

CITY OF EDGEWATER

**ORDINANCE NO. 2015 - 08
SERIES OF 2015**

AN ORDINANCE AMENDING CHAPTER 6 OF THE EDGEWATER MUNICIPAL CODE, CONCERNING BUSINESS LICENSES AND REGULATIONS, BY THE AMENDMENT OF SECTION 6-1-30, CONCERNING THE REQUIREMENT FOR A BUSINESS LICENSE AND EXCEPTIONS TO SUCH REQUIREMENT, AND BY THE ADDITION OF A NEW ARTICLE 12, CONCERNING THE ESTABLISHMENT OF A RENTAL PROPERTY REGISTRATION REQUIREMENT, WHICH REQUIREMENT, IN CONJUNCTION WITH THE ADOPTION OF THE CITY OF EDGEWATER RENTAL PROPERTY MAINTENANCE CODE, IS NECESSARY IN ORDER TO PROVIDE MINIMUM STANDARDS TO SAFEGUARD LIFE OR LIMB, HEALTH, PROPERTY, AND PUBLIC WELFARE BY REGULATING AND CONTROLLING THE USE, OCCUPANCY AND MAINTENANCE OF ALL RESIDENTIAL STRUCTURES AVAILABLE FOR RENT WITHIN THE CITY OF EDGEWATER.

WHEREAS, the City Council of the City of Edgewater finds that there exists within the City from time to time dangerous, substandard, unsanitary and/or deficient residential dwelling units, which units are, from time to time, offered for rent for residential purposes; and

WHEREAS, the City Council finds that it is in the public interest of the citizens of Edgewater to protect and promote the existence of sound and wholesome residential dwelling units that are offered for rent by the adoption and enforcement of such standards, regulations and procedures as will remedy the existence of or prevent the development or creation of dangerous, substandard, unsanitary and/or deficient rental residential dwelling units; and

WHEREAS, the City Council finds that the establishment herein of registration requirements, which requirements are directly related to the City's adoption of minimum standards for basic equipment and facilities for heat, sanitation and fire safety in rental residential dwelling units, will protect the health, safety, and welfare of the public and prevent deterioration and blight conditions that adversely impact the quality of life within the City of Edgewater; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER, COLORADO, THAT:

Section 1. Chapter 6 of the Edgewater Municipal Code, titled "Business Licenses and Regulations," is hereby amended by the amendment of Section 6-1-30, concerning the requirement for a business license and exceptions to such requirement, to read in its entirety as follows:

Sec. 6-1-30. License required; exceptions.

(a) No person shall establish, engage or be engaged in the operation, conduct or carrying on of any trade, profession, business, privilege, occupation or calling of any kind within the City without first obtaining a general business license as required by this Article.

(b) If a person owns or operates more than one (1) business or has more than one (1) business location, a separate license for each business or location shall be obtained. A business that consists of related trades or activities need not obtain a separate license for each trade or activity.

(c) The following are exempt from the requirements of this Article:

(1) Activities performed by the City or under the sponsorship of the City.

(2) An individual having an occasional or isolated sale of tangible personal property from his or her private residence.

(3) Any sexually oriented business, pawnbroker, refuse hauler, contractor, peddler, home occupation or body art establishment that is subject to another Article of this Chapter.

(4) A person conducting a garage sale as set forth in Article 11 of this Chapter.

(5) A person who has registered a residential rental dwelling under the provisions of Article 12 of this Chapter.

Section 2. Chapter 6 of the Edgewater Municipal Code, titled "Business Licenses and Regulations," is hereby amended by the addition of a new Article 12, to read in its entirety as follows:

ARTICLE 12

Rental Property Registration Code

Sec. 6-12-10. Title, purpose and intent.

(a) Title. These regulations shall be known as the Rental Property Registration Code of the City of Edgewater, herein referred to as the "Registration Code."

