

ORDINANCE NO. 1106

AN ORDINANCE ESTABLISHING A CERTIFICATE OF OCCUPANCY REQUIREMENT AND INSPECTION PROGRAM FOR RENTAL PROPERTIES WITHIN THE CITY OF STROMSBURG.

WHEREAS, the City of Stromsburg is a city of the second class pursuant to Nebraska law;

WHEREAS, Neb. Rev. Stat. § 17-505 provides that the legislative body of cities of the second class shall have the power to make all such ordinances, bylaws, rules, regulations, and resolutions, not inconsistent with the laws of the state, as may be expedient for maintaining the peace, good government, and welfare of the corporation and its trade, commerce, and manufactories, and to enforce all ordinances by inflicting fines or penalties for the breach thereof, not exceeding five hundred dollars for any one offense, recoverable with costs;

WHEREAS, the City Council finds and declares that there exists in the City substandard and unsanitary residential rental buildings and dwelling units, the physical conditions and characteristics of which violate state and local building, housing and sanitation codes and ordinances and render them unfit or unsafe for human occupancy and habitation; that these residential rental buildings and units are detrimental to or jeopardize the health, safety, and welfare of their occupants and of the public and serve to seriously compromise the integrity and residential quality of City neighborhoods through such factors as deferred property maintenance, code and regulatory violations, and/or nuisance conditions on or about the properties; that it has been observed by City staff performing code enforcement functions that in general some of the most egregious violations of health and safety codes and related negative impacts are found in such rental housing; that the existence of such substandard residential rental buildings and dwelling units threatens the social stability and economic integrity of the neighborhoods which host these buildings; that such conditions necessitate disproportionate expenditures of public funds for code enforcement and remedial action; that such conditions impair the efficient and economical exercise of governmental powers and functions, and disrupts peaceful and quiet enjoyment of residential areas and neighborhoods;

WHEREAS, the purpose of the Certificate of Occupancy and Inspection Program is to address the conditions described above; to proactively identify such substandard and unsafe rental units and to ensure the rehabilitation or elimination of those buildings and units that do not meet minimum building code and housing code standards, or are not safe to occupy or do not comply with zoning codes; to maintain property in a safe and sanitary condition; to provide adequate, safe, and sanitary housing rental units in the City; to protect the citizens' property rights by maintaining the value of their property; to maintain the health, welfare, and safety of the people; to maintain property values consistent with a healthy, safe, and prosperous City; and to preserve and enhance the health, safety, welfare, and quality of life for residents living in such rental buildings and dwelling units and the neighborhoods which host these structures;

WHEREAS, the City of Stromsburg finds this Ordinance expedient for maintaining the safety and welfare of the City and its citizenry;

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF STROMSBURG, POLK COUNTY, NEBRASKA AS FOLLOWS:

Section 1: That the Stromsburg Municipal Code be and hereby is amended by adding a new Section 4-950 et seq., which provides as follows:

4-950 Title. The title of this Section shall be known as the Residential Rental Certificate of Occupancy and Inspection Program.

4-951 Definitions. For purposes of this Section, the following definitions shall apply:

"Rental Unit" shall mean any residential dwelling within the City's jurisdiction that is rented or leased to tenants for residential purposes on a non-transient basis (when one or more tenants reside on the property or rents or leases the property for thirty consecutive days or longer) and which is owned in whole or in part by an Owner.

"Owner" shall mean any Person who owns one or more Rental Units.

"Person" shall mean any individual or business entity.

"Code Enforcement Officer" shall mean the code enforcement officer of the City of Stromsburg.

"Certificate of Occupancy" shall mean a permit issued by the City, pursuant to this Ordinance and any regulations promulgated by the Code Enforcement Officer that permits under this Section an Owner to rent or lease a Rental Unit.

4-952 Rules of Construction. This Section shall be liberally construed and applied to promote its underlying purpose, which is to encourage the maintenance and improvement of the quality of rental housing in the City.

