

**AN ORDINANCE CREATING SECTION 10.39, CHAPTER 10, TO ESTABLISH A
HOUSING, PROPERTY MAINTENANCE AND RENTAL CODE**

That, pursuant to the provisions of CHAPTER 10, SECTION 10.39 shall be created as follows:

The City Council of the City of Virginia does ordain as follows:

SUBSECTION 10.39.01 IN GENERAL

It is the purpose of this Ordinance to ensure that all residential units in the city are decent, safe, sanitary and operated and maintained in a manner that avoids the creation of a nuisance to the neighborhood, an influence that fosters blight and deterioration, or creates a disincentive to neighborhood reinvestment.

The council finds that providing for the public health, safety and welfare of its citizens occupying rental units requires a program that not only corrects substandard housing conditions and enforces a minimum habitability standard for rental units, but that also provides for the quiet enjoyment of the normal activities of life for occupants of rental properties and for the neighborhoods in which such rental properties are located.

Subd. 1. IPMC Adopted.

The City of Virginia does hereby adopt by reference the year 2012 edition of the International Property Maintenance Code, as hereinafter amended pursuant to this ordinance, as the Housing and Property Maintenance Code of the City of Virginia. Adoption of amendments and new editions to the International Property Maintenance Code as the Housing and Property Maintenance Code shall be established by resolution of the City Council.

Subd. 2. Applicability of article.

This Article shall apply to dwellings, dwelling units, housekeeping units, rooming units, rental units, buildings and premises located within the city, except that it shall not apply to suites and sleeping rooms in hotels which are let to the public for periods of less than one month and to common areas in such hotels.

Subd. 3. Inspections; enforcement; fees.

A. For the purposes of attaining uniform acceptable building and maintenance standards in the city and enforcing this Chapter the code official is hereby authorized to enter, examine and survey, between the hours of 8:00 a.m. and 5:00 p.m. all dwellings, dwelling units, housekeeping units, rooming units and other building and premises. The code official, prior to making such inspection, shall inform the owner or their agent of the date and time of the inspection by written notice. After notice has been given, the owner, occupant or the person in charge of the premises to be inspected, shall give the code official free access to conduct the inspection. Nothing in this Section shall be construed to prohibit the entry of the code official:

- (1) At any time when in the opinion of the code official an actual emergency tending to create an immediate danger to public health and safety exists; or
- (2) At any time when such inspection, examination or survey may be requested by the owner or occupant;

B. When an order to correct as provided in this Chapter has been issued, the code official is hereby authorized to enter and re-inspect the premises. The re-inspection shall be made by the code official and any other public officers as deemed appropriate by the code official. The owner, occupant or the person in charge of the premises shall give free access to the premises for the re-inspection;

C. Every occupant of a dwelling, dwelling unit or housekeeping unit shall give the owner thereof, or his agent or employee, access to any part of the premises, at all reasonable times, for the purpose of making repairs or alterations necessary to effect compliance with the provisions of this Chapter or any lawful order issued pursuant to this Chapter.

Subd. 4. Service of notices and orders.

A. Whenever the code official determines that there exists a violation of any provisions of this Chapter, notice of the violation shall be issued to the owner of record or the owner's agent if known, as hereinafter provided.

Such notice shall:

(1) Be written;

(2) Identify the violations;

(3) Provide a correction deadline. In determining the deadline, the code official shall consider, along with all other pertinent factors, the nature and extent of the work involved, the season of the year and the existence of any immediate danger to public health and safety;

(4) The notice may be delivered by any reasonable means including, but not limited to personal delivery, e-mail notification or by United States mail, postage prepaid, to the last-known address of the owner or owner's agent, or by posting the notice in a conspicuous place on or about the premises;

B. Notices served pursuant to this Section shall become final orders unless an appeal is filed as provided in Subd. 5. All final orders shall be complied with or the premises vacated by the deadline provided in the order;

C. Whenever the code official finds that an emergency exists which requires immediate action to protect the public health and safety, the code official may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency notwithstanding the other provisions of this Chapter. Such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately.

Subd. 5. Appeals.

