effective date of this
27 article.

28
29 (3) In the event that any of the information in the registration application changes,
30 the property owner shall file a revised registration application containing the
31 change, within 30 days after the change becomes effective.

32
33 (4) In the event a property owner transfers a rental property, and the subject
34 property remains a rental property, the new property owner shall file a properly
35 completed application for a new registration of that rental property within 30
36 days after the transfer. The new property owner shall take all actions as and
37 when required to renew the registration and maintain it in effect, including
38 paying any fees and other amounts specified in this article. A registration shall
39 not be transferred from one rental property or dwelling to another.

40
41 (c) *Application form.* Application for registration shall be made on such application form
42 and in such manner as determined from time to time by the code official and include
43 the following information:

44
45 (1) Name, street address, telephone number, e-mail address (if applicable), and
46 identification of the type of entity, if any, of the property owner of the rental
47 property;

48
49 (2) If different than subsection (c)(1) above, name, street address, telephone
50 number, e-mail address (if applicable), and identification of the type of entity, if
51 any, of the local property manager of the rental property;

- 1
2 (3) Name, street address, telephone number, and e-mail address (if applicable) of
3 any other alternate contact person acting on behalf of the property owner;
4
5 (4) Identity of the rental property, including parcel number, physical street address
6 or addresses, and full mailing address if different;
7
8 (5) Number of separate rental dwelling units on the rental property;
9
10 (6) Such other information as the code official from time to time determines
11 necessary in accordance with the purpose and intent of this article.
12

13 (d) *Fees.* There shall be no fee for the timely filing of a registration application. ~~If a~~
14 ~~registration is required for a rental property under this article and the city does not~~
15 ~~receive a properly completed application within 90 days after the required filing date~~
16 ~~for said registration as provided in this article, an additional administrative process~~
17 ~~late fee of \$500 per rental property shall be paid by the property owner with the~~
18 ~~application.~~
19

20 (e) *Certificate.* Upon compliance with the registration requirements of this article, the
21 permits and inspections division shall issue a certificate of registration for the rental
22 property applied for.
23

24 **Sec. 48-206. Inspection program.**

25
26 (a) The following rental properties shall be subject to the city's annual inspection
27 program, shall be placed on the city's annual inspection list, and shall be inspected
28 on an annual basis, commencing immediately after placement on such list:
29

30 (1) A rental property which has or has had a code violation that was the subject of
31 a notice of violation within the three years prior to the effective date of this
32 article, and was not remedied within the time period allowed in the notice of
33 violation and any time extension granted under chapter 48 of this Code.
34

35 (2) A rental property with a code violation that was not remedied within the time
36 period allowed in the notice of violation and any time extension granted under
37 chapter 48 of this Code.
38

39 (3) A rental property for which registration is required, but is not registered in a
40 timely manner as required by section 48-205 of this Code.
41

42 (b) Any rental property which is not placed on the annual inspection list shall be placed
43 on a ~~threeten~~-year inspection list. A rental property on the ten-year inspection list
44 shall be subject to periodic inspection under this article once during the ten year
45 period commencing on the effective date of this article, and shall be subject to
46 periodic inspection once every ten years thereafter. ~~and receive an initial three-year~~
47 ~~exemption from periodic inspections under this article. After the initial three-year~~
48 ~~period, such rental property shall be placed on a three-year inspection list and shall~~
49 ~~be subject to an inspection every three years. Such three-year inspections shall~~
50 ~~commence three years after the effective date of this article.~~
51

- 1 (c) The code official shall schedule the first required annual inspection of a rental
2 property as soon as is practicable. The code official shall thereafter schedule annual
3 and ~~thirteen~~-year inspections as required by this section. At least fourteen days
4 advance written notice of the date and time of an inspection shall be provided to the
5 property owner and tenant. The notice shall include a sample inspection checklist
6 and a form for the tenant to sign to consent to entry of the rental dwelling, if desired.
7 If either the owner or tenant of the relevant rental dwelling refuses to consent to an
8 inspection, the code official may obtain a warrant or other court order for the
9 inspection in accordance with applicable law, including, but not limited to, Neb. Rev.
10 Stat. sections 29-830 et seq. The city shall not penalize any tenant for a refusal of
11 inspection. The city shall not penalize the property owner or property manager if
12 the tenant refuses to consent. In the event that an inspection is not conducted
13 because a warrant or other court order cannot be obtained, the owner, manager,
14 and tenant of the rental property shall not be penalized by reason of such failure.
15
- 16 (d) If a rental property to be inspected contains single-family or duplex rental dwelling
17 units, all such single-family and duplex rental dwelling units shall be inspected. If a
18 rental property to be inspected contains multi-family rental dwelling units, the code
19 official may inspect a reasonably representative sample of at least 15% of such
20 rental dwelling units, in lieu of inspecting all of such units. In the event that more
21 than 20% of the multi-family rental dwelling units actually inspected are found to
22 have any code violations, then all remaining rental dwelling units on the rental
23 property shall be inspected.
24
- 25 (e) A rental property on the annual inspection list shall be inspected on an annual basis
26 every year, commencing immediately after being placed on such list. A rental
27 property on the ~~thirteen~~-year inspection list shall be inspected once every ~~three~~ ten
28 years, commencing three years upon its placement on the ten-year inspection list
29 after the effective date of this article. All inspections shall be performed by the code
30 official, or his or her delegate, or by the code enforcement division under the
31 general supervision of the code official. An inspection will be conducted to
32 determine if the rental property satisfies all applicable requirements of the IPMC and
33 other building-related codes or ordinances adopted or amended from time to time
34 by the city for the health, safety, and welfare of the persons living in and near rental
35 dwellings. The code official shall be authorized to take such actions as the code
36 official determines necessary or appropriate to implement, administer and carry out
37 the inspection requirements of this article, including, but not limited to, scheduling
38 inspections for the efficient use of city resources.
39
- 40 (f) If any code violation is found during an inspection under this article, the code official
41 shall issue to the property owner a notice of violation and any other appropriate
42 order under chapter 48 of this Code. The property owner shall be required to
43 remedy the code violation within the time period set forth in the notice of violation.
44
- 45 (g) To offset the cost of inspections under this article, the property owner of a rental
46 property shall pay to the city the following fees:
47
- 48 (1) \$125 for each annual inspection or ten-year inspection of each separate rental
49 dwelling or rental dwelling unit under this article;
50

