

COMMITTEE OF THE WHOLE

10-062-0

ORDINANCE NO. _____ REPLACEMENT
AS AMENDED

AN ORDINANCE AMENDING CHAPTER 29A OF THE DULUTH CITY
CODE, 1959, AS AMENDED, PERTAINING TO THE CITY HOUSING,
PROPERTY MAINTENANCE AND RENTAL CODE.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the title of Chapter 29A of the Duluth City Code, 1959,
as amended, is hereby amended to read as follows:

HOUSING, PROPERTY MAINTENANCE AND RENTAL CODE.

Section 2. That Section 29A-1 of the Duluth City Code, 1959, as amended,
is hereby amended to read as follows:

Sec. 29A-1. IPMC adopted.

The city of Duluth does hereby adopt by reference the year
2000 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 Duluth. 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.

Section 3. That Section 29A-2 of the Duluth City Code, 1959, as amended,
is hereby amended to read as follows:

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 ~~nor~~ and to common areas in such
hotels.

Section 4. That Section 29A-3 of the Duluth City Code, 1959, as amended,
is hereby amended to read as follows:

Sec. 29A-3. Inspections; enforcement; fees.

(a) For the purposes of attaining uniform acceptable ~~housing~~ building and maintenance standards in the city and enforcing this Chapter the building 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 building code official, prior to making such inspection, shall inform the owner or their agent of the ~~dwelling or dwelling units, housekeeping units, rooming units or premises to be inspected of the date and time of the inspection by~~ written notice ~~letter postmarked not less than 96 hours prior to the time such inspection is made.~~ After ~~written~~ notice has been given, the owner, ~~or occupant of such dwelling, dwelling unit, housekeeping unit or rooming unit,~~ or the person in charge of the premises to be inspected ~~thereof,~~ shall give the building code official free access to ~~such dwelling, dwelling unit, housekeeping unit or rooming unit and its premises, during such time, for the purpose of such inspection, examination or survey; provided, that such inspection, examination or survey shall not have for its purpose the harassment of such owner or occupant and that such inspection, examination or survey shall be made so as to cause the least amount of inconvenience to the owner or occupant, consistent with an efficient performance of the duties of the building official; provided, that~~ conduct the inspection. ~~Nothing in this Section shall be construed to prohibit the entry of the~~ building code official:

(1) At any time when in the opinion of the building 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 ~~a condition constituting a violation of this~~ Chapter has been issued, the building code official is hereby authorized to enter and reinspect ~~all dwellings, dwelling units, housekeeping units, rooming units and~~ the premises for the purpose of determining compliance with the mandates of such order. The reinspection shall be made ~~under the direction of the building official,~~ by the building code official ~~and any other,~~ or by a team composed of public officers as deemed appropriate ~~under the circumstances~~ by the building code official. The owner ~~or occupant of the dwelling, dwelling unit, housekeeping unit and rooming unit,~~ or the person in charge ~~thereof~~ of the premises shall give free access ~~to such dwelling, dwelling unit, housekeeping unit or rooming unit and its premises~~ to the premises for the ~~purpose of such reinspection, examination or survey;~~

(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 ~~such dwelling or dwelling unit, housekeeping unit or its~~ the premises, at all reasonable times, for the purpose of making ~~such~~ repairs or alterations ~~as are~~ necessary to effect compliance with the provisions of this ~~Article~~ Chapter or any lawful order issued pursuant to ~~the provisions of this Article~~ Chapter.

~~(d) There shall be no charge on inspections made in response to complaints. Fees for licensing inspections and other inspections shall be established, from time to time, by resolution of the council.~~

Section 5. That Section 29A-4 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-4. Service of notices and orders.

(a) Whenever the building code official determines that ~~there are reasonable grounds to believe that there has been~~ exists a violation of any provisions of this ~~Article Chapter~~, notice of such alleged ~~the~~ violation shall be ~~given to the person responsible therefore~~ issued to the owner of record or the owner's agent if known, as hereinafter provided.