Any property owner aggrieved by an action of the code official against the owner's property in the enforcement of this Chapter may appeal such action to the building appeal board comprised of the City Attorney, Engineer (ex officio), Administrator, Assessor and the Buildings and Grounds Committee Chair. Any property owner aggrieved by an action of the building appeal board may appeal to the City Council.

Subd. 6 – Subd. 26 Reserved.

SUBSECTION 10.39.02 RENTAL LICENSING

Subd. 27. Definitions.

A. The definitions contained in Sections 201 and 202 of the year 2012 edition of the IPMC, as adopted by Subd. 1 of this Chapter, shall apply to this Article;

B. For purposes of this Article, the phrase "dwelling" is defined as a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

C. For purposes of this Article, the phrase "Multiple Residential Building" is defined as a building with any dwelling let for occupancy joined to another dwelling let for occupancy at one or more sides by a party wall, floor or ceiling, including boarding houses, sleeping rooms, apartments, townhomes, twin homes, duplexes or quad homes, wherein eating, cooking and sanitation facilities may or may not be shared in common spaces. Each private dwelling area for living and sleeping shall constitute a rental unit when other facilities of eating, cooking or sanitation are shared among tenants.

D. Rental unit means any dwelling that is occupied by any tenants.

E. Residence means the primary dwelling where an individual lives and usually sleeps;

F. A tenant means any adult person or emancipated minor who is occupying a dwelling under any agreement, lease or contract, whether oral or written, and for a period of seven or more consecutive or nonconsecutive days in any month, whether or not such occupancy requires the payment of rent, the payment of utilities or the provision of services, for the use of the dwelling;

(1) A tenant shall not include any owner of record and an owner's natural children, adopted children, foster children, spouse, other blood relations, any significant other and any other dependent minors, residing with that owner as a family unit; significant other means romantic partner;

(2) A tenant shall not include a tenant's natural children, adopted children, foster children, spouse, other blood relations, any significant other and any other dependent minors, residing with the tenant as a family unit; significant other means romantic partner;

Subd. 28. License required.

No owner of any rental unit shall permit the occupancy of any portion of a unit by any tenant unless that portion is licensed as required by this Article and such license is posted in a conspicuous place inside the unit for the duration of occupancy.

Subd. 29. Licenses--application, procedure, type.

The City of Virginia shall rollout the initial licensing of rental units over a three year period, with one third of the city, as defined by a map, being required to comply with this ordinance each year. After the third year, this ordinance shall be applicable to the entire City. During the roll out period, those portions of the City not included in the current or previous year rollout shall not be regulated by this ordinance. Rental properties should begin the process of inspection and licensure early in the first year the property is subject to regulation. Not having completed the application, inspection and licensure by the end of the first year a license is applicable shall be a violation of this Chapter and the rental unit will be considered unlicensed and subject to penalties, fines or administrative action as contained herein.

A. Applications for rental licenses shall be filed with the code official by the owner or the owner's agent and shall be accompanied by the required license fee. The code official may reject any incomplete application;

(1) Applications for license renewals shall be filed at least 90 days prior to license expiration;

(2) Upon receipt of a complete application and fees the code official may issue a license if the rental unit is eligible for licensure;

B. Rental units which comply with the State Building Code and have been constructed and certified for occupancy within one year prior to date of application and are otherwise eligible for licensure shall be issued a license for the initial licensing period without further inspection;

C. All other rental units shall be inspected. The license fee shall cover general administration, the initial or renewal inspection, and one re-inspection, if required. Before a license is issued, a certificate of compliance from the designated inspector shall be required by the code official. Separate licenses shall be required for each rental unit. No license shall be issued unless the rental unit complies with the provisions of this Chapter and all other applicable laws;

D. Except as otherwise provided in this Article, any application for the renewal of an expired license shall be processed as a new license application and the rental unit must comply with all applicable laws;

E. If a rental license lapses as a result of the failure to comply with this Section, the license may be administratively reissued without regard to the provisions of paragraphs (a) through (c) of this Section for a period not to exceed 180 days of expiration, if within 180 days of the expiration of the license the owner complies with all other requirements of this Subd. 29;

F. The applicant shall identify a managing agent or contact person who resides within a 25 miles radius of the city and who has the authority to act for the owner;

