

# ORDINANCE NO. 4043

## AN ORDINANCE AMENDING AND RESTATING ORDINANCES NO. 4028 AND 4034 HAVING TO DO WITH MINIMUM STANDARDS FOR RENTAL PROPERTIES

*Now therefore, be it ordained by the Governing Body of the City of Independence, Kansas:*

### **Section 1. Title**

This ordinance shall be known as the "Minimum Standards for Rental Properties."

### **Section 2. Statement of Purpose**

The purpose of this ordinance is to protect the public health, safety and general welfare of the residents of the City of Independence in rental properties by the adoption of minimum standards for rental properties and procedures for administration and enforcement thereof.

### **Section 3. Definitions**

- a. **Dwelling Unit:** A building or structure, or portion of a building or structure, designed for or used for human habitation.
- b. **Enforcement Officer.** The person designated by the City Manager to enforce the provisions of this ordinance.
- c. **Life Safety or Emergency Situation:** The following conditions shall constitute life safety or emergency situations for purposes of this ordinance:
  1. An electrical wiring situation which creates an unreasonable risk of fire or physical harm to the tenant(s).
  2. An HVAC situation involving natural gas, propane gas, carbon monoxide or other potentially toxic substances which creates an unreasonable risk of physical harm to the tenant(s).
  3. A structural condition of the dwelling which creates an unreasonable risk of physical harm to the tenant(s).
  4. Any other condition of the dwelling which creates an unreasonable risk of physical harm to the tenant(s).

- d. **Owner:** The person(s) who has legal title to the rental property.
- e. **Person:** Any individual, firm, corporation, limited liability company, association, partnership, cooperative, governmental agency, or other entity.
- f. **Public Safety Officer:** Any employee of the City of Independence considered a first responder, such as a policeman, fireman, or EMS personnel.
- g. **Rental property:** Any single family, multi-family, or owner occupied dwelling unit which is rented for money, goods, labor, or other valuable consideration. Specifically excluded from the definition of rental property are hotels and motels licensed by the State of Kansas, hospitals, nursing homes, assisted living facilities, correctional facilities or jails, churches or places of worship, and parsonages or other dwellings furnished by a church for occupancy by paid clergy of the church.
- h. **Retaliate:** To intimidate, cause to move from a rental property, cause to remain silent, or the attempt to do any of the above, any tenant of a rental property in conjunction with complaints or potential complaints of violations of the minimum standards adopted pursuant to this ordinance.
- i. **Tenant:** Any person who resides, or has contracted to reside, in a rental property.

#### **Section 4. License Requirement**

No person shall offer for rent, or rent, to a tenant a rental property without first obtaining a Residential Landlord Occupation License. The license shall apply to all rental properties owned by the owner as disclosed on the application.

- a. **Application.** Application for a Residential Landlord Occupation License shall be made in writing on forms prescribed by the City Clerk in the office of the City Clerk. For rental properties in existence on the effective date of this ordinance, application shall be made within thirty (30) days after the effective date of this ordinance. All applications (and any amendments thereto) shall be in the name of the owner of the rental property, but may be made by a person acting as agent for the owner provided disclosure of that fact is made. If there is more than one owner, application may be made by any one of the owners, but the names and addresses of all owners must be disclosed on the application.
- b. **Application Content.** The application form adopted by the City Clerk

shall include the following at a minimum:

1. Owner's name, street and mailing address, and telephone number.
2. If the owner is an entity, the name and type of entity, address, and telephone number of the principal of the entity.
3. If a person has been designated as manager of the rental property, the application shall include the manager's name, street and mailing address, and telephone number.
4. A list of the addresses of all rental properties owned by the owner within the city limits.

In cases where the owner resides more than 60 miles from the City of Independence, the owner shall designate a resident agent who resides within 60 miles of the City of Independence, and the designation shall include the resident agent's name, street and mailing address, and telephone number. The resident agent so designated shall have all the same liabilities and responsibilities as the owner.

- c. **Amendment.** The initial application may be amended consistent with this section. In the event additional rental property is acquired by the Owner after receipt of the Residential Landlord Occupational License, the Owner shall amend the original application within seven (7) days from the date ownership of the new rental property is acquired by providing the City the addresses of any such newly owned rental property. Conversely, the original application may be amended by the Owner to delete one or more rental properties listed on the original application in the event of transfer of ownership of such rental property or change of use of such rental property.
- d. **Application Fee.** No application shall be acted upon without payment of the application fee set forth in Appendix D of the City Code.
- e. **Issuance of License.** The City Clerk shall issue a Residential Landlord Occupation License to any person who has made proper application and paid the application fee. The license shall be issued in the name of the owner(s) and, if applicable, the resident agent.
- f. **Expiration and Renewal.** All Residential Landlord Occupation Licenses shall be issued for a term expiring December 31 of each year and shall be subject to renewal in accordance with this ordinance. All persons holding current licenses will be mailed an application for renewal by the

City at least thirty (30) days prior to the expiration date. The renewal application must be returned to the City along with the required application fee prior to January 1 of the renewal year.

