

**ORDINANCE NO. 887**

**AN ORDINANCE AMENDING THE JOHNSTON REVISED ORDINANCES OF  
2007 BY ADDING A NEW CHAPTER 153 RESIDENTIAL RENTAL CODE.**

**Be It Enacted by the City Council of the City of Johnston, Iowa that:**

**SECTION 1. PURPOSE.** The purpose of this ordinance is to establish a Residential Rental Code outlining procedures for the inspection of apartment houses, congregate residences, rental dwellings and sleeping units to be known as the Johnston Residential Rental Code.

**SECTION 2. AMENDMENT.** Chapter 153, Residential Rental Code, of the Johnston Code of Ordinances is hereby established and adopted as follows:

**153.01 Purpose.**

1. In compliance with Chapter 364.17 of the Iowa Code, it is the purpose of this chapter to require property owners, their agents and others who rent residential dwelling/sleeping units to meet their responsibilities with respect to premise safety and to provide for inspection as a means of compelling compliance therewith. It is not the purpose of this Chapter to create any duty on the part of the city, its officers, agents or employees, owing to any individual member of the public or to protect any particular or circumscribed class of persons. Specifically, it is not the intent of this Chapter to create any duty or liability by the city, its officers, agents or employees, to premises' occupants, owners, tenants or any other person.
2. No person shall place reliance upon this chapter, any inspections performed or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use of occupancy of any premises. A certification that the premises have been inspected pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of the premises.

**153.02 Code Adopted.** For the purposes of this Residential Rental Code, the International Property Maintenance Code (IPMC) 2012 and Appendix A therein along with the other provisions within this Chapter are hereby adopted and shall be further known as the City of Johnston Residential Rental Code.

**153.03 Code Reference.**

1. **Building Codes Referenced.** The International Residential Code, National Electric Code, International Plumbing Code and International Mechanical Code,

that are adopted and enforced at the time of inspection are adopted, as reference for requirements, location and maintenance of building elements needed to provide Structural, Fire and Building Safety for occupants. This includes but is not limited to stairways, smoke detectors, sprinklers, handrails/guardrails, lighting and exits unless otherwise stated in this Chapter.

2. **Public Health.** Those nuisances and or public health conditions not addressed by other Chapters of the Johnston Code of Ordinances shall be governed and regulated by the Polk County Department of Health.

**153.04 Deletions, Modifications and Admendments.** The following deletions, modifications and amendments are made to the International Property Maintenance Code, 2012 Edition, herein after referred to as the IPMC.

1. Section 101.1, Title, insert City of Johnston, Iowa as name of jurisdiction.
2. Section 101.2 Scope is hereby amended be deleting “residential and nonresidential” and replacing it with “residential rental” so that the scope of this ordinance and code is limited to rental housing only.
3. Section 102 of the IMPC, “Applicability, Sub-section 102.1 General,” by inserting the following after the first paragraph:  
Partial Invalidation: In the event that any part or provision of this code is held to be illegal or void, this shall not cause any other part or provision of this code to be illegal or void.
4. Amend Section 102.3 by deleting “International Zoning Code” and inserting “applicable Codes that are adopted by the City of Johnston”.
5. Amend Section 102 Applicability by adding the following subsection thereto:  
Section 102.11 Permits Required. No building or structure regulated by this code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has been obtained from the Building Official in the manner and according to the applicable conditions prescribed in the Building Codes.
6. Section 103.1, General is amended by deleting “the department of property maintenance inspection” and inserting “Building Department,” and by replacing “code official” with “Building Official”. Throughout this code wherever these words appear this is how they shall be interpreted.
7. Amend section 103.5 by inserting the following fee schedule:

Table 153.04(1)\*

**This table shall be changed by resolution by the Johnston City Council.**

<b>Rental Inspection Fee Schedule</b>
<b>Apartment House</b> - \$50.00 per structure plus \$15.00 per dwelling unit
<b>Congregate Residential</b> - \$50.00 per structure plus \$4.00 per sleeping room
<b>Condos Individual Owner</b> - \$50.00 per dwelling unit
<b>Condos Single Building Owner</b> - \$50.00 per structure plus \$15.00 per dwelling unit
<b>Duplex</b> - \$50.00 per structure plus \$15.00 per dwelling unit
<b>Single Family Home</b> - \$50.00 per dwelling
<b>Townhouse Individual Owner</b> - \$50.00 per dwelling unit
<b>Townhouse Single Building Owner</b> - \$50.00 per structure plus \$15.00 per dwelling unit
<b>Landlord Initiated Inspection</b> - \$50.00
<b>Re-inspection fee</b> - 1 <sup>st</sup> no charge, 2 <sup>nd</sup> \$75.00, 3 <sup>rd</sup> \$200.00
<b>Failure to complete repair fines shall be</b> - 1 <sup>st</sup> notice \$75.00, 2 <sup>nd</sup> notice \$200.00, 3 <sup>rd</sup> notice shall be considered a Municipal Infraction and prosecuted pursuant to Chapter 3 of the Johnston Code of Ordinances,
<b>Owners shall have 6 months after adoption to report initial rental properties and apply for a rental certificate. Failure to do so will result in all fees and fines being doubled.</b>
<b>Owner will have 60 days to report all new rental properties and apply for a rental certificate. Failure to do so will result in all fees and fines being doubled.</b>