G. Except as otherwise provided, a short term rental license may be issued for a period not to exceed 12 consecutive months for any dwelling under the following circumstances and pursuant to the following conditions:

(1) The owner is the occupant of the dwelling unit at the time of application or the code official finds that the owner was the occupant within 30 days before the date of application; and

(2) For professional, educational, medical, or military service reasons the owner intends to reside in another community located at least 50 miles from the city; and

(3) The owner provides sufficient evidence of such intention to temporarily relocate. Such evidence may include, but is not limited to written offers of employment, employment transfer directives, a letter of acceptance from an educational institution, or military orders; and

(4) The license may not be issued more frequently than once in any three year period; and

(5) The license shall be applied for in the same manner as other rental licenses; and

(6) Except as otherwise provided in this Article, the rental unit shall comply with all applicable rental licensing standards; and

(7) A short term license may be extended for additional six months periods provided that an application for extension is received prior to the expiration of the short term license or six-month extension and adequate evidence justifying the extension is submitted.

Subd. 30. Fees.

Fees provided for in this Article shall be established by resolution of the City Council. License fees shall not be prorated, transferred or refunded.

Subd. 31. Term of license.

Licenses issued pursuant to this Article shall be for a term of three years. The term shall commence on the license issuance date and expire three years from that date. All license renewals, including those authorized before expiration, and those administratively reissued, subject to Subd. 29 (E), shall retain the original license issuance month and day. License fees shall not be prorated.

Subd. 32. License conditions.

All rental units are subject to the following conditions:

- A. No license shall be transferred to another rental unit;
- B. At the principal exterior entrance to a rental unit an informational notice shall be posted that complies with the following requirements:
 - (1) The notice shall be displayed in a conspicuous place;
 - (2) The notice shall indicate the name, e-mail address and telephone number of the owner or managing agent;
 - (3) The notice shall be of such construction to remain readily visible for the term of the rental license.
- C. If there is a change in ownership of a rental unit, the new owner shall apply for a transfer of the license within 30 days of the change and pay the license transfer fee. If the rental unit is sold pursuant to a contract for deed, the purchaser shall be responsible for applying for the license transfer and providing a recorded copy of said contract for deed from the St. Louis County Recorder's office. A new license shall be issued for the remainder of the license period;
- D. If there is a change in managing agent, the new managing agent shall notify the code official in writing and update the notice in section B.(2) above within ten days of the change;
- E. The owner shall ensure that all required off street parking spaces, offered during the summer, are kept clear of snow during the winter.

Subd. 33. Inspection procedure.

A. All premises licensed pursuant to this Article shall be made available for inspection by the code official at any reasonable time whether the request for inspection is in conjunction with the licensing of the rental unit or the result of a complaint. In addition, the code official may require the licensee to produce records and information demonstrating that the rental unit complies with any applicable licensee duties or mandatory rental agreement terms described in Subd. 40. Licensee shall retain all applicable records for the occupant during the term of occupancy, and for one calendar year thereafter.

B. If during the inspection or other investigation, violations of the provisions of this Chapter, or other applicable provisions of this Code are identified, or the licensee fails to produce records or information as requested by the code official, written notice shall be mailed to the licensee at the notification address on file with the code official. The notice shall identify all violations identified and establish a reasonable time, not to exceed 180 days, in which all violations must be corrected or the rental unit vacated. At the end of the correction time, the rental unit shall be re-inspected. If the rental unit is not vacated or the violations are not corrected, the code official may take any of the following actions:

(1) Provide for an additional correction period. In no case may the total amount of correction time provided by the initial period and any additional period exceed 180 days;

(2) Revoke the license and order the vacation of the rental unit of all persons and property. The code official shall provide a reasonable time for vacation which shall not exceed 30 days;

C. If the code official revokes a license; written notice shall be mailed to the licensee at the notification address on file with the code official and posted in a conspicuous place at the rental unit.

Subd. 34. Violations, enforcement and penalties.

