

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 180248

Calling an election on August 7, 2018, for the purpose of submitting to the voters of Kansas City a question presented by a committee of petitioners through an initiative petition to establish a residential rental inspection program, including fees for inspections and permits; enacting the residential rental inspection ordinance contingent upon voter approval; directing the City Clerk to notify the responsible election authorities on or before May 29, 2018; and recognizing this ordinance as having an accelerated effective date because it calls an election.

WHEREAS, a committee of petitioners submitted an initiative petition seeking the adoption of a residential rental inspection ordinance; and

WHEREAS, the City Clerk has certified 2,004 valid signatures, thus exceeding the 1,708 required by the City Charter for a successful initiative petition during the period August 1, 2015 through July 31, 2019; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. **ELECTION CALLED.** That an election is called on August 7, 2018 for the purpose of submitting to the voters of Kansas City the question of enacting a residential rental inspection ordinance.

Section 2. **BALLOT TITLE.** The ballot title shall be:

SPECIAL ELECTION, August 7, 2018

QUESTION 1
(Initiative Petition)
(Residential Rental Inspection Program)

Shall the City of Kansas City create a residential rental inspection program to protect the public health, safety and welfare in residential rental property units by enacting and enforcing minimum health and safety standards and be authorized to establish the following fees to be paid by the rental owner or owner's agent for permitting, inspecting and regulating residential rental property units?

Application/Annual Permit Review Fees. A fee of twenty (\$20.00) dollars for each rental property due at time of submission of the initial application for the permit and fee of twenty (\$20.00) dollars per rental unit due annually.

Re-inspection Fees. A re-inspection fee of \$150.00 assessed for the re-inspection of the first rental unit. A \$100 re-inspection fee assessed at the time of the re-inspection for every additional unit requiring re-inspection.

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Re-instatement Fee of \$300.00 for the reinstatement of any permits that have been suspended.

A Late Fee equal to 10 percent of the amount due per month for fees not paid when due.

Adjustment of Fees. Authority to adjust the above-listed fees annually to reflect the change in the consumer price index (CPI) for all items/all urban consumers/Kansas City, Missouri-Kansas, published by the United States Department of Labor, Bureau of Labor Statistics. The City is also authorized to make cumulative adjustments for those years in which fees were not previously adjusted.

_____ YES _____ NO

Section 3. NOTICE TO ELECTION AUTHORITIES BY CITY CLERK. That following passage of this ordinance the City Clerk shall deliver certified copies of this ordinance and notice of election to the Clerk of Cass County, Board of Election Commissioners of Clay County, Board of Election Commissioners of Kansas City, and Board of Election Commissioners of Platte County, on or before May 29, 2018, which shall be the authority of each election authority of the City to submit the question to the electors of Kansas City and to give public notice as provided by law.

Section 4. NOTICE OF ELECTION. That the notice of election shall read as follows:

NOTICE OF ELECTION
KANSAS CITY, MISSOURI

Notice is hereby given that the City of Kansas City has called an election to be held in said City on Tuesday, August 7, 2018, between the hours of 6:00 a.m. and 7:00 p.m., at which election all qualified voters residing within Kansas City, Missouri will be given the opportunity to vote.

The official ballot will be in substantially the following form:

OFFICIAL BALLOT
CITY OF KANSAS CITY

SPECIAL ELECTION, August 7, 2018

QUESTION 1
(Initiative Petition)
(Residential Rental Inspection Program)

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standards and be authorized to establish the following fees to be paid by the rental owner or owner's agent for permitting, inspecting and regulating residential rental property units?

Application/Annual Permit Review Fees. A fee of twenty (\$20.00) dollars for each rental property due at time of submission of the initial application for the permit and a fee of twenty (\$20.00) dollars per rental unit due annually.

Re-inspection Fees. A re-inspection fee of \$150.00 assessed for the re-inspection of the first rental unit. A \$100 re-inspection fee assessed at the time of the re-inspection for every additional unit requiring re-inspection.