Such notice shall:

- (1) Be ~~put in writing~~ written;
- (2) ~~Include a statement of the points of noncompliance with this Article~~ Identify the violations;
- (3) ~~Allow a reasonable time for the performance of any act it requires.~~ Provide a correction deadline. In determining ~~a reasonable time for performance~~ the deadline, the building 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 ~~Be served upon the owner or the owner's agent and the occupant as the case may require; provided, that such notice shall be deemed to be properly served upon such owner or agent and upon such occupant if a copy thereof is served personally, or if a copy thereof is sent by United States mail, postage prepaid, to the last-known address of the owner or owner's agent, or if a copy thereof is by posting the notice posted in a conspicuous place in on or about the dwelling~~ premises affected by the notice, or if a copy thereof is served by any other method authorized or required under the Laws of Minnesota;

~~(5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Article;~~

(b) Notices served pursuant to this Section ~~automatically shall become final orders unless an appeal is filed as provided in Section 29A-5.an order; exception. Any notice served pursuant to Subsection (1) of this Section shall automatically become an order if a written petition for a hearing is not filed in the office of the building official within 15 days after such notice is served. All final orders shall be complied with or the premises vacated by the deadline provided in the order; provided, that in the alternative, except for condition or situation amounting to a condemnation order, the use of the premises may be discontinued as a place of human habitation;~~

(c) Whenever the ~~building code~~ official finds that an emergency exists which requires immediate action to protect the public health and safety, the ~~building 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 ~~Article Chapter~~. Such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately.

Section 6. That Section 29A-5 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-5. Appeals.

Any ~~person~~ property owner aggrieved by ~~a~~ an decision action of the ~~building code~~ official against the owner's property in the enforcement of this Chapter may appeal such decision action to the building appeal ~~and licensing~~ board as provided in Section 10-5 of

~~this Code. created in Article IV of Chapter 10 of the Duluth City Code, 1959, as amended, in accordance with the provisions contained therein.~~

Section 7. That Article II of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Article II. Rental Licensing

~~Licensing of Multiple Dwellings and Rooming Houses.~~

Section 8. That Section 29A-27 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-27. Definitions.

(a) Except as otherwise defined in this Section, the definitions contained in ~~sections 201 and 202 of the year 2000 edition of the IPMC~~ the International Property Maintenance Code, as adopted by Section 29A-1 of this Chapter, shall apply to this Article;

(b) For purposes of this Article, "protection zone" means any parcel of land, lot or part thereof within or abutting the area described as follows: a point beginning at the point of intersection of the Lake Superior shoreline and the extended centerline of platted Eighth Avenue East, thence northwesterly along said Eighth Avenue East centerline to its point of intersection with the centerline of Superior Street Alley, thence southwesterly along the centerline of Superior Street Alley to its point of intersection with the centerline of North Sixth Avenue East, thence northwesterly along the centerline of North Sixth Avenue East to its point of intersection with Central Entrance Drive, thence westerly along the centerline of Central Entrance Drive to its point of intersection with the centerline of Rice Lake Road, thence northerly along the centerline of Rice Lake Road to its point of intersection

