

ORDINANCE NO. 659

AN ORDINANCE OF THE CITY OF AUSTIN, MINNESOTA,  
AMENDING CITY CODE CHAPTER 4:  
“RESIDENTIAL RENTAL PROPERTY” ADDING A NEW SECTION ON  
“RENTAL DWELLING LICENSES”

THE CITY COUNCIL OF THE CITY OF AUSTIN ORDAINS:

WHEREAS, the City of Austin wants to ensure that the conditions of rental housing units in Austin comply with life, health and safety standards necessary to safeguard the general welfare of the residents of these units and the surrounding properties; and

WHEREAS, it is necessary that the City adopt an ordinance governing “rental housing” within the city limits; and

WHEREAS, it is in the best interests of the citizens of Austin that Chapter 4, “Construction, Housing, Signs and Fences; Permits and Regulations of the Austin City Code be amended to add a new section on “Rental Dwelling Licenses” as set forth herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUSTIN,  
MINNESOTA, ORDAINS:

THE CITY CODE OF THE CITY OF AUSTIN IS HEREBY AMENDED BY ADDING  
THE FOLLOWING:

Section 4.27. RENTAL DWELLING LICENSES

Subd. 1 *Purpose.* It is the purpose of this chapter to assure that rental housing in the City of Austin is decent, safe and sanitary and is operated and maintained so as not to become a nuisance to the neighborhood or to become an influence that fosters blight and deterioration or creates a disincentive for reinvestment in the community. The operation of residential rental properties is a business enterprise that entails certain responsibilities. Rental dwelling owners, agents, and property managers are responsible to take necessary reasonable actions to ensure that the persons who occupy such rental units, as well as neighboring properties, may pursue the quiet enjoyment of the normal activities of life in surroundings that are safe, secure, and sanitary, free from noise, nuisances and annoyances, free from unreasonable fears about safety of persons and property, and free of drugs and crime.

Subd. 2 *Scope.* This chapter applies to rental dwelling units described herein that are rented or leased in whole or in part, including apartment buildings, town houses, single family and multifamily housing, guest and caretaker houses, and condominiums. It also includes any accessory structures of the rental dwellings, such as garages and storage buildings, and appurtenances such as sidewalks, driveways, and retaining walls, which are on the property of the rental dwelling. This chapter does not apply to on-campus college or university housing units; Minnesota Department of Health licensed rest homes; convalescent care facilities; licensed group homes; nursing homes; hotels; motels; or owner-occupied units.

Subd. 3 *Definitions.*

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Board of appeals* means city council.

*City* means the City of Austin, Minnesota.

*City council* means the city council of the City of Austin, Minnesota.

*Compliance official* means the city administrator or the city administrator's designee(s).

*Dwelling unit* refers to any room or rooms providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

*Inspector* means the person designated by the city administrator to inspect rental dwellings in the city.

*Let* means to permit possession or occupancy of a rental dwelling by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, or pursuant to a recorded or unrecorded agreement whether or not a fee is required by the agreement.

*License/rental license* means the license required by and issued pursuant to this chapter.

*Licensed premises* means a licensed rental dwelling and all accessory structures of the rental dwellings, such as garages, storage buildings, and appurtenances such as sidewalks, driveways and retaining walls, which are on the property of the rental dwelling.

*Licensee/owner* means any person, agent, operator, firm or corporation having a legal or equitable interest in the property or rental dwelling; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property or rental dwelling, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court, or any person representing the actual owner, holding a valid rental license from the city.

*Official order* means a written notice stating violation(s) of city Code and corrective action to be taken.

*Operate* means to let for occupancy or to rent.

*Property manager or local agent* means a person authorized by the owner to act on the owner's behalf as to the licensed premises.

*Rental dwelling* means any building containing one or more rental dwelling units.

*Rent* means to let for occupancy or to let.

*Revoke/revocation* means a license action due to noncompliance with the requirements of this chapter.

*Tenant* means a person who is occupying a dwelling unit in a rental dwelling under a lease or contract, whether oral or written, that requires the payment of money or exchange of services.

*IPMC* means the International Property Maintenance Code as adopted in Section 4.30 of the City Code.

Subd. 4 - Licensing of rental units.

(a) *License required.*

(1) No person shall operate a rental dwelling without first having obtained a license to do so from the City of Austin. A license shall be granted pursuant to the provisions of this chapter by the compliance official or designee(s).

Exceptions:

- a. An owner whose only rental dwelling is a single-family dwelling homesteaded by a relative. Compliance of this exemption may require written proof from the county.
- b. A residential property owned by a "snowbird" where the property is rented to another person for a period of less than one hundred twenty (120) consecutive days while the owner is residing out of the State of Minnesota. The owner must occupy the property during the remainder of the year.
- c. Unoccupied dwelling units that have been issued a vacant building registration.

- d. Contract for deed and “rent to own” properties in which the contract is recorded and filed with the county.
- (2) When more than one building containing rental dwelling units exists on one property, a separate license shall be required for each building.
- (3) Licenses shall be issued for a single rental dwelling unit in the case of a freestanding dwelling, a condominium, a townhouse, a dwelling in a cooperative, or a dwelling in a nonresidential structure; for a two-unit rental dwelling; or for an apartment building.
- (b) *License term.* Except for a provisional license as identified herein, a rental license issued by the city under this chapter will be valid for a one-year time period. All licenses may be reviewed at any time by the compliance official or designee(s) after the commencement of the license term to determine whether the rental dwelling continues to be in compliance with this chapter.
- (c) *License application and renewal.* The license application or renewal shall be made by the owner or agent. Application forms are available from the city and must be completed in full and accompanied by the appropriate license fee as established by the city council. Every licensee shall give notice in writing to the city within ten (10) business days after any change of information on the application or if the licensed premises is sold or otherwise conveyed in any way. Depending on the nature of changes, the city may require a new inspection of the licensed premises. Each license issued by the city under this chapter will expire one (1) year after the date of issuance unless otherwise suspended or revoked. An application for renewal of a license and the appropriate fee must be filed with the issuing authority at least thirty (30) days prior to the expiration date of an existing license. Any renewal license application and fee not received before the expiration date shall be assessed a late fee as established by the city council for processing of the application.

