Ordinance No. 3860
(Amending or Repealing Ordinances)

CFN= 175 – Business License
Passed – 9/18/2007
Rental Housing Safety – Creation of STAR Program

(adding new Chapter 5.14)

Amended by Ord. 3968 (Sec. 5.14.120(B)(1)(c)
ORDINANCE NO. 3860

AN ORDINANCE of the city council of the city of Kent, Washington, amending the Kent City Code to add a new chapter 5.14, entitled "Rental Housing Safety."

RECITALS

A. A significant number of multi-unit rental housing properties exist within the city of Kent. For the most part, multi-unit rental property owners and managers are responsible and create a safe housing option for renters within the city. However, there are some multi-unit rental housing property owners who fail to maintain their properties and thereby cause a deterioration in the quality of life for their renters, and these properties have a detrimental effect on the value of adjoining properties. Moreover, some multi-unit rental housing property owners fail to screen prospective tenants and fail to take action to remove tenants who utilize the property for unlawful activity. This creates an unsafe environment for renters and those residing or conducting business on nearby property.

B. City codes have proven ineffective in encouraging multi-unit rental housing property owners who maintain unsafe properties, or properties which are detrimental to the surrounding community, to clean up the properties or take measures to exclude criminals from the properties.

C. The Public Safety Committee considered the adoption of an ordinance to address problems with multi-unit rental housing at its meetings of February 13, March 13, May 8, June 12, July 10, and September 11, 2007. The Committee accepted comment from the Kent Chamber of Commerce, the Rental Housing Association, the Olympic Rental Association, and rental property owners.

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City staff also spoke and met with staff members, attorneys, and lobbyists who represent the Rental Housing Association and the Manufactured Housing Communities of Washington. The ordinance set forth below was altered over the course of a number of months as a result of input received from these interested parties.

D. The city council has developed this ordinance to give the police department and code enforcement staff the tools necessary to encourage multi-unit rental housing property owners to maintain and improve the safety, quality, and appearance of the rental properties they own, and therefore, provide a safer living environment for renters.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. - Amendment. The Kent City Code is amended to add a new chapter 5.14, entitled “Rental Housing Safety,” as follows:

Chapter 5.14
Rental Housing Safety

Sec. 5.14.010. Findings. Council declares that the citizens of the city of Kent have a right to safe rental housing and that the city should assist rental property owners and managers in order to reduce the occurrence of criminal conduct on rental properties. The council finds that it is a reasonable exercise of its police powers to require rental property owners to take reasonable steps to prevent the use of rental property for criminal purposes, and that rental property owners should be penalized in the event they take no action to discourage crime from reoccurring on their rental properties. The council further finds that a program that provides incentives to property owners who take proactive steps to prevent criminal conduct on rental property will serve the public health, safety, and welfare.

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Sec. 5.14.020. Definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

A. The term "code enforcement officer" shall have the same meaning as provided in chapter 1.04 of the Kent City Code.

B. The term "criminal conduct" shall mean any criminal act that is defined by the city of Kent, the state of Washington, or the United States as a misdemeanor, gross misdemeanor, felony, or a crime, or is otherwise punishable by a sentence in a correctional facility, jail, or prison, that substantially affects the health and safety of the tenant or other tenants. Gang or gang related activity, as those terms are defined by RCW 59.18.030, shall also be considered criminal conduct. The term shall also include drug related activity, the seizure of illegal drugs, and the requirement that a tenant register as a sex offender.

C. The term "dwelling unit" shall mean a unit within rental property further defined as:
   1. A structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to units of rental property, mobile homes as that term is defined in RCW 59.20.030, and manufactured homes as that term is defined in RCW 59.20.030;
   2. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation; or
   3. One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure or on the same property, and containing independent cooking and sleeping facilities.
D. The term "landlord" shall mean the owner, lessor, or sublessee of the dwelling unit or the property of which it is a part and any person designated as a representative of the landlord; any person or business entity such as a corporation, limited liability corporation, partnership, or agency that owns, operates, or manages rental housing or rental property; and in addition means any person designated by the landlord who has authority to sign a lease or rental agreement.

