

ORDINANCE NO. 2836

AN ORDINANCE AMENDING CHAPTER THIRTY-THREE OF THE CITY OF HIGHLAND, ILLINOIS, CODE OF ORDINANCES TO INCLUDE ARTICLE SEVEN ENTITLED HEALTH SAFETY INSPECTIONS

WHEREAS, the City of Highland, Madison County, Illinois (hereinafter “City”), is a non-home rule municipality duly established, existing and operating in accordance with the provisions of the Illinois Municipal Code (Section 5/1-1-1 et seq. of Chapter 65 of the Illinois Compiled Statutes); and

WHEREAS, City has the authority to ensure the health, safety, general welfare and economic welfare of all City residents through City police powers and 65 ILCS 11-60-2, which states: “The corporate authorities of each municipality may define, prevent, and abate nuisances;” and

WHEREAS, City has the authority, pursuant to 65 ILCS 5/11-31-1 and 65 ILCS 5/1-3-1(b), to adopt and enforce property maintenance standards and minimum quality standards for buildings and structures in City; and

WHEREAS, City has received reports of sub-standard living conditions in certain residential rental properties; and

WHEREAS, City has determined certain residential rental properties are subject to a greater likelihood of deterioration, abuse, overcrowding, and other conditions that can adversely impact the safety of occupants, neighbors, structures, and property values; and

WHEREAS, City has determined that a wide variety of different nuisance conditions, including physical conditions of certain City residential rental properties, harm public health, safety, general welfare, and economic welfare for City residents; and

WHEREAS, City has determined it necessary, for the health, safety, general welfare, and economic welfare of all City residents, to conduct Health Safety Inspections of all City residential rental properties to protect potential residential rental property inhabitants from nuisance conditions; and

WHEREAS, City has determined it necessary, for the health, safety, general welfare, and economic welfare of all City residents, to allow for Health Safety Inspections of all City residential rental properties to protect all City residents from nuisance conditions; and

WHEREAS, City has determined that most City landlords are responsible owners and a targeted safety approach is the most effective way to reduce the number and recurrence of residential rental property nuisance conditions in City; and

WHEREAS, City passed Ordinance 2441, “An Ordinance Creating a Landlord Registration Program in the City of Highland, Madison County, Illinois,” on November 1, 2010; and

WHEREAS, Ordinance 2441 requires all landlords of residential rental properties in City to register every residential rental structure, including any apartment, rooming house, dwelling, multi-use dwelling structure (excluding hotels and motels), and any mobile home, located within the corporate limits of City that the owner thereof rents, either entirely or in part, to another person for occupancy as a residence; and

WHEREAS, City has determined it is in the best interests of public health, safety, general welfare and economic welfare to require Health Safety Inspections of every residential rental property being rented to another person for occupancy as a residence whenever there is a change in tenant, or a change in ownership of the residential rental property; and

WHEREAS, City adopted by reference property maintenance codes which are used by City to enforce City Code violations; and

WHEREAS, City has determined any residential rental property within City deemed by the City Building and Zoning Officer or the City Building and Zoning Officer’s Designee to be in violation of City Code, is deemed to be a dangerous and unsafe property and a nuisance; and

WHEREAS, City has determined it may be necessary for the City Manager to designate an individual(s) to conduct Health Safety Inspections, or to create the position of “Health Safety Inspection Officer(s),” for purposes of completing City Health Safety Inspections on all residential rental property within City, and ensuring compliance with City Code; and

WHEREAS, City has determined the Health Safety Inspections to be conducted on all residential rental property within City may include, but are not limited to: 1) fire safety and other safety conditions; 2) plumbing safety; 3) drainage safety; 4) HVAC safety; 5) electrical safety; 6) kitchen safety; 7) interior structural safety; 8) exterior structural safety; 9) air quality safety; 10) absence of rats, mice, termites, bedbugs, etc.; and

WHEREAS, City has determined conducting Health Safety Inspections on all residential rental structures being rented to another person for occupancy as a residence whenever there is a change in tenant or a change in ownership of the residential rental property will help ensure compliance with City Code, help alleviate nuisance conditions in City residential rental properties, and ensure the health, safety, general welfare, and economic welfare of all City citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND AS FOLLOWS:

SECTION 1: The foregoing recitals are incorporated herein as findings of the City Council of the City of Highland, Illinois.

