



*AGENDA
CITY COUNCIL SPECIAL MEETING
COUNCIL CHAMBERS – HUTCHINSON, KANSAS
JUNE 2, 2016
8:00 A.M.*

1. ROLL CALL

Piros de Carvalho ____ Soldner ____ Inskeep ____ Dechant ____ Daveline ____

2. NEW BUSINESS

a. Consider ***Rental Registration and Inspection Program Amendment Options.***

Action – Motion to ***accept and approve/amend and approve/return to the Housing Commission*** the recommendation of the Housing Commission to make the amendments to the City’s Rental Registration and Inspection Program Ordinance to:

1. Require mandatory exterior inspections for all rentals and interior inspections for those rentals where the tenant given consent or the unit is vacant and the landlord gives consent.
2. Keep the current fee structure and use any surplus funds generated for education efforts, as well as for opening up applicable housing programs to landlord eligibility; and
3. Direct staff to prepare an ordinance reflecting said amendments for consideration June 21, 2016 or as soon thereafter as is feasible.

Motion _____ Second _____
Piros de Carvalho ____ Soldner ____ Inskeep ____ Dechant ____ Daveline ____

3. ADJOURNMENT

Motion _____ Second _____
Piros de Carvalho ____ Soldner ____ Inskeep ____ Dechant ____ Daveline ____



CITY COUNCIL AGENDA REPORT

DATE: May 26, 2016

SUBMITTED BY: Jana McCarron, AICP
Director of Planning & Development

Amy Denker, Housing Program Coordinator

Trent Maxwell, Chief Building Official

COUNCIL COMMUNICATION	
FOR MEETING OF	June 2, 2016
AGENDA ITEM	
FOR ACTION	
INFORMATION ONLY	

REQUEST: Case #16-HOU-18a
Rental Registration and Inspection Program Amendment Options

CITY COUNCIL ACTION REQUIRED:

Motion to (accept and approve/amend and approve/return to the Housing Commission) the recommendation of the Housing Commission to make amendments to the City’s Rental Registration and Inspection Program Ordinance to:

- 1) Require mandatory exterior inspections for all rentals and interior inspections for those rentals where the tenant gives consent or the unit is vacant and the landlord gives consent;
- 2) Keep the current fee structure and use any surplus funds generated for education efforts, as well as for opening up applicable housing programs to landlord eligibility; and
- 3) Direct staff to prepare an ordinance reflecting said amendments for consideration June 21, 2016 or as soon thereafter as is feasible.

HOUSING COMMISSION RECOMMENDATION:

The Hutchinson Housing Commission considered options for revising the City’s rental registration and inspection program regulations at a public meeting held on May 25, 2016 and recommended approval of Option 1 (Exhibit A) (for both inspections and registration), with the addition of expanded education efforts to the City Council by a vote of 4-3, with Commissioners Clark, Bleything, Kiblinger, and Gleason absent. Draft minutes of the meeting can be found at **Exhibit B**.

BACKGROUND:

Below is a brief history of the rental registration and inspection program:

- ✓ January 15, 2002 Housing Study called for Enacting a Rental Licensing and Inspection Program
- ✓ June 10, 2009 Housing Study called for Implementing a Rental Occupancy Permit or Rental Registration System (Includes Inspections)
- ✓ October 29, 2014 Housing Commission discussed Rental Registration Program & requested Joint Study Session with City Council
- ✓ December 9, 2014 Joint Housing Commission/City Council meeting held

✓	March 4, 2015	Housing Commission reviewed draft proposal from Staff
✓	March 11, 2015	City Council held Study Session to consider draft proposal
✓	March 16, 2015	City Staff met with Central Kansas Landlord's Association and presented proposal
✓	April 7, 2015	City Council approved a mandatory Rental Registration & Inspection Program
✓	April 9, 2015	Fair Housing Seminar held, including highlights of RRIP
✓	May 2015	Database of potential rentals developed by Planning Staff
✓	June 26, 2015	Initial contact with potential Landlords via letter and confirmation of rental units requested
✓	July 21, 2015	RRIP amended to exempt units offered for "Let", including those with family members where no rent is paid
✓	Nov. 6 & 7, 2015	IPMC Workshop held
✓	Nov. 19, 2015	Invoices sent to all landlords
✓	January 4, 2016	Rental inspections begin
✓	January 19, 2016	City Council considered amendment request from Matt Catanese to exempt certain rental units (tax credit & low income) from program. Council voted against the amendment.
✓	February 15, 2016	HB 2665 introduced, prohibiting interior inspections
✓	March 31, 2016	Deadline to register rental units without penalties
✓	May 9, 2016	HB 2665 tacked onto SB 366, along with other measures. Interior inspections prohibited without tenant consent. Bill approved by both houses and forwarded to the Governor for signature
✓	May 17, 2016	Governor signed SB 366
✓	May 17, 2016	Staff advised City Council that our program needs to be amended, based upon State Statute changes. City Council requested: <ul style="list-style-type: none"> • Housing Commission recommendation (May 25, 2016)-See discussion above • Special City Council Meeting to consider options (June 2, 2016) • Ordinance amendments (tentative: June 21, 2016)

ANALYSIS:

Work to Date

Considerable Housing Commission, City Council and Staff time went into development of the City's existing ordinance, as well as into implementation of the program. Statistics as of the date of this report are as follows:

Inspections		Registrations	
Performed	266	Apartment Units	1,812
Partial Pass	5	Duplex/Triplex Units	1,142
Pass	261	Single Family Units + Other	2,527
Re-inspect Pass	100%	Exemptions	1,787
		Not Registered	277
		Total Registered	5,481

Of the properties identified as potential rentals, 96% have registered or have filed an exemption. This is a much higher participation rate than originally anticipated and the program has generated registration fees that exceeded projections. Please refer to the fee modification section of this report.