1 ~~(2) \$125 for each re-inspection of each rental dwelling or rental dwelling unit which~~
2 ~~is re-inspected because of a code violation;~~

3
4 ~~(3) \$125 for each failure of the property owner or property manager to appear or~~
5 ~~allow entry at a rental property or dwelling for an inspection duly scheduled~~
6 ~~under this section, or to reschedule a missed scheduled inspection within~~
7 ~~seven calendar days of the scheduled date, unless such failure to inspect was~~
8 ~~due to the tenant's refusal to consent.~~

9
10 (h) A rental property on the annual inspection list may be removed from the annual
11 inspection list and be placed on the ~~three~~ten-year inspection list if the rental
12 property meets the following conditions:

13
14 (1) The rental property has not had any code violation within the two immediately
15 preceding years; and,

16
17 (2) The property owner successfully completes a rental property ownership
18 education course approved by the code official.

19
20 ~~(i) The following rental properties shall be exempt from the inspection requirements of~~
21 ~~this section:~~

22
23 ~~(1) Rental properties owned or managed by the Omaha Housing Authority;~~

24
25 ~~(2) Rental properties currently rented under a voucher or other rental assistance~~
26 ~~program under section 8 of the federal Housing Act of 1937;~~

27
28 ~~(3) Rental properties currently rented under the federal low-income housing tax~~
29 ~~credit program;~~

30
31 ~~(4) Rental properties built within the last five years. Once such a rental property is~~
32 ~~older than five years, it shall be inspected and placed on the appropriate~~
33 ~~inspection list.~~

34
35 ~~(j) Inspections provided under this article shall be in addition and supplemental to any~~
36 ~~other inspection or access authorized under applicable law. Inspections may also~~
37 ~~be conducted at other times as the code official determines necessary, including~~
38 ~~inspections initiated because of a complaint or other means outside of the~~
39 ~~inspection program of this article.~~

40
41 **Sec. 48-207. Education program.**

42
43 (a) Upon registration of a rental property under this article, the code official will provide
44 to the property owner and property manager a packet of educational information
45 regarding rental property ownership. The packet shall include at least the following
46 items, which shall be prepared by the code official:

47
48 (1) Tenant's rights form, a copy of which shall be given to each tenant upon
49 signing a written lease or otherwise commencing a lease relationship;

50
51 (2) Checklist of items that are common subjects of inspections;

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- (3) List of most common code violations;
- (4) List of items appropriate for self-inspection by the property owner or property manager; and
- (5) Example or copy of the sign required by subsection (b) below to be posted in each rental dwelling.

(b) The property owner or property manager shall post in each rental dwelling a durable sign, at least 120 square inches in size and in a conspicuous location, stating (1) the phone number of the property owner or property manager for the rental dwelling, and (2) the phone number of the city code enforcement division.

Sec. 48-208. Enforcement and appeal.

It shall be unlawful for any person to violate any provision of this article. Violations of this article may be prosecuted pursuant to section 48-53, or pursuant to any other criminal or civil process provided by law or equity. All rights and remedies provided in this article shall be nonexclusive and cumulative of all other rights and remedies available at law or in equity, including, but not limited to, chapter 48 of this Code and the IPMC. Any person aggrieved by any decision or order by the city under this article may appeal the same to the property maintenance appeals board in the manner provided in chapter 48 of this Code.

Sec. 48-209. Severability.

If any section, sentence, clause, phrase, word or other portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portions of this article.

Section 2. This Ordinance shall be in full force and take effect ~~fifteen days from and~~ after the date of its passage on January 1, 2020.

APPROVED AS TO FORM:

 DEPUTY CITY ATTORNEY DATE