Within thirty (30) days of receipt of a completed application and of the license fee required by this chapter, the inspector shall schedule an inspection. No license shall be granted or renewed until the inspector has determined that all life, health safety violations, or application inconsistencies have been corrected. In cases where a weather deferral for repairs has been granted by the inspector, the license may be granted on conditions of the repairs being completed before a specific date in the future. If the license application is incomplete, or the applicant does not meet the requirements of this section during the term of a provisional license issued under section Subd. 5, the application shall be canceled.

- (d) *License and inspection fees.* License fees, as set forth by city council resolution, shall be due thirty (30) days prior to the license expiration date; in the cases of new unlicensed units, license fees shall be due at time of application.
  - (1) *License fees, delinquent payments.* A delinquency penalty of twenty (20) percent of the amount of the license fee may be charged to the operators of the dwelling unit. Once issued, a license is nontransferable and the licensee shall not be entitled to a refund of any license fee. Upon revocation or modification of a license, or if the applicant withdraws an application, or in the case of an incomplete application or process, or if an application is canceled, the fee shall be nonrefundable.
  - (2) *Inspection/reinspection fees.* Fees for annual inspections of a rental dwelling are part of paid license fees. Reinspection fees will only be charged for subsequent inspections after failure to comply with official orders or when the owner or agent fails to keep a scheduled inspection without prior notice to the inspector. All reinspection fees are set by city council resolution. If the reinspection is being performed as part of the licensing process, fees must be paid prior to the time of license issuance or renewal. If a reinspection fee of any portion is not paid within thirty (30) days after billing, or within thirty (30) days after any appeal becomes final, the city council may certify the unpaid cost against the rental dwelling.
  - (3) *Unregistered rental fees.* Rental properties, existing prior to the effective date of this chapter, that have failed to register under the rental registration ordinance may be charged a penalty as set by council, in addition to their licensing fees.
- (e) *Minimum licensing standards.* The following minimum standards and conditions must be met in order for an owner to hold or be granted a rental dwelling license under this chapter. Failure to comply with

any of these standards or conditions shall be adequate grounds for denial, nonrenewal, suspension or revocation of an owner's rental dwelling license.

- (1) The licensee or applicant must have a current, complete, and accurate rental dwelling application on file with the city.
- (2) The licensee or applicant shall have paid the required license fee and any other fees required by this chapter.
- (3) The licensee or applicant must be registered with the utility, be current and have paid any taxes, assessments, fines, penalties, or other financial claims due to the city on the licensed premises and any other rental dwelling in the city owned by the licensee or the applicant. In the event a suit has been commenced under Minnesota Statutes, Sections 278.01—278.03, questioning the amount or validity of taxes, the city may upon request of the licensee or applicant waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof that remain unpaid for a period exceeding one year after becoming due.
- (4) The rental dwelling must be in compliance with all federal, state and local laws, including but not limited to all provisions of this chapter, the Property Maintenance Code as adopted in Section 4.30.

Subd. 5 - Provisional license.

Licenses issued to existing rental dwellings during the first 12 months following the effective date of the ordinance, will be provisional pending inspection. Newly established rental dwellings and properties or property owners with code or other violations within 12 months preceding the license application will be prioritized. Following the initial 12 month implementation period, the city may issue a provisional license to the owner of a rental dwelling who has submitted an application, paid the license fee and the compliance official or designee has conducted an initial inspection resulting in written orders to correct violations that do not prevent occupancy. All other inspections will be scheduled within 12 months of license issuance. In all other instances, provisional licenses authorize the continued occupancy of the rental dwelling unit(s) in actual existence, pending issuance of a rental license. This provisional license is valid the earliest of the following: up to one hundred eighty (180) days; or the date upon which a non-provisional license is issued or the date upon which notice is given that the City has determined that license requirements have not been met and the provisional license has been rescinded.

Subd. 6 - License requirements.

- (a) *Local agent required.* If the owner does not reside within 50 miles of the City of Austin, the owner must provide the city with a local agent that resides within 50 miles and who is responsible for maintenance and operation of the rental dwelling and who is legally constituted and empowered to receive service and orders on behalf of the owner and to institute remedial action to effect such orders. The city shall be notified in writing of any change of agent by the owner of the rental dwelling.
- (b) *Owner identification.* All partnerships, corporations, limited liability companies or other recognized business associations that own a rental dwelling to be licensed under this chapter shall submit, upon request of the compliance official or the designee(s), the name and address of all partners, shareholders or interest holders. If requested by the compliance official or the designee(s), information regarding the names and addresses of all partners, shareholders or interest holders must be submitted in a sworn affidavit to the city.
- (c) *Responsibility for acts of manager, operator, or agent.* Licensees are responsible for the acts or omissions of their managers, operators, agents, or other authorized representatives.
- (d) *Conformance to laws.* No rental license shall be issued, renewed or allowed to be maintained by the owner unless the rental dwelling conforms to all applicable federal, state, and local laws, rules, and regulations.
- (e) *License inspection required.* No rental license shall be issued, renewed or allowed to be maintained unless the owner agrees in the owner's application to permit inspections pursuant to this chapter.
- (f) *Posting and production of license.* Every licensee of a rental dwelling with four (4) or more units, shall conspicuously post the current rental license certificate issued by the city in the main entryway or other

conspicuous location. An owner or agent of a rental dwelling must always produce a copy of the current rental license certificate for a rental dwelling upon the request from a tenant, prospective tenant, police officer or compliance official.