Goals of the Program

With the change in State Statute, the program requires amendment, as mandatory interior inspections are not permitted without tenant consent. The original goals of the program were:

- Correct and prevent housing conditions that adversely impact life, health, safety and general welfare of tenants and the surrounding area.
- Protect the quality, character, and stability of residential areas.
- Preserve the value of land and buildings and the local tax base.
- Reduce complaint-based inspections.
- Protect the public from increased criminal activity, which tends to occur in residential areas that are unstable, blighted or substandard.

Amendment Options

Staff prepared a number of possible options for amending the program, and has weighed these options in light of the above-listed goals. (See **Exhibit C**) Planning staff's original recommendation was for Option 2 (inspections). This recommendation was made largely based upon our experiences administering the registration side of the program and the amount of extra workload required for tracking exemptions and registrations. Our opinion was that tracking consent forms for interior inspections would involve a great deal of extra staff time and effort. Planning staff has since had the opportunity to visit this topic with Inspections staff. Inspections believes that tracking the consent forms will not pose an undue amount of work for them. The Housing Commission also favored Option 1, stating that even if we only get into 10% of the units, that's still 500 units that we know are safe.

Other Inspection Cities

Staff has contacted other cities in Kansas with interior inspection programs. See **Exhibit D**. Of those, Lawrence plans to continue operating their program as they have in the past, since theirs involves notification of and consent by the tenant. It should be noted that the City of Lawrence indicated that they have had a much higher participation rate under their tenant consent program than they thought they would. Wyandotte County has not determined how they will change their program, but indicated they intend to modify it rather than dissolving it.

Potential Fee Modification

Thus far, \$142,075.00 in fees have been generated by the program. Estimated program costs are included below:

Item	Type	Amount
Inspector Salary with Benefits	Ongoing	\$53,380
Inspector Setup (Computer, Vehicle, Office Equipment)	One-time	\$28,000
Mailings	Ongoing	\$8,000
Temporary Registration Assistant (Program Setup)	One-time	\$8,000
Temporary Registration Assistant Annual Registration	Ongoing	\$6,000
Training and Educational Seminars (Program Setup)	One-time	\$3,000
Training and Educational Seminars Annual	Ongoing	\$3,000
Total Expenses First Year	Ongoing + One-Time	\$109,380
Ongoing Annual Expenses Total	Ongoing	\$70,380

Fees collected for the initial registration year exceed estimated expenditures by \$32,695. Ongoing operational costs for the program are estimated at \$70,380 annually, including a modest educational component. This does not account for inflation or vehicle replacement.

If registration rates continue at 96%, the program would collect approximately \$71,695 more than expenses on an annual basis if the fee structure is unchanged. The Housing Commission recommendation was to keep the fees as is and use any additional fees collected toward education and marketing. There was some discussion that certain programs could be opened up for landlord eligibility. Staff has already made a recommendation to the Council (which was approved by the Housing Commission) as part of the 2017 Budget to allow landlords to be eligible for applicable program funding in feature neighborhoods (W Avenue A & Graber) and the Houston Whiteside Historic District.

If Option 1 (inspections) is selected, Council may elect to keep the fee structure on a per unit basis, since it is unknown which units will allow for entry and interior inspections and which ones will not. Due to the overage of fees collected, staff recommends a slight decrease in the fees charged for each unit (see Table 1 below). If Option 2 (inspections) is selected, Staff recommends that the fee structure be revised to reflect a "per building" rate rather than a per unit rate to more accurately reflect the cost-of-service associated with exterior inspections. See Table 2 below.

**Table 1:
Option 1 Fee Structure**

Unit Type	Registration Fee Per Unit
Single family	\$20
Other	\$20
Duplex/triplex	\$20
Apartment	\$15
Total	\$100,525

**Table 2:
Option 2 Fee Structure**

Unit Type	Registration Fee Per Building
Single family	\$20
Other	\$20
Duplex/triplex	\$40
Apartment	\$100
Total	\$93,360

Inspection Results

Exhibit E contains photos of those units that have not passed inspection. These were tenant complaints, which would be allowed under any option selected by City Council. For those inspections conducted under the program, the most common issue has been missing smoke detectors and smoke detectors in the wrong location. Continuing the program either under Option 1 or 2 (inspections) is critical to the future condition of housing in our community. Since a disproportionate share of rental housing is in fair to poor condition (approximately 55% of houses in fair to poor condition are renter occupied) and these units are being operated as a business, focusing on rental units makes sense. The Commission discussed developing a system to reward landlords who upkeep their properties, possibly through posting of inspection results on the City's website. Another idea was to reduce the fee for advertising rentals, should the Commission and the City determine to fund development of a Housing website. This was another item on the May 25, 2016 Agenda, but was tabled in the interest of time.