Re-instatement Fee of \$300.00 for the reinstatement of any permits that have been suspended.

A Late Fee equal to 10 percent of the amount due per month for fees not paid when due.

Adjustment of Fees. Authority to adjust the above-listed fees annually to reflect the change in the consumer price index (CPI) for all items/all urban consumers/Kansas City, Missouri-Kansas, published by the United States Department of Labor, Bureau of Labor Statistics. The City is also authorized to make cumulative adjustments for those years in which fees were not previously adjusted.

_____ YES _____ NO

[Instructions to voters will be supplied by the election authorities]

A full and complete copy of the ordinance submitting the above proposition to the electorate is on file in the office of the City Clerk of Kansas City, Missouri where it is open for inspection and copying.

The polling places for the election will be [insert list of polling places in last publication only].

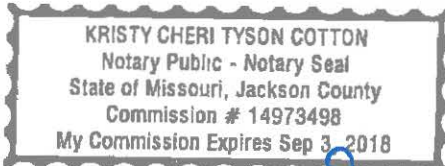
I hereby certify that the foregoing is the legal notice to be published pursuant to Section 115.127, RSMo.

Given under my hand and the official seal of the City of Kansas City, Missouri, this
14 day of May, 2018.

(SEAL)


MARILYN SANDERS
City Clerk, City of Kansas City, Missouri

Before me, a notary public, personally appeared Marilyn Sanders, to me known to be the City Clerk of the City of Kansas City, Missouri, and the person who acknowledged to me that she executed the same for the purposes therein stated.



Kristy Cheri Tyson Cotton
Notary Public

My commission expires: September 3, 2018

Section 5. **ENACTMENT OF ORDINANCE.** That contingent upon the approval of the voters, a new Article XIX. Chapter 34, Code of Ordinances, entitled "Healthy Rental Homes," is enacted to read as follows:

ARTICLE XIX. HEALTHY RENTAL HOMES

Sec. 34-830. Purpose and intent of Article.

(a) The purpose of the Healthy Homes Inspection Program is to protect the public health, safety and welfare in residential rental property units through establishment of minimum health and safety standards. This Article: (1) establishes minimum standards that may include: (a) basic utilities and facilities; (b) ventilation and heating; (c) safety from fire; and (d) safe and sanitary maintenance of all rental properties; (2) provides for the registration and permitting for certain rental properties; and (3) provides for administration and enforcement.

(b) It is not the intention of the City to intrude upon contractual relationships between tenant and landlords. The City does not intend to intervene as an advocate of either party, nor to act as an arbiter, nor to hear complaints by landlord or tenant that do not clearly relate to the provisions of this Article or other City ordinances.

Sec. 34-831. Definitions.

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

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

Director means the Director of Health or his or her designee.

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

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

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

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

Owner means any person not a tenant who, acting alone or jointly or severally with others: (1) has legal title to any building or structure with or without accompanying actual possession thereof; or (2) has charge, care or control of any building or structure or part thereof as agent or personal representative of the person having legal title to the building or structure of part thereof.

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

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

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

Re-inspection means an inspection conducted by the Director to ensure corrective action is taken by the permit holder subsequent to a previous inspection where non-compliance or violations of this Article were found.

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

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

Tenant means (1) a person, not the legal owner, occupying a building or portion thereof as a rental unit, or (2) for purposes of this Article, a purchaser under a contract for deed, rent-to-own agreement, or comparable executory agreement, where the purchaser resides in the premises and is not the legal owner of record, unless any such instrument or

affidavit of equitable interest which specifically identifies the instrument is properly executed and filed of record with the recorder of deeds for the applicable county and a file stamped copy thereof, along with a copy of the referenced instrument, is provided to the Director.

DIVISION 2: APPLICATION AND PERMITTING PROCESS

Sec. 34-832. Rental Permit Required.

