
LANDLORD RESPONSIBILITIES



Kansas law says the Landlord is required to:

- Keep the apartment, mobile home, or house where you live in compliance with state law and city or county building or housing codes affecting health and safety.
- Maintain the common areas of the building and the grounds outside; these are areas open to all tenants such as hallways, parking lots, and laundry rooms.
- Make sure you have an adequate supply of hot and cold running water.
- Supply a reliable amount of heat during the winter months. A normal standard is that it should be possible to keep the temperature at 65 degrees between October and May. (The landlord doesn't have to pay for the water, electricity, or gas but must provide the equipment and it must work.)
- Maintain all electrical, plumbing, sanitary, heating, ventilating, and air conditioning systems in good and safe working order.
- Maintain all appliances that are provided with the property. This would include such things as stoves, refrigerators, and air conditioners.
- Make sure trash removal is available.
- Allow tenants to contract for service with telephone and cable companies that are authorized to do business in the area.

HOUSING CODES

Many cities and towns in Kansas have housing codes. As opposed to a building code, which is for new construction, a "housing code" or

"property maintenance code" is for buildings that already exist. They set basic standards for how buildings and property ought to be maintained. Housing codes are usually more specific than the general requirements outlined in the Landlord Tenant Act and, of course, they apply only to housing within the particular city or county that passed the code.

To give you an idea of what codes often require, a box containing some of the requirements from the Property Maintenance Code for the City of Topeka can be found later in this section.

Unless a code specifically says the tenant or the "occupant" is responsible for particular things, or unless you, the tenant, caused the problem, landlords are responsible to make sure their rental units comply with laws and codes. If you like to do home repairs and volunteer to do things for your landlord, in many cases, that's fine; however, some codes require that certain repairs be done by a person "certified" in a specific area, for instance, a licensed plumber or electrician. It is strictly **ILLEGAL** for your landlord to refuse to make required repairs or to force you to do them. If this happens, you can terminate your lease and/or the law allows you to sue for actual damages. (See 14/30-Day Notice of Landlord Noncompliance section in this chapter.)

Right now, neither state law nor local housing codes require insulation, storm windows, or other specific weatherization on rental property anywhere in the state of Kansas. There are also no requirements for efficiency of heating and cooling appliances or rules limiting the cost of tenants' utility expenses. But most local codes have some language requiring that property be "reasonably weather-tight, water-tight, and damp-proof" and have minimum heating temperature standards.

In some cities and towns, although a code exists, there is no steady effort to enforce it. You should be able to get a copy of your local housing code from your housing inspector or city or county clerk or check their websites.

EXAMPLES FROM TOPEKA'S PROPERTY MAINTENANCE CODE

Screens: Screens and screen doors are required on almost every dwelling unit in Topeka for the months of April through October.

Pests: The landlord is required to deliver units to tenants pest-free. Rats, roaches, and other pests must be exterminated by the landlord when they are found in buildings with more than one apartment or when they exist because of a landlord's improper maintenance. If you live in a single-family house and there were no pests when you moved in, the Code says it's the tenant's responsibility.

Ventilation: Every room must have a window or, in the case of a bathroom or kitchen, a ventilation system which is in good working condition.

Heat: The owner must provide a heating system that is capable of heating to a temperature of at least 65 degrees at a distance of three feet above floor level in every habitable room.

Exits: There must be two exits to safe and open space at ground level from each level in each dwelling unit.

Locks: There must be safe, functional locking devices on all exterior doors and first-floor windows. Padlocks on the outside of exterior doors are prohibited.

Lighting: Every room, including the bathroom and kitchen, must have at least two electric outlets or one outlet and one wall or ceiling fixture. Each public hall and/or stairway in a building with three or more units must be adequately lighted by natural or electric lights at all times.

Structural Maintenance: The building and foundation must be maintained watertight, rodent-proof, and in good repair. Staircases must be stable with hand rails. Porches and steps must have a railing if they are over three feet off the ground.

Kitchen: The sink must be in good working condition. The drainage must flow into an approved sewer system, and it cannot leak into storage cabinets or shelves. The refrigerator or device for safe storage of food must maintain a temperature of between 32 degrees and 45 degrees Fahrenheit under ordinary maximum summer conditions. There must be adequate hot and cold water at all times.

If you ever need to call and request an inspection, make an appointment so you can be there to let the inspector in and go through the house with him or her. You should make sure you point out all things you think are code violations. Ask that the code office send a copy of the inspector's report and the letter to the landlord to you also. You can call and visit

your housing inspector regularly until action has been taken to your satisfaction.

Most codes provide some sort of penalty (fines... or even jail) to property owners who do not comply after a certain period of time. Check your code to see what the time limits and penalties are and insist that your city or town take action if your place is not getting fixed.

FIRE CODES

The Kansas Fire Safety and Prevention Act of 1998 (also the Smoke Detector Act of 1998) requires all dwelling units to have smoke detectors, does not require fire extinguishers, and generally requires two safe exits to ground level from any floor.

Specifically, the Act requires every single-family residence to have at least one working smoke detector on each floor and apartment buildings must have working detectors at the top of each stairwell and on each floor in every dwelling unit.

In apartment buildings and multiple-family dwellings, the owner must supply and install smoke detectors in all dwelling units and common areas. The owner must test and maintain all smoke detectors, except inside rental units; the tenant is responsible to test and maintain all smoke detectors after taking possession of the dwelling unit.