(g) *Occupancy register required.* Every licensee shall keep, or cause to be kept, a current register of occupancy for each dwelling unit that provides the following information:

- (1) Dwelling unit address.
- (2) Number of bedrooms in dwelling unit and the maximum number of occupants.
- (3) Legal names and date of birth of adult occupants and number of persons under eighteen (18) years of age currently occupying the dwelling units.
- (4) Dates renters occupied and vacated dwelling units.
- (5) A chronological list of complaints and requests for repair by dwelling unit occupants related to this chapter, and all corrections made in response to such requests and complaints.

Such a register shall be made available for viewing or copying by the City of Austin at all reasonable times.

(h) *Occupancy standards.*

- (1) Each rental dwelling must comply with the requirements of the City of Austin Property Maintenance Code.
- (2) The maximum permissible occupancy of a rental dwelling unit is determined by City of Austin Property Maintenance Code Section 404 (Occupancy Limitations).

(i) *License not transferable.* The rental license issued pursuant to this chapter is for the property owner and the premises named on the approved license application. No transfer of a license is permitted from place to place or from the owner to another person or entity without complying with the requirements of an original application, except in the case in which an existing licensee is merely changing a business or corporate name or in the case in which an existing noncorporate licensee is incorporating and the incorporation does not affect the ownership or control of the property or the rental business.

(j) Properties, which by law are required to be HUD (U.S. Department of Housing and Urban Development) inspected, may be exempted from additional city inspection upon HUD certification that the rental units meet HUD housing quality standards.

Subd. 7 - Disorderly conduct prohibited.

(a) *Disorderly conduct prohibited.* Disorderly conduct is prohibited on all licensed rental dwellings. It shall be the responsibility of the licensee to prevent disorderly conduct by tenants, the tenant's family and the tenant's guests in the rental dwelling unit. For purposes of this section, a rental dwelling unit includes the unit which the tenant, family member or guests occupy along with the common areas both inside and outside of the building where the rental dwelling unit is located.

(b) *Disorderly conduct defined.* For the purposes of this section, disorderly conduct and nuisance conditions may include, but not be limited to the following:

- (1) Drug-related illegal activity occurring in or near the rental dwelling unit. Drug-related illegal activity means the illegal possession or constructive 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 (21 U.S.C. § 802), or possession of drug paraphernalia per Minn. Stat. § 152.092.
- (2) Any act of violence or threat of violence including, but not limited to, the discharge of firearms, prostitution, intimidation or any other act that otherwise jeopardizes the health, safety or welfare of the owner, agent, manager, other tenants, tenant's family members, guests or neighboring property owners.
- (3) Minnesota Statutes, § 609.75 through § 609.76 (prohibiting gambling).

- (4) Minnesota Statutes, § 609.321 through § 609.324 (prohibiting prostitution and acts relating thereto).
- (5) Minnesota Statutes, § 152.01 et seq., which prohibits the unlawful sale or possession of controlled substances.
- (6) Minnesota Statutes, § 340A.401, which prohibits the unlawful sale of alcoholic beverages.
- (7) Minnesota Statutes, § 340A.503, which prohibits the underage use of alcoholic beverages.
- (8) Austin City Code of Ordinances, chapter 10, which prohibit nuisances.
- (9) Minnesota Statutes, § 97B.021, Minnesota Statutes, § 97B.045, Minnesota Statutes, § 609.66 through § 609.67 and Minnesota Statutes, § 624.712 through § 624.716 prohibiting the unlawful possession, transportation, sale or use of a weapon.
- (10) Minnesota Statutes, § 609.72, which prohibits disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation.
- (11) Minnesota Statutes, § 609.185 through § 609.205, which prohibit murder and manslaughter.
- (12) Minnesota Statutes, § 609.221 through § 609.2231, which prohibit assault.
- (13) Minnesota Statutes, § 609.342 through § 609.3451, which prohibit criminal sexual conduct.
- (14) Minnesota Statutes, § 609.52, which prohibits theft.
- (15) Minnesota Statutes, § 609.561 through § 609.5632, which prohibit arson.
- (16) Minnesota Statutes, § 609.582, which prohibits burglary.
- (17) Minnesota Statutes, § 609.595, which prohibit damage to property.
- (18) Laws relating to contributing to the need for protection or services or delinquency of a minor as defined in Minnesota Statutes, Section 260C et seq.
- (19) Minnesota Statutes, Section 609.33, relating to owning, leasing, operating, managing, maintaining or conducting a disorderly house or inviting or attempting to invite others to visit or remain in a disorderly house.
- (20) Minnesota Statutes, § 609.50, which prohibits obstructing the legal process.
- (21) Minnesota Statutes, § 609.713, which prohibits terroristic threats.
- (22) Minnesota Statutes, § 609.715, which prohibits presence of unlawful assembly.
- (23) Minnesota Statutes, § 609.71, which prohibits riot.
- (24) Minnesota Statutes, §§ 609.226, 347.52, 347.542, relating to dangerous dogs.
- (25) Minnesota Statutes, § 609.78, which prohibits interfering with "911" phone calls.
- (26) Minnesota Statutes, § 243.166 (Predatory Offender Registration).
- (27) Minnesota Statutes, § 609.229 (Crime committed for benefit of a gang).
- (28) Minnesota Statutes, § 609.26, subdivision 1(8) (causing or contributing to a child being a runaway).
- (29) Minnesota Statutes, § 609.903 (Racketeering).
- (30) Minnesota Statutes, § 609.53 (Possession of Stolen Property).
- (31) Minnesota Statutes, § 609.749 which prohibits a violation of a restraining order or order for protection.
- (32) Minnesota Statutes, § 609.255 (False Imprisonment) and Minnesota Statutes, § 609.25 (Kidnapping).