SECTION 2: Article 7, of Chapter Thirty-Three, of the Code of Ordinances, City of

Highland, Illinois, shall now read:

ARTICLE VII – HEALTH SAFETY INSPECTION

33-7-1 GENERALLY. City has the authority to ensure the health, safety, general welfare and economic welfare of all City residents through City police powers and 65 ILCS 11-60-2, which states: “The corporate authorities of each municipality may define, prevent, and abate nuisances.” In addition, City may demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within City and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those buildings. *See* 65 ILCS 5/11-31-1 and 5/11-31-1.1. Further, City may adopt and enforce property maintenance standards and minimum quality standards for buildings and structures. *See* 65 ILCS 5/11-31-1 and 65 ILCS 5/1-3-1(b).

33-7-2 DEFINITIONS.

Agent or representative of the owner, whether singular or plural, means any person who is an agent or representative of an owner of any residential rental structure or rental property within City.

Code, whether singular or plural, means City of Highland, Illinois, Municipal Code.

Health Safety Inspection, whether singular or plural, means an inspection conducted by a City employee(s) authorized by City to conduct Health Safety Inspections. Health Safety Inspections shall be conducted to ensure the health, safety, general welfare, and economic welfare of all City residents by ensuring all residential rental properties comply with City Code and are not dangerous, unsafe, or nuisance properties. Health Safety Inspections may include, but are not be limited to: 1) Fire safety and other safety conditions; 2) Plumbing safety; 3) Drainage safety; 4) HVAC safety; 5) Electrical safety; 6) Kitchen safety; 7) Interior structural safety; 8) Exterior structural safety; 9) Air quality safety; and 10) Absence of rats, mice, termites, bedbugs, etc.

Health Safety Inspection Certificate of Compliance, whether singular or plural, means City certificate of compliance issued to owner of residential rental property after a Health Safety Inspection has been completed.

Health Safety Inspection Officer, whether singular or plural, means City employee authorized to conduct Health Safety Inspections by City Manager or City Manager’s Designee.

Owner, whether singular or plural, means any person who holds any ownership interest or fee simple ownership interest in any residential rental structure or rental property within City.

Let for occupancy, whether singular or plural, means to permit, provide or offer possession or occupancy of a residential rental property to a person who is or who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement, license, or similar

instrument, or pursuant to a recorded or unrecorded agreement or contract of sale for the premises.

Residential rental structure or *residential rental property*, whether singular or plural, means any apartment, rooming house, dwelling, multi-use dwelling structure (excluding hotels and motels) – and any mobile home – located within City that the owner thereof rents, either entirely or in part, to another person for occupancy as a residence.

Tenant, whether singular or plural, means a person who occupies, leases, or rents residential rental property,

Tenancy, whether singular or plural, means the term or duration a person occupies, leases, or rents residential rental property.

33-7-3 LANDLORD OBLIGATION TO REGISTER. *See* City Code, Chapter 33, Article VI, Landlord Registration, incorporated by reference herein, and stated in pertinent part:

- 1) Registration required - It shall be unlawful for an owner of a residential rental structure to rent that residential rental structure, either entirely or in part, to another person for occupancy as a residence, unless the owner shall have registered the residential rental structure with the city
- 2) Application - The owner of a residential rental structure shall register the residential rental structure with the City by completing (on forms supplied by the City) a written application for registration, and filing the application for registration with the Building and Zoning Department of the City. The application for registration shall state, concerning the residential rental structure:
 - a. Its address;
 - b. A description of the structure;
 - c. The number of rental units in the structure; and
 - d. The name, mailing address, and telephone number of each owner of the structure.