CONCLUSIONS:

The City's existing Ordinance and the State Statute requiring amendments to the program are attached to this report as **Exhibits F** and **G**, respectively. The City has been operating the Rental Registration and Inspection Program for 5 months and the inspections conducted to date have been on some of the better units. Unfortunately, this is not adequate time to realize many positive impacts. As mentioned earlier, staff recommends continuing with the program under Option 1 (inspections), though Planning staff has reservations about the amount of work required to track consent forms. This is similar to what Lawrence does and is the superior option for ensuring City Council's health and safety goals.

NEXT STEPS:

Staff will prepare an Ordinance for City Council's consideration, based upon the direction provided.

ATTACHMENTS:

- Exhibit A – Rental Registration Options (including recommendations)
- Exhibit B – Draft Housing Commission Minutes (May 25, 2016)
- Exhibit C – Evaluation of Amendment Options & Rental Housing Goals
- Exhibit D – Comparison of inspection programs for Cities in Kansas
- Exhibit E – Inspection Photos
- Exhibit F – Current City Ordinance
- Exhibit G – State Statute

EXHIBIT A: RENTAL REGISTRATION & INSPECTION PROGRAM OPTIONS

	Keep	Modify & Keep	Modify & Remove	Eliminate
<p>Rental Registration. New state statute does not restrict registration of rental properties.</p>	<p>Option #1: Keep the registration portion of the program “as is” with no changes to fees or requirements.</p> <p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Simple to administer (all units pay flat fee) • Fully covers cost of program with extra funding for Housing Initiatives • Software system is already setup to continue and will not require modification <p><u>Drawbacks:</u></p> <ul style="list-style-type: none"> • Multi-family units will pay a disproportionate share, if only exterior inspections are performed • Registration without an accompanying inspection program does not make sense 	<p>Option #2: Keep the registration program, but change the fee structure for single, duplex and multi-family properties. Different fees for different types.</p> <p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Better reflection of the “cost of service” <p><u>Drawbacks:</u></p> <ul style="list-style-type: none"> • Will require changes to software system and will be more difficult to administer • Registration without an accompanying inspection program does not make sense 	<p>Option #3: Remove the fee portion of the registration portion of the program.</p> <p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Requires less staffing <p><u>Drawbacks:</u></p> <ul style="list-style-type: none"> • Tracking rental properties will be problematic, as people are less likely to register if there is no fee to be paid • Program will have to be General Fund supported 	<p>Option #4: Eliminate the registration portion of the program.</p> <p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Requires no staffing from Planning & Development <p><u>Drawbacks:</u></p> <ul style="list-style-type: none"> • Tracking rental properties will be difficult • Program will have to be General Fund supported • Exemptions will not be possible
<p>Rental Inspections. New state statute does not allow for interior inspections unless the tenant consents.</p>	<p>The inspection portion of the program will need to be modified, as it does not comply with the new state statute.</p>	<p>Option #1. Keep performing interior and exterior inspections, relying upon the tenants to allow access for interior inspections.</p> <p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Some tenants will consent to interior inspections, thereby achieving health/safety goals of City Council • Keeping a program allows for inspectors to go onto private property for inspections (IPMC only does not) <p><u>Drawbacks:</u></p> <ul style="list-style-type: none"> • Tracking and administration will be difficult • Does not address the Landlord Eviction issue • Only partially addresses health and safety goals of City Council 	<p>Option #2. Modify the program to be “exterior only” unless a complaint is received.</p> <p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Easy to administer • Blighted properties will be cleaned up (at least on the outside) • Landlord eviction threat is addressed (at least for exterior portions of structures) • Keeping a program allows for inspectors to go onto the private property (IPMC only does not) <p><u>Drawbacks:</u></p> <ul style="list-style-type: none"> • Does not address the health/safety goals of City Council fully 	<p>Option #3. Repeal the program altogether and rely upon complaint-only enforcement of IPMC</p> <p><u>Advantages:</u></p> <ul style="list-style-type: none"> • Reduced short-term costs • Landlord contentment <p><u>Drawbacks:</u></p> <ul style="list-style-type: none"> • Blighted properties will not be cleaned up and will ultimately have to be demolished • Does not address landlord eviction threat • Does not allow for inspectors to go onto the private property (IPMC only does not) • Does not address the health/safety goals of City Council fully • Staff layoff

Green Fill = Housing Commission Recommendation

Other: Staff does not recommend putting all rental inspections on the City’s website for advertising purposes. Quarterly or monthly reports can be posted.

**DRAFT HOUSING COMMISSION MINUTES**

MEETING OF: WEDNESDAY, MAY 25, 2016

MEETING LOCATION: CITY COUNCIL CHAMBERS

125 EAST AVENUE B

1. ROLL CALL

The Housing Commission meeting was called to order at 3 PM with the following members present: Gregg Binns, Anthony Finlay, Lisa Gleason, Scott Cooley, Richard Greever, Aubrey Patterson, Luke McConnaughy, Dan Rich, Jeff Thomson, and Sue Poltera. Shelly Kiblinger, Kevin Bleything, Mark Clark, and Diana Hart were absent. Steve Dechant and Jon Daveline, City Councilmembers; and Mark Eaton, Land Bank were also in attendance. Staff in attendance were Jana McCarron, Director of Planning and Development; Amy Denker, Housing Program Coordinator; Trent Maxwell, Building Official; Fred Salisbury, Rental Housing Inspector; and Charlene Mosier, Planning Technician.