with the centerline of West Arrowhead Road, thence easterly along the centerline of West Arrowhead Road to its point of intersection with the centerline of Blackman Avenue, thence northerly along the centerline of Blackman Avenue to its point of intersection with the centerline of MacFarlane Road, thence easterly along the centerline of MacFarlane Road to its point of intersection with the centerline of Howard Gnesen Road, thence southeasterly along the centerline of Howard Gnesen Road to its point of intersection with the centerline of Old Howard Gnesen Road, thence north/northeasterly along the centerline of Old Howard Gnesen Road to its point of intersection with the centerline of South Road, thence easterly along the centerline of South Road in a straight line to its point of intersection with the northwest corner of the Third Glen Avon Division of Duluth, thence north in a straight line to its point of intersection with the centerline of Anoka Street, thence easterly along the centerline of Anoka Street to its point of intersection with the centerline of St. Paul Avenue, thence south along the centerline of St. Paul Avenue to its point of intersection with the centerline of Carlisle Avenue, thence easterly along the centerline of Carlisle Avenue to its point of intersection with the centerline of Grove Street, thence northeasterly along the centerline of Grove Street to its point of intersection with the centerline of Princeton Place, thence northeasterly along the centerline of Princeton Place to its point of intersection with the southerly boundary of Park Hill Cemetery, thence easterly along the southern boundary of Park Hill Cemetery until its point of intersection with the western easement line of Livingston Avenue, thence easterly in a straight line to its point of intersection with the centerline of Livingston Avenue, thence northerly along the centerline of Livingston Avenue

to its point of intersection with the centerline of Everett Street, thence easterly along the centerline of Everett Street to its point of intersection with the centerline of Jean Duluth Road, thence southwesterly along the centerline of Jean Duluth Road to its point of intersection with the centerline of Lakeview Drive, thence southwesterly along the centerline of Lakeview Drive to its point of intersection with the centerline of Vermilion Road, thence southerly along the centerline of Vermilion Road to its point of intersection with the centerline of Congdon Park Drive, thence southeasterly along the centerline of Congdon Park Drive to its point of intersection with the centerline of 32nd Avenue East, thence southeasterly along the centerline of 32nd Avenue East to its point of intersection with the centerline of London Road, thence northeasterly along the centerline of London Road to its point of intersection with the west bank of Tischer Creek, thence southeasterly along the west bank of Tischer Creek to its point of intersection with the Lake Superior shoreline, thence southwesterly along the Lake Superior shoreline to the point of beginning, and as depicted on the map on file with the city clerk as Public Document No. 08-0609-20;

(c) For purposes of this Article, the phrase "one-family dwelling" shall have the meaning ascribed by ~~Section 50-1.20~~ Chapter 50, Article VI;

(d) For purposes of this Article, the phrase "two-family dwelling" shall have the meaning ascribed by ~~Section 50-1.21~~ Chapter 50, Article VI;

(e) For purposes of this Article, the phrase "multiple-family dwelling" shall have the meaning ascribed by ~~Section 50-1.23~~ Chapter 50, Article VI;

(f) Rental Unit means any dwelling that is occupied by any tenants. For purposes of any fees under this Article, each bedroom in a multi-tenant single-family and multi-tenant two-family dwelling constitutes a rental unit;

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

(h) Except as otherwise provided in Section 29A-27(h)(1)-(2), tenant means any adult person or emancipated minor who is occupying a dwelling under any agreement, lease, or contract, whether oral or written, and for a period of seven or more consecutive or nonconsecutive days in any month, whether or not such occupancy requires the payment of rent, the payment of utilities, or the provision of services, for the use of the dwelling;

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

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

(i) Hardship means the property in question cannot meet the off-street parking requirements of this Chapter due to the physical characteristics of the property and not created by the landowner.

Section 9. That Section 29A-28 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-28. License required.

~~No person, whether an owner, manager, agent or sublessor, shall operate or permit the operation of a dwelling, structure or rooming house or rent or lease or offer to rent or lease any rental unit unless such dwelling, structure, rooming house, housekeeping unit or rental unit has been granted a license from the building official as provided herein. No owner of any dwelling rental unit shall permit or allow any rental unit in such dwelling to be rented or leased unless such the occupancy of any portion of a unit by any tenant unless that portion is licensed as ~~provided herein required~~ by this Article. If, during the licensing period, the number of dwelling units in a dwelling or beds in a rooming house is increased, no person shall rent or cause to be rented such additional units or beds, or permit the same to be occupied, until the building official has inspected the premises and approved them for occupancy. If found to be renting or causing to be rented a dwelling, dwelling unit, housekeeping unit, rooming unit or rental unit without a proper license, an investigation fee as established by resolution of the city council shall be paid by the owner whether or not the dwelling, dwelling unit, housekeeping unit, rooming unit or rental unit is subsequently licensed.~~

