

Section 407 – Inspection and Licensing of Apartment Houses and Rental Homes
(Amended, Bill No. 2002-3, Sections 19-22)

407.00. Purpose. It is the purpose of this section to assure that rental housing in the city is decent, safe and sanitary and is so operated and maintained as not to become a nuisance to the neighborhood or to become an influence that fosters blight and deterioration or creates a disincentive to reinvestment in the community. The operation of rental residential properties is a business enterprise that entails certain responsibilities. Operators are responsible to take such reasonable steps as are necessary to assure that the citizens of the city who occupy such units may pursue the quiet enjoyment of the normal activities of life in surroundings that are: safe, secure and sanitary; free from noise, nuisances or annoyances; and free from unreasonable fears about safety of persons and security of property.

407.03. Definitions. For the purposes of this section the terms defined herein have the following meanings:

(a) "Apartment house" means a building containing three or more dwelling units.

(b) "Apartment", "apartment unit" or "dwelling unit" means a room or group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by persons other than the owner.

(c) "Rental Home" means a one or two-family dwelling which is occupied by persons other than the owner.

(d) "Family" means one or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. The term "family" does not include a group of individuals, exceeding three in number, not related by blood, marriage or adoption. The term "family" includes necessary employees.

(e) "Housing maintenance code" means a subsections 405.01 through 405.19 of this code and also means all other codes and regulations of the City pertaining to the occupancy and habitability of the licensed premises.

(f) All other definitions contained in subsection 405.01, subdivisions 1-19 are incorporated in this section by reference and made a part hereof.

(g) "Owner" means, with respect to all matters involving the making of applications and the giving of notices, the individuals or entities holding legal and equitable title to the premises, or the legally constituted agent designated by the Owner for such purposes.

407.05. License required. It is unlawful for any person who is an owner of an apartment house or an owner of a rental home to operate such apartment house or rental home without first having obtained a license under the provisions of this section. There are two types of licenses: regular and provisional. Provisional licenses are defined in subsection 407.13. All references to licenses in this section are references to regular licenses, unless otherwise stated.

407.07. Licensing procedure. Subdivision 1. Application: contents.

(a) Regular licenses. The application must contain the following information and any other information that the director of public safety may require to assess compliance with the housing maintenance code and this section: the names, addresses and telephone numbers of the individuals responsible for the maintenance and management of the premises.

(b) Provisional licenses. An application from a licensee in provisional status under section 407.13 must contain the following information and any other information that the director of public safety may require to assess compliance with the housing maintenance code and this section:

(1) If the applicant is a partnership, the names and addresses of each partner.

(2) If the applicant is a corporation, the names and addresses of the majority shareholder, and the names and addresses of the officers.

(3) The names, addresses and telephone numbers of individuals responsible for the maintenance and management of the premises.

(4) The names, addresses and telephone numbers of the individuals responsible for keeping and maintaining the tenant registers.

(5) If the applicant is an owner of multiple dwellings, multiple apartment houses, or multiple rental homes, the legal address of each dwelling, apartment house or rental home owned by the applicant located within the city of Richfield.

Subd. 2. Issuance of license.

(a) If the director of public safety concludes as a result of the information contained in the application or other available information, that an apartment house or rental home appears to comply with requirements of the housing maintenance code and this section, the director of public safety will issue the license.

(b) If the director of public safety concludes as a result of the information contained in the application or other available information, that an apartment house or rental home appears not to be in compliance with the housing maintenance code and this section the director of public safety will order an inspection to determine compliance. The licensee or applicant must notify the residents of the apartment house or rental home of the inspection and must permit the director of public safety to enter upon the premises for the purpose of conducting the inspection to verify compliance with the housing maintenance code. If the inspection discloses noncompliance, the applicant will have a designated time period, to be determined by the director of public safety, from receipt of notice of noncompliance to correct the defects specified in the notice, but only if the defects do not create an imminent hazard. The director of public safety may authorize additional time for compliance.