4-953 Compliance. No person shall occupy or maintain a Rental Unit unless in accordance with the provisions of this Section.

4-954 Scope. This Section shall apply to all Rental Units, but shall not apply to the following:

- (i) Facilities administered by the Stromsburg Housing Authority;
- (ii) Occupancy by the purchaser of a dwelling unit under a contract of sale;
- (iii) Transient occupancy in hotel, motel, bed and breakfast or other similar lodgings;

- (iv) Persons who reside in single-family dwelling unit but who wish to lease to individuals or a family while they are absent from the city for short periods of time, not to exceed one year, and who intend to return to their single-family dwelling unit at the expiration of the lease period;
- (v) Persons who occupy the premises and rent to no more than two occupants; provided that this does not apply to basements, attics, or garages which are used as habitable spaces.
- (vi) Nursing homes licensed by the State of Nebraska, whether or not the unit provides skilled or assisted care or residential living units.
- (vii) Residential dwellings owned by a church for occupancy by its pastor.
- (viii) Residential dwellings occupied by a parent, child, grandparent or grandchild of the owner of the property.
- (ix) Dwelling units occupied by parents holding a reserved life estate in the property.
- (x) Rental units which have been inspected and approved by the Housing and Urban Development (HUD) provided that a copy of said inspection has been given to the City.

4-955 Certificate of Occupancy: Requirement. On or after March 1, 2016 no Person may use real estate for the purpose of erecting or maintaining a Rental Unit thereon without having first obtained a Certificate of Occupancy from the office of the Code Enforcement Officer pursuant to this Section.

4-956 Certificate of Occupancy: Form. The form of the Certificate of Occupancy shall be as determined by regulations promulgated by the Code Enforcement Officer.

4-957 Certificate of Occupancy: Application: Duration. Any Owner wishing to rent or lease a Rental Unit must apply for a Certificate of Occupancy with the office of the Code Enforcement Officer. The application shall

be in a form as determined by the Code Enforcement Officer, and shall require the following information:

- (1) Name of Owner;
- (2) Mailing address of Owner;
- (3) Street address of Owner;
- (4) Street address of Rental Unit(s);
- (5) Brief description of type and number of Rental Unit(s);
- (6) Name and address of Owner's agent, if any, authorized to receive notification of complaints, damages, emergencies, substandard conditions or other communications, including service of process. The address of any agent so designated shall be within this State. Any Owner who does not reside in the State of Nebraska shall be required to designate a resident agent.
- (7) Certificate of Occupancy fee of \$25.00 for the initial Rental Unit, plus \$5.00 for each additional Rental Unit owned by the Owner. Such fees are compensation for necessary paperwork and work to inspect Rental Units.

The application shall be signed by the Owner. Whenever ownership of a Rental Unit changes, the new Owner shall complete a new application and must be issued a new Certificate of Occupancy. Notification of the Owner or Owner's agent at the address shown on the application shall constitute sufficient notice pursuant to any provision of this Section. Each Certificate of Occupancy shall be valid for 36 months following its date of issuance provided that the dwelling unit passed inspection. It is a violation of this Section for an Owner to maintain a Rental Unit for which a Certificate of Occupancy has not been issued and is currently valid in accordance with this Section.

4-958 Certificate of Occupancy; General Inspection. In addition to the other requirements of this Section and any regulations promulgated by the Code Enforcement Official not in conflict with this Section, it shall be a requirement to obtain a Certificate of Occupancy to pass an inspection of the Rental Unit carried out by the office of the Code Enforcement Official. Such inspection shall require the Rental Unit to meet all applicable local and state property maintenance provisions, and the inspection check list promulgated by the Code Enforcement Official. Each inspection shall apply to the Certificate of Occupancy issued for the Rental Unit inspected, and a new inspection shall be required for the

issuance of a new Certificate of Occupancy following the expiration of a prior Certificate of Occupancy. Owners shall be notified in writing of any reason for failure of an inspection and disapproval of a Certificate of Occupancy. For Rental Units that do not pass the inspection, Owners may request a re-inspection following correction of the issues identified by the Code Enforcement Official. There shall be no limit to the number of re-inspections authorized per Rental Unit, but there shall be an additional fee of \$100.00 per re-inspection for the second inspection and a fee of \$125.00 for the third and subsequent re-inspection of the same dwelling unit.