### **Section 5. Minimum Standards**

The housing quality standards established under Section 8 of the U. S. Housing Act of 1937 (42 USC 1437(f)) are hereby adopted as the minimum standards for rental properties within the City except as follows:

- a. Ventless heaters shall be permitted if they are in compliance with all building codes applicable or adopted by the City.

The City shall provide a copy of the minimum standards to all persons who apply for a Residential Landlord Occupation License. Should the housing quality standards of Section 8 be amended, such amendments shall not be applicable to holders of a Residential Landlord Occupation License until such time as the City has supplied such license holders a copy of such amendments.

### **Section 6. Inspection.**

- a. **Inspection.** The inspection of a rental property shall be triggered by a complaint being received by the City, or observation being made by any public safety officer of the City, of a violation of the minimum standards. No particular form of complaint is required. The complaint may be oral or written. The complaint may be anonymous.
- b. **Procedure Following Complaint or Observation by Public Safety Officer.** Before conducting an inspection pursuant to a complaint, or observation by a public safety officer, written notice shall be given to the owner and/or resident agent of:
  1. The specifics of the complaint.
  2. That the owner and/or resident agent is allowed fourteen (14) days to address the complaint before inspection of the property occurs.

3. The date and time of the planned inspection of the rental property to determine the validity of the complaint.
- c. **Emergency.** Notification to the owner and/or resident agent shall not be required in the event the condition complained of constitutes a life safety or other emergency situation as determined in the sole discretion of the enforcement officer. In that event, the enforcement officer may undertake inspection of the rental property immediately without notice.

### **Section 7. Notice and Right of Entry**

- a. **Notice.** Prior to performing a non-emergency inspection, the enforcement officer shall notify both the owner and/or resident agent and the tenant of the time and date of inspection at least fourteen (14) days in advance unless all parties mutually agree to another date and time.
- b. **Right of Entry.** After following the notice procedure contained in this ordinance, the enforcement officer shall have the right to enter the rental property for the purpose of conducting an inspection consistent with this ordinance.
- c. **Follow Up Right of Entry.** In the event an inspection discloses a violation, the enforcement officer shall have the right to re-enter the rental property for purposes of a follow up inspection to determine the sufficiency of the corrective action upon reasonable notice to the tenant and the owner and/or resident agent.

### **Section 8. Notice of Violation**

Upon inspection, if the enforcement officer determines that a violation exists, a written notice of violation shall be mailed to the owner and/or resident agent, stating the following:

- a. **Specifics.** The specifics of any violation of minimum standards found to exist.
- b. **Correction Deadline.** The violation must be corrected by a specified deadline to be determined by the enforcement officer after taking into consideration the nature of the violation, but in no event shall the deadline be more than sixty (60) days from the date of inspection.
- c. **Noncompliance.** If the enforcement officer determines that the violation has not been corrected to comply with minimum standards by the specified deadline, then the rental property must be vacated and shall not be available to be rented until the

violation is corrected.

- d. **Deadline Extension.** Upon request, the enforcement officer may extend the deadline for good cause shown as determined in the discretion of the enforcement officer.

Notwithstanding any of the provisions above, in the event the violation constitutes a life safety issue or other emergency situation as determined in the sole discretion of the enforcement officer, the notice shall state that the property be immediately vacated and not rented or inhabited until the violation has been corrected.

### **Section 9. Reinspection for Compliance**

- a. **Notice.** If the enforcement officer issues a notice of violation requiring corrective action by the owner and/or resident agent, the enforcement officer shall give the owner and/or resident agent and the tenant written notice of the date and time of the reinspection for purposes of compliance. The date and time of reinspection may be changed by mutual agreement of all parties.
- b. **Fee.** If a reinspection for compliance is required, the reinforcement officer shall assess the owner and/or resident agent a reinspection fee in an amount set forth in Appendix D of the City Code.
- c. **Unpaid Fees.** An owner who has outstanding unpaid reinspection fees shall not be issued a renewal Residential Landlord Occupation License until all such unpaid reinspection fees have been paid in full.

### **Section 10. Notices**

All notices required by this ordinance may be sent by first class mail to the address(es) indicated on the license application or may be personally delivered by the enforcement officer, or his designee. It shall be the duty of the owner to notify the City of any change of address of either the owner or resident agent for notice purposes.

### **Section 11. Tenant Notification of Minimum Standards**

All tenants residing in rental properties subject to this ordinance shall be provided a

current copy of the minimum standards of the Section 8 housing quality standards by the owner, resident agent or manager together with the name, address and telephone number of the enforcement officer to whom complaints may be made. Written proof of delivery of such notification to all tenants shall be retained by the owner, resident agent or manager and shall be made available for inspection by the enforcement officer upon request.

