

CHAPTER 29A.

HOUSING, PROPERTY MAINTENANCE AND RENTAL CODE.

Editor's Notes: Ordinance No. 7378 transfers the administration and enforcement of the housing code from the director of public health to the building official. The International Property Maintenance Code, as amended for use as Duluth's Housing Code by Ordinance No. 9462, is available in the building official's office. Chapter and Article II titles were amended pursuant to Ordinance No. 10064, 12-20-2010, §§ 1 and 7, respectively.

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Article I. In General.

Sec. 29A-1. IPMC adopted.

The city 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. 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. Notwithstanding adoption of any new editions of the International Property Maintenance Code: the Housing and Property Maintenance Code for the city shall not apply to public streets, sidewalks, easements or other public rights of way; repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures of the Minnesota State Building Code, as amended; and nothing in the Housing and Property Maintenance Code shall be construed to cancel, modify or set aside any of the provisions of Chapter 50 of the Duluth City Code, 1959, as amended, regulating zoning. Where conflicts occur between this chapter and any new editions of the International Property Maintenance Code that may be adopted as the Housing and Property Maintenance Code for the city, the provisions of this chapter shall apply. (Ord. No. 7262, 1-9-1961, § 2; Ord. No. 7501, 12-6-1965, § 1; Ord. No. 7502, 12-6-1965, § 1; Ord. No. 8463, 6-11-1979, § 1; Ord. No. 8671, 10-11-1983, § 1; Ord. No. 8880, 3-28-1988, § 2; Ord. No. 9154, 8-23-1993, § 1; Ord. No. 9462, 10-10-2000, § 1; Ord. No. 10064, 12-20-2010, § 2. Ord. No. 10450, 5-9-2016, §1)

Sec. 29A-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 week and to common areas in such hotels. (Ord. No. 7262, 1-9-1961, § 2; Ord. No. 7501, 12-6-1965, § 1; Ord. No. 7502, 12-6-1965, § 3; Ord. No. 8463, 6-11-1979, § 2; Ord. No. 8671, 10-11-1983, § 2; Ord. No. 9642, 10-10-2000, § 5; Ord. No. 10064, 12-20-2010, § 3.)

Sec. 29A-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 reinspect the premises. The reinspection 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 reinspection;

(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. (Ord. No. 7262, 1-9-1961, § 3; Ord. No. 7378, 1-27-1964, § 1; Ord. No. 7501, 12-6-1965, § 1; Ord. No. 7502, 12-6-1965, § 3; Ord. No. 8463, 6-11-1979, § 3; Ord. No. 8671, 10-11-1983, § 3; Ord. No. 8953, 8-21-1989, § 3; Ord. No. 9118, 1-11-1993, § 23; Ord. No. 9462, 10-10-2000, § 6; Ord. No. 10064, 12-20-2010, § 4.)

Sec. 29A-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. . It shall be the responsibility of the owner or owner's agent to provide and maintain updated contact information, including address, phone number, and e-mail, for receipt of all notices, orders, citations or other correspondence issued pursuant to this Chapter;

(b) Notices served pursuant to this Section shall become final orders unless an appeal is filed as provided in Section 29A-5. Lack of sufficient service or notice shall not serve as a defense to any notice, order, citation or other communication issued pursuant to this Chapter if the owner or owner's agent has failed to provide and maintain updated contact information as required by this Chapter. 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. (Ord. No. 7262, 1-9-1961, § 4; Ord. No. 7378, 1-27-1964, § 1; Ord. No. 7501, 12-6-1965, § 1; Ord. No. 7502, 12-6-1965, § 4; Ord. No. 8671, 10-11-1983, § 4; Ord. No. 9462, 10-10-2000, § 7; Ord. No. 10064, 12-20-2010, § 5.)

Sec. 29A-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 as provided in Section 10-5 of this Code. (Ord. No. 7262, 1-9-1961, § 5; Ord. No. 8544, 11-3-1980, § 6; Ord. No. 10064, 12-20-2010, § 6.)

Secs. 29A-6 to 29A-15. Repealed by Ordinance No. 9462, 10-10-2000, § 8.

Secs. 29A-16 to 29A-26. Renumbered or repealed by Ordinance No. 8544, 11-3-1980, § 9; Ordinance No. 8671, 10-11-1983, § 15.

Article II. Rental Licensing.

Sec. 29A-27. Definitions.