(b) Purpose and intent. The purpose and intent of this Registration Code is to provide certain information to the City in order to ensure compliance with, and facilitate enforcement by the City of, the City's Rental Property Maintenance Code ("Rental Code") set forth as Article 7 of Chapter 7 of this Edgewater Municipal Code, which Rental Code establishes minimum standards to safeguard life or limb, health, property, and public welfare by regulating and

controlling the use, occupancy, and maintenance of all residential structures available for rent within the City of Edgewater.

Sec. 6-12-20. Application of this Article.

Effective January 1, 2016, it shall be unlawful for any owner to lease for occupancy any rental dwelling or portion thereof without first registering the rental dwelling pursuant to this Article.

Sec. 6-12-30. Definitions.

When not inconsistent with the content, words used in the present tense include the future, words in the singular number include the plural number, words in the plural number include the singular number, and the masculine includes the feminine. For purposes of this Registration Code, the following words, terms and phrases shall have the following meanings unless the context clearly indicates otherwise:

Agent shall mean a manager or operator, or any person, agent, firm or corporation who is designated in writing by the owner to act as the representative of the owner on issues related to a rental dwelling and for receipt of notices and legal service of process related to a rental dwelling.

Building shall mean any structure used or intended for supporting or sheltering any use or occupancy.

Income restricted property shall mean a unit of rental property over which the owner, whether a non-profit or a for-profit entity, lacks the sole discretion to increase rent due to state or federal law. By way of example, and not limitation, units within a Section 8 housing project, as defined by 42 U.S.C. § 1437(f), as amended, as well as properties for which the owner takes an income tax credit pursuant to Sections 38 and 42 of the Internal Revenue Code (Title 26, U.S.C.), as amended, qualify as income restricted properties. However, units not within a Section 8 housing project that are rented with tenant-based Section 8 vouchers, pursuant to 42 U.S.C. § 1437(f), as amended, do not qualify as income restricted properties.

Lease shall mean:

(a) an agreement by which an owner gives up to a tenant, for valuable consideration, possession and use of his property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property; or

(b) the act of an owner giving to a tenant, for valuable consideration, possession and use of his property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property.

Occupancy shall mean the purpose for which a building or portion thereof is utilized or occupied.

Owner shall mean any person, agent, firm or corporation, or a designated representative of the same, having a legal or equitable interest in a rental dwelling; or otherwise having control of such property, including the guardian of an estate and an executor or administrator of an estate when ordered to take possession of real property by a court.

Person shall mean any individual, partnership, corporation, association, or other type of entity capable of owning or managing property, or an agent, servant, or employee of any individual, partnership, corporation, association, or other entity capable of owning or managing property.

Property shall mean one lot or parcel of real property or adjacent lots or parcels of real property under common ownership upon which one or more rental dwellings is located.

Rental dwelling shall mean any property, building or buildings, or portion thereof, that provide shelter for human habitation or residential purpose, any portion of which is leased by the owner for occupation by a tenant. "Rental dwelling" shall not mean hotels, motels, hospitals, State licensed residential care facilities, assisted living facilities or nursing homes, or income restricted property, nor shall it mean a property in which both the owner and tenant reside in a single structure, provided that such structure does not contain more than four (4) rental units.

Structure shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Sec. 6-12-40. Registration required; rental dwellings.

On or before January 1, 2016, every owner of a rental dwelling(s) shall register the rental dwelling(s) with the City Manager or his or her designee, according to the application process set forth in Section 6-12-50, below.

Sec. 6-12-50. Registration application; term of registration; renewal of registration.

(a) Application for registration. Applications for rental dwelling registration shall be submitted to the City Clerk on a form provided by the City, and the City Clerk shall accept no incomplete applications. Applications shall provide the following information:

- (1) The full name, mailing address, residential address (if different than mailing address) and telephone number for the property owner, if the property owner is an individual.

(2) The full names, mailing addresses, residential addresses (if different than mailing address) and telephone numbers for the property owner(s), if the property is owned by more than one (1) individual.