2. APPROVAL OF MINUTES

The minutes of the April 27, 2016, meeting were approved on a motion by Binns, seconded by Gleason, passed unanimously.

3. ANNOUNCEMENTS

McCarron said the City Council will consider the dissolution of the Community Improvement Commission at the June 7, 2016 City Council meeting.

Two more candidates are scheduled for interviews for the vacant position of Associate Planner.

4. UPDATES4a. **RHID**

Denker said Resolution #1 for Ashton Estates was approved by City Council on May 3, 2016 and has been submitted to the State for approval, which may take from 30 – 45 days. No development plans have been submitted to the City.

4b. **Healthy Neighborhood Initiative**

The two feature neighborhoods will announce their new names within the next month. Gleason said the Avenue A neighborhood had the school carnival with 150 persons attending. Denker said Avenue A will begin their Front Yard Beautification Contest in June. The Graber neighborhood will announce their new name at a Lemonade Launch Party in June.

(Greever arrived).

5. NEW BUSINESS5a. **Consider Brush Up Hutch Policy Changes – Land Contracts and Volunteer Safety Equipment Reimbursement**

Staff presented a proposal to amend the Brush Up! Hutch paint program to include properties under Land Contract, as well as to allow for up to \$150 in reimbursement for homes that require Lead Safe Work Practices using trained volunteer labor. Jeff Thomson said this will be helpful as the lead safe suits, tape and plastic can add up quickly for volunteers doing painting.

(McConnaughy arrived).

Motion by Binns, seconded by Finlay to approve the amendments to the Brush Up Hutch Policy, passed unanimously.

5b. Land Bank Design Competition Request

McCarron said the Land Bank owns lots on the northeast corner of East Avenue C and Maple Street. The competition will be open to students attending a college or university in Kansas and pursuing a degree in planning, architecture or design. A project team may consist of a planner and an architect. She requested the commission consider partial funding of the competition, which will be led by the Land Bank Board.

Motion by Binns, seconded by Finlay to recommend dedicating \$2,000 in 2016 housing initiative funds toward the competition passed unanimously.

5c. Rental Registration & Inspection Program Options

McCarron reviewed the Rental Registration and Inspection Program. Salisbury showed a powerpoint of maintenance issues he has seen during rental complaint inspections. Staff then reviewed the four options for the Rental Registration with the advantages and drawbacks of each and the three options for the Rental Inspections with the advantages and drawbacks. Discussion ensued among the Housing Commission members. A couple of landlords that were in the audience made comments that they were not in favor of the program. Greever said the Central Kansas Landlords Association was also not in favor of the program or any proposed revisions. His membership wants the program discontinued. Maxwell and Finlay commented there continues to be a housing crisis in Hutchinson and there is value in inspecting and improving of homes and continuing to educate tenants.

The consensus was the following:

1. Require mandatory exterior inspections for all rentals and interior inspections for those rentals where the tenant gives consent or the unit is vacant and the landlord gives consent; and
2. Keep the current fee structure and use any surplus funds generated for education efforts, as well as for opening up applicable housing programs to landlord eligibility.

Motion by Binns, seconded by Patterson to recommend to the City Council that mandatory exterior inspections continue and interior inspections be made where the tenant gives consent or the unit is vacant and the landlord gives consent and to keep the current fee structure and use surplus funds for education efforts. The motion passed with the following vote: Yes – Binns, Finlay, Patterson, Poltera; No; Greever, McConnaughy, Cooley.

6. OLD BUSINESS

6a. **Housing Website Proposal**

Staff suggested this item be tabled to the next meeting. Motion by Finlay, seconded by Cooley to table the Housing Website Proposal to the next meeting passed unanimously.

7. OTHER

7a. Infill Development Discussion – none.

7b. The next Housing Commission meeting is scheduled for Wednesday, June 22, 2106 at 3:00 p.m.