A. Violations. It shall be a violation of this Article, and a public nuisance, to do any of the following:

(1) Allow tenant occupancy in any portion of an unlicensed rental unit;

(2) Allow tenant occupancy in any unlicensed portion of a licensed rental unit;

(3) Refuse entry to an inspection official where such entry is allowed pursuant to Subd. 3;

(4) Fail to comply with any final order of the code official;

(5) Advertisement by a property owner or owner's representative of any dwelling or rental unit or any portion thereof as available for rent that is not licensed for rental at the time the advertisement is made. For purposes of this Section, advertisement includes, but is not limited to, oral or written notice, such as a poster or a paid announcement in the print, broadcast, or electronic media, designed to attract public attention or patronage;

(6) Advertisement by a property owner or owner's representative of any dwelling or rental unit or any portion thereof as available for rent without the rental application license number for the rental unit appearing in the advertisement. For purposes of this Section, advertisement includes, but is not limited to, oral or written notice, such as a poster or a paid announcement in the print, broadcast, or electronic media, designed to attract public attention or patronage;

B. Continuing violations. Each day that a violation occurs or remains uncorrected after the final order of the code official shall constitute a separate violation;

C. Enforcement. The city has the following enforcement powers:

(1) The city may issue an administrative citation pursuant to Chapter 10, Section 10.37, Subd. 11 of the City Code;

(2) The city may pursue any other civil action in law or equity in any court of competent jurisdiction, including without limitation a request for a declaratory judgment, restraining order or a temporary or permanent injunction;

(3) The city may revoke a rental license and issue an order for vacation of the premises;

D. Penalties. The owner of any property where a violation of this Section occurs, and any person violating this Section, shall be guilty of a misdemeanor, as provided in Chapter 10, Section 10.37, Subd. 11 of the City Code.

SUBSECTION 10.39.03 EMERGENCY REMEDIES IN RESIDENTIAL RENTAL PROPERTY

Subd. 35. Statement of purpose; scope.

It is the purpose of this Article to protect and promote the general health, safety and welfare of the citizens of Virginia by providing tenants an effective remedy against loss of heat, water, electricity, gas, security or basic fire and life safety. This Article shall apply to all units enumerated in Subd. 2 of this Chapter which are rented or held out for rent to another.

Subd. 36. Emergency conditions, loss of heat, water, electricity, etc.

A. If, contrary to the rental agreement, the landlord fails to provide heat as required by Section 602 of the Code, adopted by Subd. 1 above, running hot and cold water, electricity, gas or operable toilet or bathing facilities as required by law, the tenant may immediately notify the landlord and the building official, either orally or in writing, of the condition. The building official shall, as soon as possible thereafter, inspect the premises to ascertain whether such violation exists. If the building official finds the violation to exist, the building official shall immediately notify the landlord orally of the condition and cause written notice of the violation to be sent. If the landlord has not remedied the situation within 24 hours after receiving notice of the deficiency from the building official, the tenant may then correct the deficiency by paying a utility bill or causing the necessary repairs or corrections to be made, and may then deduct the amount of money actually used to correct the deficiency from future rent. All repairs made shall be made in conformance with applicable codes by persons who are licensed to perform the required work. In cases involving major repair or replacement of a heating plant, electric service, water service or sewer, where the apparent cost of the work exceeds \$500, the landlord shall have the right to approve the method of repair and to choose the contractor if, and only if, the landlord supplies temporary heat, water or electricity to the dwelling unit in accordance with this Chapter and if a written repair contract is signed within seven days after notice is given by the building official;

B. If the landlord fails to provide deadbolt locks or smoke detectors as required by law, the tenant may notify the landlord and the building official in accordance with Subsection (a) above and the building official shall inspect and notify the landlord of violations in accordance with said subsection. If the landlord fails to provide required deadbolt locks or smoke detectors within five days after receiving notice from the building official, the tenant may cause the corrections to be made and deduct the cost of such corrections from the rent as provided in said Subsection (A).

SUBSECTION 10.39.04 CRIME FREE HOUSING PROGRAM

Subd. 37. Statement of purpose.

Property owners and managers are responsible for taking such reasonable steps as are necessary to ensure that the citizens of the city who occupy rental units may pursue the quiet enjoyment of the normal activities of life in surroundings that are safe, secure, sanitary and free from criminal activity and nuisances.

Subd. 38. Definitions.