(c) From the date that the director has ordered an inspection under paragraph (b), no occupancy of dwelling units then vacant, or which become vacant, is permitted until a license has been issued. Apartment units within an unlicensed apartment house for which a license application has been made and which units are determined by the director of public safety to be in compliance with the housing maintenance code may be occupied provided that non-complying units within the apartment house do not create an imminent hazard to the health and safety of persons in occupied units. Such occupancy may continue until a final determination on the granting or denial of the license is taken by the city.

Subd. 3. Denial, suspension, revocation, non-renewal.

(a) The council may revoke, suspend, deny or decline to renew any license issued under this section upon any of the following grounds:

(1) false statements on any application or other information or report required by this section to be given by the applicant or licensee.

(2) failure to pay any application, penalty, reinspection or reinstatement fee required either by this section or city council resolution.

(3) failure to correct deficiencies noted in notices of violation in the time specified in the notice.

(4) failure to comply with the provisions of an approved mitigation plan in the case of provisional licenses.

(5) any other violation of this section.

(b) Revocation, suspension and non-renewal may be brought under either this subsection or under subsection 407.15.

(c) Regular licenses will be revoked, if at mid term, or not renewed, if at the end of a term, upon a finding that the premises are only eligible for a provisional license as provided in subsection 407.13.

(d) Before a decision to revoke, suspend, deny or not renew a license is made, the council must provide written notice to the applicant or licensee setting forth the alleged grounds for the potential action. Before final action to revoke, suspend, deny or not renew a license is taken, the applicant or licensee may appeal as set forth in subdivision 4 of this subsection. A decision to deny, not renew, suspend or revoke a license may only be made upon written findings. The council may consider the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply.

(e) The council may suspend or revoke a license or not renew a license for part or all of a facility.

(f) Upon a decision to revoke, deny or not renew a license, no new application from the current owner for the same facility will be accepted for a period of time specified in the council's written decision, not exceeding one year. New applications must be accompanied by a reinstatement fee, as specified in appendix D of this code, in addition to all other fees required by this section.

(g) A written decision to revoke, suspend, deny or not renew a license or application will specify the part or parts of the facility to which it applies. Until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the facility may be relet or occupied. Revocation, suspension or non-renewal of a license will not excuse the owner from compliance with all terms of this section for as long as any units in the facility are occupied.

(h) Failure to comply with all terms of this section during the term of revocation, suspension or non-renewal is a misdemeanor and grounds for extension of the term of revocation, suspension or continuation of non-renewal of the license.

Subd. 4. Appeal. In any instance where the director of public safety has denied, revoked, suspended, or not renewed a license, the applicant or licensee may appeal the decision to the city council by delivering to the city clerk a notice of appeal within ten days of receipt by the applicant or licensee of notice of the decision by the director of public safety. The applicant or licensee will be given an opportunity for a hearing before the city council. The decision of the city council or any decision by the director of public safety which is not appealed in accordance with this paragraph is deemed a final determination by the city.

Subd. 5. Renewal. The term of a license granted under this subsection is January 1 to December 31. Licenses are renewed annually. As a requirement of renewal of a license, the enforcement officer may direct that all dwellings owned by the licensee be inspected to ensure compliance with the housing maintenance code. The licensee must give notice of the annual inspection to all residents of dwellings owned by the licensee.

Subd. 6. Transfer. A license is transferable upon application to the director of public safety, and payment of the license transfer fee by the prospective owner. The license terminates if renewal or application for transfer is not made within 30 days before transfer of ownership of the apartment house or rental home.

407.09. Obligations of licensee. Subdivision 1. Report changes in ownership. The licensee must report to the director of public safety any changes in the identity of the owner, including a change in the majority shareholder or shareholders and officers in the case of corporations. The licensee must report a change in ownership at least 30 days before closing.

Subd. 2. Display. Licenses issued under this subsection must be displayed on the premises of the apartment house or rental home, wherever feasible and produced upon demand of a prospective tenant or the director of public safety.