E. The term "police officer" shall mean any general authority, limited authority, or specially commissioned Washington peace officer, or any federal peace officer, as those terms are defined by Ch. 10.93 RCW, as now enacted or hereafter amended.

F. The phrase "reasonable steps to reduce the likelihood that criminal conduct will reoccur on the property" requires the landlord to report criminal conduct that occurs on the property whenever the commission of criminal conduct on the rental property is suspected, and further requires the landlord to take other steps to prevent the recurrence of crime, which may include, but are not limited to one of the following:

1. The landlord and on-site managers of the rental property attend and complete the city's landlord training program or an equivalent training program approved by the city within ninety (90) days from the date the notice pursuant to KCC 5.14.080(B) is issued; or

2. The landlord pursues eviction to judgment of the tenant who is the subject of a notice issued pursuant to KCC 5.14.080(B), and begins the eviction process within thirty (30) from the date such notice is issued; or

3. In the event the landlord has not previously utilized a crime free housing addendum, the landlord utilizes a crime free housing addendum for the tenant who is the subject of a notice issued pursuant to KCC 5.14.080(B) within sixty (60) days from the date the notice pursuant to KCC 5.14.080(B) is issued; or

4. In the event the rental property, through its landlord, is not a participant in the STAR program, the rental property participates in the STAR program.
program within ninety (90) days from the date the notice is issued pursuant to KCC 5.14.080(B).

5. The landlord requests the city's assistance pursuant to KCC 5.14.140.

G. The term "rental agreement" or "lease" shall have the same meaning as the term "rental agreement" defined in RCW 59.18.030, as now enacted or hereafter amended or recodified.

H. The terms "rental housing" or "rental property" shall mean a rental housing facility of two or more dwelling units that are rented or intended to be rented, are located on a single parcel or lot, and for which a postal address exists or may exist for each individual unit, and the common areas and appurtenances to the rental housing facility; provided, these terms shall also include any mobile home park or manufactured housing community as those terms are defined by RCW 59.20.030 as now enacted or hereafter amended. The terms shall not include the following:
   1. a condominium complex;
   2. a retail, commercial, or industrial rental;
   3. a properly registered and licensed nursing home; or
   4. a properly registered and licensed assisted living facility.

I. The term "STAR" shall mean the Safe Tenants and Rentals program as established in KCC 5.14.110.

J. The term "tenant" shall have the same meaning as the term "tenant" set forth in RCW 59.18.030 and RCW 59.20.030, as those sections are now enacted or hereafter amended or recodified.

K. The term "third party background check" shall mean a check of a person's criminal conviction records that is conducted by the Washington State Patrol or another lawfully licensed agency or entity in the business of conducting checks of a person's criminal conviction records, and which produces for the requesting party a report of the person's criminal conviction records. The third party
background check shall report convictions for state charges from any of the states in the United States and convictions for federal offenses.

A. License required. As a condition of operation, each and every rental property within the city limits shall obtain and maintain a business license as required by this chapter. The issuance of a license shall be considered a privilege and not an absolute right of the landlord, and the possession of such license shall not entitle the landlord to an automatic renewal of a business license. There shall be assessed a penalty of $100 per day for each day that a rental property operates without a valid and current business license for the first ten days of noncompliance with this section, and up to $400 per day for each day in excess of ten days of noncompliance with this section.

Sec. 5.14.040. Business license period - Fee - Conditions of issuance.
A. Business license period. The business licensing period shall run from January 1 through December 31 of each year.

