

Rental Code Inspections by Calvin Horne

City of Manhattan

Current policy:

Rental registration program

- All rental properties must be registered through the city. No tenant should occupy a rental property that is un-registered. Failure to register a property will result in fines
- NO fees for registering, and NO inspections

Code Inspections

- No inspections are ever required. Property owners, managers, and tenants can voluntarily request an inspection anytime
 - Without approval, the most a code inspection officer can do is inspect the exterior of a dwelling

Proposal:

Mandatory code inspections

- Making use of the existing property registration system, conduct regular inspections of at least some properties

How would this work?

City of Lawrence

Beginning in 2015, all rental properties in Lawrence were required to obtain a rental license

How much does a license cost?

1-50 Dwelling Units: **\$17 per unit**

51-100 Dwelling Units: **\$850 or \$16 per unit**, whichever is more

101-150 Dwelling Units: **\$1,600 or \$15 per unit**, whichever is more

151+ Dwelling Units: **\$2,250 or \$14 per unit**, whichever is more

Licenses must be renewed on an annual basis (with the same fees required)

The city inspects properties on a 3-year cycle, using the registrant's last name to divide property owners into 3 groups:

Year	Registration name begins with
2015	M, N, O, P, Q, R, S, T, U
2016	V, W, X, Y, Z, A, B, C, D
2017	E, F, G, H, I, J, K, L

If you are an owner during an inspection year, only 10 percent* of your properties will be inspected (up to a maximum of 15)

- The city code office determines which units to inspect, based on vacancy and age of the unit
 - This helps limit any issues of tenant consent, and also ensures that the units most likely to have issues are being inspected

What counts as a violation?

- While Lawrence has a complete property maintenance code, during required inspections they are only looking for one of 27 violations*
 - These include inoperable smoke detectors, water heaters without venting, windows not opening, outlets not secured to the wall, missing fire extinguishers, and plumbing fixtures not being safely attached
- The city encourages owners to look for these issues ahead of an inspection, or to bring things with them to correct the violations on the spot (e.g. batteries for smoke detectors)
 - If any violations need additional correction, a re-inspection will be scheduled AND the city can inspect another 10 percent of the owner's properties (again up to a max of 15)

But what about state law?

In June 2016, the Kansas State Legislature passed **SB 366**, which contains the following language:

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

A summary of SB 366:

Residential Rental Property Inspections

A city or county is prohibited from establishing or enforcing a residential property licensing policy that requires periodic interior inspections unless the lawful, resident occupant gives consent. Lawful occupants may request their residential property be inspected by the city or county, as applicable. A city or county is not prohibited from reviewing plans and conducting construction or final occupancy inspection as required by building permits.

Some have interpreted SB 366 to forbid the creation of any mandatory rental inspection program. **However, the key language here is “the lawful occupant has consented to such interior inspections.”**

How do you obtain consent?

In Lawrence, once the units up for inspection are determined, the landlord and tenants are contacted. The city encourages landlords to communicate with tenants to obtain consent, but the city will reach out directly to tenants if necessary.

The city seeks consent within 30 days of the inspection, but with at least 72 hours' notice before an inspection is scheduled.

Tenants **must** sign a consent form before an inspection can be conducted. Almost everyone agrees to an inspection.

If consent cannot be obtained, the city will then seek an administrative search warrant. If granted, it would allow inspection officers into the unit without tenant consent.

In over 3 years of operating this program, the city has only had to seek such a warrant on only one occasion.

Is there a reward for keeping units well-maintained?

Yes – if no unit has more than 5 violations, all of the owner’s properties will be exempt from inspections for 6 years.

Will this policy cost a lot of money?

Some costs are inevitable, given the increased number of inspections. New code officers and administrative staff will probably need to be hired. However, it is likely that the fees will cover these extra costs. See Lawrence’s operational costs in 2015—the first year of the program—compared to 2017:

- 2015: Revenues of \$325,000; Operation/staff costs of \$453,000; the city paid the remaining \$128,000
- 2017: Revenues of \$353,000; Operation/staff costs of \$331,000, the city gained the remaining \$22,000

While there will be costs for landlords, it is possible that those would be the only costs needed to sustain the program.

There is a concern that rents may increase due to landlords passing on these costs to renters. A few things to consider:

- These costs (per unit) are extremely low. Calculated into a monthly basis, it would be an increase of around \$1-\$2 per month, per unit (assuming all costs were passed down to the renter)
- Lawrence has no data to show that this has occurred
- Landlords are unlikely to increase costs exorbitantly due to the high vacancy rate in Manhattan (10-15% by most accounts)
- Renters may still save money overall, with things like medical and utility costs due to low quality, unsafe housing issues being fixed by the inspections

City of Ames, Iowa

Ames was used as a comparison point with Manhattan in the Greater Manhattan Project’s Community Assessment due to its similar size, demographics, economy, and presence of a large university.

In Ames, similar to Lawrence, there is a registration process for rental properties, which includes fees to cover regular inspections. Fees range from \$21.68 to \$29.38 per unit, depending on the type of property and how many properties the registrant owns. This system has been in effect since at least 1999, with regular updates to the property code and fee amounts.

Registered rental properties are placed on a schedule of periodic inspections. The inspection cycle is one, two, three or four years depending upon the type of dwelling, the nature of needed corrections and the general level of maintenance provided. For example, if a unit has no violations, it would not be inspected for another four years.

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The inspection program in Ames operates at cost. The Inspection Division looks at their costs after a year, and then inspection fees are calculated and paid for the previous year.

Iowa does not have a consent requirement like Kansas' SB 366, but in Ames, tenants are given at least 24 hours' notice before an inspection.

Unlike Lawrence, where only 10% of a landlord's properties are inspected, in Ames all properties are inspected. This is possible in part due to the use of technology and software that speeds up the inspection process.