(a) A person may not offer for rent a rental unit without a valid rental permit issued by the Director for the rental property of which the rental unit is a part. All owners now or hereafter owning, operating or managing a residential rental property, shall obtain a rental permit for each rental property from the Director. The Director shall issue the permit only after the applicant has submitted the application in its entirety with required documentation.

(b) Provisions of this Article do not apply to (1) housing units inspected yearly pursuant to the Uniform Physical Conditions Standards (UPCS) as established by the Department of Housing and Urban Development (HUD); (2) housing units managed by a nonprofit, charitable organization which are subject to an affordable housing land use restriction and routinely inspected by the Missouri Housing Development Commission; nor to (3) housing units that are only rented for periods of less than 30 consecutive days.

(c) Rental Permits and associated fees are non-transferable with any changes in ownership or management.

Sec. 34-833. Conditions on Rental Permits.

The Director is authorized and directed to endorse on the rental permit such conditions and requirements which in his or her best judgment and discretion are necessary for the protection of the health and safety of the persons utilizing such property and which carry out the scope, purpose and intent of this Article. Such conditions and requirements shall conform as closely as possible to the rules and regulations promulgated by the Director, but shall not be so strictly construed as to operate hardship upon any applicant.

Sec. 34-834. Duties of Permit Holder.

Upon receipt of a permit issued by the Director, in order to retain the permit, the permit holder shall:

- (1) Comply with all provisions of this Article and the rules and regulations promulgated by the Director, as such provisions, rules and regulations may be amended from time to time, and also each and every condition and requirement endorsed upon such permit or any renewal thereof issued, as such conditions and requirements may be amended by the Director;

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- (2) Immediately notify the Director if a life-threatening violation may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, gross insanitary occurrence or condition, or other circumstance that may endanger health;
- (3) Subject to Section 34-846(d), allow representatives of the Director access to the rental property for inspections and in emergencies when a life threatening violation may exist;
- (4) Comply with directives of the Director including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Director in regard to the permit holder's rental property, or in response to community emergencies;
- (5) Accept notices issued and served by the Director according to law;
- (6) Be subject to the regulatory, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Article or a directive of the Director, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and
- (7) Submit annual permit review documentation and health and safety inspection report that is in compliance with the requirements of the Director with appropriate fee as required by Director. No person shall submit a materially inaccurate inspection report.
- (8) Within sixty days following: (i) issuance of a permit or permit renewal by the Director, and (ii) the commencement of a new tenancy, either (a) furnish a full copy of the permit to the each tenant subject to the permit, or (b) for the full remaining term of the permit period post a full copy of the permit at the rental property in a conspicuous location reasonably calculated to come to the attention of each tenant subject to the permit.

Sec. 34-835. Qualifications and Responsibilities of Applicant.

To qualify for a permit, the applicant shall:

- (1) Be an owner of the rental property, or owner's agent who is responsible for the operation of the rental property;
- (2) Comply with the requirements of this Article;
- (3) Agree to allow representatives of the Director access to the rental property for the purpose of inspections made pursuant to this Article;
- (4) Pay the applicable permit fees at the time the application is submitted; and

- (5) Submit a health and safety inspection report that is in compliance with the requirements of the Director.

Sec. 34-836. Denial of Application for Permit; Notice.

If an application for a permit or permit renewal to operate is denied, the Director shall provide the applicant with a notice that includes:

- (1) The specific reasons and Code or regulation citations, if any, for the permit denial;
- (2) The actions, if any, that the applicant must take to qualify for a permit; and
- (3) Advisement of the applicant's right of appeal and the process and time frames for appeal.

Sec. 34-837. Fees.

(a) *Initial Application Fee.* A fee of twenty (\$20.00) dollars for each rental property is due at time of submission of the initial application for the permit.

(b) *Rental Property Annual Permit Fee.* A fee of twenty (\$20.00) dollars per rental unit is due annually. All permits are annual permits and shall be valid from January 1 through December 31. The fee is due at the time of submission of the initial or renewal application for a permit, which shall be on or before December 31.