Subd. 3. Tenant register. The licensee must, as a continuing obligation of its license, maintain a current register of tenants and other persons who have a lawful right to occupancy of apartments within the apartment house or rental home. In its application, the licensee must designate the person or persons who will have possession of the register; and must promptly notify the director of public safety of any change of the identity, address or telephone numbers of such persons. The register must be available for inspection by the director of public safety at all times.

Subd. 4. Fees. The fees for licenses required by this subsection, as well as any penalties, are in the amounts established in appendix D of this code.

407.11. Penalty. Any person who violates the provisions of this section or who makes a materially false statement in a license application, is guilty of a misdemeanor. The city may enforce the provisions of this section in any court of competent jurisdiction in law or equity.

407.13. Provisional Licenses. Subdivision 1. When required. Licensed multiple dwellings that have generated an average of over .5 police or fire calls per dwelling unit in a preceding six month period as specified below are eligible only for provisional licenses.

(a) Police and fire calls that are counted in determining whether a provisional license is required include the following types of calls or events:

(1) Calls or events listed in subsection 407.15, subdivision 1;

(2) Calls or events categorized as part one crimes in the Uniform Crime Reporting System, including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson;

(3) Calls or events categorized by the police department as: miscellaneous juvenile status crimes, liquor offenses or curfew violations; disturbing the peace or harassing communications; property damage; criminal damage to property or trespass; fire alarms as designated by the fire chief; public disturbance or disorderly conduct; loud party or noise complaints; disorderly juveniles; assault in the fifth degree or non-domestic related assaults. The director of public safety will maintain for public inspection a description of the coding system and a list of the codes and crimes included within each of these categories of calls or events;

(4) The director of public safety has the discretion to count multiple incidents as a single call and to exclude certain incidents in appropriate cases.

(b) Calls will not be counted for purposes of determining whether a provisional license is required where the victim and suspect are "family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, section 518B.01, subdivision 2(b) and where there is a report of "domestic abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, section 518B.01, subdivision 2(a).

(c) Calls will not be counted for purposes of determining whether a provisional license is required where calls are made as defined in Minnesota Statutes, section 504B.205.

(d) The city will provide by mail to each licensee a monthly report of calls described in subdivision 1 (a) above.

(e) A provisional licensee will be eligible to apply for a regular license after police and fire calls are reduced to the level that qualify for a regular license and have been maintained at that level for at least 12 consecutive months.

Subd. 2. Mitigation plan.

(a) The applicant for a provisional license must submit for council review a mitigation plan for the license period. The mitigation plan must describe steps proposed by the applicant to reduce the number of police and fire calls described in subdivision 1, paragraph (a), to a level that qualifies for a regular license. The mitigation plan may include, but is not limited to, such steps as: changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, and security personnel.

(b) The application with a proposed mitigation plan will be presented to the city council together with a recommendation by the director of public safety as to the disposition of the plan. After giving the applicant an opportunity to be heard and present evidence, the council will approve, disapprove, or approve with conditions the application and the mitigation plan. If the council disapproves an application and mitigation plan or approves it with conditions, it will state its reasons for so doing in writing.

(c) The licensee must comply with the mitigation plan as approved or modified by the council. No later than the tenth day after each calendar month, the licensee will mail or deliver to the Richfield director of public safety a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

Subd. 3. Manager certification.

(a) To qualify for a provisional license, the applicant must provide and maintain at least one resident manager or on-site manager who is trained under this subsection. To qualify for a provisional license, the applicant must also provide the name of at least one responsible party who will be available as a contact 24 hours a day.

(b) Persons may be trained as a resident manager or on-site manager who successfully completes the phase one portion the Crime Free Multi-Housing Program provided by a certified law enforcement agency.

(c) Provisional licenses may be granted to applicants who are not currently providing a certified resident or on-site manager, and licenses may continue in effect on the departure of a certified resident manager, on the condition that a resident manager or on-site manager register for and complete the training program within 90 days.