Rental Properties previously inspected by the City pursuant to the International Property Maintenance Code shall be issued a Certificate of Occupancy effective on the date the property passed the inspection.

4-959 Special Inspection. A special inspection may be done at the discretion of the Code Enforcement Official, upon the written, signed request of any resident of the City, any governmental agency, or the Rental Unit's tenant, the tenant's legal representative, the Owner, or the Owner's agent. A special inspection shall be confined to the defects complained of, if any, by the person requesting the inspection unless the Code Enforcement Official determines that the condition of the Rental Unit or premises has deteriorated since the last general inspection to such an extent that a complete inspection is required to effectuate the purposes of this Section, in which cases a complete new inspection of the entire Rental Unit and premises may be performed. If a complete general inspection is performed, a new Certificate of Occupancy shall be issued upon passage of the general inspection.

4-960 Inspection; Entry to Premises. Unless waived by the Owner or tenant, the following procedure shall be used to obtain entry to Rental Units for the purpose of any inspection. The Owner shall be contacted and a date shall be established for inspection. The Owner shall then furnish to the Code Enforcement Officer a current list of tenants in each affected Rental Unit. The Code Enforcement Officer shall then send a certified letter with return receipt requested and a stamped self-addressed postcard to each tenant so reported by the Owner. If there is evidence that the tenant received the letter, but no other response is received from the tenant, consent to enter will be presumed. An official record shall be maintained of all notices. The Owner shall be responsible for granting access for inspection upon presentation of a copy of the official record of notices and responses. If either the tenant or the Owner refuses entry for inspection after proper notification, the Code Enforcement Officer shall not inspect without first obtaining an inspection warrant from a court of competent jurisdiction.

4-961 Retaliatory Eviction Prohibited. It shall be a violation of this Section for any Owner or Owner's agent to bring or threaten to bring an action for possession of the Rental Unit for the purpose of retaliating against a tenant for requesting a special inspection as provided for in § 4-960.

4-962 Violation. In addition to any penalty that may be imposed pursuant to §4-1001 of this Code for any violation of the Code, the Code Enforcement Officer may:

- A. Declare a Rental Unit to be unsafe pursuant to the Property Maintenance Code, or take other action pursuant to that Code.
- B. Issue an emergency order where immediate action is required to protect the health and safety of the public or of the occupants of the Rental Unit.
- C. See any of the additional remedies which provide for an appropriate action or proceeding at law or in equity against the person responsible for the violation for the purpose of ordering the person to:

- (1) Restrain, correct or remove the violation or refrain from any further execution of work causing a violation;
- (2) Restrain or correct the erection, installation, or alteration of such structure;
- (3) Require the removal of work in violation, or part thereof erected, construed, installed or altered in violation of, or not in compliance with, the provisions of this Code, or in violation of a plan or specification under which an approval, permit or certificate was issued.

4-963 Appeals. Appeals of decisions of the Code Enforcement Officer pursuant to this Section may be had to the City Council, in the same manner as appeals of nuisance declarations pursuant to this Code.

4-964 Civil Enforcement. Any violation of this Section is hereby declared to

be a nuisance under this Code, and as such may be abated in a manner as nuisances are now or may hereafter be abated pursuant to this Code.

4-965 Penalty. Penalty for violation of this ordinance is as authorized by Code §4-1001.

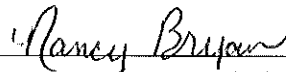
Section 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3: That this ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS 28TH DAY OF DECEMBER, 2015.

CITY OF STROMSBURG,
POLK COUNTY, NEBRASKA

BY: 
Kenneth Everingham, Mayor


Nancy Bryan, Clerk