(3) The full name, mailing address, business address (if different than mailing address) and telephone number of at least one (1) officer, manager or director, if the property owner is a business entity.

(4) If no owner of the property has a residential address within fifty (50) miles of the City of Edgewater, or if no officer, manager or director of the business entity that owns the property has a business address within fifty (50) miles of the City of Edgewater, then there shall be provided to the City the full name, mailing address, residential or business address (if different than mailing address) and telephone number of the agent for the property who shall have either a residential or business address within fifty (50) miles of the City of Edgewater, along with a copy of the writing designating the agent to act as the representative of the owner on issues related to a rental dwelling and for receipt of notices and legal service of process related to a rental dwelling.

(4) An affirmation that the application is complete and contains no false, misleading or fraudulent statements.

(5) The address of each rental dwelling within the City of Edgewater, including individual unit numbers, along with disclosure of the number and location of the rental dwellings, if any, that constitute income restricted property and proof, satisfactory to the City, of such status.

(b) It is the duty of each owner to ensure that all of the information provided in a rental dwelling registration is kept up to date at all times, and it shall be unlawful for an owner to fail to provide updated information to the City within ten (10) days after the date upon which any information provided is no longer accurate.

Sec. 6-12-60. Application fee.

Applicants for a new or renewed registration of a rental dwelling shall pay no fee to the City for purposes of the application for registration.

Sec. 6-12-70. Owner's option for inspection of rental dwelling.

If an owner requests an inspection of his rental dwelling(s) for compliance with the limitations and requirements of the City's Rental Property Maintenance Code that is set forth as Article 7 of Chapter 7 of this Edgewater Municipal Code, then the City shall conduct an inspection of the rental dwelling(s), pursuant to Section 7-7-120 of said Article. Prior to any such inspection(s), the owner shall pay a fee or fees as established in the fee schedule adopted by the City Council from time to time. If the result of any such inspection is a finding by the City

Manager or his or her designee of full compliance of the rental dwelling with the Rental Property Maintenance Code, then the City shall issue a letter to the owner stating the date of inspection and the finding of full compliance. At the owner's request, a copy of the letter shall be placed on the City's website for a period of one (1) year from the date of its issuance; provided, however, that any such letter shall be removed from the City's website in the event that the City later discovers a violation of the City's Rental Property Maintenance Code that is set forth as Article 7 of Chapter 7 of this Edgewater Municipal Code. Any other provision of this Article notwithstanding, for purposes of this Section, a rental dwelling shall be deemed to include income restricted property.

Section 3. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 4. Safety Clause. The City Council hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety, and welfare of the public, that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare, and that this ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 5. Effective Date. This ordinance shall become effective in accordance with the Home Rule Charter of the City of Edgewater.

INTRODUCED, READ, PASSED ON FIRST READING AND ORDERED PUBLISHED this 4th day of June, 2015.

/s/ Todd Riddle, Mayor Pro Tem

ATTEST:

/s/ Elizabeth A. Hedberg, MMC
City Clerk

PASSED AND ADOPTED ON SECOND READING AND ORDERED PUBLISHED this 16th day of July, 2015.

/s/ Bonnie McNulty, Mayor

SUMMARIZED HISTORY FOR ORDINANCE NO. 2015-08 (f/k/a 13-05 & 14-17)

Action	Date
Workshopped 13-05	January 3, 2013
Workshopped 13-05	February 7, 2013
Tabled 13-05	February 21, 2013
Workshopped 14-17	September 4, 2014
Workshopped 14-17	October 2, 2014
Workshopped	May 7, 2015
Workshopped	May 28, 2015
First Reading	June 4, 2015
Posted	June 8, 2015
Publication	June 8, 2015
Second Reading	July 16, 2015
Sent to Codifier	July 17, 2015
Posted	July 17, 2015
Publication	July 17, 2015
Enacted	July 22, 2015