**\*All fees shall be paid prior to inspection. All fees contained in this table may be modified by Resolution of the Johnston City Council.**

9. Amend Section 104.2, Inspections of the IMPC, by inserting the following after the first paragraph:  
 Personnel currently employed by the City of Johnston and actively working in the Building Department as a Building Inspector, Building Official, or working in the Fire Department as a Fire Fighter, Fire Marshall or Fire Chief or any similar position as determined by the City, are hereby deemed as qualified, certified, licensed or otherwise authorized to perform electrical, mechanical, plumbing, fire, building, rental housing, and property maintenance inspections, and to perform any similar duties necessary to enable compliance with the adopted code provisions of the City, and to fulfill the duties and responsibilities specifically listed in the job descriptions of said personnel.
10. Section 112.4 Failure to Comply is amended by deleting “shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars” and adding the following sentence thereto: “Failure to comply with a Rental Housing Inspection Order is a violation and is considered a municipal infraction and shall be fined according to the fee table in Table 153.04(1).”
11. Section 202 General Definitions shall be amended by adding the following subparagraphs thereto:

- A. **Apartment House** is any building or portion thereof that contains three or more Rental Dwelling Units, and for the purpose of this code, includes residential Condominiums and Townhomes.
  - B. **Rental Dwelling Unit(s)** is any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation as required by this code and rented for monetary compensation.
  - C. **Congregate Residence** is any building or portion thereof that contains facilities for living, sleeping and sanitation, as required by this code, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes or lodging houses.
12. Section 302.3 Sidewalks and driveways is amended by adding the following sentence thereto:  
Please refer to Chapters 50, 135 and 136 of the Johnston Code of Ordinances for other regulations and requirements.
  13. Section 302.4 Weeds is amended by deleting (jurisdiction to insert height in inches) and inserting "12 inches".
  14. Section 302.4 Weeds is amended by deleting "Section 106.3" and inserting Chapter 50 of the Johnston Code of Ordinances.
  15. Amend section 303.2 Enclosures by adding the following after 48 inches:  
"in height around above ground portable pools and around in-ground pools it shall be 72 inches"
  16. Amend section 303.2 Enclosures by inserting the following sentence to the exception:  
"This is at the discretion of the Building Official."
  17. Amend section 304.12 Handrails and Guardrails by adding the following sentence thereto:  
"Handrails and guard rails shall meet the requirement of the International Building or Residential Code enforced at time of inspection. Exception: For buildings constructed prior to adoption of this Chapter, handrails/guardrails, which are structurally sound and provide the same height and opening protection as was required by the building code when the structure was originally constructed."
  18. Amend section 304.14 Insect Screens by inserting April 15<sup>th</sup> to October 15<sup>th</sup> as the applicable dates.
  19. Section 307.1 General is amended by deleting the paragraph and exception and inserting the following paragraph thereto:  
"Handrails and guard rails shall meet the requirement of the International Building or Residential Code enforced at time of inspection. Exception: For buildings constructed prior to adoption of this Chapter, handrails/guardrails, which are structurally sound and provide the same height and opening protection as was required by the building code when the structure was originally constructed."
  20. Sections 602.3 Heat Supply and 602.4 Occupied Work Spaces shall be amended by inserting September 1<sup>st</sup> through May 30<sup>th</sup> for the [DATE] to [DATE] in each section.
  21. Section 604.2 Service shall be amended by adding the following sentence thereto:

Single family, Duplex and Row Townhomes shall have a minimum of 100 amperes.

22. Section 604.2 Service is amended by inserting the following subparagraph thereto:  
“Exception: For buildings constructed prior to the adoption of this Chapter, services that are below 100 Amps but no less than 60 Amps, and in good, safe and operational order as required by the building code when the structure was originally constructed.”
23. Section 605.2 Receptacles is amended by inserting the following subparagraph thereto:  
“All general purpose outlets requiring GFCI protection as required by the National Electric code enforced at the time of inspection shall be in place.”
24. Section 111 Means of Appeal is hereby amended by deleting all subsections under this section in their entirety and the following subparagraph is inserted thereto:  
“111.1. Application for appeal. All applications for appeal under this chapter shall be done pursuant to Chapter 50 of the Johnston Code of Ordinances.”