### **Section 12. Unlawful Acts**

- a. **No License.** It shall be unlawful to offer for rent, or to rent, to a tenant a rental property without having first obtained a Residential Landlord Occupation License.
- b. **False Information.** It shall be unlawful to falsify any information contained on an application for Residential Landlord Occupation License.
- c. **Retaliation.** It shall be unlawful to retaliate against a tenant who has either made a complaint under the provisions of this ordinance, or who has expressed an intent to make a complaint under the provisions of this ordinance.
- d. **Failure to Give Tenant Notification.** It shall be unlawful for the owner, resident agent or manager, to fail to give any tenant the required notification as set forth in Section 11 of this ordinance or fail to provide written proof of such notification to the enforcement officer upon request.
- e. **Denial of Right of Entry.** It shall be unlawful to deny the enforcement officer access or entry into a rental property for purposes of an inspection made pursuant to this ordinance.
- f. **Failure to Correct Violation.** It shall be unlawful to offer for rent, or to rent, to a tenant a rental property in which a violation of the minimum standards established by this ordinance has been previously found to exist by the enforcement officer and which has not been corrected as required by this ordinance.

### **Section 13. Penalty**

In the event a person is charged and convicted of an unlawful act as defined by this

ordinance, such person shall be fined a sum of up to \$500.00 for each violation. In the event of a conviction of Section 12(e) or (f), the penalty imposed may be a continuing per diem fine of up to \$500.00 per diem until the violation ceases or has been corrected.

**Section 14. Effective Date.**

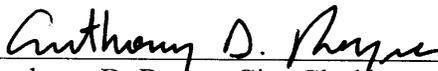
This ordinance shall be effective upon its publication in the official City newspaper.

*Adopted by the Governing Body of the City of Independence, Kansas, on the 28th day of May, 2009.*



\_\_\_\_\_  
Rick Mott, Mayor

ATTEST:

  
\_\_\_\_\_  
Anthony D. Royse, City Clerk



# Affidavit of Publication

STATE OF KANSAS  
Montgomery County, ss:

**Herbert A. Meter III** being first duly sworn, deposes and says: That he is the **publisher** of the  
***Independence Daily Reporter***

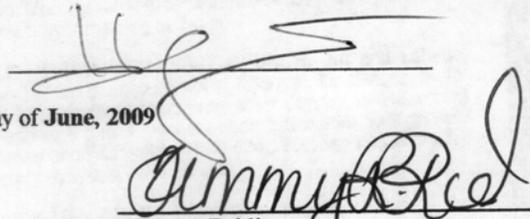
a daily newspaper printed in the state of Kansas, and published in and of general circulation in Montgomery County, Kansas, with a general paid circulation on a daily basis in Montgomery County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

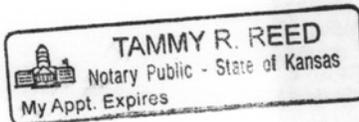
Said newspaper is a daily published at least weekly 50 times a year, has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of Independence in said County as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper **1 time** on **June 19, 2009**

Subscribed and sworn to before me this **22nd** day of **June, 2009**

Printers Fee: \$ **236.37**  
Account No: **11295**

  
\_\_\_\_\_  
Notary Public  
My commission expires: **September 10, 2011**



(First published in the Independence Daily Reporter June 19, 2009)

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h. **Retaliate:** To intimidate, cause to move from a rental property, cause to remain silent, or the attempt to do any of the above, any tenant of a rental property in conjunction with complaints or potential complaints of violations of the minimum standards adopted pursuant to this ordinance.

study Sunday at 6 p.m. Telephone 620-251-6770.  
**WESTSIDE CHRISTIAN CHURCH**, 402 N. Ohio, Coffeyville. Mike Elrod, pastor. Sunday School at 9:30 a.m., worship service at 10:30 a.m. Wednesday night Bible Study at 6 p.m. Telephone 620-251-6770.

**ELK CITY FIRST CHRISTIAN CHURCH**, 222 S. Montgomery, Elk City. Rev. Jim Wilburn, pastor. Sunday School at 9:30 a.m. Morning worship at 10:30 a.m., and Sunday evening worship at 6 p.m. Wednesday Bible study at 6:30 p.m. For more information call (620) 627-2601 or (620) 627-2343. E-mail — preacherman@ksok.biz Web site: www.angelfire.com/ks3/firstchristian.

**NEW HOPE CHRISTIAN CHURCH**, 908 E. 4th, Cherryvale. Gerald E. Zuck, pastor. Sunday school 9:30 a.m. to 10:15 a.m. Praise and Worship Wednesday 6:30 p.m. Telephone 620-251-6770.

Coffeyville, Okla. Sunday m. Sunday and Wednes-

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