

AN ORDINANCE

AMENDING Chapter 8, “BUILDINGS AND OTHER CONSTRUCTION AND BUILDING SERVICES,” of the Moline Code of Ordinances regarding rental housing licensing requirements, including amendments to ARTICLE 7, DIVISION 2, “RENTAL HOUSING INSPECTION PROGRAM.”

WHEREAS, the City of Moline (“**City**”) is a home rule municipal corporation organized and operating in accordance with the Constitution and laws of the State of Illinois; and

WHEREAS, pursuant to its home rule power, the City may exercise any power and perform any function relating to its government and affairs; and

WHEREAS, the City continuously analyzes its rental housing policies in order to ensure that it is responsive to contemporaneous trends and affords clarity to property owners and occupants as well as its staff tasked with administering and enforcing its provisions; and

WHEREAS, the City has determined that amendments are necessary and desirable to allow for an efficient and safe rental properties within the City by:

- a) licensing rental units, buildings, and properties and requiring inspections to ensure compliance with minimum standards;
- b) revising the fees for rental property licenses; and
- c) updating the inspection process.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Moline, Rock Island County, Illinois as follows:

Section 1 – The foregoing recitals are hereby incorporated into this Ordinance as though fully set forth in this Section 1.

Section 2 – Section 8-7200 of the Moline Code of Ordinances, is hereby amended as follows (additions in **bold and underline** and deletions in **~~bold and strikethrough~~**):

“SEC. 8-7200. PURPOSES.

The purpose of this division is to promote and protect the health, safety and welfare of the City’s residents by providing for the ~~registration~~ **licensing** of rental units, buildings, and properties and the periodic inspection of such properties to ensure such properties meet the minimum standards established by the City’s housing, electric, mechanical, plumbing and other property maintenance-related codes.”

Section 3 – Section 8-7201 of the Moline Code of Ordinances, is hereby amended as follows (additions in **bold and underline** and deletions in **~~bold and strikethrough~~**):

“SEC. 8-7201. DEFINITIONS.

For the purpose of this division, the following terms, phrases, words and their derivations shall have the meaning ascribed thereto:

- (a) Building Division means the Building Division of the City of Moline.
- (b) **Building Official shall mean the duly appointed and acting building official for the City of Moline, or his or her designee.**
- ~~(b)~~ **(c)** City Administrator means the City Administrator for the City of Moline, or his or her designee.
- ~~(c)~~ **(d)** City Council means the City Council of the City of Moline.
- ~~(d)~~ **(e)** Code means any code or ordinance adopted, enacted and/or in effect, or any code or ordinance hereinafter adopted, in and for the City, concerning fitness of premises for habitation or the construction, maintenance, operation, occupancy, use or appearance of any premises or any dwelling unit, including, without limitation, Chapter 8 of this Code of Ordinances, existing Administrative Codes, Building Codes, Mechanical Codes, Property Maintenance Codes, Illinois State Plumbing Code, and Chapters 21 and 35 of this Code of Ordinances.

~~(e) Code Manager means the duly appointed and acting building official for the City of Moline, or his designee.~~

[...]

(h) Dwelling Unit means ~~one (1) or more rooms which are arranged, designed, or used as living quarters for a family or a community residence as a single housekeeping unit. A dwelling unit includes bathroom and kitchen facilities in addition to sleeping and living areas~~ **a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.**

[...]

(k) Local Agent means a person who ~~is a natural resident of Rock Island County, Illinois~~ **resides within a 30-mile radius of Moline City Hall** who is appointed by a property owner to accept service of notice on behalf of the property owner when said owner ~~is not a natural resident of Rock Island County, Illinois.~~ **does not reside within 30 miles of Moline City Hall.**

[...]

(m) Premises or Property means a lot, plot, ~~tract~~ or parcel of land, **easement or public way, including any structures thereon.**

[...]

(o) Residential Rental Property means **vacant or occupied** property containing any dwelling unit that is rented or available for rent **for 30 days or more at a time** to be used for residential purposes located in the City of Moline. Property is considered rental property if occupied by someone other than the legal owner of record or the owner's immediate family. For purposes of this division, immediate family shall mean spouse or direct lineal relative ~~which shall~~ **and** includes great grandparents, parents, children and grandchildren ~~but which~~ **but** excludes cousins, aunts, and uncles.