Section 10. That Section 29A-29 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

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

(a) ~~All licenses shall be issued by the building official.~~ Applications for rental licenses shall be ~~made by the owner or manager of the dwelling filed with to the building code~~ official upon forms provided by such official, by the owner or the owner's agent and ~~such applications~~ shall be accompanied by the required license fee. The code official may reject any incomplete

application;

(1) Applications for license renewals of licenses and licenses for new dwellings shall be ~~made~~ filed at least ~~60~~ 90 days prior to the ~~time the current license will expire~~ license expiration; ~~or the units will be offered for rent.~~

(2) Upon receipt of a completed application and fees the building code official ~~shall~~ may issue a temporary license if the rental unit is eligible for licensure; ~~permitting the temporary rental of the dwelling until such dwelling has been inspected by the building official.~~

~~New dwellings, dwelling units, housekeeping units, rooming units or rental units which comply with the State Building Code shall be issued a license upon completion of construction inspections, issuance of a certificate of occupancy, and receipt of a completed application and fees by the building official.~~

(3) ~~Buildings~~ Rental units which comply with the State Building Code and have been constructed and certified for occupancy ~~by the building official~~ within one year prior to date of application of the certification of occupancy and receipt of a ~~completed application and fees by the building official~~ and are otherwise eligible for licensure shall ~~also~~ be issued a license for the initial licensing period without further inspection;

(b) All other ~~multiple dwellings, rooming houses and rental units~~ shall be inspected before a license is issued. ~~If the inspection by the building official discloses that there are violations in the building, the temporary license may be extended for a reasonable period of time, not to exceed 120 days, so that the violations can be corrected and the building reinspected by the building official. The building official shall not extend a~~

~~temporary license more than twice. No license shall be issued unless the premises or portions of the premises rental unit to be licensed have been found by the building official to comply with the provisions of this Chapter and all other applicable laws; ordinances of the city. If only a portion of a building is licensed, no unlicensed portion shall be rented. Renting any unlicensed portion of a building shall result in revocation of the license and issuance of a notice to vacate the building;~~

~~(b) If, after issuance of a temporary license for an establishment, the building official is denied access to such establishment, or any portion thereof, at any reasonable time while attempting to inspect the premises, the building official may revoke such temporary license upon written notice to the applicant, subject to the applicant's right to appeal as provided in this Article;~~

~~(c) In addition to the requirements set forth above, no rental license, except a temporary rental license, shall be issues for any dwelling unless a certificate of noncontribution as provided for in Section 43-33.2 has been issued for that dwelling. 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 180 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;

(f) Except as otherwise provided, all new rental license, short term license, change of license type and rental license renewal applications shall be completed and applicable fees paid for a specified 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;

(1) The fee per bedroom structure shall not apply to the single-tenant license. A single fee for the dwelling unit shall be established as provided in Section 29A.30.

(g) A single-tenant rental license may be issued to a one-family or two-family dwelling. The license limits the number of tenants that may occupy the rental unit to one tenant.

(h) A multi-tenant rental license authorizes the occupancy of the rental unit by more than one tenant.

(i) Except as otherwise provided, a short term rental license, whether single-tenant or multi-tenant, 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.

Section 11. That Section 29A-30 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-30. Fees.

Fees provided for ~~rental licenses~~ in this Article shall be established by resolution of the city council.

Section 12. That Section 29A-32 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-32. Licenses~~---terms and~~ conditions.