Unless otherwise provided in this Section, the definitions contained in Subd. 1 and Subd. 27 of this Chapter shall apply to this Article. In addition, for purposes of this Article the following words and phrases shall have the meanings respectively ascribed to them by this Section:

- A. Disorderly behavior. Any of the following activities:
- (1) A nuisance event as defined in Section 10.37 of the City Code; or
 - (2) A violation of Chapter 10 of the City Code or any state statute or federal law related to the ownership, possession or use of a firearm; or
 - (3) Illegal drug related activity including, but not limited to the illegal possession, manufacture, sale, distribution, purchase, use or possession with intent to manufacture, sell or distribute a controlled substance as defined in the Controlled Substance Act [21U.S.C. 802] or possession of drug paraphernalia as provided in Minnesota Statutes Section 152.092 or possession, sale, use or transfer of synthetic or alternative drugs as defined in Section 10.38 of the City Code. A tenant shall be deemed to be in possession of these substances if any amount is located in the tenant's rental unit even if the tenant denies knowledge of these substances unless the tenant provides a notarized statement made under oath by a person, other than the tenant or a member of the tenant's household, that the substance was in their possession and the tenant had no knowledge of the substance; or
 - (4) Any violation of Chapter 10 of the City Code; or
 - (5) Any act that jeopardizes the health, safety and welfare of the landlord, the landlord's agent or other tenants, or guests of tenants of a licensed premise;
 - (6) Any act that is prohibited by the smoking policy for the premises on which the dwelling is located;
 - (7) The following circumstances shall be deemed to be exceptions to the definition of disorderly behavior:
 - (a) An "emergency call" within the definition of Minnesota Statutes Section 609.78 and Subd.3, will not be considered an instance of disorderly behavior when the victim and suspect are "family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B 01, Subd. 2 (b) and there exists a report of domestic abuse as defined in the Domestic Abuse Act, Minnesota Statutes Section 518B 01, Subd. 2 (a), or a tenant, who is a victim of domestic violence, dating violence, sexual assault, or stalking,

provides a certification form approved by an appropriate agency stating the tenant is a victim, the incident is grounds for protection and includes the name of the individual committing the violence as defined and required by the Federal "Violence Against Women Reauthorization Act of 2013", however, the "emergency call" could apply to the individual committing the violence, but not the victim, if both are lawful occupants of the housing allowing for a bifurcation of the lease;

(b) An "emergency call" within the definition of Minnesota Statutes Section 609.78, Subd. 3, will not be considered an instance of disorderly behavior if the call is a result of a tenant or guest of a tenant taking action to seek emergency assistance that is protected by Minnesota State Statute 504B.205;

B. Guest of the tenant. Any person present at the licensed premise by either the express or implied consent of a tenant;

C. Licensed premise. A rental unit, all common areas of the building in which a rental unit is located, all accessory structures and improvements located upon the real property, and the real property upon which a rental unit is located;

D. Tenant. The lessee pursuant to a rental agreement and any member of the lessee's household;

E. Smoking policy disclosure. A disclosure of the smoking policy for the premises on which the dwelling is located. The disclosure must state whether smoking is prohibited on the premises, allowed on the entire premises (except where prohibited by other federal, state or local law) or allowed in limited areas on the premises. If the smoking policy allows smoking in limited areas on the premises, the disclosure must identify the areas on the premises where smoking is allowed and, if outdoors, an appropriate container for smoking waste or byproducts shall be provided and, at all times, the area shall be maintained in a clean and sanitary manner, free of visible smoking waste or byproduct debris.

Subd. 39. Crime-free and smoking policy disclosure rental agreement provisions required; exceptions.

All rental agreements for any rental unit licensed as required by Subsection 10.39.02, except for residential facilities licensed by the state, shall be assumed to contain the crime-free and smoking policy disclosure provisions of Subd. 40.

Subd. 40. Licensee duties; mandatory rental agreement terms.