8. ADJOURNMENT – The meeting adjourned at 4:25 PM.

Respectfully Submitted,
Charlene Mosier, Planning Technician

EXHIBIT C: Rental Registration & Inspection Program Inspection Option Analysis

Rental Inspection Program Purpose	Option 1: Exterior inspections; interior with tenant permission	Option 2: Exterior only inspections	Option 3: Repeal program; return to previous plan	Option 4: Actively Enforce IPMC (rentals & non-rentals)
Correct and prevent housing conditions that adversely impact life, health, safety and general welfare of tenants and the surrounding area.	2-Partially meets Interior health and safety issues will not be addressed if tenants do not allow access.	2-Partially meets Interior health and safety issues will not be addressed unless tenants complain.	1-Minimally meets Inspectors do not have full access to exterior of properties without a formal program. Interior issues addressed only upon complaint. Only the worst properties get inspected	2-Partially meets More broadly addresses the entire community (owner-occupied and rentals) but does not allow for full exterior access to the property. Interior issues not addressed unless there is a complaint.
Protect the quality, character and stability of residential areas.	3-Meets Exterior issues in residential rental properties will be addressed, which boosts the quality, character and stability of neighborhoods. Some interior issues addressed, as well.	3-Meets Exterior issues addressed in rental properties, which boosts residential areas.	1-Minimally meets No meaningful progress has been made during the past 4 years since the City has enforced the IPMC in this manner.	2-Partially meets Exterior issues addressed that are visible from the public right-of-ways.
Preserve the value of land and buildings and the local tax base.	3-Meets Valuations of land and buildings are primarily based on exterior inspections.	3-Meets Valuations of land and buildings are primarily based on exterior inspections.	0-Does not meet Will revert back to original complaint system.	2-Partially meets Exterior issues that are visible from the public right-of-ways will be addressed but not all issues.
Reduce complaint-based inspections.	3-Meets Complaints from tenants will be reduced as well as complaints from neighbors.	2-Partially meets Complaints for exterior issues will be addressed but interior complaints will not be reduced.	0-Does not meet Will revert back to original complaint system.	2-Partially meets Complaints for exterior issues will be addressed but not interior complaints will not.
Protect the public from increased criminal activity, which tends to occur in residential areas that are unstable, blighted or substandard.	2-Partially meets Exterior issues addressed but interior are still by request only.	2-Partially meets Exterior issues addressed.	0-Does not meet Will revert back to original complaint system.	2-Partially meets Exterior issues visible from public right-of-way addressed.
Total Score	13	12	2	10

Scoring: Meets=3; Partially Meets=2; Minimally Meets=1; Does not meet=0

EXHIBIT D: Summary of Cities in Kansas with Active Rental Inspection Programs

City	Exterior	Interior	Renewal	Rental Types Inspected	Inspection Frequency	Fee Structure	Year Begun	Exemption for Subsidized Housing
Fairway	X		Annual	All	Annual <i>(no or minimal violations being found qualifies the licensed owner for a biannual cycle as incentive)</i>	No Registration Fee \$100 Fine for non-compliance	2013	NO
Hutchinson (Existing)	X	X	Annual	All	3 year cycle	\$25/unit annual registration fee \$50/month fine for non-compliance	2016	• NO
Kansas City, Kansas (Wyandotte County Unified government)	X	X	Annual	All	Single Family (up to 6 units) – 5 year Cycle Apartment complexes – Biannual Cycle	- Single: \$55 Fee - Duplex: \$78 Fee - 4-plex: \$124 Fee - Apartment Building: <i>(\$32.00 for the building and \$23.00 for each unit)</i>	1996	CITY HOUSING AUTHORITY
Lawrence	X	X	Annual	Single family ¹	After initial inspection, subsequent inspections are on a three-year cycle <i>(no or minimal violations being found qualifies the licensed owner for a six-year cycle)</i>	- <u>1-50</u> Units: \$17/unit - <u>51-100</u> Units: \$850, or \$16/Unit* - <u>101-150</u> Units: \$1,600, or \$15/Unit* - <u>151 + Units</u> ; \$2,250, or \$14/Unit* <i>*whichever amount is more</i>	2014	EXEMPT FROM FEE AND INSPECTION BUT STILL MUST REGISTER
Leawood	X		Annual	All	Initial inspection <i>renewal inspections whenever vacated by one tenant, prior to new tenant</i>	- Single: \$75 - Apartment: \$20/unit	2008	NO
Lenexa	X		Annual	All	Biannual	- Single: \$75 - Multiplex: First Unit \$75 <i>Additional Dwelling Units under common ownership \$20</i> - Apartment Complex: \$75 + \$20 per unit	2007	NO
Merriam	X	X	Annual	All	Biannual	Single or Duplex: \$85 Apartments \$.008 per sq. ft. (\$85 min)	1996	-
Mission	X		Annual	All	Not Required	Single, duplex, condo, townhome: \$62 Tri- or Quad-plex: \$30 /unit Apt or multi Family: \$10/unit	1997	CITY HOUSING AUTHORITY
Overland Park (begins 2017)	X		Bi-annual	All	Upon obtaining an application for renewal or a new rental license is received	\$60 per rental dwelling building	2016	NO
Prairie Village	X		Annual	All	Annual	Single or Duplex: \$77 Apartments: \$0.01 per sq ft	2009	NO
Roeland Park	X		Annual	Single/ Duplex	Annual	Single: \$75 fee Multiple Units: \$.04/sq ft	2004	NO
Westwood	X		Annual	All	Annual	\$30 Registration Fee \$3 late fee	2008	NO

¹Multi-family and single family conversions to begin July 2015.

EXHIBIT E: Rental Inspection Photos



Exterior:

No exterior sheathing, insulation is exposed. Needs exterior sheathing to be waterproof. This is not visible from public right-of-way.



Exterior:

Dilapidated porch, overgrown trees, flaking, peeling paint, no handrail.



Exterior:

Open sewer. Not visible from public right-of-way.



Interior:

Windows nailed shut. Windows should be openable for egress purposes. A locking mechanism is needed for this window to comply.



Interior:

This is not an approved locking mechanism. Not safe for egress.



Interior:

Broken toilet base. Not a good seal.

Article XI. Residential Rental Registration and Inspection

Sec. 21-1101. Purpose.

A residential rental registration and inspection program is hereby established in order to:

- a. Correct and prevent housing conditions that adversely impact life, health, safety and general welfare of tenants and the surrounding area.
- b. Protect the quality, character, and stability of residential areas.
- c. Preserve the value of land and buildings and the local tax base.
- d. Reduce complaint-based inspections.
- e. Protect the public from increased criminal activity, which tends to occur in residential areas that are unstable, blighted or substandard.