If an owner is a business entity that has its own separate legal existence, rather than a natural person, then the application shall provide the name, phone number and address of a natural person that is the controlling individual of that entity - in no event shall compliance consist of the name of another company or non-natural persons and the application for registration shall also state the name, mailing address, and telephone number of the person responsible for the maintenance of the residential rental structure.

- 3) Duration of registration - Registration shall be required only once for each residential rental structure unless:

- a. All or part of the ownership of the residential rental structure changes, or
- b. The number of rental units in the residential rental structure changes.

If either such change occurs, the then owners of the residential rental structure shall, within 45 days of the change, file a new application for registration with the Building and Zoning Department of the City.

- 4) Registration not assignable - The registration of a residential rental structure is not assignable. If a residential rental structure is sold or the ownership of the complete fee simple interest in the residential rental structure otherwise changes, the new owner or owners thereof shall complete an application for registration concerning the residential rental structure and shall file the application for registration with the Building and Zoning Department of the City.
- 5) No fee - No fee shall be charged by the City for the filing, by the owner or owners of a residential rental structure, of an application for registration.
- 6) Penalty - Failure to comply with the requirements of this article will result in a citation for a city ordinance violation and a notice to appear in court being issued. City ordinance violation fines range from \$50.00 to \$750.00 per day.

33-7-4 AMNESTY PERIOD FOR LANDLORD TO REGISTER RESIDENTIAL RENTAL PROPERTY.

Pursuant to City Code, Chapter 33, Article VI, Landlord Registration, all owners, or the agent or representative of any owner, must register all residential rental property within City limits. For purposes of facilitating registration of all residential rental property within City limits, City will provide an “Amnesty Period for Landlords to Register Residential Rental Property” up to and including June 1, 2018. No owner, or the agent or representative of the owner, will be charged with a City ordinance violation who registers residential rental property with City prior to June 1, 2018. However, any owner, or the agent or representative of the owner, who fails to register residential rental property by June 1, 2018, will be in violation of City Code, Chapter 33, Article VI, Landlord Registration, and subject to City Code Section 1-13.

33-7-5 NUISANCE CONDITIONS. When a change in tenancy occurs at residential rental property, or when a change in ownership of residential rental property occurs, the Health Safety Inspection Officer will inspect all residential rental properties in accordance with the City Code. Some of the Health and Safety Conditions that may be inspected during the process for issuing a Health Safety Inspection Certificate of Compliance are listed below. The list below is not intended to be the final list of what may or may not be inspected by City as part of the Health Safety Inspection. The Health and Safety Conditions listed below are examples of what may be inspected as part of the City Health Safety Inspection:

HEALTH AND SAFETY CONDITION	ESSENTIAL TO HEALTH AND SAFETY	PUBLIC NUISANCE
1. Fire safety <ul style="list-style-type: none"> • Smoke and CO detectors appropriately located and in good working order • Adequate means of egress 	Lack of detectors and/or inadequate egress increases risk of fires and the risk of bodily harm resulting from fires. In addition to posing a risk to tenants, both increase risks for adjacent properties and impose fire service and health costs on the public.	Increased risk of fire on a property increases risks to adjacent properties and imposes fire service and health costs on the public.
2. Other safety conditions <ul style="list-style-type: none"> • All doors to the exterior must close fully and have appropriate, well- functioning locking mechanisms • All hand or guard rails must be firmly fastened and capable of supporting reasonable loads • Sidewalks and walkways must be in reasonable repair 	Improperly closing doors or malfunctioning locks can provide opportunities for burglary or trespassing with significant risk to tenants.	Increased risk of crime imposes police costs on the public.
	Insecure or inadequate guard rails can result in injury to tenants or visitors, particularly senior citizens or individuals with physical disabilities.	Increased risk of injury affects tenants, visitors and neighbors and imposes health and emergency service costs on the public.
	Holes, cracks and other deficiencies in sidewalks and walkways can lead to injury of tenants, visitors and passers-by.	Increased risk of injury affects tenants, visitors and neighbors and imposes health and emergency service costs on the public.