(p) Vacation Rental Unit means any dwelling unit that is used as a primary residence by owners or renters, or a portion of such unit, that is rented or offered for rent for transient occupancy by guests for less than 30 days at a time for which an owner or operator receives consideration from a person and that person has the right to use, occupy or possess the dwelling unit for said period. For purposes of the City Code, the terms "Vacation Rental Unit" and "Short Term Rental" shall have the same meaning and be used interchangeably.

q) Temporary License. A license issued subsequent to the submission of an application for a residential rental property but prior to an initial inspection."

Section 4 – Section 8-7202 of the Moline Code of Ordinances is hereby amended as follows (additions in **bold and underline** and deletions in ~~**bold and strikethrough**~~):

“SEC. 8-7202. ~~REGISTRATION~~ **LICENSING** OF RESIDENTIAL RENTAL PROPERTY.

(a) Program participation required. ~~Beginning six (6) months after the effective date of this ordinance,~~ No owner shall **operate, maintain, offer for rent, or** allow any person to occupy any residential rental ~~property unit~~ in the City **without a license issued by the City,** which may be obtained ~~unless the owner has registered with the City~~ by submitting a rental housing inspection program application **and fulfilling the requirements listed in Division 5 of this Article, "Crime Free Residential Rental Program."** The owner of two (2) or more buildings containing rental dwelling units located on contiguous lots or parcels ~~need~~ **must** obtain ~~only~~ one (1) license ~~covering all such for each~~ buildings. Once ~~registered~~ **licensed, a copy of the license certificate with the owner and agent's contact information must be posted in a conspicuous location on the premises.** ~~Every~~ rental property ~~will~~ **must** be inspected by the City to ensure that the property meets the minimum standards set pursuant to the Moline Code of Ordinances, **as provided in this division.**

(b) Program application and fee. Application for the Rental Housing Inspection Program must be made on a form provided by the City. The original application must be accompanied by an application fee **as provided in Sec.8-7207.:**

- ~~\$ 50.00 for properties with less than five (5) units;~~
- ~~\$ 75.00 for properties with five (5) to ten (10) units;~~
- ~~\$150.00 for properties with eleven (11) to fifty (50) units; or~~
- ~~\$200.00 for properties with fifty-one (51) units or more.~~

~~Willfully providing false information on the registration statement will result in assessment of a \$250.00 fee.~~ The owner shall supply the following information:

- (1) The owner's full legal name, residence address, and telephone number. If owner is a corporation, provide full legal name, address, and telephone number of registered agent;
- (2) The building manager/property agent's full legal name, residence address, and telephone number(s);
- (3) The name of any person ~~or persons~~ holding any other legal or equitable interest in the ownership of the property;
- (4) If the owner resides outside of Rock Island County, Illinois, the full name, residence address and telephone number of the owner's local agent for service of process, as required in this division;
- (5) The street address of the property to be licensed, type of building and number of dwelling units, and addresses for each unit; and
- (6) ~~The n~~Name of any buyer on contract for deed, and a A copy of the contract ~~shall be provided to the City.~~

The property owner shall verify by oath or affidavit the veracity of all information provided on the application. Pursuant to this division, if at any time after the submission of the application information provided on the application changes, the owner shall notify the City of such change within fifteen (15) days of the date of such change by way of a verified written affidavit. It shall be unlawful for an owner to provide false information, or otherwise make any misrepresentation, on a license application or subsequent document notifying the City of a change in information.

Willfully providing false information on the license application will result in penalties as prescribed under Sec. 8-7207.

(c) Exemptions. The following property is exempt from the ~~registration~~ license requirement of this division:

- (1) Property declared as condominium property under the Illinois Condominium Property Act, 765 ILCS 605/1 *et seq.*, and amendments thereto;
- (2) Property owned and managed by the Moline Housing Authority, a municipal corporation;

(3) Property containing facilities licensed under state or local law for operation as an assisted or shared living, nursing home or long-term care facility, a convalescent home, or any other facility providing residential care to persons with mental health and/or developmental disabilities; **and**

(4) Hotels and motels, **vacation rental units**, bed and breakfast establishments, community reception establishments;

~~—(5) Property containing only one (1) dwelling unit;~~

~~—(6) Property containing only two (2) dwelling units, one (1) of which is occupied by the owner of the property.~~

(d) Temporary License. Upon receipt of a completed application form and payment of the fee for a residential rental property license, the building official shall issue a temporary license and schedule an initial inspection of the property as soon as is practicable after submittal of the license application. A final license for the initial term will be approved if the residential rental property is in conformance with the City's ordinances and all other applicable provisions of this division and other applicable codes.

