

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF ST. CHARLES - TITLE 5, "BUSINESS LICENSES AND REGULATIONS" - ADDING A NEW CHAPTER 5.54, "RESIDENTIAL RENTAL LICENSING"**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, AS FOLLOWS:**

**SECTION ONE:** That Title 5, "Business Licenses and Regulations" of the St. Charles Municipal Code be and is hereby amended by adding a new Chapter 5.54, entitled "Residential Rental Licensing", as follows:

"Chapter 5.54

**RESIDENTIAL RENTAL LICENSING**

Sections:

- 5.54.010 - Purpose.
- 5.54.020 - Definitions.
- 5.54.030 - Annual residential rental license required.
- 5.54.040 - Application requirements for residential rental license.
- 5.54.050 - Crime-free housing seminar.
- 5.54.060 - Crime-free lease addendum-Notice of occupancy standards.
- 5.54.070 - Licensing inspection—Temporary certificate.
- 5.54.080 - License issuance.
- 5.54.090 - License renewal.
- 5.54.100 - Inspection upon sale—New license required.
- 5.54.110 - Tenant responsibilities.
- 5.54.120 - Right-of-entry.
- 5.54.130 - Appeals.
- 5.54.140 - Compliance with regulations.
- 5.54.150 - Enforcement procedures.
- 5.54.160 - Fines—Penalty.
- 5.54.170 – Conflicts.

**5.54.010 Purpose.**

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

- A. To protect public health, safety and welfare by ensuring residential rental units comply with the applicable building, fire and property maintenance codes of the city.
- B. To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying rental dwellings.
- C. To prevent the overcrowding of rental dwellings by requiring each unit to be in compliance with occupancy limitations.

- D. To facilitate the enforcement of minimum standards for the maintenance of residential rental structures and premises and thus preventing blighting conditions.
- E. To preserve the value of land and buildings throughout the city, and thus protect the city's tax base.

**5.54.020 Definitions.**

As used in this chapter, the following terms shall have the meanings set forth:

"Building" means a single structure.

"Code official" means any officer, employee, or consultant of the city responsible for administering or enforcing provisions of this chapter or provisions of this code that are administered pursuant to this chapter. The term "code official" shall also mean "code enforcement officer" or "building inspector" and shall include the community development director, public works director, the fire chief, the chief of police, or their designees.

" Dwelling unit" means a single unit providing complete independent living facilities for one or more persons, in accordance with occupancy limitations, including permanent provisions for living, sleeping, eating, cooking and sanitation. For purposes of establishment of residential licensing fees, the following applies:

"Condominium unit" means one dwelling unit contained within a building that has been established in accordance with the Illinois Condominium Act. Each unit is considered a single residential rental property, unless all units within the building are under single ownership and control.

"Multi-family dwelling" means a building with three (3) or more dwelling units not designed as townhomes, where each dwelling unit is provided an individual entrance to the outdoors or to a common hallway.

"Single-family dwelling" means one dwelling unit within a detached building or house designed to contain one dwelling unit.

"Townhome unit" means a building with three (3) or more dwelling units arranged side-by-side, sharing common fire-resistive walls without openings, where each dwelling unit occupies an exclusive vertical space with no other dwelling unit above or below, and where each dwelling unit has at least one individual exit directly to the outdoors. Each unit is considered a single residential rental property, unless all units within the building are under single ownership and control.

"Two-unit dwelling" means a building containing two dwelling units where both dwelling units are under single ownership and control.

"Let" means to provide or offer for possession or occupancy a dwelling unit to a person who is not the legal owner of record thereof, without compensation.

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

"Owner" means the person or persons, jointly or severally, that hold legal or equitable title to a parcel of property, including a mortgage holder in possession.

"Person" means an individual, partnership, corporation, business trust, estate, trust, beneficial interest holder, association or any other legal or commercial entity.

"Premises" means a lot together with all the buildings and structures thereon.

"Property agent" means a person, operator, firm, partnership, corporation, or other entity under whose management or supervision the residential rental property will be operated and who can be contacted in case of an emergency. A property agent must have an office within fifty (50) miles of said property, have the authority to cause repairs to be made and properties to be vacated and secured, and have the authority to receive and accept notices and citations. The property agent may be the owner of the residential rental property, provided that the owner resides within fifty (50) miles of the city.