Sec. 21-1102. Title and Definitions

a. **Title.** This article shall be known as the “Rental Registration and Inspection Program” of the City and may be cited as such.

b. **Definitions.** The following words and phrases shall, for the purposes of this article, have the meaning ascribed to them herein, unless the context clearly requires otherwise.

1. **“Building Official”** means the City of Hutchinson Building Official or designee.

2. **“Director of Planning and Development”** means the Director of the Planning and Development Department for the City of Hutchinson or designee.

3. **“Dwelling Unit”** means one room or a suite of two or more rooms designed for or used for **living** and sleeping purposes. Each of said units shall have a restroom and kitchen.

4. **“Inspections Department”** means the Inspections Department of the City of Hutchinson, Kansas.

5. **“Landlord”** means the Owner of property that is offered for Rent, as defined by this article.

6. “**Let**” means to provide or to offer for possession or Occupancy a Dwelling Unit to a Tenant for no consideration.

7. “**Occupancy**” or “**Occupy**” means residing or sleeping at a Dwelling Unit the majority of a person’s time.

8. “**Owner**” means 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 Resident Agent.

9. “**Premises**” shall mean a lot, or contiguous lots under common ownership, together with all buildings, structures and appurtenances existing thereon.

10. “**Re-inspection**” means any subsequent inspection conducted for the purpose of verifying that any violations reported during any inspection have been remediated.

11. “**Rent**” means to provide or to offer for possession or Occupancy a Dwelling Unit to a Tenant for consideration, pursuant to a written, oral or implied agreement.

12. “**Resident Agent**” means any person or business entity located or residing within Reno County, Kansas, who has been authorized to carry out transactions, as required under this Article, on behalf of the Owner.

13. “**Residential Rental Unit**” means any Premises having one or more Dwelling Units that are Rented to one or more Tenants.

14. “**Tenant**” means any person who Occupies a Dwelling Unit, other than the Owner or any person residing with the Owner.

(Ord. 2015-31; Adop. 7/21/2015)

Sec. 21-1103. Residential rental registration required.

a. **Registration required.** On or after April 1, 2016, no owner of property located within the City Limits of the City of Hutchinson shall rent to a tenant any dwelling unit or portion thereof, as defined by this Article, without registering said unit with the Director of Planning and Development.

1. Failure to register a residential rental unit by March 31, 2016 shall result in a \$50 administration fee per month for each month that a unit goes unregistered. Units not registered by June 30, 2016 shall be deemed uninhabitable and the provisions of Hutchinson City Code Section 21-1104 shall apply.

b. In the case of multiple owners of any residential rental unit subject to this article, it shall be sufficient for any one of the owners to register said unit.

c. Beginning January 1, 2017, residential rental units shall be registered annually, on or before January 31st of each year, and upon change of ownership.

d. Landlords who reside more than 100 miles from the City of Hutchinson shall be required to identify a resident agent who resides within Reno County and who will be held responsible for ensuring compliance with registration and other provisions of Article XI.

e. The annual registration fee shall be \$25.00 per residential rental unit.

f. Rental registration shall be accomplished via forms provided by the Director of Planning and Development.

g. The Director of Planning and Development shall provide confirmation of registration to all registrants.

h. Exemptions. The following types of units are exempt from this article and do not require registration:

1. Hotels and motels.

2. Any residential unit that is occupied by the owner, provided that units that are not occupied by the owner but are located within the same building or complex, shall be registered.

3. The following transient / congregate care uses, provided said uses have obtained the appropriate approvals and licenses, as defined by the International Building Code, including:

- a) Bed and breakfasts
- b) Campgrounds
- c) Group homes or Adult care homes
- d) Assisted living facilities
- e) Extended care, Dependent living or Nursing care facilities
- f) Extended stay lodging
- g) Dormitories, if owned by an educational institution licensed by the State of Kansas
- h) Parsonages, if located on the same premises as the place of religious assembly

4. Properties on Land Contract.

5. Properties where the unit is offered by "Let" and no rental agreement is in place.

(Ord. 2015-31; Adop. 7/21/2015)

Sec. 21-1104. Unregistered units.

Owners of residential rental units rented without registration with the City of Hutchinson shall be notified by the Director of Planning and Development and given three months to register. If, after three months, the unit is not registered, the Building Official may order the unregistered unit to be vacated. The unit shall not be occupied until the unit is registered and inspected by the Building Official.
(Ord. 2015-31; Adop. 7/21/2015)

Sec. 21-1105. Rental inspection program.