**153.05 Enforcement.** The Building Official, Fire Chief and/or their designated representative are hereby authorized and directed to enforce all the provisions of this chapter. For such purposes, the Building Official, Fire Chief and /or their designated representative shall have the power to render interpretations of this chapter and to adopt and enforce rules and supplemental regulations to clarify the applications of its provisions.

**153.06 Certificates Required.** Any person or entity wishing to engage in the renting of dwelling units for monetary compensation shall first obtain a Certificate of Use from the Johnston Building Department. This certificate shall be placed in a conspicuous place within the property being rented.

1. No person shall rent, lease, let, operate, or otherwise allow the occupancy of any dwelling unit or any portion of any dwelling unit (including single rooms) unless they hold a valid Rental Inspection certificate. The preceding language does not preclude relatives, or similar persons from occupying a portion of an owner occupied single family dwelling unit, which complies with the single family rental housing criteria listed in this section.
2. The City of Johnston is not involved in or a party to property sales, changes in ownership, or rental agreements. Therefore, it is the responsibility of the property owner/agent to ensure that their rental properties have valid rental certificates. Failure to acquire or renew the required rental certificate may result in notice being sent to the property owner that the specified address is an illegal rental. This action may include posting notice on the property as an illegal rental with door hangers, yard signage, or similar signs, and providing notice to the tenant that the property they occupy has not been approved by the City as a legal rental property.
3. New Units: New construction projects, which have received a Final Inspection and have passed and hold a full Certificate of Occupancy within the last two years from the adoption date of this ordinance and has all required

owner/agent information on file with the City of Johnston, shall be considered to be in compliance with rental inspection certificate and fee requirements for a period of two years from the adoption date.

4. Required Owner/Agent Information: Owners of residential rental property within the city, who reside within seventy-five miles, shall provide the Building Department with their physical addresses, telephone numbers, fax numbers, and e-mail addresses, if available. Owners of residential rental property within the city who reside outside of the aforementioned areas, shall provide the building Department with the name and contact information of an individual over the age of eighteen who shall reside within the aforementioned areas, and who shall be designated as agent for scheduling inspections, receiving notices and service of process. A new owner shall provide the information required in this subsection within five days from the date of any change in ownership. Failure to give said notice will render the rental certificate null and void. Re-inspection and the associate fees shall be required to reinstate the rental certificate. The previous owner shall disclose this requirement to a new owner.
5. Failure to register the rental property within 6 months of adoption of this chapter will result in property owner/s being required to be inspected and to pay all fees at time of registration.

**153.08 Rental Inspection.** The Building Department shall seek to inspect all Apartment Houses, Congregate Residences, Rental Dwellings, and Sleeping Units and common areas within the City every two (2) years. As part of the inspection process, the city may determine to expand or shorten the time frame to the next scheduled inspection. Exception: Any Apartment Home or Congregate Residence requiring State or Federal Licensing or Certification is exempt from fees and inspection. This does not include receiving subsidies for rent, heat, water and other assistance from these agencies.

1. Factors that may influence the city to inspect more or less in frequency may include, but are not limited to, the following:
  - A. Age and condition of dwelling.
  - B. Inspection history.
  - C. Tenant/management complaints.
  - D. Natural disasters such as flooding.
  - E. Timely inspection scheduling, follow-up and fee payment by owner.
  - F. In house inspection and maintenance program by owner that includes specific life/safety provisions.
  - G. Maintenance of the “Crime-free multi-housing” designation as established through the Johnston Police Department.
2. It is the responsibility of the property owner(s)/agent to ensure that their rental properties have a valid rental inspection certificate. However, the city may schedule inspection appointments with the owner(s)/agent of the property by regular mail, facsimile, or e-mail, a minimum of thirty (30) days in advance of the inspection. It shall be the owner(s)/agent’s responsibility to notify all tenants of the inspection date and time, in accordance with Iowa Law.