"Re-inspection" means subsequent inspection(s) conducted for the purpose of verifying that all violations reported during an initial inspection have been corrected and the premises is compliant with the applicable building, fire and property maintenance codes of the city.

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

"Residential rental property" means one or more dwelling units rent or let to persons other than the person(s) holding legal or equitable title to the property. A dwelling unit occupied by a purchaser under the provisions of articles of agreement for deed or similar agreement shall be considered a residential rental property unless the articles of agreement or similar agreement have been recorded with the Recorder of Deeds of Kane County, Illinois.

"Single ownership and control" means that the legal owner of each dwelling unit within a building is the same person(s) or entity.

"Structure" means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, driveways and service walks.

"Tenant" means an occupant of residential rental property.

Words or phrases as used in this section and not herein defined shall be defined as provided by, in the following order of precedence, the city's property maintenance code, zoning ordinance or building code.

#### **5.54.030 Annual residential rental license required.**

No person shall operate a residential rental property, or shall rent or let any residential property, unless an annual license or temporary certificate is in effect for such property, as provided by this chapter, and remains unexpired. Each license shall be issued only for the residential rental property and to the owner or authorized property agent named in the application and shall not be transferable or assignable. Licenses shall expire on December 31 of each year.

This chapter shall not apply to the following:

- A. Single-family owner occupied dwellings.
- B. Single-family dwellings occupied by a member of the owner's family, meaning an individual related to the owner by blood, marriage or adoption.
- C. Single-family dwellings which are vacant but which are not intended to be let for rent.
- D. Townhome and condominium owner occupied dwellings.
- E. Hotels, motels and bed and breakfast establishments.

- F. Dwellings, buildings, structures and uses licensed and inspected by the state or the federal government, including, but not limited to, nursing homes, assisted living facilities, independent living facilities, hospitals and hospices.
- G. Dwellings, buildings and structures owned by other governmental agencies and public housing authorities.

**5.54.040 Application requirements for residential rental license.**

- A. Each applicant for a new license to operate a residential rental property for the purpose of renting it to others or for a renewal of an existing license shall file a complete application on an application form provided by the community development department.
- B. All residential rental property applications shall contain at a minimum, the following information:
  - 1. The name and street address of the applicant if an individual, and if a firm, partnership, limited liability corporation or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent.
  - 2. The full legal name, street address, and home and work telephone number of each and every owner of the property, including beneficial interest holders, if applicable.
  - 3. The name, street address, and telephone number of the property agent for the residential rental property. Post office box addresses shall not be acceptable.
  - 4. The street address of the residential rental property.
  - 5. The number of dwelling units within the residential rental property.
  - 6. The total square footage of each dwelling unit and the total number of rooms, bedrooms and bathrooms in each dwelling unit.
  - 7. Each application shall contain an attestation that the information contained within the application is true and correct and shall be signed under penalty of perjury.
- C. Whenever there is a change in the property agent, manager, or other responsible party of a residential rental property, the owner shall notify the community development department within thirty (30) days of such change and file an updated residential rental license application. No fee is due for filing such an update.
- D. Approval shall be obtained from the community development department prior to any change in the number or configuration of residential rental dwelling units. Application for such change shall be made on a form provided by the community development department. Any and all changes must meet all zoning, property maintenance code, fire and building code requirements of the city.
- E. Building permits shall be obtained from the community development department for any construction activity to the residential rental property.
- F. No application shall be accepted without the required payment of the annual license fee, as follows:

Single family dwelling: \$42 per dwelling unit

Two-unit dwelling: \$38 per dwelling unit

Condo/Townhomes dwelling: \$22 per dwelling unit

Multi-family dwelling (fees per complex):

3-10 Units	\$175
11-50 Units	\$325
51-100 Units	\$550
101-151 Units	\$700
151-200 Units	\$850
201-250 Units	\$1,000
251+ Units	\$1,200

License fees are thereafter payable annually on or before expiration of said license. No fee will be pro-rated, except as provided in Section 5.54.100. If a completed license application is not submitted together with the required license fee prior to January 1 of each year, the license fee shall be increased by twenty percent (20%).