407.15. Conduct on licensed premises. Subdivision 1. Disorderly conduct.

(a) It is the responsibility of the licensee to see that persons occupying the licensed premises conduct themselves in such a manner as not to cause the premises to be disorderly or to take reasonable remedial action when disorderly conduct does occur. For purposes of this subsection, a premises is disorderly at which any of the following activities occur:

(1) Violation of laws relating to the possession of controlled substances as defined in Minnesota Statutes, section 152.01, subdivision 4.

(2) Violation of Minnesota Statutes, section 609.72 (disorderly conduct) and section 925.01, subdivision 3 of this code (public nuisances).

(3) The unlawful sale of intoxicating liquor or 3.2 percent malt liquor.

(4) Violation of Minnesota Statutes, sections 609.755 and 609.76 (laws relating to gambling).

(5) Violation of laws relating to prostitution as defined in Minnesota Statutes, section 609.321 and acts relating to prostitution.

(6) Unlawful use or possession of a firearm or weapon in violation of Minnesota Statutes, sections 609.66, 609.67, 624.713 or section 920 of this code.

(7) Violation of Minnesota Statutes, section 609.50 (interference with a peace officer).

(8) Violation of Minnesota Statutes, section 609.705 (unlawful assembly).

(9) Violation of Minnesota Statutes, section 609.71 (riot).

(10) Violation of Minnesota Statutes, section 609.713 (terroristic threat).

(11) Violation of Minnesota Statutes, section 609.715 (presence at unlawful assembly).

(12) Violation of the following sections of this code: 930.13 (motor vehicles), 930.15 (dogs), 930.19 (horns), 930.21 (radios) and 930.29 (noisy gatherings).

Subd. 2. Enforcement and administration.

(a) The director of public safety is responsible for enforcement and administration of this section. The director of public safety may delegate authority to take any action authorized under this section.

(b) Upon determination by the director of public safety that a licensed premises was used in a disorderly manner, as described in subdivision (1), the director of public safety will give notice to the licensee of the violation and direct the licensee to take steps to prevent further violations.

(c) If a second instance of disorderly use of the licensed premises occurs within three months of an incident for which a notice in paragraph (b) was given, the director of public safety will notify the licensee of the violation and will require the licensee to submit a written report of the actions taken, and proposed to be taken, by the licensee to prevent further disorderly use of the premises. This written report must be submitted to the director of public safety within five days of receipt of the notice of disorderly use of the premises and must detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding three months.

(d) If a third instance of disorderly use of the licensed premises occurs within three months after any two previous instances of disorderly use for which notices were given to the licensee pursuant to this subsection, the rental dwelling license for the premises may be denied, revoked, suspended or not renewed. The director of public safety will initiate an action to deny, revoke, suspend, or not renew a license under this section. The director of public safety will give written notice to the licensee of a hearing before the city council to consider such denial, revocation, suspension or nonrenewal. Such written notice will specify all violations of this section and state the date, time, place and purpose of the hearing. The hearing will be held no less than ten days and no more than 30 days after giving such notice. Following the hearing, the council may deny, revoke, suspend or decline to renew the license for all or any part or parts of the licensed premises or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this section.

(e) After a third instance of disorderly use of the licensed premises as defined in paragraph (d), the director of public safety may place the rental dwelling license into provisional license status under section 407.13. A licensee may request the director of public safety to reconsider the determination to place the license into provisional status if the licensee disputes the occurrence of a third instance of disorderly use of the licensed premises. A request for reconsideration must be submitted in writing to the director of public safety within ten days after the licensee has received notice that the license will be placed into provisional status.

(f) If a licensee brings an eviction action against a resident as a result of disorderly conduct as defined in this section, and the licensee does not prevail in the eviction action, the instance of disorderly conduct will be excluded by the director of public safety for enforcement purposes under this subdivision.

(g) For purposes of this subsection, second and third instances of disorderly use will be those which:

- (1) occur at the same rental unit; or
- (2) involve residents at the same rental unit; or
- (3) involve guests or invitees at the same rental unit; or
- (4) involve guests or invitees of the same resident; or
- (5) involve the same resident.