All rental units are subject to the following conditions:

(a) No license shall be transferred to another rental unit;

(b)(a) At the principal exterior entrance to a rental unit an informational notice shall be posted that complies with the following requirements: ~~Each license or copy thereof or placard at~~

~~least 3"x5" with the same information noted below in this subparagraph shall~~

~~(1) The notice shall be displayed in a conspicuous place; so that it can be seen and read by a person outside the building and within the common way or near the main entrance of the dwelling and shall state~~

~~(2) The notice shall indicate the name, e-mail address and telephone number of the owner or managing agent agency, if applicable, which is managing the dwelling. Any permitted license rental will ensure there is a local point of contact (within a 25 mile radius) available on such license. No license shall be transferred to another dwelling or rental unit;~~

~~(c)(b) If there is a change in either ownership or management 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 recorders office. dwelling, the person or agency managing such dwelling prior to such change in ownership or management shall give written notice of the name and address of the new owner and/or manager to the building official;~~
~~(c) A new license shall be issued to the dwelling for the remainder of the license period; with the name of the new manager and/or owner upon payment of the required fee and submission of all required application forms;~~

~~(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) If there is a change in type of license, an application for change of license type is required. The application shall be filed with the code official as required by Section 29A-29.

(f)(d) Any Except as otherwise provided in this Section, all multi-tenant licensed one family or two family dwellings in a district zoned R-1-a, R-1-b or R-1-c 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;

(1) The building appeal board may grant a variance from the nonconformance fee when a hardship, as defined by Section 29A-27(i), exists. The board shall review the application and conduct a public hearing pursuant to Section 10-5. The board may grant a variance from all or a portion of the nonconformance fee requirement;

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

(g) Any All off-street parking spaces shall comply with the standards for off-street parking set forth provided for in Section 50-26 Chapter 50 of this Code. The number of required off-street parking spaces shall be determined by the building code official at the time of licensure. Failure to comply with these requirements will result in an additional nonconformance fee per parking space. The owner shall ensure that all required off street parking spaces are cleared of snow to at least the required dimension of such off-street parking spaces within 72 hours after the end of every snowfall;

(1)(e) Except as otherwise provided in this

~~Section, any licensed~~ All one-family or two-family dwellings, lawfully existing licensed on September 1, 2007, may continue to be so used licensed even though such use 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 non-conformance parking fees provided for in this Section shall apply. If the number of bedrooms, or number of rooms occupied as bedrooms, is increased in a licensed one-family or two-family dwelling located in a district zoned R-1-a, R-1-b or R-1-c after September 1, 2007, the off-street parking requirements of this Section shall apply to the entire licensed property. If the license for ~~such the~~ nonconforming use is revoked or lapses for any period of time, all nonconforming use rights related to off-street parking requirements shall terminate ~~any subsequent licensed use must comply with all provision of this Chapter;~~

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

~~(f) Expired pursuant to Ordinance No. 9909;~~

~~(h) Expired pursuant to Ordinance No. 9909;~~ The maximum number of bedrooms in a multi-tenant 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;

(1) The number of tenants cannot exceed the number of bedrooms applied for and paid for in the license application;

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

~~(h) Expired pursuant to Ordinance No. 9909;~~

~~(i) In all residentially zoned districts restrictions shall not apply to short term licenses. Except as otherwise provided, the building official may issue short term licenses for a period not to exceed 12 consecutive months. A short term license may not be issued more frequently than once in any three year period. Such short term licenses shall be applied for in the same manner as other rental licenses and all rental requirements for such dwelling unit shall otherwise meet all rental licensing requirements. A short term license may be issued for any single family or two family dwelling under the following circumstances:~~

~~(1) The owner is the current occupant of the dwelling unit, and~~

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

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

~~A short term license may be extended for an additional six months period provided that an application for extension is received prior to the expiration of the short term license and adequate evidence justifying such an extension is submitted with the application. The building official shall act upon such application for extension within 15 business days of delivery of the application.~~

~~The action of the building official is subject to appeal as~~

~~provided in Section 29A-34;~~

~~(j) Expired pursuant to Ordinance No. 9909.~~

Section 13. That Section 29A-32.1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-32.1. Rental restrictions in the protection zone.

