

ORDINANCE NO. 1762-2016

AN ORDINANCE REPEALING ORDINANCE NO. 1409-2008, PASSED JULY 1, 2008 AND APPROVED JULY 2, 2008; AND AN ORDINANCE CREATING THE LICENSING AND OPERATION OF MULTIPLE FAMILY AND SINGLE FAMILY RENTAL RESIDENTIAL DWELLINGS.

WHEREAS, the City of Fairview Heights finds that residential rental dwellings can impose special challenges to the community, resulting in an increase in incidents of public safety violations and criminal activity in these rental units.

WHEREAS, the Crime Free Rental Housing Program is a crime prevention program designed to develop a partnership between the City, the Police department and rental property owners, to reduce the instances of crime, illegal drug activity and nuisances in residential rental properties; and

WHEREAS, the City of Fairview Heights desires to implement the benefits of the Crime Free Rental Housing Program to all residential rental properties within the City and finds it advantageous for participation and compliance to implement a Residential Rental Licensing Program applicable to owners who operate and maintain residential rental properties within the City; and

WHEREAS, the City of Fairview Heights has concluded that the adoption of "Residential Rental Licensing" to the City Code of Ordinances would be in the best interests of the health, safety and welfare of the citizens of Fairview Heights.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRVIEW HEIGHTS:

SECTION 1. GENERAL.

- A. Except as expressly amended herein, all other provisions of the City of Fairview Heights Code of Ordinances shall remain in full force and effect.
- B. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof or any portion adopted by reference therein is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof or any portion adopted by reference therein.

SECTION 2. DEFINITIONS.

- A. Residential Rental Dwelling/Residential Rental Unit - Shall include any non-owner occupied dwelling(s) being made available to a person or persons, in exchange for compensation *or involving a mutual agreement* of any kind. The Residential Rental Dwelling/Unit shall include the entire property on which the rental dwelling is affixed including all other buildings and structures located on the property. For the purpose of this ordinance, residential rental dwellings/units shall also include dwellings occupied by person(s) other than the legal owner(s), when a Contract for Deed/Bond for Deed or other similar agreement is in effect with the owner, whether recorded or non-recorded.
- B. Owner - Any person, partnership, trust, corporation, business entity, condominium, townhouse, or homeowner's association holding legal title *and named on the legal deed* to the dwelling unit and/or the property on which the dwelling is affixed.
- C. Non-Resident Owner - The owner(s) of any rental unit whose main residence is located outside the St. Louis Metropolitan Statistical Area.
- D. Local Agent – Shall include a bona-fide property management agency; a person or persons who resides within the St. Louis Metropolitan Statistical Area and is authorized by the (non-resident) property owner(s):
 - 1. To act upon and make decisions in the interest of the property in the owner's absence.
 - 2. Who upon request, can, within a reasonable time, be contacted for notification or response to the property to assist in addressing any immediate problems or emergency situation?
 - 3. To be contacted by the CFRH coordinator for reports of any criminal and/or calls for police service at the property.

4. Who has the authority by the owner for the receipt of service; notice of violation and for service of process pursuant to the provisions of this ordinance.

E. City – The City of Fairview Heights, Illinois, including its employees, officers, agents, and authorized representatives.

F. License – A Residential Rental License issued by the City of Fairview Heights.

SECTION 3. RESIDENTIAL RENTAL LICENSE REQUIRED.

A. No person, corporate or business entity, trust, condominium, townhouse or homeowners' association shall operate a rental dwelling or dwelling unit unless a Residential Rental License has been issued by the City for the rental unit.

B. Exceptions – Authorized agencies operating dwelling units for the following purposes shall not be required to obtain a Residential Rental License:

1. Dwelling units determined by the City to be primarily involved in housing the elderly which have a reasonable level of medical or nursing care.

2. Group homes governed by the Specialized Living Centers Act 405 ILCS 35/1 et seq., as amended, dealing with developmentally disabled or other similar uses governed by state or federal laws, rules or regulations, provided such similar uses are required to be exempt by law. This exemption shall be limited to the operating agency when the agency is the owner of the dwelling property. An independent or private owner offering a dwelling for rent for these purposes shall be required to obtain a Residential Rental License issued by the City.