- a. Residential rental units registered in accordance with this Article shall be inspected by the Building Official approximately every three years.
- b. Residential rental units shall also be inspected upon change of ownership.
- c. Residential rental units shall be inspected for compliance with the International Property Maintenance Code, as amended by the City of Hutchinson.
 - 1. Inspections shall include the interior and exterior of rental units.
 - 2. Inspections shall include any and all common areas.
- d. Landlords with more than two rental units will have no more than one-third of said rental units inspected in any given year, unless the landlord requests an alternate schedule.
- e. The Building Official shall notify landlords of all residential rental units scheduled for inspection during a given calendar year. Notification shall be made by first class mail, email or text, dependent upon the notification method selected by the landlord or resident agent.
- f. Rental inspections may be scheduled online or via telephone, with online inspections preferred.
- g. For new construction, the Certificate of Occupancy shall count as the initial inspection. New construction shall receive a six year deferral from inspection. Subsequent inspections shall occur generally on a three-year cycle. Annual rental unit registration is still required.
- h. A \$25 fee shall be charged for all missed inspections.

i. Landlords shall not be charged a fee for missed inspections caused by actions of any Tenant.
(Ord. 2016-3; Adop. 3/01/2016)

Sec. 21-1106. Rental inspection results and re-inspection.

a. Residential rental units that pass inspection shall receive a “certificate of rental compliance” from the Building Official. Notices shall be delivered by first class mail or email.

b. Residential rental units that do not pass inspection shall receive a “notice of rental non-compliance” from the Building Official; said notice will detail noted deficiencies. Notices shall be delivered by first class mail.

1. The landlord shall have up to 30 days to correct noted deficiencies.

2. Re-inspection will occur on or before the compliance deadline.

3. No fee will be charged for the initial re-inspection. If the residential rental unit passes inspection on the first re-inspection, a “certificate of rental compliance” shall be issued.

4. If the noted deficiencies are not corrected at the time of the first re-inspection, the Building Official will work with the landlord to achieve compliance within a reasonable timeframe. If compliance is not obtained within a reasonable timeframe, normal enforcement procedures will be followed, including, but not limited to: vacation of tenants, termination of utility service, boarding of the property and/or prosecution in municipal court.

5. The Building Official may charge a re-inspection fee of \$25 for those residential rental units requiring more than one re-inspection.

6. Normal enforcement procedures of the Inspections Department shall be invoked for those residential rental units that are deemed uninhabitable upon initial or subsequent inspection.

c. Results of residential rental unit inspections shall be made available on the City of Hutchinson website.

Sec. 21-1107. Incentives.

Residential rental units that are found to have five or fewer deficiencies upon inspection shall be eligible to be placed on a six-year inspection cycle once noted deficiencies are corrected, provided the following requirements are met:

- a. Annual registration and payment of the \$25 registration fee shall be required;
- b. Units shall be inspected upon change of ownership; and
- c. Units shall be inspected sooner than the six-year cycle, should a tenant complaint be received.

Sec. 21-1108. Program Evaluation.

The Planning & Development Department, in conjunction with the Inspections Department, shall prepare an annual report for the Housing Commission and City Council; including the following information: 1) number of property maintenance complaints; 2) amount of assessed valuation; 3) number of residential dwelling fires; 4) number of reports of vandalism and other property-related crime, and 5) percentage of pass rates on rental inspections. *(Ord. 2015 – 11; Adop. 4/07/2015)*

Article XII. Insurance Proceeds Fund

Sec. 21-1201. Scope and Application.

The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et. seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this chapter. *(Ord. 7557, Adop. 7/15/97)*

Sec. 21-1202. Lien Created.

The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. *(Ord. 7557, Adop. 7/15/97)*

SENATE BILL No. 366

AN ACT concerning local governmental regulatory authority; relating to regulation of food labeling, food-related consumer incentive items, food distribution and food production; inspection of residential property; price controls on private residential or commercial property; regulation of employers with regard to employee scheduling; amending K.S.A. 12-16,120 and K.S.A. 2015 Supp. 12-16,130 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. As used in sections 1 and 2, and amendments thereto:

(a) “Food” means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages or tobacco.

(b) “Food that is a menu item in vending machines” means food dispensed through a machine or other mechanical device that accepts payment.

(c) “Retail food establishment” or “food service operation” means any place in which food is served or is prepared on the premises for retail sale or service in a heated state or heated by the seller, mixed or combined by the seller for sale as a single item or sold with eating utensils provided by the seller and is intended for immediate consumption. Such term shall include, but not be limited to, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, taverns, private clubs, roadside kitchens, commissaries, drive-in restaurants and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(d) “Food nutrition information” includes, but is not limited to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin, mineral, sodium and allergen content of food. “Food nutrition information” also includes the designation of food as healthy or unhealthy.

(e) “Political subdivision” means political or taxing subdivisions of the state, including counties, townships, cities, school districts, authorities or other municipal or public corporations, agencies, boards, commissions, councils, committees, subcommittees and other subordinate groups or administrative units thereof, receiving or expending and supported, in whole or in part, by public funds.

(f) “Consumer incentive item” means any licensed media character, toy, game, trading card, contest, point accumulation, club membership, admission ticket, token, code or password for digital access, coupon, voucher, incentive, crayons, coloring placemats or other premium, prize or consumer product that is associated with a meal served by or acquired from a food service operation.

New Sec. 2. (a) The regulation of consumer incentive items and nutrition labeling for food and nonalcoholic beverages that are menu items in restaurants, retail food establishments or vending machines is reserved to the legislature and may be regulated only by legislation of statewide application enacted after the effective date of this act. The regulation of the provision of food nutrition information and consumer incentive items at food service operations and how food service operations are characterized are matters of general statewide interest that require statewide regulation, and rules and regulations adopted under this section constitute a comprehensive plan with respect to all aspects of the regulation of the provision of food nutrition information and consumer incentive items at food service operations in this state. Rules and regulations adopted under this act shall be applied uniformly throughout this state.