(a) The definitions contained in Sections 201 and 202 of the year 2000 edition of the IPMC, as adopted by Section 29A-1 of this Chapter, shall apply to this Article;

(b) For purposes of this Article, the phrase "one-family dwelling" shall have the meaning ascribed by Chapter 50, Article VI;

(c) For purposes of this Article, the phrase "two-family dwelling" shall have the meaning ascribed by Chapter 50, Article VI;

(d) For purposes of this Article, the phrase "multiple-family dwelling" shall have the meaning ascribed by Chapter 50, Article VI;

(e) Rental unit means any dwelling that is occupied by any tenants. For purposes of any fees under this Article, each bedroom in dwelling constitutes a rental unit;

(f) Residence means the primary dwelling where an individual lives and usually sleeps;

(g) Except as otherwise provided in Section 29A-27(g)(1)-(3), 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 30 or more consecutive or nonconsecutive days in any year, 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;

(3) A tenant shall not include members of a housing cooperative duly organized pursuant to Minnesota Statutes Chapter 308A, provided the housing cooperative is the owner of record.

(Ord. No. 8371, 11-7-1977; § 1; Ord. No. 9462, 10-10-2000, § 9; Ord. No. 9914, 6-9-2008, §§ 1, 3; Ord. No. 10064, 12-20-2010, § 8; Ord. No. 10065, 12-20-2010, § 1; Ord. No. 10079, 2-14-2011, § 1; Ord. No. 10331, 11-10-2014, § 1. Ord. No 10450, 5-9-2016, §3 Ord. No. 10507, 6-12-2017, §1 Ord. No. 10608, 12-17-2018, §1)

Sec. 29A-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. (Ord. No. 8371, 11-7-1977; § 1; Ord. No. 9154, 8-23-1993, § 2; Ord. No. 9462, 10-10-2000, § 10; Ord. No. 10064, 12-20-2010, § 9.)

Sec. 29A-29. Licenses--application, procedure, type.

(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;

(3) 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;

(b) All other rental units shall be inspected before a license is issued. No license shall be issued unless the rental unit complies with the provisions of this Chapter and all other applicable laws;

(c) 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;

(d) 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 if within 60 days of the expiration of the license the owner complies with all other requirements of this Section 29A-29;

(e) 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. It shall be the responsibility of the owner or owner's agent to provide and maintain updated contact information, including address, phone number, and e-mail, for receipt of all notices, orders, or other correspondence relating to the licensed property;

(f) Except as otherwise provided, all new rental license, short term license, type and rental license renewal applications shall be completed and applicable fees paid for the maximum number of

bedrooms that can be occupied by tenants. The maximum allowable number of bedrooms that can be occupied by tenants in a rental unit is determined by Section 29A-32;

(g) Except as otherwise provided, a short term rental license, may be issued for a period not to exceed 12 consecutive months for any single-family or two-family 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. (Ord. No. 8371, 11-7-1977, § 1; Ord. No. 9154, 8-23-1993, § 3; Ord. No. 9462, 10-10-2000, § 11; Ord. No. 9629, 10-27-2003, § 2; Ord. No. 10064, 12-20-2010, § 10; Ord. No. 10079, 2-14-2011, § 2. Ord. No. 10450, 5-9-2016, §4 Ord. No. 10507, 6-12-2017, §2)

Sec. 29A-30. Fees.

Fees provided for in this Article shall be established by resolution of the city council. (Ord. No. 8371, 11-7-1977; § 1; Ord. No. 8462, 6-11-1979; § 1; Ord. No. 8953, 8-21-1989, § 4; Ord. No. 9118, 1-11-1993, § 24; Ord. No. 9154, 8-23-1993, § 4; Ord. No. 9462, 10-10-2000, § 12; Ord. No. 10064, 12-20-2010, § 11.)

Sec. 29A-31. Term of license.

Licenses issued pursuant to this Article shall be for a term of three years. (Ord. No. 8371, 11-7-1977; § 1.)

Sec. 29A-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 that is not owner-occupied, 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;

(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 records 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 within ten days of the change;

(e) Except as otherwise provided in this Section, all rental units licensed since March 13, 2011, shall provide a minimum of two off-street parking spaces. In addition, for each additional bedroom in excess of three, there shall be provided one additional off-street parking space. Failure to comply with

these requirements will result in an additional nonconformance fee per parking space, except that effective August 1, 2017, each licensee that the code official determines is able to provide or construct the required off-street parking space(s) in conformance with this Code shall provide the off-street parking spaces required in this Section at its own cost, and the licensee shall not be entitled to tender payment of the nonconformance fee in lieu of providing the required off-street parking. All one family or two family dwellings that were unlicensed on March 14, 2011, and subsequently converted to a licensed rental unit shall provide the off-street parking spaces required in this Section, and the licensee shall not be entitled to tender payment of the nonconformance fee in lieu of providing the required off-street parking;