3. Properties that are operated primarily as a hotel/motel.

SECTION 4. RESIDENTIAL RENTAL LICENSE FEE SCHEDULE

A. Single-family (single family residences for rent) \$ 50.00 / per unit
Multi-family rental dwellings (individual units for rent) \$ 50.00 / per unit

B. If the fees identified in Section 4(A) are not paid within thirty days of the renewal date of the Residential Rental License, those fees shall double to:
Single family (single family residences for rent) \$100.00 / per unit
Multi-family rental dwellings (individual units for rent) \$100.00 / per unit.

C. Multiple dwelling rental buildings will be issued one license. The fee for each license issued will be according to the schedule defined herein.

SECTION 5. LICENSING AND OPERATION OF MULTI-FAMILY AND SINGLE FAMILY RESIDENTIAL RENTAL DWELLING UNITS.

- A) The City or its designee is hereby authorized, upon application, to issue new Residential Rental Licenses and renewals thereof in the names of applicant owners, condominium, townhouse, or homeowners' associations or operators of rental dwelling or dwelling unit.
- B) No license shall be issued or renewed unless the owner, local agent or property management agency has first made application for rental license on a form provided by the City. The City shall develop such forms and make them available to the public.
- C) No license shall be issued or renewed unless the completed application form for each building or group of buildings is accompanied by payment of the appropriate annual license fee as established in this Ordinance.
- D) Residential Rental Licenses shall be issued for a period of one full year unless otherwise specifically provided, and the full license fee shall be paid at the time of application. If at the time that the first application is made there are less than six months in the license year remaining, the fee shall be one-half the annual fee prescribed herein. The license shall not be transferable to another owner or rental dwelling. Each new owner of the rental dwelling unit must obtain a Residential Rental License issued in their name. All licenses shall expire on June 30th following the issuance of the license.

Exception: Licenses issued for renewal based on an expiration date of December 31, 2016 will be issued for a six (6) month period. The fee for a six (6) month license will be \$25.00 per unit as established by this Ordinance and will expire June 30, 2017. Thereafter, the renewal fee will be \$50.00 per unit, renewable on an annual basis, due June 30th of each year.

- E) No license shall be issued or renewed if at the time of application, the rental dwelling(s), including the property on which the dwelling(s) are affixed, are not in compliance with the City of Fairview Heights Property Maintenance Code (Ordinance #190, Chapter 15) as determined by the City of Fairview Heights Land Use and Development Department.
- F) If during the term of the Residential Rental License, the rental dwelling(s) fall out of compliance with the City of Fairview Heights Property Maintenance Code, (Ordinance #190, Chapter 15) and the owner/agent fails to make the needed repairs/corrections within the time frame established by the City of Fairview Heights Land Use and Development

Department, the City may recommend suspension or revocation of the residential rental license until the dwelling unit is brought into compliance.

- G) Any person whose license to operate a rental dwelling unit has been suspended or revoked, shall be entitled to an appeal process as described in Section 9 of this Ordinance.
- H) It shall be a violation of this ordinance for an owner to operate a residential rental dwelling/unit during the time their residential rental license issued by the City is expired, suspended/revoked or otherwise becomes invalid.
- I) No Residential Rental License shall be issued or renewed for a resident or nonresident applicant, unless such applicant designates in writing to the City the name of his local agent, manager, or contact for the receipt of service or notice of violation of the provisions of this Chapter and for service of process pursuant to this Chapter.
- J) No Residential Rental License shall be issued or renewed for a resident applicant unless such applicant has first designated an agent for the receipts of service violations on the provisions of this Chapter, when the applicant is absent from the St. Louis Metropolitan Statistical Area for 30 consecutive days or more. Such designation shall be made in writing and shall accompany each application form.
- K) All persons applying for a Residential Rental License shall complete a mandatory Crime Free Rental-Housing Seminar as described in Section 6 of this Ordinance.
 - 1. In the event a City of Fairview Heights Crime Free Rental-Housing Program Seminar is not available prior to obtaining the operating license, a conditional license will be issued to the applicant prior to their completion of a seminar.
 - 2. The applicant must complete a seminar within six months of the issuance of the conditional license. After the seminar is attended, a full license shall be issued for the balance of the license term.
 - 3. If the owner or their representative does not attend the Crime Free Rental-Housing Seminar within six months, the conditional license issued to the owner shall become invalid without any need of further action.
- L) Upon request by the City, every owner of rental property shall provide the City with a list of all occupants of their rental unit when the request is in response to a bona-fide investigation of a violation of this chapter, violation another City of Fairview Heights Ordinance(s) or any alleged

violation of the law. The owner shall provide an update of said list at least every sixty days until which time the investigation in question has been completed.