~~**(e)–(d) Term. Applications submitted in 2006 or 2007 for the 2007 calendar year shall be valid through December 31, 2008. Thereafter, registration Residential Rental Property licenses shall be valid for a term of one (1) year, commencing on January 1st of each calendar year. the date of submission.**~~

(f)–(e) Renewal. The **registration license must be renewed annually by submitting the renewal application and renewal fee to the City no less than fifteen (15) days prior to the license expiration date. Any fees due and owing must be paid in full at the time of the renewal.** The renewal fee shall be ~~based upon the~~ as **following provided in Sec. 8-7207.**

~~— \$ 50.00 for properties with less than five (5) units;~~

~~— \$ 75.00 for properties with five (5) to ten (10) units;~~

~~— \$150.00 for properties with eleven (11) to fifty (50) units; or~~

~~— \$200.00 for properties with fifty one (51) units or more.~~

~~Annual renewal notices will be mailed to the owner at his or her address provided on the application. Any fees due and owing shall be added to the yearly registration fee and must be paid in full at the time of the renewal.~~

When rental license fees are not paid on or before the due date, a penalty will be assessed as prescribed under Sec. 8-7207. Failure to receive an annual renewal notice does not relieve the owner of possible penalties.

(f) Transferability of Application. Property ~~registration- licenses~~ pursuant to this division **is are** nontransferable. If the property ownership changes during a **registration license** term, the owner shall notify the City in writing of the property transfer and provide the City with the name and address of the transferee. The new

property owner, shall, within fifteen (15) days of the transfer, submit an application to the City along with the applicable application fee required herein.

[. . .]”

Section 5 – Section 8-7203 of the Moline Code of Ordinances is hereby amended as follows (additions in **bold and underline** and deletions in ~~**bold and strikethrough**~~):

“SEC. 8-7203. LOCAL AGENT REQUIRED.

Whenever the owner of property required to be licensed under this division is not a natural person residing within **a 30-mile radius of Moline’s City Hall, Rock Island County, Illinois**, the owner shall appoint a natural person who resides within a 30-mile radius of Moline City Hall, ~~**Rock Island County, Illinois**~~, or shall appoint the Moline city clerk to serve as his or her local agent for the service of such notices that may be required under this division or other provisions of this Code of Ordinances. Should the owner appoint a person other than the city clerk to act as his or her local agent, notices shall be served upon the local agent personally or by certified or regular mail and such service shall be sufficient to satisfy any requirement of notice to the owner. Should the owner appoint the city clerk to act as his or her local agent, notices shall be personally served upon the city clerk at said clerk’s office in city hall in Moline, and the city clerk shall send the notices to the owner, via certified mail, return receipt requested, at his or her address provided on the licensing application. Such service by the city clerk shall be sufficient to satisfy any requirement of notice to the owner. If the owner designates a new local agent, the owner shall notify the City’s rental housing inspections office no later than fifteen (15) days after the change.”

Section 6 – Section 8-7204 of the Moline Code of Ordinances is hereby amended as follows (additions in **bold and underline** and deletions in ~~**bold and strikethrough**~~):

“SEC. 8-7204. SAFETY INSPECTION OF RESIDENTIAL RENTAL BUILDINGS AND PROPERTY.

(a) Safety inspection. All rental property subject to this division shall be subject to a periodic safety inspection by the City as set forth herein and to the extent determined by the **building official**. ~~city administrator or his designee.~~

(1) All rental property covered by this ordinance shall be **subject to inspection in accordance with this section**. ~~inspected~~. After inspection, the property will be classified as follows:

a. CLASS A – The property is in excellent condition and has minor or no violations of applicable City codes requiring re-inspection. The property shall be re-inspected in four (4) years **or at any time**

there is probable cause a violation exists. If violations are found, it is the owner's responsibility to notify the City when repairs have been completed and request a re-inspection to verify compliance. The City shall presume that repairs have not been completed if an owner does not notify the City, and the City shall issue a notice to appear for a hearing either in the Municipal Code Enforcement System or circuit court.