<p>3. Plumbing</p> <ul style="list-style-type: none"> • Access to public water and sewer service; or, a well and/or septic system approved by the appropriate approval authority. • Complete bathroom, including sink with hot and cold running water, toilet and shower and/or bathtub in working order with all fixtures properly installed and no visible water hazards present. 	<p>Inadequate water service can lead to tenant health problems, while inadequate sewer service can affect health for both tenants and residents of nearby properties because of the potential spread of disease.</p>	<p>Inadequate water service can lead to resident health problems, while inadequate sewer service can affect health for both residents and nearby residents, in both cases imposing costs on the public.</p>
	<p>Lack of adequate, properly functioning and safe washing, bathing and toilet facilities can lead to significant health problems for tenants.</p>	<p>Tenant health problems can impose costs of treatment on the public.</p>
<p>4. Drainage</p> <ul style="list-style-type: none"> • Properly operating drains in bathroom and kitchen • Proper drainage from apartment into sewer or septic system • Gutters and downspouts in good condition and draining properly 	<p>Improperly functioning drains can lead to significant health problems for tenants, as well as for nearby residents through potential spread of disease.</p>	<p>Increased risk of disease can affect neighbors as well as tenants and impose costs on public.</p>
	<p>Improperly functioning drains can lead to significant health problems for tenants, as well as for nearby residents through potential spread of disease.</p>	<p>Increased risk of disease imposes costs on public.</p>
	<p>Improperly functioning gutters and downspouts can lead to ponding, flooding and infestation, as well as lead to roof and wall problems creating health and safety problems for tenants and neighbors.</p>	<p>Increased risk of health and safety problems can affect neighbors as well as tenants and impose costs on public.</p>
<p>5. Working and property vented heating system</p>	<p>Lack of adequate heating facilities can lead to significant health and safety problems for tenants, including the use of alternative heating measures that lead to fire risk.</p>	<p>Can create health problems and increase fire risk both imposing costs on public.</p>
<p>6. Working and safe electrical system</p>	<p>Dangerous or inadequate electrical systems increase the risk of physical injury to residents and visitors and increase fire risk for the property and adjacent properties.</p>	<p>Can increase health problems and fire risk for residents and neighbors and impose costs on public.</p>

7. Kitchen with operating stove, oven, refrigerator and sink	Lack of operating kitchen equipment can lead to use of undesirable and dangerous alternatives by tenants which increase risk of physical injury and risk of fire to property and adjacent properties.	Can increase health problems and fire risk for residents and neighbors and impose costs on public.
8. Roof free from leaks; if evidence of prior leaks is visible, documentation that repairs were made	Leaking roof can lead to significant health and safety problems for tenants.	Can lead to health problems for tenants imposing treatment costs on public, as well as increase risk of deterioration that may require corrective action at public cost.
9. Absence of holes, breaks, rotting material or major cracks in walls or floors	Holes, breaks or major cracks in walls or floor can pose injury risks to tenants, particularly children, as well as indicate potential structural problems.	Can lead to health problems for tenants imposing treatment costs on public, as well as increase risk of deterioration that may require corrective action at public cost.
10. Soundness of exterior structural elements, including balconies, stairs and decks	Unsafe balconies, decks, stairs and visible joists can pose severe injury risks to tenants and visitors.	Can lead to health problems for tenants imposing treatment costs on public, as well as increase risk of deterioration that may require corrective action at public cost.
11. Absence of mold or mildew	Mold or mildew can lead to significant health and safety problems for tenants.	Can contribute to health problems for residents imposing public cost for treatment.
12. Absence of rats, mice, termites or bedbugs	Rats and other vermin can lead to significant health and safety problems for tenants.	Can contribute to health problems for residents imposing public cost for treatment.

33-7-5 PROHIBITED CONDUCT.