(c) *Inspection Fee.* No fee shall be assessed for an initial inspection of a rental unit; a re-inspection fee of \$150.00 shall be assessed for the re-inspection of the first rental unit; a \$100 re-inspection fee shall be assessed at the time of the re-inspection for every additional unit requiring re-inspection. The re-inspection fee shall be due thirty days after the Director gives written notice to the permit holder as provided in Section 34-866.

(d) *Payment of Fee.* All fees must be paid when due by the permit holder.

(e) *Late Fee.* A Late Fee equal to 10% of the amount due shall be assessed per month for fees not paid when due. The director is authorized to create a fund using fees generated from late fees to assist tenants with tenant relocation costs.

(f) *Permit Renewals.* Permit holders that have not paid fees within ninety days of the date due may be subject to permit suspension until all fees have been paid.

(g) *Reinstatement Fees.* For properties that have had a permit suspended following action taken by a provision of this Article, a \$300 reinstatement fee shall be assessed to reinstate the permit.

(h) *CPI Adjustments.* The Director shall have the authority to annually adjust all fees in this Article to reflect an increase equal to an increase in the consumer price index

(all items/all urban consumers/Kansas City, Missouri-Kansas) published by the United States Department of labor, Bureau of Labor Statistics. The authorization for the Director to annually increase fees shall be cumulative and the failure of the Director to raise fees in any one year shall not waive the Director's authority to cumulatively raise fees by the consumer price index for missed years. The adjustments, if made, shall be made by the Director of Health in conjunction with the adoption of the annual budget of the City.

(i) *Renewals*. The Director will renew an existing permit once permit fee has been received by the Director regardless of whether an inspection has occurred. Suspended permits shall not be renewed until all conditions that warranted the suspension are abated. Revoked permits cannot be renewed.

(j) *Refunds*. There shall be no refund of any fee paid pursuant to this section.

(k) *Remaining Funds for Childhood lead Prevention and Tenant Relocation*. One hundred percent (100%) of any funds remaining after administrative program expenses shall be allocated to the prevention of childhood lead poisoning and relocation costs for low-income tenants required by the Director to move out of their home due to health or safety threats.

DIVISION 3: INSPECTION AND ENFORCEMENT

Sec. 34-846. Inspections.

(a) The Director shall cause inspections to be made of all rental properties regulated under this Article, in response to complaints if the Director determines an inspection is warranted, to ensure that the holder of the rental permit issued under this Article is complying with its provisions, the rules and regulations promulgated by the Director, as they may be amended from time to time, and the conditions and requirements set forth in the rental permit issued for the particular rental property for which the permit was issued or renewed.

(b) In addition to complaint-based inspections, the Director shall determine a percentage of random annual routine inspections to be completed based on the total number of permitted rental properties.

(c) The Director also may require non-complaint-based future inspections based on past performance, such as numerous or repeat violations of this Article or the regulations issued thereunder.

(d) Except for an inspection made in response to a complaint by a tenant occupying the inspected rental unit, an inspection of an occupied rental unit shall be made only in (i) exigent or emergency situations, or (ii) upon not less than five day notice to the affected tenant, as provided in Section 34-866.

(e) This Article does not authorize the Director or his or her designee, after conducting an inspection, to report, refer, issue citation, or otherwise disclose to a third

party any matter, circumstance or violation disclosed during the inspection which is not explicitly proscribed in this Article or the regulations issued thereunder.

Sec. 34-847. Authority to Prescribe Additional Rules and Regulations.

(a) *Scope of authority.* The Director shall formulate rules and regulations for implementing the provisions of this ordinance to include inspection process, method and guidelines. Such rules and regulations shall be filed with the city clerk, and, when so filed, shall be in effect as part of this ordinance. Such rules may be modified or superseded by other rules and regulations filed by the Director from time to time.

(b) *Scope of regulations.* The Director shall have power and authority to make provisions in such rules and regulations for health, sanitation and adequate rental housing standards as such rules and regulations may appertain to each and every person required to be a holder of a permit under this Article; and such provisions, conditions or requirements shall be subject to modification, deletions, additions or other change or alteration as to any person required to be a holder of a permit as the Director may find and determine at any time.