A. It shall be the responsibility of any tenant to ensure that all tenants and all guests of a tenant while on or about the licensed premise are not engaging in disorderly behavior;

B. The licensee shall cause the commencement of an unlawful detainer or other eviction proceedings pursuant to the provisions of state law if a tenant violates the provisions of clause (c) of this Section on three or more occasions during a 12 month period;

C. Except for rental agreements related to occupancy of a state licensed residential facility, and except as otherwise preempted by federal or state laws and regulations, all rental agreements for the occupancy of a rental unit entered into on or after initial licensure, shall be assumed to contain the following provisions:

(1) No tenant or guest of a tenant shall engage in disorderly behavior while on or about the licensed premise;

(2) No tenant or guest of a tenant shall aid or abet disorderly behavior occurring on or about the licensed premise;

(3) No tenant or guest of a tenant shall conspire with others to engage in disorderly behavior on or about the licensed premise;

(4) No tenant shall permit a guest of the tenant to engage in disorderly behavior on or about the licensed premise;

(5) Any violation of paragraphs 1-4, above, shall constitute a material violation of the rental agreement and shall constitute good cause for the immediate termination of the rental agreement;

D. The licensee, prior to the commencement of the term of the rental agreement shall provide to the lessee(s) a written notice that contains the definition of disorderly behavior as provided by Subd. 38(A), above, and the provisions of clause (c) of this Section and shall maintain a written acknowledgment signed by the lessee(s) acknowledging receipt of such notice;

E. Prior to entering into any new tenant rental agreement after the effective date of this ordinance, the licensee shall cause a criminal background check to be conducted on all prospective adult tenants. The criminal background check shall include a search for all misdemeanor, gross misdemeanor and felony convictions as follows:

(1) A state criminal history check covering the last three years and which utilizes the most recent update of the state criminal history files; or

(2) A criminal history check covering the last three years from the prospective tenant's previous state of residence, if available, if the prospective tenant is moving directly from another state; or

(3) Criminal history check from this state and the prospective tenant's prior state(s) of residence, if available, covering the three year period prior to commencement of the tenancy if the prospective tenant's current period of residency in the state has been for less than a period of three consecutive years;

F. The licensee, prior to the commencement of the term of any rental agreement beginning on or after the effective date of this ordinance, must include a smoking policy disclosure as part of the rental agreement.

Subd. 41. Revocation, suspension, declination or denial of a license; authority.

A. In addition to the provisions of Subd. 33 of this Chapter, the code official may revoke or suspend a current rental license, deny a new rental license or decline to renew a rental license issued under this Chapter as provided in this Subd. and Subd. 42. In buildings containing more than one rental unit, the revocation, suspension, denial or declination may apply to one or more rental units at the discretion of the code official;

B. The basis for such revocation, suspension, denial or declination includes, but is not limited to, any of the following circumstances:

(1) The license was procured by misrepresentation of material facts with regard to the rental unit or the ownership of the rental unit; or

(2) The applicant or one acting on behalf of the applicant made misstatements accompanying the application; or

(3) The applicant has failed to comply with any condition set forth in any other rental license granted to the applicant by the city; or

(4) The activities of the applicant or the applicant's agent create or have created a danger to the public health, safety or welfare; or

- (5) The rental unit contains conditions that might injure or endanger the safety, health or welfare of any member of the public; or
- (6) Failure to pay any application, penalty or reinstatement fees required by this Chapter and council resolution; or
- (7) Failure to correct violations of this Chapter in the time period specified in the notice of violation and correction; or
- (8) Failure to commence unlawful detainer or eviction proceedings following the third instance of disorderly behavior, except as provided by the postponement of enforcement as authorized in Subd. 42; or
- (9) Violation of any regulation or provision applicable to the activity, to which the license has been granted, or any regulation or law of the state so applicable; or
- (10) Failure to continuously comply with any condition required of the applicant for the approval or maintenance of the license; or
- (11) Any violation of this Chapter.

Subd. 42. Abatement notice; procedure.