3. Inspections shall not be conducted with a minor as the sole representative of the owner(s)/agent. Inspections shall not be conducted against the will of the tenant without the building owner(s)/agent being present. Inspections shall not be conducted without prior notice to the tenant, as required by Iowa Law.
4. When receiving or responding to complaints from rental property tenants, the city will typically intervene only if the tenant has presented their concerns in writing to the owner(s)/agent with a seven (7) day notice to respond, and the owner(s)/agent has failed to respond. Exception: Life/fire safety issues such as smoke detectors, blocked exits, exposed wiring, or similar.
5. Issuance or renewal of a rental certificate may be denied or revoked if the applicant, or a subsidiary firm, partnership, or corporation owns one (1) or more properties within the city in which the applicant or owner has been notified of violations of the City Code, but has not corrected said violations prior to city enforcement or abatement, including but not limited to failure to have current rental certificates. Violations of the International Property Maintenance Code (IPMC) shall be deemed violations of the City Code. Specifically, three (3) or more nuisance violations that occur within a twelve (12) month period may cause the issuance or renewal of a rental certificate to be denied or revoked. The Building Official or designated employee may then choose to deny or revoke the issuance or renewal of one, some, or all rental certificates in the name of the applicant or owner(s) for violations of the City Code, whether or not the violations occurred on each property owned by that person(s) or entity(s).
6. All fees shall be collected prior to inspection.
7. Every rental inspection certificate issued under the authority of this Chapter shall be displayed and/or made available by the owner for a tenant to examine, before any dwelling unit may be rented, leased, or otherwise occupied.
8. The following shall be inspected to insure that basic fire safety procedures are in place:
  - A. Smoke Detectors
  - B. Fire extinguishers: Fire extinguishers shall be in each rental dwelling unit and be tagged annually by an approved testing agency. There shall be one fire extinguisher for each 75ft of developed length of corridor or hallway.
  - C. Sprinklers: Sprinklers shall be tested annually by an approved testing agency. Test results shall be sent to City of Johnston Building Department and placed in the property file.
  - D. Stairways
  - E. Emergency lighting
  - F. Handrails/guardrails
  - G. Extension cords: The use of extension cords is prohibited. Exceptions:
    - i. An Arch Fault breaker protects outlet.
    - ii. Outlet is a Ground Fault Circuit Interrupter
    - iii. Extension cords are first plugged into power cords with internal Ground Fault Circuit Interrupter protection
  - H. Exits
  - I. Storage of Flammable Liquids or Gas: Except ordinary household cleaners.

J. General Maintenance of doors, windows and other building components.

**153.09 Right of Entry.** When it is necessary to make an inspection to enforce the provisions of this code, or when the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to or in violation to this code that makes the building or premises unsafe, dangerous or hazardous, the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

**153.10 Occupancy violations.** Whenever any building or structure or equipment therein regulated by this Code is being used contrary to the provisions of or does not meet the requirements of the Johnston Code of Ordinances, the Building Official may order repairs to remedy said infraction or may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use or remedy the infraction within the time prescribed by the Building Official after receipt of such notice to make the structure, or portion thereof comply with the requirements of this Code. The Building Official shall have the power to start eviction proceedings.

**153.11 Expiration.** Every Certificate of Use issued by the Building Official under the provisions of this code shall expire and become null and void two (2) years after issue date, unless suspended or revoked as hereinafter provided. It shall be the responsibility of the owners, agents and others to maintain an active Certificate. If a Certificate of Use is allowed to expire, the owners, agents or others shall have 60 days to bring into compliance. In order to renew action on a Certificate of Use after expiration, the owners, agents or others shall pay all outstanding fines and fees and shall pay double the original inspection fee.

**153.12 Suspension or Revocation.** The Building Official may, in writing, suspend or revoke a Certificate of Use issued under the provisions of this code whenever the certificate is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this code. In order to renew action on a Certificate of Use upon suspension or revocation, the owners, agents or others shall pay all outstanding fines and fees and shall pay double the original inspection fee.

**153.13 Eviction.** Tenants can and shall be evicted from the premises by the Building Official after proper notice of violations. Shall it become necessary for the Building Official to proceed with eviction procedures, all legal and actual cost associated with the action shall be paid in full by the owners, agents or others prior to any tenants being allowed to reoccupy the structure. If the owners, agents or others fail to pay all cost after

the 3<sup>rd</sup> notice the City of Johnston shall have the right to apply a lien on said property all cost associated with the action.

**153.14 Government Exempt.** The provisions of this Chapter shall not apply to the United States of America and the State of Iowa or any of their agencies.

**153.15 Violation --Penalty.** Any person violating any of the provisions of this Chapter not covered in fee table 153.04(1) shall be punished as provided in Chapter 3 Municipal Infractions of the Johnston Code of Ordinances.

**SECTION 3. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

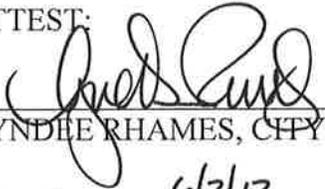
**SECTION 4. WHEN EFFECTIVE.** This ordinance shall be in full effect from and after its final passage, approval, and publication as provided by the law.

Passed and approved by the City Council this 1<sup>st</sup> day of July, 2013.



PAULA S. DIERENFELD, MAYOR

ATTEST:



CYNDEE RHAMES, CITY CLERK

1st Reading:	<u>6/3/13</u>
2nd Reading:	<u>6/17/13</u>
3rd Reading:	<u>7/1/13</u>
Passed:	<u>7/1/13</u>
Signed:	<u>7/1/13</u>
Published:	<u>7/12/13</u>

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Clabaugh	✓	—	—	—
Brown	—	—	✓	—
Cope	✓	—	—	—
Lindeman	✓	—	—	—
Temple	—	—	✓	—