Sec. 34-848. Complaint by tenants; Retaliation Prohibited.

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

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

(c) Retaliation Prohibited.

- (1) No person shall file an action for eviction or fail to renew a lease or alter the terms of a lease because the occupant has reported a violation of this ordinance or a related provision of the city code to the Director, to another city employee or to any other person.
- (2) No person shall cause any service, facility, equipment or utility required under this ordinance to be removed, shut off or discontinued in retaliation for a complaint.
- (3) No person shall charge or demand reimbursement of any fees arising from this Article, including late fees, annual permit review fees and re-inspection fees, to a tenant. The passing of fees from an owner or permit holder to a tenant shall be considered retaliation.

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

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

Sec. 34-849. Refusal; Notification of Right to Access; Final Request for Access.

(a) *Refusal.* If after the Director presents credentials and provides notice, a person denies access to the Director, the Director shall inform the person that:

- (1) Pursuant to this Article, if the rental property is unoccupied, the permit holder is required to allow access to the Director, as access is a condition of the acceptance and retention of a rental property permit to operate;
- (2) If access is denied, an inspection order issued by the appropriate authority allowing access, may be obtained according to law; and
- (3) The Director is making a final request for access.

(b) *Refusal; Reporting.* In the event a person still denies access, the Director shall provide details of the denial of access on an inspection report form.

(c) *Inspection Order to Gain Access.* If denied access to a rental property for an authorized purpose, the Director may: (1) apply for a court order or warrant to gain access; and/or (2) suspend the permit, unless access was refused solely by the tenant.

Sec. 34-850. Non-Health-Hazard or Non-Life-Threatening Violations; Opportunity to Correct.

During an inspection, if the Director discovers that a permit holder has failed to comply with this ordinance or the rules and regulations established by the Director, and the violation is not a health hazard or not life-threatening, he or she shall: .

- (1) Inform the permit holder, agent, or employee in writing that violation(s) exist;
- (2) Allow the permit holder an opportunity to correct the violations within a reasonable period, as determined by the Director; and/or
- (3) Re-inspect the rental property to determine if the violation(s) still exist.

Sec. 34-851. Health-Hazard Violations; Opportunity to Correct.

During an inspection, if the Director discovers that a permit holder has failed to comply with this Article or the rules and regulations established by the Director, and the violation is a Health-Hazard Violation, he or she shall:

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- (1) Inform the permit holder, agent, or employee in writing that a violation exists;
- (2) Allow the permit holder an opportunity to correct the violation within a reasonable period of time, as determined by the Director; and
- (3) Re-inspect the rental property, if the Director deems it necessary, to determine if the violation still exists.

Sec. 34-852. Life-Threatening Violations; Opportunity to Correct.

(a) During an inspection, if the Director discovers that a permit holder has failed to comply with this Article or the rules and regulations established by the Director, and the violation is life-threatening, he or she shall:

- (1) Inform the permit holder, agent, or employee in writing that a violation exists;
- (2) Allow the permit holder to immediately correct cited violations and eliminate the existing life threatening violation; or
- (3) Suspend the permit and/or immediately lock, secure or close the area of violation;
- (4) Require the property to be vacated, if determined necessary by the Director; and
- (5) Re-inspect the rental property, if the Director deems it necessary, to determine if the violation still exists;

(b) In lieu of permit suspension after considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Director may specify a longer time frame for the permit holder to correct health hazardous or life threatening violations.

Sec 34-853. Failure to abate violation; occupied properties.

If permit holder fails to correct cited violations after three (3) re-inspections, the Director may:

- (1) Issue a permit suspension;
- (2) Require the property to be vacated; and/or
- (3) Institute ordinance violation proceedings through municipal court consistent with this Article.

Sec 34-854. Refusal to Sign Acknowledgment.