A. The city shall respond as follows to a violation of the provisions of this Article:

- (1) Upon occurrence of the first instance of a determination by the city that a rental unit was the location of an incident of disorderly behavior, the city shall cause notice to be made to the licensee, a property manager whose identity and address is on file in the office of the code official and the tenant of the rental unit. The notice shall direct the licensee to take steps to prevent further violations;
- (2) Upon the occurrence of the second instance of an incident of disorderly behavior occurring at the rental unit within 12 months of the notice provided in (a)(1) of this Subd., the property manager shall be required to attend crime free housing training offered through the city police department or other official designated by the City Council. If there is no designated property manager in the rental license application, then the property owner shall be required to attend crime free housing training offered through the city police department **if not completed within the previous 12 months**. The property owner shall be responsible for any training costs. The city shall cause notice to be made to the licensee, a property manager whose identity and address is on file in the office of the code official, and the tenant of the rental unit. The notice shall direct the licensee to submit, within ten days of the date of the notice, a written abatement report of all actions taken by the licensee since the first notice and actions the licensee intends to take to prevent further disorderly behavior. Failure of either owner or property manager to attend said crime free housing training within 180 days of said notice may result in an administration fine and rental license revocation;
- (3) Upon the occurrence of the third instance of disorderly behavior occurring at the rental unit within 12 months after the first of two previous notices, the city shall cause notice to be made to the licensee, a property manager whose identity and address is on file in the office of the code official, and the tenant of the rental unit. In addition to such notice, the code official shall revoke, suspend, or reject an application to renew the license. The code official shall make the decision to revoke, suspend or refuse to renew the license within 15 days of the notice;

B. For purposes of this Subd., second and third instances of disorderly behavior shall be those which:

- (1) Occur at the same rental unit; or
- (2) Involve tenants of the same rental unit; or
- (3) Involve guests of a tenant at the same rental unit; or
- (4) Involve guests of the same tenant; or
- (5) Involve the same tenant;

C. Notwithstanding the provisions of Subd. 41, above, no adverse license action shall be imposed where the instance of disorderly behavior occurred during a pending unlawful detainer action or other eviction proceeding or within 30 days of notice given by the licensee to a tenant to vacate the rental unit, except that if the code official determines that the licensee has failed to diligently pursue such process, such adverse license action shall proceed. Further, an action to deny, revoke, suspend or not renew a license based upon violations of this Article may be postponed or discontinued at any time if the code official determines that the licensee has taken appropriate measures which will prevent further instances of disorderly behavior. Such measures may include, but are not limited to, evidence of a failed eviction process despite the licensee's diligent pursuit of same;

D. A determination that the rental unit has been the location of disorderly behavior shall be made by a preponderance of the evidence to support such a determination. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly behavior, nor shall the fact or dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this Article;

E. The code official shall notify the licensee or the licensee's agent in writing of the basis for the revocation, suspension, denial or nonrenewal and the date upon which the action takes effect. Notice of the action shall be posted at the rental unit and/or licensed premise by the code official. No person, other than the code official, shall remove or alter any posting. The notice shall indicate the date the rental unit or licensed premise shall be vacated and no person shall reside in, occupy or cause to be occupied the rental unit or licensed premise until the code official has so removed said posting and issued a valid license therefore.

Subd. 43. Violation; penalty.

Any person who violates the provisions of this Article may be charged with a violation thereof and be subject to the penalty provided in City Code, Chapter 10, Section 10.37, Public Nuisances, Subd. 11, Penalty, which is a misdemeanor and shall be punished by a fine, not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety(90) days, or both, plus the costs of prosecution in either case.

Subd. 44. Enforcement alternatives.

Enforcement actions provided in this Article shall not be exclusive, and the city may take any action with respect to a licensee, a tenant, or a rental unit(s) as is authorized by the City Code or state law.

Subd. 45. Retaliation; waiver prohibited.

No licensee or the licensee's agent shall bar or limit a tenant's right to call for police or emergency assistance in response to domestic abuse or any other conduct or impose a penalty on a tenant for calling for police or emergency assistance in response to domestic abuse or any other conduct. A tenant may not waive and no such licensee or licensee's agent may require the tenant to waive the tenant's right to call for police or emergency assistance. Any such waiver contained in a rental agreement shall be null and void and unenforceable.

Subd. 46. Appeal.

The action of the code official to revoke, suspend, deny an application for rental license or deny renewal of a rental license made pursuant to this Section is subject to appeal as provided in Subd. 5 of this Section.

Section 2.

This ordinance becomes effective upon its passage and publication according to law.

Moved by Councillor _____, supported by Councillor _____, that the ordinance be adopted.

Ayes:

Nays:

The Mayor declared the Ordinance adopted.

Adopted:

Effective:

Mayor

Attest: _____

City Clerk

Updated: 9/18/14