- (c) *Violations and resulting action.* Upon a determination by the Austin Police Department that disorderly conduct has been committed on a licensed premises, as described in paragraph (a), the city shall take the following actions:
- (1) For a first instance of disorderly conduct, a notice describing the specific violation(s) will be sent to the licensee via First Class mail along with a directive for the licensee to take steps to prevent further violations. The licensee shall notify the tenant or tenants within ten (10) days of the notice of disorderly conduct violation.
  - (2) If a second instance of disorderly conduct occurs within a rolling twelve-month time period for the same tenancy, a second notice describing the specific violation(s) will be sent to the licensee via First Class mail along with a directive for the licensee to submit a written report to the Austin Police Department within ten (10) calendar days of receipt of the notice of disorderly use of the licensed premises which details all actions taken by the licensee in response to the previous notices of disorderly conduct on the licensed premises. The licensee shall notify the tenant or tenants within ten (10) days of the notice of disorderly conduct violation.
  - (3) If a third instance of disorderly conduct occurs within a rolling twelve-month time period for the same tenancy, the rental dwelling license for the licensed premises may be suspended, revoked or not renewed by the city. An action to suspend, revoke, or not renew a rental dwelling license under this chapter shall be initiated by the compliance official or designee(s) pursuant to the procedures outlined in Subd. 10 herein. The licensee shall notify the tenant or tenants within ten (10) days of the notice of disorderly conduct violation, and proceed with termination of the tenancy of all tenants occupying the unit.
  - (4) If the compliance official or designee(s) determines that the licensee has proceeded in good faith to secure termination of the tenancy in accordance with this subsection, but was unsuccessful for reasons beyond the licensee's reasonable control, then the licensee shall not be subject to the penalties.
  - (5) In lieu of revoking, suspending or not renewing the rental license under Subd. 10 herein, the compliance official or designee(s) may require an action plan to be completed and complied with by the licensee, manager or local agent within a designated time frame which outlines the steps necessary to be taken and complied with in order to correct identified violations and the measures to be taken to ensure ongoing compliance with the city Code and other applicable laws.
- (d) *Determining disorderly conduct.* A determination that a licensed premises or any particular dwelling unit has been the location of a disorderly conduct violation shall be made upon a finding of fact by the Austin Police Department by a preponderance of the evidence. It shall not be necessary that criminal charges be brought in order to support such finding, nor shall the dismissal or acquittal of such a criminal charge operate as a bar to any action under this section.
- (e) *Review of disorderly conduct determination.* Within five (5) days of being notified of an instance of disorderly conduct occurring on the licensed premises under Subdivision 7 (c)(1) or (2), the licensee may submit information to the Austin Police Department and seek reconsideration of the determination that disorderly conduct has occurred in the rental unit in violation of this chapter. The member of the Austin Police Department who initially determined the existence of the disorderly conduct shall respond to the licensee's request for reconsideration within ten (10) days after receipt of the request. Any determination of disorderly conduct which results in the revocation, suspension or nonrenewal of a rental license will be reviewed by the city council pursuant to the provisions of Subd. 10 (e) herein.
- (f) *Notices.* All notices given by the city under this chapter shall be personally served on the licensee or sent by First Class mail to the licensee's address as provided to the city. If neither method of service effects notice, the city may provide notice to the licensee by posting on a conspicuous place on the licensed premises.
- (g) *Lease termination.* In addition to the licensee responsibilities to respond to disorderly conduct as outlined herein, the licensee may also be required to terminate the tenancy of a tenant that violates the crime-free/drug free lease addendum as outlined in Subd. 8 herein. No adverse license action shall be imposed by the city where the instance of disorderly conduct on the licensed premises occurred

during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days of notice given by the licensee to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's unit. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. Further, an action to deny, revoke, suspend, or not renew a rental license based on violations of this chapter may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures which will prevent further instances of disorderly use.

- (h) *Enforcement.* Enforcement actions provided in this chapter shall not be exclusive, and the city may take any action with respect to a licensee, a tenant, guests, or the licensed premises as is authorized by this Code or state law.
- (i) *No retaliation.* For purposes of verifying instances of disorderly conduct in violation of this section, the following are exceptions:
  - (1) An "emergency call" within the definition of Minnesota Statutes, § 609.78, subd. 3, as it may be amended from time to time, will not be considered an instance of disorderly behavior for purposes of this section where the victim and suspect are "family or household members" as defined in the Domestic Abuse Act (Minn. Stat. § 518B.01, subd. 2(b)) and where there is a report of "Domestic Abuse" as defined therein.
  - (2) An "emergency call" within the definition of Minnesota Statutes, § 609.78, subd. 3, as it may be amended from time to time, will not be considered an instance of disorderly behavior for purposes of this section where the call is result of a tenant, or a member of the tenant's household, or guest taking action to seek emergency assistance that is protected by Minn. Stat. § 504B.205, relating to a residential tenant's right to seek police and emergency assistance.
  - (3) An "emergency call" within the definition of Minnesota Statutes, § 609.78, subd. 3, as it may be amended from time to time, will not be considered an instance of disorderly behavior for purposes of this section where the call is result of a emergency assistance that is protected by Minn. Stat. § 604A.04, relating to a person who is not a health care professional who acts in good faith in administering an opiate antagonist to another person whom the person believes in good faith to be suffering a drug overdose.

A tenant may not waive and a license holder may not require the tenant to waive the tenant's right under law to call for police or emergency assistance. This section shall not prohibit the eviction of tenants from a dwelling unit for unlawful conduct of a tenant or invitee or violation of any rules, regulations, or lease terms other than a prohibition against contacting law enforcement agencies.

- (j) *Falsely reporting violations.* No person shall report a violation of this chapter or city ordinance knowing or having reason to know that the report is false with the intent to affect the licensing status or inspection schedule of the licensed premises.
- (k) *Tenant responsibilities.*
  - (1) *Access to licensed premises.* When required by Minnesota Statutes, each tenant or occupant of a rental dwelling must give the owner, agent, or authorized city official access to any part of such rental dwelling unit at reasonable times for the purpose of inspection, maintenance, repairs, or alterations as are necessary to comply with the provisions of this chapter.
  - (2) *Compliance with regulations.* A tenant must comply with applicable city codes and all applicable local, state, and federal regulations. A tenant is responsible for compliance with all applicable city Code, nuisance, and violations of disorderly conduct as specified in this section that occur in the dwelling unit, including violations committed by household members or guests.

Subd. 8 - Crime-free housing program.

- (a) *Purpose.* The city council finds that repeated police calls to rental dwelling units in the city related to disturbances or criminal activity have taxed law enforcement resources. The city council also finds that persons residing in rental dwelling units who engage in disorderly conduct or cause nuisance conditions create an unacceptable environment for others living in close proximity, thereby threatening the public safety and welfare of the community. In order to preserve and protect the city's



neighborhoods and to promote public safety, the city council enacts this section. For the purpose of this section of the city code, the crime-free housing program shall refer to the Minnesota Crime Prevention Association's Crime-Free Multi Housing Program, unless otherwise indicated or amended by this section. The phases of the program include, but are not limited to, the conditions set forth below.

- (b) *Crime-free housing program overview.* An owner, agent or property manager of a rental dwelling in the city must comply with the following components of the city's crime-free housing program:
  - (1) Attend a certified eight-hour crime-free housing course presented by police, fire, public housing and others.
  - (2) Use a written lease which includes the crime-free/drug free housing lease addendum.
  - (3) Conduct a criminal background of all prospective tenants 18 years and older and, upon request, provide a copy of third-party background check procedures for tenants.
  - (4) Actively pursue the eviction of the tenants or termination of the lease with the tenants who violate the terms of the lease and/or the crime-free/drug free housing lease addendum.
- (c) *Crime-free housing program training.*
  - (1) Every owner, agent, or property manager of a rental dwelling must attend a crime-free housing training program that is either offered by the city or another municipality within the State of Minnesota. Each owner, agent, or property manager will be charged a fee to attend the crime-free housing training if attended in the City of Austin. The owner, agent, or property manager will provide the city with proof of having received such training to the Austin Police Department if it is obtained from another city or other source.
  - (2) All new rental licenses applied for and issued after the effective date of this chapter have two (2) years from the day of license issuance for the owner, agent or property manager to attend and provide proof of completion of the crime-free housing training. Licenses may be considered for revocation, suspension or nonrenewal for failure to attend the crime-free housing training and provide proof to the Austin Police Department within the deadlines proscribed herein.
- (d) *Tenant background checks.* All licensees will conduct criminal background checks on all prospective tenants eighteen (18) years and older. The criminal background check must include the following:
  - (1) A statewide (Minnesota) criminal history check of all tenants who are eighteen (18) years of age or older and persons subsequently residing in the dwelling unit who are eighteen (18) years of age or older (collectively referred to in this section as "tenants") covering at least the last three (3) years; the check must be done "in person" or by utilizing the most recent update of the state criminal history files;
  - (2) A statewide criminal history check from the tenants' previous state of residence if the tenant is moving directly from the previous state;
  - (3) A criminal history check of any tenant in his or her previous states of residence covering the last three (3) years if they have not resided in Minnesota for three (3) years or longer.
  - (4) Licensees will retain criminal history check information for at least one year after the date of the check or, if the subject of the check becomes a tenant of the licensed premises, one year after the subject of the check has ceased to be a tenant. Such information shall be available for inspection upon request by the city; and
  - (5) Licensees should have written screening criteria that is provided to the applicant prior to accepting the application or application fee.
- (e) *Crime-free/drug-free housing lease addendum requirements.* All tenant leases for rental units governed by this chapter shall contain the crime-free/drug-free housing lease addendum. The crime-free/drug-free housing lease addendum provisions are in addition to all other terms of the lease and do not limit or replace any other provisions. These lease provisions shall be incorporated into every

new and renewed lease for a tenancy. The lease addendum shall contain the following "crime-free/drug-free" language or language that is contractual and legal equivalent as follows:

- (1) Resident, any members of the resident's household or a guest or other person under the resident's control shall not engage in illegal activity, including drug-related illegal activity, on or near the said premises. "Drug-related illegal activity" means the illegal manufacture, sale, distribution, purchase, use or possession with intent to manufacture, sell, distribute, or use of a controlled substance (as defined in Section 102 of the Controlled Substance Act, 21 U.S.C. 802) or possession of drug paraphernalia.
  - (2) Resident, any members of the resident's household or a guest or other person under the resident's control shall not engage in any act intended to facilitate illegal activity, including drug-related illegal activity or the storage of stolen property, on or near the said premises.
  - (3) Resident, any members of the resident's household or a guest or any other person under the resident's control household will not permit the dwelling to be used for, or to facilitate illegal activity, including drug-related illegal activity, regardless of whether the individual engaging in such activity is a member of the household.
  - (4) Resident, any members of the resident's household or a guest or any other person under the resident's control household will not engage in the manufacture, sale, felony possession or distribution of illegal drugs at any locations, whether on or near the dwelling unit premises or otherwise.
  - (5) Resident, any members of the resident's household or a guest or any other person under the resident's control household shall not engage in acts of violence or threats of violence, including but not limited to the unlawful discharge of firearms, prostitution, criminal street gang activity, intimidation, or any other breach of the rental agreement that otherwise jeopardizes the health, safety or welfare of the landlord, his agents or tenants.
  - (6) Violation of the above provisions shall be a material violation of the lease and good cause for termination of tenancy. A single violation of any of the provisions of this agreement shall be deemed a serious violation and material noncompliance with the lease.
  - (7) Non-exclusive remedies. The crime-free/drug free provisions are in addition to all other terms of the lease and do not limit or replace any other provisions.
- (f) *Crime-free housing violations.*
- (1) Upon determination by the Austin Police Department by a preponderance of the evidence that a licensed premises or dwelling unit within a licensed premises was used in violation of the crime-free/drug-free lease provisions of this subchapter, the police department shall cause notice to be made to the owner, agent, or property manager of the violation. If the violation of the crime-free/drug-free lease addendum committed on the licensed premises would rise to the level of a felony charge under state or federal law, the police department shall cause notice to be made to the owner, agent, or property manager to proceed with termination of the tenancy of all tenants occupying the unit. If the violation of the crime-free/drug-free lease addendum committed on the licensed premises would rise to the level of a misdemeanor or gross misdemeanor charge under applicable law, the police department may cause notice to be made to the owner, agent, or property manager to proceed with termination of the tenancy of all tenants occupying the unit if the violation threatens the peaceful enjoyment or safety of any other resident or neighbor to the premises.
  - (2) Written notice, hearing. Any determination by the police department for the termination of tenant's lease based on a violation of the crime-free/drug-free lease provisions shall be preceded by written notice to the licensee of the grounds therefore and the licensee will be given an opportunity to challenge the determination at a hearing conducted before the city council prior to termination of the tenancy by the licensee. The licensee shall request the hearing within ten (10) days after receipt of the police department's notification of the termination of the tenancy.

In the event a hearing is requested by the licensee, a determination that a licensed premises or any particular dwelling unit has been the location of a violation of the crime-free/drug-free lease addendum shall be made upon a finding of fact by the city council by a preponderance of the evidence. It shall not be necessary that criminal charges be brought in order to support such finding, nor shall the dismissal or acquittal of such criminal charge operate as a bar to any action under this section. Upon completion of the hearing, the city council shall issue a decision to either uphold or reverse the determination of police department to terminate the tenancy only upon written findings and notice to the licensee.

In the event a hearing is not requested by the licensee, the licensee, agent, or property manager shall notify the tenant or tenants within twenty (20) days of the notice of violation of the crime-free/drug-free lease language and advise the tenant(s) of the termination of the tenancy as directed by the police department.

- (3) The licensee shall not enter into a new lease with an evicted tenant (or with a tenant whose tenancy was otherwise terminated for violating the crime-free/drug-free lease language) for a period of one year after the eviction or lease termination for a rental dwelling unit that is owned or operated by the licensee in the city.
- (4) If the Austin Police Department determines that the licensee or agent has proceeded in good faith to secure termination of the tenancy in accordance with this subsection, but was unsuccessful for reasons beyond the owner or agent's reasonable control, then the licensee shall not be subject to the penalties.
- (5) Any person who violates any part of this chapter, upon conviction thereof shall be guilty of a misdemeanor, punishable in accordance with state law which may include up to ninety (90) days in jail. Nothing in this chapter however is deemed to limit other remedies or civil penalties available to the city under city Code or state law. Each day that a violation continues is deemed a separate punishable offense.

Subd. 9 - Enforcement and inspections.

The compliance official or designee(s) administers and enforces the provisions of this chapter and is hereby authorized to cause inspections on an annual basis for all licensed rental dwellings and also when reasonable grounds exist to believe that a violation of this chapter has been or is being committed. Inspections shall be conducted during reasonable times, and the compliance official or designee(s) shall present evidence of official capacity to the tenant, owner, or agent at the time of inspection of the rental dwelling. Inspections shall include all common areas, utility and mechanical rooms, accessory structures, interiors of each dwelling unit, exteriors of all structures and exterior property areas.

- (1) *Inspection access.* Pursuant to Minnesota Statutes, Section 504B.211, the owner or agent shall provide proper notification of an inspection to the tenants after receiving notice of the time and date of the inspection from the compliance officer or designee(s). Each tenant of a dwelling unit shall give the owner or agent access to any part of such dwelling unit at reasonable times for the purpose of effecting inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this subchapter. If any owner, agent or tenant of a dwelling unit fails to provide the tenant with requisite notice of the inspection or otherwise refuses to permit entry to the dwelling unit under its control for an inspection pursuant to this subchapter, the compliance official may seek a court order authorizing such inspection.
- (2) *Official order.* Whenever the compliance official or designee(s) determines that any rental dwelling or portion thereof, or the premises surrounding any of these, fails to meet the provisions of this chapter or city code, an official order setting forth the violations and ordering the owner or agent to correct such violations shall be issued. This official order shall:
  - a. Be in writing.
  - b. Describe the location and nature of the violations of this chapter.
  - c. Establish a reasonable time for the correction of such violation and right to appeal.