B. Fees. Any application for a license required by this chapter shall be accompanied by a fee as set forth in this section and KCC 5.14.060, if applicable. Business licensing fees shall be due prior to the beginning of the business license period. However, in the event a rental property is first constructed or commences business after January 1, the fee shall be due at the time the certificate of occupancy is issued, or if a certificate of occupancy is not required, the fee shall be due on the date construction is completed, and shall be prorated for that period of time in which a certificate of occupancy did not exist or construction was not completed. The business license fee due for each rental property for the business license period shall be as follows:

1. A rental property containing two (2) to ten (10) units - $100
2. A rental property containing eleven (11) to fifty (50) units - $200
3. A rental property containing more than fifty (50) units - $300
A. Application form. The request for a license required by this chapter shall be submitted on an application form provided by the city. A new application form shall be submitted for an initial license and for any license renewal. In the event any information required on the application form changes, the applicant shall update the application form by submitting a new form to the city of Kent within ten (10) days of the change.

Sec. 5.14.060. Business license fee – Increase for code violations.
A. Rental property shall be maintained in accordance with applicable building codes pursuant to chapter 14.01 KCC, and shall be free of nuisances, graffiti, litter, rodents, weeds, and junk vehicles in conformance with chapters 8.01, 8.04, 8.06, 8.07 and 8.08 KCC as now enacted or hereafter amended. The rental property shall be maintained in accordance with all other codes applicable to rental property.

B. If, at the time a landlord applies for a business license renewal, it is determined that a notice of violation pursuant to chapter 1.04 KCC was issued relating to the condition of the rental property, and the notice of violation was issued within the calendar year preceding the year for which the new license is required, the rental property shall be assessed an additional business license fee of $1000, which shall be added to the fee required by KCC 5.14.040; provided, this additional fee shall not be assessed in the event that, prior to the date of application for the business license, a hearing examiner or a court with jurisdiction has determined that the violation was not committed; and provided further, that the additional fee shall not be required in the event the code violation was voluntarily corrected pursuant to KCC 1 04.080(B), as that section is now enacted or hereafter amended or recodified.

C. The additional fee established in subsection (B) of this section shall also apply to the issuance of a new license if there is good cause to believe that the landlord who owned the property transferred to property to a new landlord in order to avoid the provisions of subsection B of this section.
Sec. 5.14.070. Denial or revocation of business license - Appeal.
A. Denial or revocation of license. A license issued under this chapter may be denied or revoked for the following reasons:
   1. It is determined that the applicant failed to provide information required on the license application, or provided false or misleading information.
   2. The rental property is subject to an order of abatement for a code violation pursuant to chapter 1.04 KCC or violation of the Revised Code of Washington, and such order of abatement was issued by the city's hearing examiner or a court with jurisdiction.

B. Process - Appeal. The denial or revocation of a business license required by this chapter shall comply with the business license revocation procedures set forth in Ch. 5.01 KCC. The denial or revocation of a business license required by this chapter may be appealed in conformance with the requirements of Ch. 5.01 KCC.

Sec. 5.14.080. Tenant violations - Criminal conduct on property - Notification to property owner - Property owner responsibilities - Civil infraction.
A. Landlord responsible. It shall be the responsibility of the landlord to take precautionary measures to reduce the likelihood that its rental property will be used for criminal conduct. In the event a landlord is notified that criminal conduct has occurred on the property, the landlord shall take reasonable steps to reduce the likelihood that criminal conduct will reoccur on the property. Repeated criminal conduct committed by tenants or guests shall result in a civil infraction chargeable to the landlord.

B. Notice of criminal conduct. Upon the occurrence of criminal conduct on the rental property, the police department may cause notice to be sent to the landlord setting forth the date of the occurrence, the location of the occurrence, the nature of the occurrence, and the name of the person who engaged in the occurrence. Notice may be sent whenever the police department has reasonable grounds to believe that criminal conduct has occurred on the rental property. Notice shall be deemed properly delivered when it is either served upon the landlord or a
property manager of the rental property, or is delivered by first class mail, postage prepaid, or by certified mail, to the last known address of the landlord or business license applicant as listed in the most recent business license application on file with the city. The issuance of the notice set forth in this subsection shall be a prerequisite to the issuance of a notice of infraction under subsection C of this section; provided, the issuance of the civil infraction under subsection C of this section shall constitute the notice of the third instance of criminal conduct.

C. Civil infraction. Three (3) instances of criminal conduct committed in the same unit or anywhere on the rental property by the same tenant or any guest of the tenant within any twelve (12) month period shall be deemed a civil infraction chargeable to the landlord; provided, that when the conduct is committed by guests of the tenant, the city need not establish that the criminal conduct was committed by the same guest. Each instance of criminal conduct committed in the same unit or anywhere on the rental property by the same tenant or any guest of the tenant in excess of three (3) instances of criminal conduct within a twelve (12) month period shall be considered an additional infraction chargeable to the landlord.

D. Penalties. The following penalties shall apply:

1. Three (3) instances of criminal conduct committed in the same unit or anywhere on the rental property by the same tenant or any guest of the tenant:

   - STAR Participant Level A: $250
   - STAR Participant Level B: $500
   - STAR Participant Level C: $750
   - Non - STAR Participant: $1000

2. For every instance of criminal conduct committed in the same unit or anywhere on the rental property by the same tenant or any guest of the tenant in excess of three (3) instances of criminal conduct within the same twelve (12) month period:

   - STAR Participant Level A: $500
   - STAR Participant Level B: $750
   - STAR Participant Level C: $1000
Sec. 5.14.090. Civil infractions – Kent Municipal Court.

A. Jurisdiction. Pursuant to chapter 3.50 RCW, as now enacted or hereafter amended or recodified, the Kent Municipal Court shall have jurisdiction to hear violations of KCC 5.14.080.

B. Filing. A civil infraction may be filed when there is reasonable grounds to believe that a violation of KCC 5.14.080 has occurred.

C. Rules of procedure. Except as set forth in this chapter and except as other rules apply, the Infraction Rules for Courts of Limited Jurisdiction (IRLJ) and all local rules and policies as promulgated by the Kent Municipal Court shall govern infraction proceedings and appeals of infractions filed pursuant to a violation of KCC 5.14.080.

D. Burden of proof. The city shall have the burden of establishing an instance of criminal conduct by a preponderance of the evidence. The entry of a certified order of judgment and sentence, or other certified court document that establishes a conviction or the entry of a deferred prosecution or sentence, or any certified document maintained by the court that contains an entry of a finding of guilt, an admission to the commission of the criminal conduct, and admission to the facts that would establish the commission of the criminal conduct, or an acknowledgement that there are sufficient facts to prove the instance of criminal conduct, shall be sufficient proof of the occurrence of the criminal conduct; provided, that an absence of such court document(s) shall not prohibit the city from establishing that an instance of criminal conduct occurred. Police reports and other documentary evidence shall be admissible as evidence of criminal conduct, provided that such reports are certified pursuant to RCW 9A.72.085.

E. Costs and assessments. Any costs and assessments as required or permitted by law shall be in addition to any fine or fees owing pursuant to this chapter.
Sec. 5.14.100. Civil infractions – Reasonable steps to reduce the likelihood that criminal conduct will reoccur on the property - Defense.
A. It shall be a defense to an infraction filed pursuant to KCC 5.14.080 that, subsequent to an act of criminal conduct, but prior to the issuance of a civil infraction, the landlord took reasonable steps to reduce the likelihood that criminal conduct will reoccur on the property; provided, this defense shall be available on one occasion and shall not be available for repeat violations of KCC 5.14 080.

Sec. 5.14.110. Safe Tenants and Rentals program – Establishment – Purpose. The city hereby establishes the Safe Tenants and Rentals program, hereinafter “STAR.” The purpose of STAR is to encourage landlords to establish the foundation for the provision of safe rental properties to tenants, to avoid the rental of units to those who engage in criminal conduct, to improve the quality of available rental housing in the city, and to protect the public health, safety, and welfare.