- G. All persons applying for a license to operate a residential rental property shall successfully complete a mandatory crime-free housing seminar, administered by the St. Charles Police Department, prior to issuance of the license.
- H. All persons applying for a license to operate a residential rental property shall submit a copy of their lease agreement to the community development department for confirmation that the lease includes a crime-free housing lease addendum or have a clause in that lease substantially similar to the crime-free lease addendum, as required by Section 5.54.060.

**5.54.050 Crime-free housing seminar.**

- A. Any owner of residential rental property within the city, or their property agent, shall attend and complete a City of St. Charles crime-free housing program seminar within three months of submitting an application for a new license. An owner or agent shall thereafter attend the City of St. Charles crime-free housing program seminar every four years.
- B. In the event a City of St. Charles crime-free housing program seminar is not available, the owner or property agent may attend a crime-free housing seminar provided by another municipality, if pre-approved by chief of police.
- C. A property agent shall be considered an agent of the owner. If a new property agent is hired, the new agent shall have three months after hiring to attend the City of St. Charles crime-free housing program seminar.
- D. The crime-free housing program coordinator, as designated by the chief of police, shall provide the community development department with a list of owners, agents and/or designees who have attended the City of St. Charles crime-free housing program seminar (or approved alternate), with the date of attendance and

verification that the owner or property agent has complied with this chapter and is eligible to obtain, maintain or renew the license to rent.

**5.54.060 Lease requirements - Crime-free lease addendum - Notice of occupancy standards.**

- A. Any owner or property agent entering into leases regarding residential rental property shall utilize a crime-free lease addendum in substantially the form that is on file with the community development department, or have a clause in the lease similar to the crime-free lease addendum. The department shall review any clauses within actual leases to determine if the clause is similar to the required crime-free lease addendum. The clause is to make criminal activity a lease violation and shall specify that criminal activity is not limited to violent criminal activity or drug-related criminal activity engaged in by, facilitated by, or permitted by the tenant, a member of the household, guest or other party under the control of the tenant. The operator or property agent shall have authority under the clause to initiate an eviction proceeding as specified in the Illinois Forcible Entry and Detainer Statutes. Proof of a criminal violation shall be by a preponderance of the evidence. In addition, the addendum shall provide that if a tenant's guest violates any of the lease terms, rules or regulations, the owner or property agent may bar such guest from the premises and, upon failure to leave the premises or upon subsequent return to the premises, may be arrested for trespass. Failure to include a crime-free lease addendum or similar approved language may result in suspension or revocation of the license to rent property within the city.
- B. The owner or property agent of a residential rental property shall inform each tenant or occupant in writing, prior to occupancy of a dwelling unit, of the maximum number of persons allowable for such dwelling unit by the occupancy standards of the city's property maintenance code. This number shall be calculated by the code official.

**5.54.070 Licensing inspection—Temporary certificate.**

- A. Each residential rental property required to be licensed under the provisions of this chapter shall be subject to a licensing inspection which shall be scheduled by the owner or property agent with the community development department at the time the complete application is submitted. Thereafter, licensed residential rental property shall be subject to regular inspections every year.
- B. Upon receipt of a complete application and the scheduling of the required licensing inspection, the community development department shall issue a temporary certificate indicating that a license has been duly applied for, and that the residential rental license shall be issued if and when the residential rental property has been inspected and is found to be in compliance with the applicable building, fire and/or property maintenance codes of the city and the crime-free housing seminar has been completed. A temporary certificate shall be valid for a period of three (3) months; provided, however that the community development

director may extend such period, if in his or her reasonable opinion, the owner is making a good-faith effort to fulfill the requirements to obtain a license.

- C. Licensing inspections of all residential rental property shall include the dwelling unit/building exterior(s) and the premises. Such inspections shall be limited to determining compliance with the applicable building, fire and/or property maintenance codes of the city.
- D. Nothing in this section shall preclude (i) the inspection of any residential rental property subject to this chapter more frequently than as set forth in subsection A. above, or (ii) the inspection of the interior of any dwelling unit or building, if such inspections are based upon probable cause that a violation of city ordinances exist upon the dwelling unit or building.