The Director shall inform a person who declines to sign an acknowledgement of receipt of inspectional findings that:

- (1) An acknowledgment of receipt is not agreement with findings;
- (2) Refusal to sign an acknowledgement of receipt will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified;
- (3) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the Director's historical record for the rental property; and
- (4) Make a final request that the permit holder or representative at the inspection sign an acknowledgement receipt of inspection findings.

Sec. 34-855. Notice of Suspension; with prior warning.

Pursuant to this Article and with prior warning, the Director may suspend a permit for reasons such as:

- (1) Nonpayment of fees;
- (2) Denial of access to the Director;
- (3) Life-threatening violations;
- (4) Violations still in existence at a third re-inspection; or
- (5) The Director determines that a permit holder or representative at the inspection is in violation of the City Code of Ordinances.

Sec. 34-856. Notice of Suspension; without prior warning.

The Director may suspend a permit by providing written notice to the permit holder or representative at the inspection, without prior warning, notice of hearing, or a hearing, if and when:

- (1) The Director determines through inspection or other means as specified in the ordinance, that a life-threatening violation or a life-threatening violation exists;
- (2) The Director determines that permit holder or representative at the inspection is ignoring or refusing to correct a health-hazard violation that can be quickly remediated;

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- (3) The Director determines that permit holder or representative at the inspection is in violation of the City Code of Ordinances;
- (4) The permit holder or representative interferes with the Director in the performance of his or her duties.

Sec. 34-857. Term of Suspension; Reinstatement of Permit.

A suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the Director through re-inspection or other means as appropriate. The Director may initiate any one, or a combination of, compliance methods that include, but are not limited to:

- (1) Holding a regulatory conference with the permit holder; and/or
- (2) Placing the rental property on probation to allow for a reinstatement of permit with corrective action plan;

Sec. 34-858. Time Frame for Reinstatement.

After receiving a written request from the permit holder stating that the conditions cited in the suspension order no longer exist, the Director shall conduct a reinstatement inspection of the rental property for which the permit was suspended within three business days, not including City observed holidays.

Sec. 34-859. Revocation.

(a) After notifying the permit holder of an opportunity for a hearing, the Director may revoke a Permit if:

- (1) Serious and repeated violation(s) of any requirement of the Article or regulations have occurred;
- (2) A suspension has been in effect longer than 90 days;
- (3) There has been an assault upon or repeated interference with a representative of the Director in the performance of his or her duty; or
- (4) Permit holder falls to comply with a permit suspension order.

(b) Any person whose rental property permit has been revoked by the Director, after a period of six months, may make written application for a new permit and the Director may request a conference to determine whether a new permit will be issued;

Sec. 34-860. Vacation of Property.

(a) In the event the Director orders a property or areas of violation to be vacated, locked or secured, the Director shall:

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- (1) Clearly post a copy of the notice at a public entrance to the rental property or area(s) of violation; and
- (2) Send a copy of the notice by first class mail to the permit holder;

(b) No person, other than the Director, shall remove a notice posted by the Director.

Sec. 34-861. Appeals; Permit Suspension or Revocation.

(a) *Appeal Request.* A permit holder whose permit has been suspended or revoked may appeal the Director's decision within (10) ten calendar days following the suspension or revocation notice. If a request for an appeal is not filed by the permit holder within the ten-day period, the suspension or revocation of the permit becomes final.

(b) *Hearing Date.* The Director shall afford a hearing within fifteen (15) business days after receiving a written request from the permit holder.

(c) *Record of proceedings.* The Director shall cause to be made a true and accurate transcript of appeal hearings.

(d) *Action by Director.* After any hearing shall be concluded, the Director shall make findings of fact and conclusions of law upon which his or her decision shall be based. The Director may reverse, uphold or modify the suspension or revocation decision.

(e) *Failure to appear.* Failure of a permit holder to appear at the hearing will result in automatic suspension or revocation of the permit

(f) If the Director decides to revoke a permit after a hearing or failure to appear, such rental property shall be vacated, locked and secured in a fashion deemed necessary by the Director.