b. CLASS B – The property is in good condition and has minor violations of applicable City codes requiring re-inspection and the violations do not pose an immediate threat of danger to the life, health and safety of the occupants of the property. The property shall be re-inspected in two (2) years **or at any time there is probable cause a violation exists.** It is the owner's responsibility to notify the City when repairs have been completed and request a re-inspection to verify compliance. The City shall presume that repairs have not been completed if an owner does not notify the City, and the City shall issue a notice to appear for a hearing either in the Municipal Code Enforcement System or circuit court.

c. CLASS C – The property is in sound condition but has violations of applicable City codes requiring re-inspection but that do not pose an immediate threat of danger to the life, health or safety of the occupants of the building. The property shall be re-inspected in one (1) year **or at any time there is probable cause a violation exists.** It is the owner's responsibility to notify the City when repairs have been completed and request a re-inspection to verify compliance. The City shall presume that repairs have not been completed if an owner does not notify the City, and the City shall issue a notice to appear for a hearing either in the Municipal Code Enforcement System or circuit court.

d. CLASS N – New construction. First inspection four (4) years from date of the occupancy permit **or at any time there is probable cause a violation exists.**

(b) Owner or local agent to provide access to property.

(1) If the owner appoints a person other than the city clerk to act as his or her local agent, the owner or the owner's local agent shall, upon reasonable notice, provide the City access to inspection areas and may be present during any such safety inspection. If the owner or owner's local agent fails to provide access to all areas subject to inspection herein on a date and time agreed to between the City and owner or owner's local agent, the City may impose an additional fee **as prescribed under Sec. 8-7207 in the amount of fifty dollars (\$50.00).** If the owner or owner's local agent refuses access

to conduct a safety inspection, the City may apply to a court of competent jurisdiction for an administrative search warrant to search the premises as provided by this code and the common law of the State of Illinois.

(2) If the owner appoints the city clerk to act as his or her local agent, upon reasonable notice to the owner, it shall be the owner's exclusive responsibility to provide the City access to inspection areas or to arrange for such access. The owner **or owner's agent** may be present during any such safety inspection. If the owner fails to provide access to all areas subject to inspection herein on a date and time agreed to between the City and owner, the City may impose an additional fee **as prescribed under Sec. 8-7207 in the amount of fifty dollars (\$50.00)**. If the owner refuses access to conduct a safety inspection, the City may apply to a court of competent jurisdiction for an administrative search warrant to search the premises as provided by this Code and the common law of the State of Illinois.

(3) Owners/Agents shall contact the City at least seven (7) business days prior to the scheduled inspection if they are unable to obtain their tenants' consent to the inspection, if a planned inspection includes the interior space under that tenant's exclusive possession. Failure to do so will be considered a missed inspection and subject to penalties **as prescribed under Sec.8-7207**.

(4) Probable cause to inspect dwelling units. If the City encounters any condition, fact, evidence or other indicia establishing probable cause that a code violation has occurred or exists upon the premises in a dwelling unit or property, the City may apply to a court of competent jurisdiction for an administrative search warrant to inspect the premises as provided by this Code and the common law of the State of Illinois.

(c) Tenant, occupant or other person in control of residential rental property or dwelling unit to provide access to property. If any tenant, occupant, or other person in control of a residential rental property or a dwelling unit contained therein fails or refused to consent to free access and entry to the property or dwelling unit under his/her control for any inspection pursuant to this division, the building official may apply the Circuit Court for an administrative warrant or other appropriate court order, authorizing such inspections.

~~(e)~~ **(d)** Property failing a safety inspection. Any and all code violations identified during a City safety inspection will be brought to the owner's attention by means of serving a copy of a safety inspection checklist to the owner or the owner's local agent, and the owner will be given a reasonable time to correct such code violations. If the property fails to pass re-inspection, and more than one (1) re-inspection is required, the owner shall be subject to fees and penalties as prescribed under Sec. 8-7207 ~~pay the City a flat re-inspection fee of one hundred dollars (\$100.00)~~