**5.54.080 License issuance.**

- A. When a licensing inspection of a residential rental property reveals any violation of the applicable building, fire and/or property maintenance codes of the city, the owner shall comply with such codes within fourteen (14) days of the licensing inspection or within such longer time period as specified by the City.
- B. The code official shall issue the correction notice in person or to the property owner or property agent by regular U.S. mail at the last address provided on the most recent license application. Said notice shall include the following:
  - 1. The property address of the residential rental property.
  - 2. A statement listing the violations of the applicable building, fire and/or property maintenance codes.
  - 3. The date by which the owner or authorized representative shall complete the work and have the violations corrected, re-inspected and approved by the city.
  - 4. An explanation that, if the owner or property agent has not corrected the violations or scheduled a re-inspection within the deadline, the license may be denied, the temporary certificate revoked and enforcement actions taken in accordance with section 5.54.150.
- C. The license applicant shall schedule a licensing follow-up inspection on or before the compliance deadline.
- D. If stated violations have been satisfactorily corrected and the crime-free housing seminar has been completed, a license shall be issued.
- E. Failure to comply with the findings of any licensing inspection may result the license being denied, the temporary certificate being revoked and enforcement action in accordance with section 5.54.150.
- F. A re-inspection fee in the amount of \$30 shall be charged for each inspection conducted after the first re-inspection.

**5.54.090 License renewal.**

It shall be the responsibility of each residential rental property owner or property agent to annually renew a residential rental property license prior to expiration.

**5.54.100 Inspection upon sale-New license required.**

- A. A license issued pursuant to this chapter shall terminate upon the sale of a residential rental property.
- B. No residential rental property shall be sold unless the seller furnishes the buyer a presale inspection report dated no more than one hundred twenty (120) days prior to the date of closing and dated no later than the day of closing. Said report shall be based on an inspection in the same manner as set forth in Section 5.54.070. The report shall state that the residential rental property complies with the applicable building, fire and property maintenance codes of the city or, in the alternative, list with specificity the manner in which the residential rental property does not comply with such standards.
- C. The request for a presale inspection must be made, in writing, not less than thirty (30) days prior to the scheduled date of closing.
- D. An inspection made under this subsection shall satisfy the annual inspection required by Section 5.54.070A., if said inspection is done with two (2) months of said annual inspection date.
- E. A sale for purposes of this section includes contract sales, exchanges, conversions to condominiums and transfers of possession or control of any residential rental property. Any person participating in such a sale in violation of this section, either as seller or buyer, shall be deemed in violation of this section and be subject to the penalties as provided for in Section 5.54.160.
- F. The new owner shall not operate the residential rental property, or rent or let the residential property, until a new license or temporary certificate has been issued for such property. The application fee shall be prorated based upon the number of days left from the application date to the end of the license year.

**5.54.110 Tenant responsibilities.**

- A. No tenant shall commit vandalism in the building in which the tenant's dwelling unit is located and no tenant shall permit vandalism to occur or shall violate any of the provisions of this code in the dwelling unit leased by the tenant.
- B. No tenant shall cause the dwelling, premises, and other areas of the property to become unsafe or unsanitary.

**5.54.120 Right-of-entry.**

- A. The owners and their designated property agents shall be responsible for informing their tenants of any scheduled inspection or re-inspection of any residential rental property; and they shall be responsible for requesting permission from any person whose consent is necessary for city inspector to enter the property if that person is not home at the time of the inspection or re-inspection.
- B. The city shall provide notice to both the owner and the tenant, on a form provided by the city, of their right to refuse consent to the residential licensing inspection and to require the city to obtain an administrative search warrant.
- C. If any owner, property agent, occupant or other person in control and/or possession and whose consent to inspect is necessary concerning a residential



rental property fails or refuses to consent to access and entry to the property or dwelling unit under his or her control for any residential licensing inspection required by this chapter, the code official or his or her designee may apply to the circuit court for an administrative search warrant. The application for the administrative search warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection shall be limited to a determination whether there are any violations of the applicable building, fire and property maintenance codes of the city.

- D. Nothing set forth herein shall limit the right of a tenant to grant the city access to the dwelling unit.