(a) In areas zoned ~~R-1-a, R-1-b and R-1-c~~ residential-traditional and located within the protection zone, no license shall be issued for any ~~dwelling, rooming house or~~ rental unit within a distance of 300 feet from any other licensed ~~dwelling, rooming house or~~ rental unit. The distance restriction shall not apply to the following:

(1) A two family dwelling;

(2) Any multiple family dwelling containing less than five dwelling units;

(3) An owner occupied one family dwelling, provided that the number of ~~persons occupying pursuant to a rental agreement~~ tenants is limited to one person;

(b) In areas zoned ~~R-2 and R-3~~ residential-urban and located within the protection zone, no license shall be issued for any one family dwelling within a distance of 300 feet from any other licensed one family dwelling. The restriction shall not apply to the following:

(1) An owner occupied one family dwelling, provided that the number of ~~persons occupying pursuant to a rental agreement~~ tenants is limited to one person;

(c) This Section ~~In all residentially zoned districts within the protection zone, restrictions shall not apply to short-term licenses;. Except as otherwise provided, the building official may issue short-term licenses for a period not to exceed 12 consecutive~~

~~months. A short-term license may not be issued more frequently than once in any three year period. Such short-term licenses shall be applied for in the same manner as other rental licenses and all rental requirements for such dwelling unit shall otherwise meet all rental licensing requirements. A short-term license may be issued for any single family or two-family dwelling under the following circumstances:~~

~~(1) The owner is the current occupant of the dwelling unit; and~~

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

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

~~A short-term license may be extended for an additional six months period provided that an application for extension is received prior to the expiration of the short-term license and adequate evidence justifying such an extension is submitted with the application. The building official shall act upon such application for extension within 15 business days of delivery of the application.~~

~~The decision of the building official is subject to appeal as provided in Section 29A-34;~~

~~(d) This Section shall not apply to a one-family or two-family dwelling that is subject to a purchase agreement for the sale of the dwelling when all of the following conditions are met:~~

- (1) The dwelling is occupied by a seller; and
- (2) The buyer and seller agree that the buyer may occupy the dwelling prior to completion of the sale; and
- (3) The buyer, pursuant to a written early occupancy agreement between the buyer and seller, occupies the dwelling; and
- (4) The sales transaction is completed or cancelled in writing within 120 days from the date of the written early occupancy agreement;

(e) Any licensed ~~dwelling~~, rental unit ~~or rooming house~~ lawfully existing in the protection zone on July 19, 2008, may continue, even though such use does not conform to the provisions of this ~~Chapter~~ Section;

(f) If a rental license lapses as a result of the failure to comply with Section 29A-29, the license may be administratively reissued without regard to the provisions of paragraphs (a) and (b) of this Section if within ~~60~~ 180 days of the expiration of the license the owner complies with Section 29A-29;

(g) If a rental license lapses as a result of the failure to comply with Section 29A-29, the owner fails to comply with paragraph (f) of this Section, and the provisions of paragraphs (a) and (b) prohibit issuance of a license, the owner may appeal the license denial pursuant to Section ~~29A-34~~ 29A-5. The building appeal board may authorize issuance of a license without regard to the provisions of paragraphs (a) or (b) of this Section if the owner demonstrates by clear and convincing evidence the existence of good cause for the failure to comply with Section 29A-29. For purposes of this ~~provision~~ paragraph, good cause shall be defined as circumstances beyond the control of the owner which made compliance with Section 29A-29 impossible;