(b) The state of Kansas, and any political subdivision thereof, shall not do any of the following:

(1) Enact, adopt or continue in effect local legislation relating to the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;

(2) condition any license, permit or regulatory approval upon the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;

(3) ban, prohibit or otherwise restrict food at food service operations based upon the food’s nutrition information or upon the provision or nonprovision of consumer incentive items;

(4) condition any license, permit or regulatory approval for a food

service operation upon the existence or nonexistence of food-based health disparities;

(5) where food service operations are permitted to operate, ban, prohibit or otherwise restrict a food service operation based upon the existence or nonexistence of food-based health disparities as recognized by the department of health, the institute of health or the centers for disease control;

(6) restrict the sale, distribution or serving of foods and nonalcoholic beverages that are approved for sale by the United States department of agriculture or other federal or state government agencies; or

(7) restrict the growing or raising of livestock or grain, vegetables, fruits or other crops grown or raised for food and approved for sale by the United States department of agriculture or other federal or state government agencies.

(c) Sections 1 and 2, and amendments thereto, shall not be interpreted as being more restrictive than any federal law or affecting in any manner the regulation of the nutrition labeling of food that is a menu item in restaurants, retail food establishments and vending machines pursuant to the federal food, drug and cosmetic act, 21 U.S.C. § 343(q)(5)(H).

(d) Nothing in sections 1 and 2, and amendments thereto, restricts a political subdivision, as defined herein, from owning or managing a food service facility and from purchasing and serving food products according to the Kansas food code and their own policies as long as those policies are not laws or ordinances restricting any other entity.

(e) Nothing in sections 1 and 2, and amendments thereto, shall be construed as limiting or restricting the zoning authority of a political subdivision authorized by article 7 of chapter 12 or article 29 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, or by any other provision of law.

(f) Nothing in sections 1 and 2, and amendments thereto, restricts a political subdivision, as defined herein, from creating and promulgating food nutrition information or food-based health disparity information, only in accordance with the United States department of agriculture dietary guidelines for Americans promulgated under 7 U.S.C. § 5341, as long as the information is not contained in a law or ordinance restricting any other entity.

(g) Nothing in this act restricts a political subdivision from financially participating in a food assistance program as long as that program operates in accordance with the United States department of agriculture dietary guidelines for Americans promulgated under 7 U.S.C. § 5341, and as long as the program is not contained in a law or ordinance restricting any other entity.

New Sec. 3. (a) No city or county shall adopt, enforce or maintain a residential property licensing ordinance or resolution which includes a requirement for periodic interior inspections of privately owned residential property for city or county code violations unless the lawful occupant has consented to such interior inspections. This subsection shall not apply to inspections of mixed-use residential and commercial property. This subsection shall not prohibit a city or county from conducting plan reviews, periodic construction inspections or final occupancy inspections as required by building permits.

(b) Any lawful occupant residing in privately owned residential housing located within the corporate limits of a city may request an inspection at any time by the city or, if the property is located in the unincorporated area of the county, by the county to determine code violations.

Sec. 4. K.S.A. 12-16,120 is hereby amended to read as follows: 12-16,120. (a) No political subdivision of this state, including, but not limited to, a county, municipality or township, shall enact, maintain or enforce any ordinance or resolution that would have the effect of controlling the amount of rent charged or the purchase price agreed upon between the parties to the transaction for leasing private the lease or purchase of privately owned residential or commercial property.

(b) This section shall not impair the right of any local unit of government political subdivision to manage and control commercial or residential property in which such local unit of government political subdivision has a property an ownership interest.

(c) *This section shall not impair the right of any owner of privately owned property to enter into a voluntary agreement with a political subdivision to agree to requirements that would have the effect of controlling the amount of rent charged or the purchase price agreed upon between the parties to the transaction for the lease or purchase of privately owned property in return for grants or incentives provided by the political subdivision to the owner of privately owned property.*

(d) *No political subdivision shall require any owner of privately owned property to agree to any requirements that would have the effect of controlling the amount of rent charged or the purchase price agreed upon between the parties to the transaction for the lease or purchase of privately owned property, as a condition for consideration or approval of:*

- (1) *Any building permit or plat; or*
- (2) *any request for a zoning regulation, boundary, classification or a conditional use permit, or for a change or variance in a zoning regulation, boundary, classification or a conditional use permit.*

Sec. 5. K.S.A. 2015 Supp. 12-16,130 is hereby amended to read as follows: 12-16,130. (a) No city, county or local government unit shall enact or administer any ordinance, resolution or law which requires an employer to:

- (1) Provide to such employer's employees any leave from work, either with or without pay, unless such leave is required by state or federal law;
- (2) pay compensation to such employer's employees for any leave from work unless payment of compensation for such leave is required by state or federal law;
- (3) pay compensation or wages at any rate higher than the minimum wage unless the payment of higher compensation or wages is required by state or federal law;~~or~~
- (4) offer an employee benefit other than those required by state or federal law; or
- (5) *alter or adjust any employee scheduling unless the alteration or adjustment is required by state or federal law.*

(b) Subsection (a) shall not impact, or apply to, requirements under state economic development incentive programs or city, county, local government or local economic development agency business attraction, retention or recruitment programs.

Sec. 6. K.S.A. 12-16,120 and K.S.A. 2015 Supp. 12-16,130 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.