**5.54.130 Appeals.**

- A. Any person directly affected by a decision of the code official or notice or order issued under this chapter shall have the right to file a petition as set forth in chapter 15.40 of this code with the appeals board vested with the authority for considering any such petition. An application for an appeal shall be taken within twenty (20) days of the action.
- B. An appeal stays all proceedings in furtherance of the action appealed from, unless in the reasonable opinion of the community development director or his or her designee, a stay would cause imminent peril to life or property.

**5.54.140 Compliance with regulations.**

It is unlawful for any person or legal entity to operate a residential rental property in violation of any provision of this chapter or any applicable rules and regulations of or adopted by the city pursuant to this chapter, or to change occupancy of any residential rental unit unless in full compliance with the provisions of this code.

**5.54.150 Enforcement procedures.**

- A. Code officials are authorized to exercise the police power of the city in such manner and to such extent as any code official determines that the character of the violation and the interests of public health, safety and welfare warrant to secure compliance with the provisions of this chapter and this code.
- B. Code officials are authorized and shall demand compliance with the provisions of this chapter and this code in pursuit of this chapter through enforcement actions including, but not limited to, the issuance of a stop work order, a determination that the dwelling unit is uninhabitable and order the unit be vacated, notice of violation, citation or ticket, prosecution for violations, and to recover any penalty or fine and authorized attorney's fees and costs, the institution of the appropriate action of law or in equity to restrain, correct or abate such violation or to require the removal of the unlawful use or act and the filing of liens and judgments against property, as authorized by law.  
In addition, the code official may suspend and/or recommend revocation of any license issued hereunder if the licensee is in continuing violation of any law or

ordinance, or that the licensee is operating in a manner not conducive to the public health, morals or safety.

Prior written notice of a violation shall not be required for the initiation of enforcement actions. The code official shall institute or cause to be instituted the appropriate legal proceedings to prosecute, restrain, correct or abate any violation or to require removal or termination of the unlawful use of the premises, building or structure in violation of the provisions of this title or of any order or direction made pursuant thereto.

- C. Written notice of enforcement actions shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the condition that is the subject of the enforcement action violation. Such notice shall be served either by delivering a copy of same to such person or persons by ordinary mail to the last known post office address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or in case such person is not found upon the premises and reasonable attempts to locate the individual or a valid address have been unsuccessful, by affixing a copy thereof, in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed equivalent of personal notice.

**5.54.160 Fines—Penalty.**

- A. Any person, firm, or corporation who fails to obtain a license when required or operates a residential rental property and violates, disobeys, omits, neglects or refuses to comply with the provisions of this chapter shall be issued a ticket, citation or notice to appear and will be fined.
- B. Any person or legal entity who violates any provision of this chapter or provisions of this code pursuant to this chapter or the codes adopted hereunder, or fails to comply with any of the requirements thereof shall be subject to a fine for each offense of not less than fifty dollars (\$50) nor more than seven hundred fifty dollars (\$750). Each day that a violation continues shall be deemed a separate offense.
- C. Any person charged with any violation of this chapter who has since come into compliance and who desires to pay the applicable fine in advance of a court or administrative adjudication hearing may contact the city and request a re-inspection. Upon verification of compliance, the city may accept prepayment of any fine, or may otherwise agree to dispose of the matter in advance of a court or administrative adjudication hearing, subject to the following conditions:
  - 1. A receipt shall be issued for any pre-court payment.
  - 2. Any violation for which the fine or penalty is paid in full by pre-court-payment as provided in this subsection shall not be subject to further prosecution.
  - 3. If more than two violations are issued for the same property in any thirty-day period, only the first two violations may be subject to the pre-court or administrative adjudication hearing payment pursuant to this subsection.

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

**5.54.170 Conflicts.**

To the extent any provision of this chapter conflicts with chapter 5.04 of this code, the provision of this chapter shall prevail.”

**SECTION TWO:** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

**SECTION THREE:** That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication as provided by law; provided, however, that obtaining a license or temporary certificate hereunder shall not be required until January 1, 2013.

**PRESENTED** to the City Council of the City of St. Charles, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2012.

**PASSED** by the City Council of the City of St. Charles, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2012.

**APPROVED** by the Mayor of the City of St. Charles, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Donald P. DeWitte, Mayor

**ATTEST:**

\_\_\_\_\_  
City Clerk

**COUNCIL VOTE:**

Ayes:

Nays

Absent:

Abstain: