

ARTICLE 12: RESIDENTIAL RENTAL LICENSE

§ 10-12-1 PURPOSE.

The purpose of this article is to provide for the annual licensing of residential rental property, so as to protect the public health, safety and welfare of the village, including but not limited to:

- (A) Providing minimum standards for the maintenance, operation, use and appearance of residential rental properties.
- (B) Preventing living conditions that adversely affect or are likely to affect the life, safety, health and general welfare of persons occupying rental dwelling units.
- (C) Preserving the value of land and buildings throughout the village.
- (D) Reducing and preventing crimes from occurring within residential rental properties and throughout the village.

(Ord. 2014-09-46, passed 9-15-2014)

§ 10-12-2 INTERPRETATION AND APPLICATION OF CODE.

In their interpretation and application, the provisions of the Code or Ordinances shall be held to be minimum requirements adopted for the protection of the public health, safety, and welfare. This Code and The International Property Maintenance Code, latest edition adopted by the village, shall apply as minimum standards for maintenance of residential rental housing. Where the requirements of this Code vary from any other lawfully adopted state laws, rules, regulations, ordinances, codes, deed restrictions or covenants, the more restrictive or that imposing the higher standards shall govern. The village does not enforce any private covenants between land owners or tenants or finally determine conflicts between neighboring property owners.

(Ord. 2014-09-46, passed 9-15-2014)

§ 10-12-3 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons, in accordance with occupancy limitations, including permanent provisions for living, sleeping, eating, cooking and sanitation.

OPERATE. To own, manage, maintain, rent, lease, advertise, or offer for rent or lease any residential rental property or any dwelling unit therein for the purpose of renting to others.

OWNER. The person or persons, jointly or severally, that hold legal or equitable title to a parcel of property, including a mortgage holder in possession.

PERSON. An individual, partnership, corporation, business trust, estate, trust, beneficial interest holder, association or any other legal or commercial entity.

PROPERTY. Any unimproved or improved real property or portion thereof, situated in the village and includes the buildings or structures located on the property regardless of condition.

PROPERTY AGENT. A person designated in writing to the village as having authority to manage a residential rental property including the authority to receive notices or citations.

RENT. To provide or offer for possession or occupancy a dwelling unit to a person who is not the legal owner of record thereof, pursuant to an agreement, written, oral or implied, for consideration or pursuant to articles of agreement for deed or similar agreement, if not recorded with the Recorder of Deeds of DuPage County, Illinois.

RENTAL LICENSE. A license required for any owner of a residential building, structure, dwelling or dwelling unit who rents, leases, or controls any portion of the property, building, or structure to another person, business, corporation, or entity for any fixed period of time.

RESIDENTIAL RENTAL PROPERTY. A dwelling unit that is rented to persons other than the person(s) holding legal or equitable title to the property. A dwelling unit occupied by a purchaser under the provisions of articles of agreement for deed or similar agreement shall be considered a residential rental property unless the articles of agreement or similar agreement have been recorded with the Recorder of Deeds of Du Page County, Illinois. There shall be a presumption that any dwelling unit that is not occupied by the owner is a residential rental property.

(Ord. 2014-09-46, passed 9-15-2014)

§ 10-12-4 RESIDENTIAL RENTAL LICENSE REQUIRED.

(A) No person shall operate a residential rental property, or shall rent any residential property, without having obtained a license for such property, as provided by this article. Each license shall be issued only for the premises and to the owner named in the application and shall not be transferable or assignable.

(B) This licensing requirement shall not apply to:

(1) Single family dwellings occupied by a member of the owner's immediate family.

(2) Hotels and motels.

(3) Nursing homes, retirement centers, rest homes, or hospices licensed, inspected and governed by state or federal laws, rules or regulations.

(4) Group homes governed by 405 Illinois Compiled Statutes 35/1 et seq., as amended, Specialized Living Centers Act, dealing with the developmentally disabled, or other similar uses governed by state or federal laws, rules or regulations.

(C) Each applicant for a residential rental license shall file a written application and shall submit the following information on an application provided by the village:

(1) Name, address, and home and business telephone numbers of the owner of the property and, if property is held in trust, the name, address, home and business telephone numbers of the beneficiaries and the percentages of ownership of all the beneficiaries of the trust, appropriate corporate or partnership information, including the name of the registered agent, president, manager or managing partner. The name, address, and phone number of the property manager or management company representing the owner.

(2) Name, address (no P.O. boxes), business, and home telephone numbers of the owner and property agent to be contacted when potential violations of municipal ordinances occur.

(3) Telephone number of the owner or agent to be contacted when an emergency exists.

(4) An acknowledgment that the agent or owner shall be reasonably accessible to the village and have a telephone number, which shall be available to the village at any time. The owner or property manager shall have a local office available for contact in Illinois.

(5) In the event any of the information requested should change, it shall be the obligation of the owner to notify the village in writing within ten days of the change.

(6) No license shall be issued or renewed unless the owner or operator agrees in their application to inspection pursuant to this article as the Village Manager may require to determine whether the location in connection with which such license is sought is in compliance with the applicable provisions of the this article and with the applicable provisions of the Code of Ordinances.

(D) *License fee.* The cost of an annual license shall be as follows:

(1) Single family dwelling unit: \$75 per residential dwelling unit; and

(2) Apartment and multi-family buildings, (more than one unit per building): \$100 per residential building.

(E) *Crime free housing seminar required for residential property owners.* All persons applying for a rental license for residential property shall have successfully completed a mandatory crime free housing seminar, administered by the Police Department, prior to issuance of the license. The seminar may be attended after an application has been submitted. The license will be issued only after successful completion of the seminar.

(F) *Crime free lease addendum.*

(1) Any owner or property agent entering into leases regarding residential rental property shall utilize a crime-free lease addendum or have a clause in the lease substantially similar to a crime-free lease addendum. Samples of crime-free lease addendums shall be available from the Police Department. The Department shall review any clauses within actual leases to determine if the clause is substantially similar to the required crime-free lease addendum. All owners or property agents shall advise prospective tenants of the required crime free lease addendum prior to entering into any lease or rental agreement. The crime free lease addendum shall make criminal activity a lease violation and shall specify that criminal activity is not limited to violent criminal activity or drug-related criminal activity engaged in by, facilitated by, or permitted by the tenant, a member of the household, a guest, or any party under the control of the tenant. The term **CRIMINAL ACTIVITY** shall mean a violation of the Criminal Code of 2012, of the Cannabis Control Act, of the Illinois Controlled Substances Act, or of the Methamphetamine Control and Community Protection Act. The operator or property agent shall take all reasonable action to enforce the terms of the crime free housing addendum by initiating an eviction proceeding as specified in the Illinois Forcible Entry and Detainer Statutes. Proof of criminal activity shall not require a criminal conviction, but shall only require proof by a preponderance of the evidence.

(2) It shall not be a violation of a crime free lease addendum and no owner or property agent shall take any action to evict a tenant based upon:

- (a) Contact made to the police or seeking other emergency services, if (a) the contact was made with the intent to prevent or respond to domestic violence or sexual violence; (b) the intervention or emergency assistance was needed to respond to or prevent domestic violence or sexual violence; or (c) the contact was made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability;
- (b) An incident or incidents of actual or threatened domestic violence or sexual violence against the tenant, household member, or guest occurring in the rental unit or on the premise; or

- (c) Criminal activity occurring in the rental unit or on the premises that is directly relating to domestic violence or sexual violence, engaged in by a tenant, member of a tenant's household, guest, or other party, and against a tenant, household member, guest or other party.

(3) It shall constitute a violation of this article for any owner or property agent to knowingly permit any tenant to occupy any residential rental property without entering into a crime free lease addendum or to occupy any residential rental property in violation of any provision of the crime free lease addendum required under this section. Any failure to include a crime-free lease addendum or similar approved language may result in suspension or revocation of the residential rental license. Any failure of an owner to take reasonable action to enforce the terms of the crime free lease addendum after having been notified by the Police Department of activity or conduct occurring on the residential rental property in violation of the addendum, and after having been given a reasonable opportunity to remedy such activity or conduct, shall be sufficient grounds for the suspension or revocation of his or her residential rental license.

(G) Inspections.

(1) In the event that the Village Manager finds that it is necessary to determine whether the location in connection with which such license has been requested is in compliance with this article and with the applicable ordinances, rules and regulations of the village, an inspection may be required prior to and as a condition of issuance of the license. After inspection, no such license shall be issued unless the location is found to meet all applicable requirements of this article and applicable ordinances, including but not limited to the International Building Code, the NFPA 70 National Electric Code, the Illinois Plumbing Code, the International Mechanical Code, the International Fire Code, the International Residential Code, the International Property Maintenance Code, the International Fuel Gas Code, the International Energy Conservation Code, and the Swimming Pool and Spa Code, latest adopted editions, and any amendments to such codes as are adopted by the village.

(2) Property that changes ownership may be required to be inspected before a new license can be issued. After inspection, no such license shall be issued unless the location is found to meet all applicable requirements of this article and applicable ordinances, rules and regulations of the village.

- (a) Whenever, upon inspection of the location, the Director of Community Development or his designee finds that conditions or practices exist, which are in violation of the provisions of this article or of any applicable ordinances, rules and regulations, the owner shall be served with notice of such violation in the manner hereinafter provided. Such notice shall state that unless the violations cited are corrected within reasonable time, the license may be suspended.
- (b) At the end of the time allowed for correction of any violation cited, the Director of Community Development or his designee shall re-inspect the location, and if the re-inspection reveals that such conditions have not been corrected, a request to the Village Manager to suspend the license may be made.
- (c) Any person whose license has been recommended for suspension shall be entitled to an appeal to the Village Manager in the manner provided by this title. Any written request for appeal shall be filed with the Village Manager within 15 days following the issuance of the notice.
- (d) If, upon re-inspection, the Director of Community Development or his designee finds that the location in connection with which the notice was issued is now in compliance with this article and with the applicable ordinances, rules and regulations, a recommendation of the reinstatement of the license may be made to the Village Manager.
- (e) When the Director of Community Development or his designee determines after an initial inspection that additional follow up inspections are necessary for enforcement of this article, two

additional follow up inspections for noncompliance shall be granted each license holder without charge. In the event more than two follow up inspections are needed, the license holder shall be assessed a noncompliance inspection service charge in the amount of \$60 per division/inspection type required to make the re-inspection. Payments must be made in full prior to the license being renewed. Failure to pay any balance will serve as grounds to deny further permits or licenses from being issued by the village.

(H) The owners and their designated property agents shall be responsible for informing their tenants of any scheduled inspection or re-inspection of any residential rental property; and they shall be responsible for requesting permission from any person whose consent is necessary for village inspector to enter the property if that person is not home at the time of the inspection or re-inspection. The village shall provide notice to both the owner and the tenant, on a form provided by the village, of the tenant's right to refuse consent to the residential licensing inspection and to require the village to obtain an administrative search warrant. If any tenant, occupant or other person in control and/or possession and whose consent to inspect is necessary concerning a residential rental property or a dwelling unit contained therein fails or refuses to consent to access and entry to the property or dwelling unit under his or her control for any residential licensing inspection required by this article, the code official or his or her designee may apply to the circuit court for an administrative search warrant. The application for the administrative search warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection shall be limited to a determination whether there are any violations of the minimum standards of the village. Nothing set forth herein shall limit the right of a tenant to grant the village access to the dwelling unit.

(Ord. 2014-09-46, passed 9-15-2014; Ord. 2016-06-28, passed 6-6-2016)

§ 10-12-5 NUISANCE RESIDENTIAL RENTAL PROPERTY.

(A) It is hereby declared a nuisance and against the health, safety, peace, and comfort of the village for any property owner or owner's agent to allow or permit the following:

- (1) Rental of a rental unit, or residential rental property, to a tenant who commits or allows a member of the tenant's household, guest or other party under the control of the tenant to commit any of the following offenses to occur on or near the rental unit, common areas or appurtenances related to the tenant: murder, kidnapping, sexual assault, robbery, burglary, aggravated kidnapping, prostitution, solicitation of prostitution, pandering, obscenity, child pornography, sale or distribution of obscene publications, criminal housing management, possession of explosives, unlawful use of weapons, sale of firearms, gambling, keeping a gambling place, concealing a fugitive, any violation of the Illinois Controlled Substances Act, any violation of the Cannabis Control Act, any violation of the Methamphetamine Control and Community Protection Act or the commission of any other felony under Illinois or federal law or a misdemeanor under Illinois law not specifically listed above which by its nature or effect impact the quality of life of persons in the area. Prohibition of these offenses applies also to members of the tenant's household, guests or other parties under control of the tenant.
- (2) Rental of a rental unit, or residential rental property to a tenant who commits or allows a member of the tenant's household, guest or other party under the control of the tenant to commit four or more village ordinance violations in a one year period which violations by their nature or effect impact the quality of life of persons in the area.
- (3) The commission of any act of Criminal Housing Management as defined in 720 ILCS 5/12-5.1, or the commission of more than four violations in a one year period of Articles 1 through 7 of Chapter 6 of the village's Code of Ordinances.

(B) Divisions (A)(1) and (A)(2) of this section shall not apply to:

- (1) Contact made to the police or other emergency services, if: (a) the contact was made with the intent to prevent or respond to domestic violence or sexual violence; (b) the intervention or emergency assistance was needed to respond to or prevent domestic violence or sexual violence; or (c) the contact was made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability;
- (2) An incident or incidents of actual or threatened domestic violence or sexual violence against the tenant, household member, or guest occurring in the rental unit or on the premise; or
- (3) Criminal activity occurring in the rental unit or on the premises that is directly relating to domestic violence or sexual violence, engaged in by a tenant, member of a tenant's household, guest, or other party, and against a tenant, household member, guest or other party.

(C) Division (B) of this section shall not limit:

- (1) Enforcement of Section 15.2 of the Illinois Emergency Telephone System Act, Article 26 of the Criminal Code of 2012, or Article IX of the Code of Civil Procedure;
- (2) The village from enacting or enforcing its crime free housing program and ordinance to impose penalties on the basis of the underlying criminal activity or village ordinance violation not covered by division (A)(1) and (A)(2) of this section and to the extent otherwise permitted by existing state and federal law; or
- (3) The eviction of or imposition of penalties against the perpetrator of the domestic violence, sexual violence or other criminal activity.

(D) The standard of proof of one or more of the offenses described in divisions (A)(1), (A)(2) and (A)(3) of this section shall be by a preponderance of the evidence.

(E) If the residential rental property is found to be a nuisance, the property owner can be fined pursuant as provided in the Code or Ordinances or have his or her license suspended or revoked as provided herein.

(Ord. 2014-09-46, passed 9-15-2014; Ord. 2016-06-28, passed 6-6-2016)

§ 10-12-6 ENFORCEMENT PROCEDURES.

(A) *Authority.* The Director of Community Development and his designees are authorized to exercise the police power of the village in such manner and to such extent as any code official determines that the character of the violation and the interests of public health, safety and welfare warrant to secure compliance with the provisions of this article and this Code.

(B) *Enforcement actions.* The Director of Community Development and his designees are authorized and shall demand compliance with the provisions of this title and this Code through enforcement actions including, but not limited to, the issuance of a stop work order, a determination that the dwelling unit is uninhabitable and order the unit be vacated, notice of violation, citation or ticket, prosecution for violations, and to recover any penalty or fine and authorized attorney's fees and costs, the institution of the appropriate action of law or in equity to restrain, correct or abate such violation or to require the removal of the unlawful use or act and the filing of liens and judgments against property, as authorized by law. In addition, the Director of Community Development may seek the suspension and/or revocation of any license issued hereunder if the licensee is in continuing violation of any law or ordinance, or that a nuisance violation pertaining to tenant activity on the premises has or continues to occur, or that the licensee is operating in a manner not conducive to the public health, morals or safety. Prior written notice of a violation shall not be required for the initiation of enforcement actions. The Director of Community Development or his designees shall institute or cause to be instituted the appropriate legal proceedings to prosecute, restrain, correct or abate any violation or to require removal or termination of the unlawful use

of the premises, building or structure in violation of the provisions of this title or of any order or direction made pursuant thereto.

(C) *Service.* Written notice of enforcement actions shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the condition that is the subject of the enforcement action violation. If the enforcement action concerns a nuisance violation pertaining to violations on or near the premises by the tenant, household member, guest or other party in the control of the tenant, the village shall provide written notice to the tenant of such enforcement action. Such notice shall be served either by delivering a copy of same to such person or persons by ordinary mail to the last known post office address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or in case such person is not found upon the premises and reasonable attempts to locate the individual or a valid address have been unsuccessful, by affixing a copy thereof, in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed equivalent of personal notice.

(D) *Fines.* Any person or legal entity who violates any provision of this article or provisions of this Code or fails to comply with any of the requirements thereof shall be subject to a fine for each offense of not less than \$150 nor more than \$1,000. Each day that a violation continues shall be deemed a separate offense.

(E) *Suspension or revocation of residential rental license.* Any person or legal entity who violates any provision of the article or the provisions of this Code or fails to comply with any of the requirements thereof shall be subject to suspension or revocation of their license.

(F) *Pre-court compliance and payment of fines.* Any person charged with any violation of this article who has since come into compliance and who desires to pay the applicable fine in advance of a court or administrative adjudication hearing may contact the village and request a re-inspection or shall fully comply with the residential rental licensing provisions of this chapter. Upon verification of compliance, the village may accept prepayment of any fine, or may otherwise agree to dispose of the matter in advance of a court or administrative adjudication hearing, subject to the following conditions:

(1) No pre-court payment shall be made more than five days from the date on the ticket that set forth the court hearing;

(2) A receipt shall be issued for any pre-court payment;

(3) Any violation for which the fine or penalty is paid in full by pre-court-payment as provided in this subsection shall not be subject to further prosecution;

(4) If more than two violations are issued for the same property in any one year period, only the first two violations may be subject to the pre-court or administrative adjudication hearing payment pursuant to this subsection;

(5) Any violation for which a fine is sought shall be confirmed by the code official to be in compliance no less than five days before the date of a court hearing set for such violation at the request of the person receiving the citation alleging the violation.

(6) No pre-court payment shall be available to any person who has received a notice of suspension or revocation of their license.

(7) No pre-court payment shall be available to any person who has received more than three violations issued for the same property.

(Ord. 2014-09-46, passed 9-15-2014; Ord. 2016-06-28, passed 6-6-2016)