(1) The city council shall establish a parking nonconformance variance application fee pursuant to Section 29A-30;

(f) All off-street parking spaces shall comply with the standards for off-street parking provided for in Chapter 50 of this Code. The number of required off-street parking spaces shall be determined by the code official at the time of licensure. Failure to comply with these requirements will result in an additional nonconformance fee per parking space, except that effective August 1, 2017, each licensee that the code official determines has space on the rental property to provide or construct the required off-street parking space(s) in conformance with this Code shall provide the off-street parking spaces required in this Section at its own cost, and the licensee shall not be entitled to tender payment of the nonconformance fee in lieu of providing the required off-street parking. The owner shall ensure that all required off street parking spaces are cleared of snow to at least the required dimension of off-street parking spaces within 72 hours after the end of every snowfall;

(1) All one-family or two-family dwellings, licensed on September 1, 2007, may continue to be licensed even though the property does not conform to the off-street parking provisions of this Section. The rental unit shall be treated as a lawful nonconforming use; however, the nonconformance parking fees provided for in this Section shall apply, except that effective August 1, 2017, each licensee that the code official determines has space on the rental property to provide or construct the required off-street parking space(s) in conformance with this Code shall provide the off-street parking spaces required in this Section at its own cost, and the licensee shall not be entitled to tender payment of the nonconformance fee in lieu of providing the required off-street parking. If the license for the nonconforming use is revoked or lapses for any period of time, all nonconforming use rights related to off-street parking requirements shall terminate;

(2) The off-street parking requirements shall not apply to a short-term license;

(g) Except as provided in this Section 29A-32(h), the maximum number of bedrooms in a rental unit that can be occupied by any tenant under new rental licenses, short-term licenses, and rental license renewals shall be based on the number of bedrooms on record in the city assessor's office on the date of rental application;

(3) The number of tenants cannot exceed the number of bedrooms that can be occupied under this Code and Minnesota Law

(4) In no case shall a bedroom be allowed that does not comply with all applicable state and city building and housing codes;

(5) If the rental unit is a one-family or two-family dwelling, the maximum number of bedrooms that can be occupied by any tenant shall be based on the lesser of the number of bedrooms on record in the city assessor's office and verified or corrected by the life safety division on the date of the rental application or four bedrooms. The four bedroom limitation shall not apply to multi-tenant one-family or two-family dwellings licensed on July 26, 2012, or those properties that have a valid purchase agreement as of June 9, 2012; instead, the number of bedrooms that may be occupied shall be the greater of the number of bedrooms authorized by the license in effect on July 26, 2012, or four bedrooms, except those properties which are larger than 2,500 square feet as of August 1 2017, may be allowed up to the maximum of five legal bedrooms.

(Ord. No. 8371, 11-7-1977; § 1; Ord. No. 9154, 8-23-1993, § 5; Ord. No. 9462, 10-10-2000, § 13; Ord. No. 9677, 7-12-2004, § 1; Ord. No. 9845, 7-9-2007, § 1; Ord. No. 9853, 8-13-2007, § 1; Ord. No. 9869, 10-22-2007, § 1; Ord. No. 9909; 5-12-2008, §§ 1, 2; Ord. No. 10015, 2-22-2010, § 1; Ord. No. 10064, 12-20-2010, § 12; Ord. No. 10079, 2-14-2011, § 4; Ord. No. 10159, 6-25-2012, § 1; Ord. No. 10319, 7-21-2014, § 1. Ord. No. 10507, 6-12-2017, §3)

Sec. 29A-32.1. Conversion fee.

Any one-family dwelling, not currently licensed pursuant to this Article on March 13, 2011, shall be subject to a rental conversion fee at the time it is initially licensed as a rental unit. The conversion fee shall not apply if:

- (a) License is being renewed; or
- (b) Single tenant rental unit will be owner occupied and have only one renter. If the owner-occupant ceases to live in the dwelling, the one-time conversion fee will be required for dwelling to remain licensed. (Section previously repealed by Ord. No. 10065, 12-20-2010, § 2; added by Ord. No. 10079, 2-14-2011, § 3; Ord. No. 10353, 2-9-2015, § 1.)