Local governments may adopt their own fire codes and make them stricter, but not more permissive, than the state's. Check with your fire department to see if you have a local code. If not, you may direct questions to the State Fire Marshal in Topeka at (785) 368-4026.

LEAD-BASED PAINT REGULATIONS

Federal Environmental Protection Agency (EPA) and Housing and Urban Development (HUD) regulations concern lead-based paint for housing built before 1978. To comply, landlords must:

- Disclose the presence of known lead-based paint and/or lead-based paint hazards in the rental unit.
- Provide tenants with any available records or reports pertaining to the presence of lead-based paint and/or lead-based paint hazards.
- Provide tenants with a federally approved lead hazard information pamphlet.

Tenants must sign a document confirming that tenants received the 3 items above.

Whenever repair/renovation work that will disturb an area of two square feet or more is going to be done, landlords must:

- Provide tenants at least 7 days' prior written notice.
- Provide a federally approved lead hazard information pamphlet again.
- Provide a disclosure form about the planned work.

Tenants must sign a document confirming that tenants received the above information.

Copies of the pamphlet and disclosure form may be obtained FREE by calling The National Lead Information Clearinghouse at (800) 424-LEAD. Copies may also be obtained on the Internet at www.epa.gov/lead/pubs/leadpdf.pdf or www.unleadedks.com. HCCI's Model Lease includes an approved disclosure form.

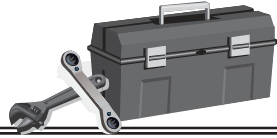
References: 40 CFR Part 745 and 24 CFR Part 35 published on March 6, 1996, in the Federal Register; Pre-Renovation Lead Information Rule, effective June 1, 1999.

MOLD CONTAMINATION

The issue of mold contamination in housing has become an issue of concern. Kansas Department of Health and Environment officials say to be concerned but not alarmed. You can keep informed about this issue and the most current information available by going to the following websites:

Environmental Protection Agency – www.epa.gov/mold/moldguide.html
Center for Disease Control – www.bt.cdc.gov/disasters/mold/protect.asp

TENANT REMEDIES



Make it a habit to **REQUEST MAINTENANCE IN WRITING**. Not only is this good business in a legal sense, but it is also good business in a practical sense. You can say what needs to be said the way you want to say it. You don't have to be there when the landlord gets the news that something has gone wrong. And, written notes tend to keep turning up and reminding people of things, whereas mental notes are easily forgotten. On your copy, note how, when, and to whom the notice is delivered. Example: "Handed to Sue in the manager's office, 9:00 a.m. on May 1, 2006."

Depending on the landlord and your lease, phone calls can be OK for the first contact about a problem or in an emergency; but after that, calls should only be to say, "Did you get my note?" Some leases require maintenance requests be made in writing. Sometimes, as we know, phone messages do not get to the intended person. Finally, you want to be sure you can prove the landlord was notified about every problem so that if problems worsen or something is damaged or someone is hurt, the landlord can't say he or she didn't know.

14/30-DAY NOTICE OF LANDLORD NONCOMPLIANCE

If the landlord continually fails to meet maintenance or contract agreements, the Kansas Residential Landlord and Tenant Act gives you the right to eventually break your lease. To do this, you must give the landlord a written notice at least 30 days before a rent due date. In your notice, tell the landlord exactly what repairs or other actions are needed and that you will be terminating your rental agreement and moving out before the next rent date **UNLESS** the repairs or actions are adequately taken care of within 14 days after receipt of the notice.

If the problem is not fixed, or at least a "good faith effort" started, within the time you allow,

then you can terminate your lease and move out at the end of the rent period. Assuming you were a good tenant (paid the rent, didn't tear up the place, etc.), the landlord should not pursue you for future rent and should return your security deposit. If you give the notice and decide not to move, make your plans well known to the landlord in writing. (See Terminating the Tenancy and Security Deposit Returns in this chapter.)

Kansas law also provides the tenant the right to collect "damages" from a landlord if the landlord does not comply with the laws. This means you have the right to ask your landlord to compensate you for your actual losses (repair bills you had to pay, costs to stay somewhere else or eat out when all or part of your place was unusable, damage to your furniture or other belongings due to the landlord's negligence, medical bills that you allege are the fault of the landlord, utility bills you had to pay which were high because the landlord failed to repair something that was the landlord's responsibility, and so on). This applies whether you decide to break your lease or to stay.

If you and the landlord cannot settle on a dollar amount and payment plan which satisfies you, you can go to Small Claims Court or have an attorney take your case to a higher court and get a judgment there.

Kansas law does not allow the tenant to hold back ("withhold" or "escrow") rent or to take expenses out of the rent ("repair and deduct"). Though neither action is specifically illegal, they are not specifically legal either, and the landlord does have the right to give an eviction notice in any case where the rent is not paid in full and on time. Both of these actions, though they sometimes work, are risky. Neither is advisable without the support of an attorney. If you try either, you should be prepared to pay the rent in full if you get an eviction notice or have your attorney take over. You should also have documentation showing your attempts to get the landlord to make the repairs or provide the maintenance requested.

The cities of Atchison and Manhattan have ordinances that allow for escrow of rent in certain