- (a) It shall be unlawful for any person to let to another for use or occupancy any residential rental property without a current and valid City-issued Health Safety Inspection Certificate of Compliance.
- (b) It shall be unlawful for any person to sell or transfer, or for any person to purchase or obtain fee simple interest in, any residential rental property

without a current and valid City-issued Health Safety Inspection Certificate of Compliance.

- (c) After a Health Safety Inspection has been conducted on residential rental property, it shall be unlawful for any person to occupy a residential rental property that does not have a current and valid City-issued Health Safety Inspection Certificate of Compliance.
- (d) It is unlawful for any person to violate any provision of this Chapter.

33-7-6 HEALTH SAFETY INSPECTION.

- (a) At each change in tenancy, a Health Safety Inspection Certificate of Compliance must be obtained by every owner of residential rental property, or the agent or representative of the owner of the residential rental property. A change of tenant(s) requires all residential rental property be brought into compliance with City Code. If the building is found to be in violation of the Code, the deficiencies must be corrected, and the property re-inspected and approved prior to being let for occupancy.
- (b) Prior to a change in ownership of all residential rental property, the current owner must contact the Health Safety Inspection Officer to request a Health Safety Inspection. A change of ownership requires all residential rental property be brought into compliance with City Code. If the building is found to be in violation of the Code, the deficiencies must be corrected, and the property re-inspected and approved prior to being sold or transferred.
- (c) Before any residential rental property can be let for occupancy, the owner or the agent or representative of the owner must submit the required application for a Health Safety Inspection and pay a permit fee of \$25.00.
- (d) Before any residential rental property can be sold or transferred, the owner, or the agent or representative of the owner, must submit the required application for a Health Safety Inspection and pay a permit fee of \$25.00.
- (e) The application and fee for the Health Safety Inspection can be submitted to City as soon as a residential rental property is available for a new tenant.
- (f) The owner, or the agent or representative of the owner, shall make an appointment at City Building and Zoning Department with the Health Safety Inspection Officer for an inspection of the residential rental property to determine compliance with City Code.

- (g) When the residential rental property inspection process is completed, the Health Safety Inspection Officer will notify the owner, or the agent or representative of the owner.
- (h) If the Health Safety Inspection Officer determines that the residential rental property that is the subject of the inspection complies with City Code, a Health Safety Inspection Certificate of Compliance will be issued from the City Building and Zoning Department.
- (i) If, however, the residential rental property is not in compliance with City Code, it will not be approved for a Health Safety Inspection Certificate of Compliance, and the owner, or the agent or representative of the owner, will receive a violation notice describing the violation(s) and the correction(s) to be made.
- (j) A Health Safety Inspection Certificate of Compliance will remain valid until the sooner of any of the following occurs:
 - (i) City revokes or suspends the Health Safety Inspection Certificate of Compliance due to a violation of City Code;
 - (ii) Change in tenancy at the residential rental property;
 - (iii) Change in ownership of the residential rental property;
 - (iv) The residential rental property is damaged or destroyed to the extent that it is no longer habitable.
- (k) A Health Safety Inspection Certificate of Compliance may not be transferred between owners.
- (l) A Health Safety Inspection Certificate of Compliance may not be transferred from one residential rental property to another.
- (m) City may issue a temporary Health Safety Inspection Certificate of Compliance when, in the opinion of the Health Safety Inspection Officer, none of the violations observed threaten life-safety or health. Temporary certificates shall expire no later than sixty (60) days after issuance.
- (n) In the event an owner, agent of owner, or occupant of a residential rental property refuses to allow the Health Safety Inspection Officer to inspect a residential rental property, schedule a time to inspect the residential rental property, or otherwise fails to comply with the City Code, City reserves all remedies to secure compliance with this section, including, without

limitation, seeking a search warrant or suspending or revoking an owner's certificate of compliance.