Sec. 34-862. Severability.

In the event any section, paragraph, sentence, clause, phrase or portions of this Article are declared invalid for any reason, the remainder of this Article shall remain in full force and effect.

Sec. 34-863. Violations Generally; Penalty; failure to Obtain Permit or Renew.

(a) Any person violating any provision of this Article, the rules and regulations of the Director, or the conditions and requirements contained in the permit, as any or all of such provisions, rules, regulations, conditions or requirements may be amended, shall be deemed guilty of an ordinance violation, and upon conviction thereof shall be punished as

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provided in Section 34-864. Such violations apply to actions or inactions taken by the permit holder, his or her agents, designee or employees.

(b) Failure of any person to obtain a permit or keep the permit in force and effect by proper renewal thereof, where a permit is required, shall constitute a violation of this Article.

Sec. 34-864. Authorities; Penalties.

(a) Notwithstanding any other enforcement actions pursuant to this Article, the Director may seek to enforce the provisions of this Article by instituting proceedings against the permit holder or other persons who violate its provisions.

(b) Any person convicted of a violation of any provision of this chapter shall be punished for that violation by a fine of not more than \$1,000.00, or by imprisonment of not more than 180 days, or by both such fine and imprisonment. Each day on which a violation occurs is a separate violation.

Sec. 34-865. Judicial Remedy.

The Director may seek a judicial remedy to achieve compliance with the provisions of this Code if a person operating a rental property:

- (1) Fails to have a valid permit to operate a rental property;
- (2) Violates any term or condition of a permit;
- (3) Allows serious or repeated violations to remain uncorrected beyond time frames for correction approved, directed, or ordered by the Director;
- (4) Fails to comply with a permit suspension or revocation decision issued by the Director; or
- (5) Fails to comply with an order issued as a result of an appeal hearing.

Sec. 34-866. Notices; How Served.

A notice issued in accordance with this Article shall be considered to be properly served if it is served by one of the following methods:

- (1) The notice is personally served by the Director, a law enforcement officer, or a person authorized to serve a civil process to the permit holder or the tenant;
- (2) For notice to the owner, notice shall be deemed sufficient if sent by first class mail to the owner at the address specified in the last permit application filed under this Article. If the owner lacks a required permit under this Article, notice is deemed sufficient if sent by first class mail to

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the person listed on applicable county records for purposes of paying property taxes on the subject rental property; or

- (3) For notice to the tenant, notice shall be deemed sufficient if sent by first class mail to the tenant, whether by name or by the term "occupant."

Sec. 34-867. Effective Date; Transition Period.

This Article shall become effective September 2, 2018, when applications for permits shall be accepted by the Director for permits commencing January 1, 2019. Late Fees when applicable shall not accrue prior to April 1, 2019.

Sec. 34-868. Rental Housing Advisory Board.

(a) There is hereby established a Rental Housing Advisory Board to advise the Director on the processes undertaken by the Healthy Rental Homes Inspection Program including, but not limited to, process, regulations, and code revisions. The board shall consist of nine members including the Health Department's Environmental Health Services Division Manager and a chairperson, who shall be the program manager of Healthy Rental Homes Inspection Program.

(b) The board members shall be appointed by the Mayor and shall include: a representative of the rental housing industry, a member of academia, a member representing tenants, a representative of a local neighborhood association, a representative of the medical community, and two members at large.

(c) The chairperson and the Environmental Health Services Division Manager shall not have a vote.

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

(e) All Board appointments shall be for a period of two years.

Section 6. ACCELERATED EFFECTIVE DATE RECOGNIZED. That this ordinance is recognized as having an accelerated effective date as provided by Section 503(a)(3)(A) of the City Charter in that it calls for an election and shall take effect in accordance with that section.



Authenticated as Passed

Sly James, Mayor

Marilyn Sanders, City Clerk

MAY 10 2018

Date Passed

Approved as to form and legality:

Sarah Baxter

Assistant City Attorney