Sec. 5.14.120. Safe Tenants and Rentals program – Requirements.
A. The STAR program shall be voluntary, and no business license shall be conditioned upon a rental property’s status as a STAR participant.

B. The STAR program shall have three levels of participation as follows:
1. STAR Level C. In order to achieve STAR level C status, the participant shall:
   a. Utilize a crime free housing addendum for the lease of each unit of the rental property as set forth in KCC 5 14.150, which makes criminal conduct on the property a material breach of a covenant of the lease or rental agreement, and enforce the terms of the crime free housing addendum.
   b. As a condition of any rental agreement, reserve the right to expel any person not specified on the rental agreement from the rental property.
   c. Prohibit the employment of any manager or other on-site employee who has been convicted, within the past ten (10) years, of a felony criminal offense under the laws of the state of Washington or the equivalent laws of another state or the federal government.
d. Perform a third party background check of any person who will be employed by the property owner or landlord and who will work on the premises, and provide details of the third party background check procedures to the Kent Police Department.

e. Perform a third party background check of any tenants, and provide details of the third party background check procedures to the Kent Police Department.

f. Maintain the property in accordance with applicable building codes pursuant to KCC 14.01, and free of nuisances, graffiti, litter, rodents, weeds, and junk vehicles in conformance with Chapters 8.01, 8.04, 8.06, 8.07 and 8.08 KCC as now enacted or hereafter amended.

2. **STAR Level B:** In order to achieve STAR level B status, the participant shall:

   a. Meet all of the requirements of Star level C status.

   b. Enter and participate in the Kent Police Department’s Trespass Authorization Program.

   c. The landlord and other employees of the landlord who work either on the property for more than twenty (20) hours per week shall attend the City of Kent’s Landlord Training Program.

3. **STAR Level A:** In order to achieve STAR level A status, the participant shall:

   a. Meet all of the requirements of Star levels C and B.

   b. The property owner shall obtain from the Kent Police Department a security survey to assess the rental property’s compliance with standards relating to Crime Prevention Through Environmental Design.

   c. The property shall comply with RCW 59.18.060 relating to the Residential Landlord-Tenant Act, or RCW 59.20.130 relating to the Manufactured/Mobile Home Landlord Tenant Act, as those sections are now enacted or hereafter amended or recodified.

**Section 5.14.130 Safe Tenants and Rentals program – Benefits.**

STAR certified properties will be provided with the following benefits:

1. Advertisement of STAR status on the City’s website.
2. A plaque and or other sign(s) to display on the rental property that displays the property's STAR status.

3. The authority of the rental property to utilize its STAR status in any advertising.

4. All business license fees as required by this chapter shall be waived.

**Sec. 5.14.140. City assistance to landlords.**

A. When criminal conduct occurs on rental property, or the occurrence of criminal conduct on the rental property is suspected by the landlord, the landlord may request the assistance of the city in taking steps to reduce the likelihood that criminal conduct will reoccur on the property. The city shall assist landlords when such a request is made, and such assistance may include, but not be limited to the following:

1. Providing the landlord with disclosable information relating to the criminal conduct which has occurred on the property.

2. Having a police officer communicate with the tenant suspected of engaging in the criminal conduct regarding the ramifications of continued criminal conduct.

3. Providing advice to the landlord regarding methods of preventing the reoccurrence of criminal conduct.

4. Providing the landlord with resources available to assist the landlord in pursuing eviction of the tenant.

B. A request for the assistance of the city pursuant to this section shall be considered a "reasonable step to reduce the likelihood that criminal conduct will reoccur on the property" under KCC 5.14.020(F)(5); provided, the following shall apply:

1. The landlord shall cooperate with the city's assistance and take reasonable measures to implement the suggested methods of the city to reduce the reoccurrence of criminal conduct on the property.