Sec. 29A-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 single-tenant licensee to produce records and information demonstrating that the single-tenant rental unit complies with the occupancy limits of the single-tenant license;

(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 reinspected. 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. (Ord. No. 8371, 11-7-1977; § 1; Ord. No. 9154, 8-23-1993, § 6; Ord. No. 9462, 10-10-2000, § 14; Ord. No. 10064, 12-20-2010, § 14.)

Sec. 29A-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) Allow more total tenants to occupy a rental unit than are allowed pursuant to that unit's number of legal bedrooms.

(4) Refuse entry to an inspection official where such entry is allowed pursuant to Section 29A-3;

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

(6) 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;

(7) Advertisement by a property owner or owner's representative of any dwelling or rental unit or any portion thereof in excess of the number of bedrooms 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;

(8) 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 12 of this Code;

(2) The city may issue a citation as authorized by Section 1-7 of this Code;

(3) 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;

(4) 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 Article occurs, and any person violating this Article, shall be guilty of a misdemeanor and may be fined as provided in Section 1-7 or Section 12-6 of this Code. (Ord. No. 8371, 11-7-1977; § 1; Ord. No. 9154, 8-23-1993, § 7; Ord. No. 9462, 10-10-2000, § 15; Ord. No. 10064, 12-20-2010, § 15. Ord. No. 10507, 6-12-2017, §4)

Article III. Emergency Remedies in Residential Rental Property.

Sec. 29A-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 Duluth 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 Section 29A-2 of this Chapter which are rented or held out for rent to another. (Ord. No. 8880, 3-28-1988, § 1; Ord. No. 9462, 10-10-2000, § 16.)

Sec. 29A-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 Section 29A-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). (Ord. No. 8880, 3-28-1988, § 1; Ord. No. 9462, 10-10-2000, § 17.)

Article IV. Crime Free Housing Program.

Sec. 29A-37. Findings of fact and statement of purpose.

The council finds that providing for the public health, safety and welfare requires a rental unit licensing and maintenance program that not only corrects substandard housing conditions and enforces a habitability standard for rental units as is currently provided for in Article II of this Chapter, 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.

It is the purpose of this Article to ensure that all residential rental 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. 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. (Ord. No. 9932, 10-13-2008, § 1.)

Sec. 29A-38. Definitions.

Unless otherwise provided in this Section, the definitions contained in sections 29A-1 and 29A-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 40-10 of this Code; or
 - (2) A violation of Chapter 49 of this 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. A tenant shall be deemed to be in possession of a controlled substance if any amount is located in the tenant's rental unit even if the tenant denies knowledge of the controlled substance 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 controlled substance was in their possession and the tenant had no knowledge of the controlled substance; or
 - (4) Any violation of Chapter 34 of this 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);
 - (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. (Ord. No. 9932, 10-13-2008, § 1; Ord. No. 10032, 6-14-2010, § 1.)

Sec. 29A-39. Crime-free and smoking policy disclosure rental agreement provisions required; exceptions.

All rental agreements for any rental unit licensed as required by Article II, except for residential facilities licensed by the state, shall be assumed to contain the crime-free and smoking policy disclosure provisions of Section 29A-40. (Ord. No. 9932, 10-13-2008, § 1; Ord. No. 10032, 6-14-2010, § 2.)

Sec. 29A-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 not engage 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 January 1, 2009, 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 Section 29A-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 rental agreement, 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 July 14, 2010, must include a smoking policy disclosure as part of the rental agreement. (Ord. No. 9932, 10-13-2008, § 1; Ord. No. 10032, 6-14-2010, § 3.)

Sec. 29A-41. Revocation, suspension, declination or denial of a license; authority.

(a) In addition to the provisions of Section 29A-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 Section and Section 29A-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 Section 29A-42; or

(9) Violation of any regulation or provision of the 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. (Ord. No. 9932, 10-13-2008, § 1.)

Sec. 29A-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 Section, the property manager shall be required to attend crime free multi housing training offered through the city police department. If there is no designated property manager in the rental license application, then the property owner shall be required to attend crime free multi housing training offered through the city police department. 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 multi 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 Section, 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 Section 29A-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. (Ord. No. 9932, 10-13-2008, § 1; Ord. No. 10064, 12-20-2010, § 16.)

Sec. 29A-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 Section 1-7 of this Code. (Ord. No. 9932, 10-13-2008, § 1.)

Sec. 29A-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 this Code or state law. (Ord. No. 9932, 10-13-2008, § 1.)

Sec. 29A-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. (Ord. No. 9932, 10-13-2008, § 1.)

Sec. 29A-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 Article is subject to appeal as provided in Section 29A-5 of this Code. (Ord. No. 9932, 10-13-2008, § 1.)