SECTION 6. CRIME FREE RENTAL HOUSNG PROGRAM SEMINAR REQUIRED.

- A) Any owner, operating a residential rental dwelling(s) shall be required to attend and complete a City of Fairview Heights Crime Free Rental-Housing Program Seminar administered by the Fairview Heights Police Department.
- B) An owner may meet the requirement of this section by attending and completing a Crime Free Rental Housing Seminar administered by another agency authorized by the Fairview Heights Police Department.
- C) The Seminar may be attended and completed by a property manager, or an agent/representative of the owner on their behalf. In the event an owner obtains a new property manager, agent or representative for their rental unit(s), the new property manager, agent or representative must attend a City of Fairview Heights Crime Free Rental Housing Seminar within six (6) months after obtaining that position.
- D) Any owner, agent or designee may be required to re-attend the City of Fairview Heights Crime Free Rental-Housing Program Seminar after two years if the Crime Free Rental-Housing Coordinator recommends re-attendance. The City, in determining whether or not to have the person re-attend the Crime Free Multi-Housing Program Seminar shall consider the follows:
 - 1. If the property rented by the owner is close to becoming a nuisance residential rental property as defined in this Ordinance, or
 - 2. Criminal activity is occurring on the premises and the Owner, Agent or designee has failed to initiate eviction proceedings.
- E) The Crime Free Rental-Housing Coordinator, as designated by the Chief of Police, shall provide the City with a list of owners, agents and/or designees who have attended the City of Fairview Heights Crime Free Multi-Housing Program Seminar, with the date of attendance and verification that the owner, agent or designee has complied with this Ordinance and is eligible to obtain, maintain or renew the operating license.

SECTION 7. CRIME FREE LEASE ADDENDUM REQUIRED.

No Owner of a Residential Rental Dwelling(s) may rent or lease a Rental Dwelling, whether the rental or lease agreement is written or oral, without requiring the tenant(s) to sign a Crime-Free Lease Addendum as part of any lease agreement executed after the effective date of this ordinance. The Crime Free Lease Addendum is to make criminal activity (not limited to violent criminal activity or drug related criminal activity engaged by, facilitated by or permitted by the renter, member of the household, guest or other party under the control of the renter) a lease violation. The owner or their agent shall have authority under that clause to initiate an eviction proceeding as specified in the Illinois Compiled Statutes Forcible Entry and Detainer Statutes. Proof of criminal violation shall be by a preponderance of the evidence.

SECTION 8. NUISANCE RESIDENTIAL RENTAL PROPERTY.

A) It is hereby declared a nuisance and to be declared against the health, peace and comfort of the City for any property owner, agent or manager, to allow or permit the following:

1. Rental of any Residential Dwelling, or residential building within an apartment community or governed by a homeowner's association to a tenant who allows any of the following offenses to occur relating to the tenant, member of the tenant's household, guest or other party under control of the tenant to occur: murder, kidnapping, aggravated kidnapping, prostitution, solicitation of prostitution, pandering, obscenity, child pornography, harmful materials, sale of obscene publication, criminal housing management, possession of explosives, unlawful use of weapons, sale of firearms, gambling, keeping a gambling place, concealing a fugitive, violation of the Illinois Controlled Substances Act, violation of the Cannabis Control Act or commission of any two or more of any other crimes under the State of Illinois or under the Federal Government not specifically listed above;
2. Rental of any Residential Dwelling, or residential building within an apartment community or governed by a homeowner's association to a tenant who allows any of the following offenses to occur relating to the tenant, member of the tenant's household, guest or other party under control of the tenant to occur; commission of 4 or more City Ordinance violations in a six month period or an unreasonably high number of calls for police service including, but not limited to, calls that may fall within the descriptions listed above that when compared to other properties in the City of Fairview Heights of similar type, reasonably indicate that the activity at this property is out of character for the area and is negatively impacting the quality of life of those in the area.

- B) For the purpose of this Section (8), a rental dwelling owner, agent or manager allows or permits the activities listed in subsections 1 and 2 if they receive notification by any City Officer, Employee or other reliable party that the activities have or are occurring at their rental unit(s) and fail to *take immediate corrective action*.
- C) This Ordinance shall not be construed or enforced in any manner which would negatively affect the tenancy of a Tenant whose only involvement in an incident was as a victim of a crime.
- D) If any tenant, member of the tenant's household, guest, witness, or other party under control of the tenant makes contact to police or other emergency services with the intention of preventing or responding to:
1. An incident or incidents of actual or threatened domestic violence or sexual violence against a tenant, household member, or guest occurring in the dwelling unit or on the premises; or
 2. Criminal activity or a local ordinance violation occurring in the dwelling unit or on the premises that is directly relating to domestic violence or sexual violence, engaged in by a tenant, member of a tenant's household, guest, or other party, and against a tenant, household member, guest, or other party; or
 3. If the contact was made by, on behalf of, or otherwise concerns an individual with a disability and the purpose of the contact was related to that individual's disability, such contact shall not be construed as a violation of this Ordinance.
- E) Nothing in this Section limits enforcement of Section 15.2 of the Emergency Telephone System Act, Article 26 of the Criminal Code of 2012, or Article IX of the Code of Civil Procedure; prohibits counties from enacting or enforcing ordinances to impose penalties on the basis of the underlying criminal activity or a local ordinance violation not covered by subsection D of this Section and to the extent otherwise permitted by existing State and federal law; or limits or prohibits the eviction of or imposition of penalties against the perpetrator of the domestic violence, sexual violence, or other criminal activity.

SECTION 9. SUSPENSION OR REVOCATION OF RESIDENTIAL RENTAL LICENSE.

- A) The Chief of Police may take or require corrective action up to and including suspension or revocation of any license issued hereunder if he or she determines from the report of any City officer or City employee, or

based on any other reliable available information, that the licensee has violated this Chapter or permitted a nuisance as set forth in Section 8 of this Ordinance to occur. Suspension or revocation shall be limited to the specific rental units involved in violations of this chapter, unless it is reasonably determined by the City that the revocation of the license for other or all units is required to protect the public safety or to prevent continued violations. In the event that the Chief of Police determines that any such license issued hereunder may be suspended or revoked, the Chief of Police shall cause to be issued written notice to the Owner, informing the Owner of the specific charges for the suspension or revocation. The Owner shall have three (3) days' notice to appear at a revocation hearing and defend the specific charges.

- B) The Chief of Police or their designee shall then issue a written finding determining if the license issued hereunder shall be revoked or suspended.
- C) Any suspension or revocation of a license may be appealed directly to the Hearing Officer of the City. The designated city attorney for Fairview Heights shall act as hearing officer. Such appeals shall be filed within fifteen (15) days of the decision of the Chief of Police. Such suspension or revocation may be stayed by the Chief of Police pending the decision of the Hearing Officer unless the Chief confirms specifically in writing that public safety may be threatened by such stay.
- D) Any Owner whose Residential Rental License has been suspended may not collect rent for the Rental Housing or units for which the suspension or revocation has been issued for the period of time that such suspension or revocation is in effect under any lease, lease term, or other rental agreement entered into after the effective date of this ordinance.
- E) In addition to any penalties or remedies set forth in this Chapter, the City may deny any occupancy permit or other site permit for Rental Housing for which the Owner is in violation of this Chapter.

SECTION 10. APPEALS OF LICENSE SUSPENSION OR REVOCATION.

- A) Any Owner may appeal to the Hearing Officer of the City a suspension, revocation, or denial of a Residential Rental License by the Chief of Police. Appeal to the Hearing Officer shall be made within fifteen (15) days of the suspension, revocation, or denial complained of by filing with both the Hearing Officer and the Police Chief a written notice of appeal, specifying the grounds thereof.
- B) Any such appeal shall be based solely upon and shall state a claim that: (i) the true intent of this Ordinance or the rules or regulations adopted pursuant thereto have been incorrectly interpreted, (ii) the provisions of this Ordinance do not apply, or (iii) criminal violations sufficient to allow for evictions under the Crime-Free Lease Addendum were not established with the requisite standard of proof.

- C) A non-refundable fee of fifty dollars (\$50) shall be paid at the time of filing of any appeal as otherwise established for appeals to the Hearing Officer.
- D) Upon receiving a timely-filed notice of appeal, the Chief of Police shall transmit to the Hearing Officer all papers constituting the record upon which the suspension, revocation, or denial was taken.
- E) An appeal shall stay any suspension of revocation appealed from, unless the Chief of Police certifies to the Hearing Officer after the notice of appeal has been filed that by reason of facts stated in the certificate, the stay would, in his opinion, cause eminent peril to life, property, or public safety, in which case the suspension or revocation shall not be stayed otherwise than by a restraining order which may be granted by the Hearing Officer or by a Court of Record on application, or notice to the Police Chief and on due cause shown.
- F) The Hearing Officer shall act upon any appeal hereunder within thirty (30) days of receiving a timely-filed notice of appeal by conducting a hearing upon such appeal, except such hearing may be extended to a later date upon application to the Hearing Officer for cause. The hearing shall be conducted according to the following procedures:
 1. Hearings conducted by the Hearing Officer shall be open to the public, held at the call of the Hearing Officer and at such times as he or she may determine. Any interested person may appear in person or by duly authorized agent or attorney. All testimony before the Hearing Officer shall be given under oath. The Hearing Officer shall administer oaths and may compel attendance of witnesses. The Hearing Officer shall keep minutes of his or her proceedings and other official actions. The Hearing Officer shall adopt his or her own rules and procedures, not in conflict with this Ordinance or applicable Illinois statutes.
 2. The Hearing Officer may reverse or affirm wholly or partly, or may modify or amend the suspension, revocation, or denial appealed from to the extent and in the manner that the Hearing Officer determines is necessary to conform with the intent and requirements of this Ordinance. Unless otherwise required by law, no challenge to any decision subject to this Section shall be filed in any court until or unless a timely appeal has been filed and prosecuted to completion by the Owner as provided for in this Section so as to establish a final appealable decision.
 3. Every decision by the Hearing Officer on an appeal hereunder shall be accompanied by findings of facts and shall refer to any exhibits presented at the hearing upon which the Hearing Officer's decision is based. Such exhibits shall remain a part of the permanent records of the Hearing Officer. The findings of facts shall specify the reason or reasons for Hearing Officer's decision. The terms of the relief granted shall be specifically set forth in a conclusion or statement separate from the

findings of fact. Every decision or determination of the Hearing Officer shall immediately be filed with the Chief of Police and the City Clerk and shall be a public record and thereupon shall be a final decision of the City.

SECTION 11. PENALTIES.

- A) Any person who violates the provisions of this Ordinance or fails to comply with any lawful order pursuant to any section of this Ordinance, upon conviction thereof, shall, in addition to any other remedy established herein, be subject to punishment in accordance with the general penalty for violations of ordinances of the City of Fairview Heights, Illinois. Each day that such violation or failure to comply continues after issuance of notice by the code official shall constitute a separate offense.
- B) Any person whose Residential Rental License has been suspended or revoked shall be deemed to be in violation of this Chapter, and in addition to any other remedies as may be provided by law, shall be subject to any of the following:
 - 1. A fine in an amount of not less than \$250.00 and no more than \$1,500.00, per unit for each day the violation exists;
 - 2. Any and all civil remedies available to the City, including any and all injunctive remedies that a court of competent jurisdiction may impose.

The City of Fairview Heights may seek to enforce this ordinance by seeking any one or more remedies authorized under this Chapter.

SECTION 12. PASSAGE. This Ordinance shall be in full force and effect, from and after its passage, approval and publication as provided by law.

READ FIRST TIME: August 16, 2016

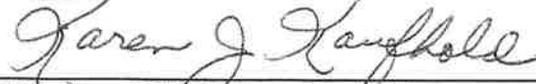
READ SECOND TIME: September 6, 2016

PASSED: September 6, 2016

APPROVED: September 7, 2016

PUBLISHED: September 11, 2016


MARK T. KURSKY - MAYOR
CITY OF FAIRVIEW HEIGHTS

ATTEST:

KAREN J. KAUFHOLD - CITY CLERK

Roll call of Aldermen voting "Yea"
Roger Lowry Justin Gough
Denise Williams Bill Poletti
Frank Menn Dennis Baricevic
Pat Baeske Brenda Wagner
Harry Zimmerman Pat Peck