- d. Identify the implications of noncompliance with the official order, including but not limited to being cited by the city and prosecuted, administrative fines, as well as the possible revocation, suspension or nonrenewal of the rental license for the dwelling unit or licensed premises. Actions limiting the owner's ability to rent will be brought to city council.
  - e. Be provided to the owner or agent as the case may require. Such notice shall be deemed to be properly provided upon the owner or agent if a copy thereof is:
    - 1. Served upon owner or agent personally; or
    - 2. Sent by First Class mail to his/her last known address on file with the city; or
    - 3. Upon failure to effect notice through subsections 1. or 2. as set out in this section, posted at a conspicuous place in or about the rental dwelling, or portion thereof, that is affected by the notice.
    - 4. Communications with the owner or agent may also be made by electronic mail.
  - f. Be provided to the tenant(s) residing in the licensed premises that is the subject of the official order. Such notice shall be deemed to be properly provided to the tenant(s) if a copy is properly posted on the dwelling unit or at a conspicuous place in or about the rental dwelling.
- (3) Action plan. The compliance official or designee(s) may require an action plan to be completed by the licensee or agent in a designated time frame that indicates the steps taken to correct identified violations and the measures to be taken to ensure ongoing compliance with city ordinances and all applicable codes.
  - (4) Unfit for human habitation.
    - a. Any rental dwelling or portion thereof that is damaged, decayed, dilapidated, insanitary, unsafe, vermin or rodent infested, or that lacks provision for basic illumination, ventilation or sanitary facilities to the extent that the defects create a hazard to the health, safety or welfare of the tenants or of the public may be declared unfit for human habitation. Whenever any rental dwelling or licensed premises has been declared unfit for human habitation, the compliance official or designee(s) shall order the same vacated within a reasonable time and shall post a placard on same indicating that it is unfit for human habitation as adopted by city council chapter 4, section 4.01 (Minnesota State Building Code), and any license previously issued for such rental dwelling units shall be revoked or modified pursuant to subdivision 10 herein.
    - b. It shall be unlawful for such rental dwelling or portion thereof to be used for human habitation until the defective conditions have been corrected and written approval has been issued by the city. It shall be unlawful for any person to deface or remove the declaration placard from any such rental dwelling.
  - (5) Hazardous building declaration. In the event that a rental dwelling has been declared unfit for human habitation and the owner or agent has not remedied the defects within a prescribed reasonable time, the rental dwelling may be declared a hazardous building and treated consistent with the provisions of Minnesota Statutes.
  - (6) Right of appeal. When it is alleged by any person to whom an official order is directed that such official order is based upon erroneous interpretation of this chapter, such person may appeal the official order to the city council sitting as a board of appeals. Such appeals must be in writing, must specify the ground for the appeal, must be accompanied by a filing fee as set forth per city council resolution, in cash or cashier's check, and must be filed with the city within ten (10) business days after issuance of the compliance order. The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless such a stay would cause imminent peril to life, health, or property.
  - (7) Board of appeals decision. Upon at least ten (10) business days' notice to the appellant of the time and place for hearing the appeal, and within thirty (30) calendar days after said appeal is filed, the board of appeals shall hold a hearing thereon, receive evidence, and consider any

advice and recommendation from the compliance officer. The board of appeals may reverse, modify, or affirm, in whole or in part, the compliance order and may order return of all or part of the filing fee if the appeal is upheld.

- (8) Restrictions on transfer of ownership. It shall be unlawful for the owner of any rental dwelling, or portion thereof, upon whom a pending compliance order has been served to sell, transfer, mortgage, lease, or otherwise dispose thereof to another person until the provisions of the compliance order have been complied with, unless such owner shall furnish to the grantee, lessee, or mortgagee a true copy of any notice of violation or compliance order and shall obtain and possess a receipt of acknowledgment of notice and file a copy of the same with the city within ten (10) days of receipt. Anyone securing an interest in the rental dwelling, or portion thereof, who has received notice of the existence of a violation tag or compliance order shall be bound by same without further service of notice and shall be liable to all penalties and procedures provided by this chapter.
- (9) Failure to correct official orders. Any person who fails to comply with an official order and any person who fails to comply with a modified compliance order within the time set therein, upon conviction thereof shall be guilty of a misdemeanor, punishable in accordance with state law. Nothing in this chapter however is deemed to limit other remedies or civil penalties available to the city under this Code or state law. Each day of such failure to comply may constitute a separate punishable offense.
- (10) Execution of official orders. Upon failure to comply with an official order within the time set therein and no appeal having been taken, or upon failure to comply with a modified compliance order within the time set therein, the criminal penalty established hereunder notwithstanding, the city council may, by resolution, following a hearing upon not less than ten (10) days' notice to the owner and/or agent, cause the cited deficiency to be remedied as set forth in the compliance order. The cost of such remedy shall be a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by Minnesota Statutes, Chapter 429, (the assessment shall be payable in a single installment) and the owner and agent hereby consent to the levy of such special assessments without notice or hearing and waive their rights to appeal such assessments pursuant to Minnesota Statutes, provided the amount levied does not exceed the expenses actually incurred by the city. Further, the city may, at its option, as an additional remedy, recover expenses actually incurred by the city, in the manner provided by Minnesota Statutes, Sections 415.01, 366.011 and 366.012, and the owner and agent hereby consent to the levy of such assessments without notice or hearing and waive their rights to appeal such assessments pursuant to such Minnesota Statutes, provided the amount levied does not exceed the expenses actually incurred by the city.
- (11) Alternative sanctions. Notwithstanding the availability of the foregoing compliance procedures and the penalties, whenever the city determines that any rental dwelling, or portion thereof, or the premises surrounding any of these fails to meet the requirements set forth in this chapter, the city may request the issuance of a criminal complaint and arrest warrant.

Subd. 10 - License denial, suspension, nonrenewal or revocation.

- (a) *Applicability.* Every application for a license, renewal for a license or an existing license issued under the provisions of this chapter are subject to denial, suspension, nonrenewal, or revocation by the compliance official or designee(s).
- (b) *Unoccupied or vacated rental units.* In the event that a license is revoked, or not renewed by the compliance official or designee(s), it shall be unlawful for the owner or agent to rent the rental dwelling.
- (c) *Grounds for license action.* The compliance official or designee(s) may revoke, suspend, decline to renew or impose reasonable conditions or restrictions upon any license issued under this chapter upon any of the following criteria:
  - (1) False statements, misrepresentations, or fraudulent statements on any application or other information or report required by this chapter to be given by the applicant or licensee.