or the licensee fails to produce records or information as requested by the code official, ordinances of the city, a written notice shall be mailed to served by the building official upon the licensee at the notification address on file with the code official. The notice shall identify all stating the nature of any violations identified and establish a reasonable time, not to exceed 90 180 days, in which the all violations must be corrected or the affected premises rental unit vacated. At the end of said the correction time, the building official rental unit shall be reinspected the premises. If the premises rental unit are is not vacated or the violations are not corrected, the building code official may suspend the license of the dwelling or any rental units therein, subject to licensee's right of appeal as provided in this Article. The licensee may, after such suspension, pay a reinspection fee and request reinspection and reinstatement of the license with respect to the entire dwelling or to rental units within the dwelling not affected by the violation. If the building official inspects the premises and determines that the violations have been corrected, the license for the entire structure shall be reinstated upon payment of a reinstatement fee;
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) In any case where If the building code official suspends revokes a license pursuant to this Section, written notice of such

~~suspension shall be mailed to the licensee at the notification address on file with the code official served on the licensee and posted in a conspicuous place in at the dwelling or rental unit, and both such notices shall order the vacation of the dwelling or rental unit within a reasonable time. After receipt of such notice, and if no appeal is taken within the period for appeals, it shall be unlawful for the licensee to rent or lease any rental unit or bed until the license for said unit is reinstated. Licensee shall, within ten days after receiving such notice of suspension, give notice in writing to the tenants stating the contents of the vacation order issued by the building official.~~

Section 15. That Section 29A-34 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-34. Notices 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 multi-tenant occupancy in a rental unit licensed for single-tenant occupancy;

(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.

~~No license shall be issued pursuant to this Section unless the applicant designates in writing to the building official at an address located in the city of Duluth where notices issued by the building official may be delivered. All notices issued by the building official regarding a particular license shall be sent by first class mail or personally delivered to the address specified by the licensee, and for purposes of this Article delivery by such means shall constitute service of such notice on the licensee.~~

~~If the licensing inspector is denied access to a licensed premise, the code official may revoke the license by written notice to the licensee or managing agent.~~

~~Any person who receives an from the building official denying, suspending or revoking a license may appeal such denial, suspension or revocation to the building appeal board under the procedures set forth in pursuant to Section 10-5 of the Duluth City Code, 1959, as amended. Request for such appeal shall be made in writing to the building official within 15 days after the day the notice was served. If an appeal is filed, no denial, suspension or revocation~~

~~shall take effect until after the appeal is heard and determined as provided herein. The building official shall then set a time and place for such appeal to be heard and notify the appellant of said time and place. No appeal shall be set for hearing less than ten days or later than 40 days from the date the appeal is filed. At the hearing, appellant may be represented by counsel, may produce witnesses, and may testify in their own behalf. The building appeal board may administer oaths, take testimony and subpoena witnesses and papers at such hearing. After hearing all the evidence and arguments, and after due deliberation, the building appeal board shall affirm, reverse or modify the action of the building official. Notice of the building appeal board's decision shall be served on the appellant within 48 hours after such decision is rendered. Any action taken by the board shall be final.~~

Section 16. That Section 29A-42 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

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 the occurrence~~ of an incident of disorderly behavior occurring at the rental unit within 12 months of the notice provided in ~~clause~~

(a)(1), of this Section above, 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 non-renewal 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.

Section 17. That this ordinance shall take effect ~~30 days~~ on March 14, 2011, after its passage and publication.

ADM/ATTY MAL:dma 12/03/2010

STATEMENT OF PURPOSE: The purpose of this ordinance is to reform the City Housing, Property Maintenance, and Rental Licensing Code. The conversion of single family homes to multi-tenant rental properties has contributed to neighborhood stress and has had a negative impact on traditional residential neighborhoods. These negative impacts include increased parking demands, increased parking congestion on city streets, excessive occupation density, and increased demand for city services. This ordinance is intended to reduce these negative impacts and is targeted to the practices that are the major contributors, including conversion of owner occupied homes into rental properties, increased need for off street parking on the converted property, controlling occupancy density by creating a maximum tenant occupancy based on number of bedrooms, and enhancing the efficacy of rental licensing enforcement measures.