- (o) The Health Safety Inspection Officer shall complete as many re-inspections as are reasonably necessary to ensure that appropriate corrective action has been taken to bring the residential rental property into compliance with City Code.
- (p) The owner, or the agent or representative of the owner, shall be charged \$25.00 for every inspection and/or re-inspection of the residential rental property to ensure compliance with this section.
- (q) City reserves the right to refuse to continue to perform Health Safety Inspections for any owner, or the agent or representative of the owner, of residential rental property in City if the owner, or the agent or representative of the owner, of residential rental property has not paid for previous Health Safety Inspections on any property owned in City.

33-7-7 HEALTH SAFETY INSPECTION - APPLICATION.

- (a) Owner, or the agent or representative of the owner, shall complete a Health Safety Inspection Certificate of Compliance application on a form provided by City and provide all other information requested by City. At a minimum, owner, or the agent or representative of the owner, shall provide the following information for each residential rental property:
 - (i) Owner's legal name, home and business address, home, business, and mobile telephone numbers, and e-mail address;
 - (ii) Property agent's legal name, business address, business and mobile telephone numbers, and e-mail address;
 - (iii) The address of the residential rental property;
 - (iv) The bathrooms and bedrooms in each residential rental property;
 - (v) The maximum occupancy of the residential rental property;
 - (vi) The residential rental property's square footage; and
 - (vii) \$25.00 fee for Health Safety Inspection.
- (b) Owner, or the agent or representative of the owner, shall submit a revised application to City within forty-five (45) days of any modifications to the information previously provided on the Health Safety Inspection application.

33-7-8 APPEALS.

- (a) Any person receiving a violation notice pursuant to this section, any person denied a Health Safety Inspection Certificate of Compliance, or any person whose Health Safety Inspection Certificate of Compliance has been suspended or revoked shall have the right to appeal to the City Building and Zoning Department.
- (b) Such an appeal shall be in writing and filed with the City Building and Zoning Department within fourteen (14) days of the date of the Health Safety Inspection Officer's action. The appeal shall contain a complete statement of the reasons for the appeal, the specific facts supporting the appeal, and all evidence the appellant intends to rely on to support the appeal.
- (c) The City Manager or City Manager's Designee shall schedule a meeting to consider the appeal within thirty (30) days of receiving the appeal. The City Manager or City Manager's Designee may consider all facts, evidence, and testimony presented by the appellant and the Health Safety Inspection Officer, and all other information determined to be relevant to the appeal.
- (d) The City Manager or City Manager's Designee shall send written notice of the decision to the owner within thirty (30) days of hearing the appeal.
- (e) The residential rental property may not be let for occupancy, sold and/or transferred while any appeal is pending.

33-7-9 OTHER INSPECTIONS. Nothing in this section shall restrict, limit, or alter City's authority to inspect any property or impose penalties for violations of the City Code.

33-7-10 PENALTY. Any person violating this Chapter shall be punishable as set forth in Section 1-13 of City Code, or through any remedy available to City as stated herein, pursuant to City Code, and/or according to Illinois law.

33-7-11 AUTHORITY. Including, but not limited to: *See* 65 ILCS 5/11-60-2; 65 ILCS 5/11-31-1; 65 ILCS 5/1-3-1; City Code; and Illinois Law.

SECTION 3: In the event a court of competent jurisdiction finds this Ordinance or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of this Ordinance and the application thereof to the greatest extent permitted by law.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or causes of action which shall have accrued to the City prior to the effective day of this ordinance.

SECTION 5: This Ordinance shall be in full force and effect on June 1, 2018.

Passed by the City Council and approved by the Mayor of the City of Highland, Illinois, and deposited and filed in the office of the City Clerk on the 19th day of March, 2018, the vote being taken by ayes and noes and entered upon the legislative record as follows:

AYES: Schwarz, Frey, Bellm, Nicolaides

NOES: None

APPROVED:

Joseph R. Michaelis, Mayor
City of Highland
Madison County, Illinois

ATTEST:

Barbara Bellm, City Clerk
City of Highland
Madison County, Illinois