- (2) Failure to pay any fee, fine or penalty, special assessments, real estate taxes, or other financial claims due to the city as required by this chapter and city council resolution.
  - (3) Failure to continuously comply with any property maintenance, zoning, health, building, nuisance, or other city codes; or failure to correct deficiencies noted in an official order in the time specified in the order,
  - (4) Failure to comply with the provisions of an approved mitigation plan or failure to submit a required action plan.
  - (5) Excessive police calls for service, based on the number and nature of the calls when, after owner notification, the owner fails to submit an appropriate written action plan to reduce the police calls for service.
  - (6) Failure to actively pursue the eviction of a tenant or otherwise terminate the lease with a tenant who has violated the provisions of this chapter or crime-free/drug-free lease addendum or has otherwise created a public nuisance in violation of city, state, or applicable laws.
  - (7) The failure to eliminate imminent health and life safety hazards as determined by the city compliance official or designee(s), or its authorized representatives after issuance of the compliance order.
  - (8) The abandonment of the licensed premises by the owner as determined by the inability to make contact with the owner or his/her agent due to inaccurate contact information.
  - (9) Failure to operate or maintain the licensed premises in conformity with all applicable federal, state and local laws, rules, regulations, and ordinances.
  - (10) Any person(s) who has had an interest in two (2) or more licensed properties that have been revoked, suspended or denied pursuant to this chapter, shall be ineligible to hold or have any interest in a rental dwelling license or provisional license for period of three (3) years.
- (d) *License action sections.* A license revocation, suspension, nonrenewal or imposition of reasonable conditions or restrictions on a license may be brought under any applicable provision of this chapter.
- (e) *Notification, hearing, and decision basis.*
- (1) *Written notice, hearing.* A recommendation to revoke, deny, suspend, not renew or impose reasonable conditions or restrictions on a license shall be preceded by written notice to the applicant or licensee of the grounds therefore and the applicant or licensee will be given an opportunity to challenge the recommendation at a hearing conducted before the city council before final action to revoke, deny, not renew or impose reasonable conditions or restrictions on a license.
  - (2) *Decision basis.* The city council shall give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply. The city council shall issue a decision to deny, suspend, not renew, revoke or impose reasonable conditions or restrictions on a license only upon written findings.
- (f) *Written decision, compliance.* Written decisions to revoke, deny, not renew or impose reasonable conditions or restrictions on a license or application shall specify the part or parts of the rental dwelling to which it applies. Thereafter, and until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the rental dwelling may be re-let or occupied. Revocation or non-renewal of a license shall not excuse the owner from compliance with all terms of state laws and codes and this city Code for as long as any units in the rental dwelling are occupied. Failure to comply with all terms of this section during the term of revocation, or nonrenewal is a misdemeanor and grounds for extension of the term of such revocation, or nonrenewal and as otherwise set forth in this section. Further license action such as revoking a license may also be taken for failure to comply.
- (g) *Notification of decision.* The city shall provide notice of the city council's decision of a revocation, suspension, nonrenewal or the imposition of reasonable conditions or restrictions on a rental license to the licensee or applicant either by personal delivery or by First Class mail. In addition, notice of the city council's decision calling for the revocation, suspension or nonrenewal of a rental license shall

also be mailed to each tenant in the licensed premises and shall be prominently posted on the rental dwelling. The notice provided to the tenant(s) shall indicate the date upon which the tenants must vacate the licensed premises and clearly indicate which dwelling units are impacted by the city council's decision. Tenants of an unlicensed rental unit will be provided a reasonable time to arrange for alternative housing and remove their possessions.

(h) *License actions, reapplication.*

- (1) *Revocation, denial, nonrenewal.* Licenses that are revoked will not be reinstated until the owner has applied for and secured a new license and complied with all conditions imposed at the time of revocation, denial, or nonrenewal. Upon a decision to revoke, deny or not renew a license, no approval of any application for a new license for the same rental dwelling is effective until after the period of time specified in the city council's written decision, which shall not exceed one year. The city council shall specify in its written decision the date when an application for a new license will be accepted. A decision not to renew a license may take the form of a revocation. A decision to deny an initial application shall state conditions of reapplication.
- (2) *Reinstatement fees.* All reapplications must be accompanied by a reinstatement fee, as specified by city council resolution, in addition to all other fees required by this chapter.
- (i) *New licenses prohibited.* A person who has a rental license revoked may not receive a rental license for another rental dwelling within the city for a period of one year from the date of revocation. The person may continue to operate other currently licensed rental dwellings if maintained in compliance with city codes and other applicable laws, rules, and regulations.
- (j) *Misdemeanor.* Any person who violates any part of this chapter, upon conviction thereof shall be guilty of a misdemeanor, punishable in accordance with state law. Nothing in this chapter however is deemed to limit other remedies or civil penalties available to the city under city code or state law. Each day that a violation continues is deemed a separate punishable offense.
- (k) *Severability.* Every section, provision, or part of this chapter is declared severable from every other section, provision, or part to the extent that if any section, provision or part of the chapter shall be held invalid, it shall not invalidate any other section, provision or part thereof.
- (l) *No warranty by city.* By enacting and undertaking to enforce this chapter, the city, city council, its agents, and employees do not warrant or guaranty the safety, fitness or suitability of any rental dwelling in the city. Owners, agents, and tenants of rental dwellings should take whatever steps they deem appropriate to protect their interests, health, safety and welfare.
- (m) *Applicable laws.* Licenses are subject to all of the ordinances of the city and the laws, rules, and regulations of the State of Minnesota and the United States relating to rental dwellings; this chapter shall not be construed or interpreted to supersede or limit any other such applicable law.

This ordinance shall be effective January 1, 2019.

YEAS 7

NAYS 0

Passed by a vote of yeas and nays this 7<sup>th</sup> day of May, 2018.

ATTEST:  
/s/ Tom Dankert  
City Recorder

APPROVED:  
/s/ Thomas A. Stiehm  
Mayor

This ordinance was presented to the Austin City Council May 7, 2018; adopted May 7, 2018; published in the Austin Daily Herald May 18, 2018; and becomes effective May 25, 2018. The ordinance will not be implemented until January 1, 2019.