2. A request for assistance shall in no way relieve the landlord of the duty to comply with any section of this chapter.
Sec. 5.14.150. Rental agreement – Crime free housing addendum.

In order to obtain STAR level status, the landlord shall, as a condition of any rental agreement, require the tenant to sign a crime free housing addendum, which shall make it a material term and covenant of the lease or rental agreement that the tenant will not engage in criminal conduct on the property. The crime free housing addendum shall become a material part of the rental agreement. In the event the crime free housing addendum is violated by the tenant, the landlord shall take all lawful action to evict the tenant from the rental housing. The crime free rental housing addendum shall be in substantially the following form:

**Crime Free Housing Addendum**

In consideration of the original execution or continuation of the lease or rental agreement relating to the below signed Tenant's lease or rental of the unit, the Tenant hereby agrees to the following material terms, conditions, and covenants:

1. A Tenant, any member of the Tenant's household, or a guest or other person affiliated with the Tenant shall not engage in criminal conduct on the property, including any unit rented or leased or the common areas of the property. Criminal conduct shall be defined as any act that is defined by the city of Kent, the state of Washington, or the United States as a misdemeanor, gross misdemeanor, felony, or a crime. Gang or gang related activity, as those terms are defined by RCW 59.18.030, shall also be considered criminal conduct.

2. The Landlord or property owner, or his or her designee, shall have the right and authority to bar or prohibit any person not specified on the rental agreement from the property, including from the unit, for good cause. Good cause shall include conduct that is, at the sole discretion of the Landlord or his or her designee, criminal conduct, disruptive to tenants of the property or neighboring properties, or destructive to the rental property or neighboring properties.

3. When a person has been barred or prohibited from the property by the Landlord or his or her designee, any attempt by the Tenant to license, allow, invite, fail to exclude, or otherwise permit the person to enter any portion of the property, including the unit rented by the Tenant or the common areas of the property, shall be considered a material violation and breach of the rental agreement or lease, and shall be grounds for termination of the rental agreement or lease.

4. The Tenant shall comply with the terms and conditions of RCW 59.18.130 (residential tenants) or RCW 59.20.080 (manufactured/mobile home tenants), which is incorporated herein by this reference.
5. The Tenant shall not park any inoperable vehicle on the rental property and agrees that the Landlord or his or her designee shall have the right to remove the inoperable vehicle from the property at the Tenant's expense.


By signing below, Tenant agrees that this addendum is a reasonable obligation or restriction pursuant to RCW 59.18.140, and that Tenant has a duty to comply with its terms.

In case of conflict between the provisions of this addendum and any other provisions of the rental agreement or lease, the provisions of this addendum shall govern.

This addendum is hereby incorporated into the rental agreement or lease executed or renewed either this day or on a prior occasion between the Landlord and Tenant.

__________________________  _________________________
Landlord                      Tenant
Date: ____________________   Date: ____________________

Sec. 5.14.160. Other remedies not waived. The city may use any means available at law or equity to enforce any provision of this chapter, and may, in addition to any other available remedy, seek injunctive relief, declaratory relief, execution of any judgment, or abatement. The City may, at its discretion, refer any fines owing to a collection agency for collection. Nothing in this chapter shall be interpreted to prohibit the city from enforcing any applicable regulation, ordinance or statute applicable to rental property or landlords.

SECTION 2. - Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Rental Housing Safety- Creation of STAR Program
SECTION 3. - Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

Suzette Cooke
SUZETTE COOKE, MAYOR

ATTEST:

Brenda Jacober
BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 18 day of September, 2007.
APPROVED: 18 day of September, 2007.
PUBLISHED: 22 day of September, 2007.

I hereby certify that this is a true copy of Ordinance No. 3860 passed by the city council of the city of Kent, Washington, and approved by the mayor of the city of Kent as hereon indicated.

Brenda Jacober (SEAL)
BRENDA JACOBER, CITY CLERK

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