~~for one (1) or more minor violations or two hundred dollars (\$200.00) for one (1) or more major violations.~~ If the code violations remain uncorrected, the code violations will be referred to the building division ~~or community development division, as the case may be,~~ which ~~division~~ will pursue compliance with applicable code provisions. Upon receipt of a notice and order to correct any and all code violations, the owner may appeal the notice. Any person having record title or legal interest in the building may appeal from the notice and order or any action of the building official code manager, provided the appeal is made in writing as provided in the current housing code, and filed with the ~~code manager~~ building official within fourteen (14) days from the date of service of such notice and order. ~~Failure to appeal will constitute a waiver of all rights including without limitation the right to an administrative hearing and determination of the matter.~~

~~(d)~~ (e) Property passing a safety inspection. If, following any City initial or follow up safety inspection, a property is found to have passed such inspection with an approval of Class A, Class B or Class C, and the appropriate registration licensing and inspection fees have been paid to the City, then this classification rating will remain valid until such time as any subsequent City inspection determines otherwise. Property owners are still responsible for correcting any Code violations that are not part of the safety inspection and any Code violations that occur on a property during the interim period between inspections and will be subject to penalties as provided by City codes for failure to do so. The City may randomly or upon probable cause conduct a safety inspection of any residential rental property during the interim period in order to determine if the property continues to meet City codes. Should any property fail such a City inspection, then the classification rating may be revoked or reassigned. In the interim, the City shall proceed according to this division and nothing herein shall prevent or otherwise limit the City from enforcing this division or any other City code. A City safety inspection does not represent, ensure, warrant, or guarantee to any owner, purchaser, lessor, agent, attorney, lender, title, or property insurer or to any of their respective heirs, successors, or assigns, the condition of all of the code violations existing at the property at the time of the safety inspection. The City's failure to list a code violation on an inspection report is not a warranty or guarantee that the violation does not or did not exist on the property.

~~(e)~~ (f) Inspection Fees. After the initial inspection has been completed, the property owner will be notified of any code violations. If a compliance inspection is not needed, a classification rating will be assigned. If a compliance inspection is needed, the compliance inspection will be scheduled. There is not a fee for the first compliance inspection. However, if additional compliance inspections are needed, fees will be charged as prescribed in Sec. 8-7207 they will be billed at one hundred dollars (\$100.00) for one (1) or more minor violations or two hundred dollars (\$200.00) for one (1) or more major violations. A missed inspection fee ~~of fifty dollars (\$50.00)~~ will also be assessed as prescribed under Sec. 8-7207.

~~—(f) Probable cause to inspect dwelling units. If the City encounters any condition, fact, evidence or other indicia establishing probable cause that a code violation has occurred or exists upon the premises in a dwelling unit or in any location, the City may apply to a court of competent jurisdiction for an administrative search warrant to inspect the premises as provided by this Code and the common law of the State of Illinois.~~

~~—(g) Failure to Consent to Inspection. If, upon being given reasonable notice, the occupant or tenant of a rental dwelling unit refuses to consent to an inspection of the premises under that person's exclusive possession, the City may order the unit to be vacated for failing to comply with this division. Said unit may not be further leased or occupied until the City has inspected the unit.”~~

Section 7 – Section 8-7206 of the Moline Code of Ordinances, is hereby amended as follows (additions in **bold and underlined** and deletions in **~~bold and strikethrough~~**):

“SEC. 8-7206. AUTHORITY TO ENFORCE DIVISION.

The City Administrator shall have the authority to enforce the provisions of this division, and shall assign responsibility for administration and enforcement of this division to such department or departments of the City as may be appropriate, including, without limitation, the Law Department, the Building Division, the Community **& Economic** Development Division, and the Fire Department. The City Administrator is authorized to recommend reasonable and necessary policies, rules and regulations to carry out the provisions of this division, which shall be approved by resolution of the City Council. This division is not intended to, nor shall its effect be, to limit any other enforcement remedies which may be available to the City under any other code, law, rule or regulation.”

Section 8 – Section 8-7207 is hereby amended as follows (additions in **bold and underline** and deletions in **~~bold and strikethrough~~**):

“SEC.8-7207. **FEES AND** PENALTIES.

In addition to any other remedies provided for herein, any person who commits an offense, violates, neglects, refuses to comply with, or assists or participates in any way in the violation of any of the provisions or the requirements of this division shall be fined not less than one hundred dollars (\$100.00) and not more than seven hundred fifty dollars (\$750.00) for each such violation. Each day such a violation continues shall constitute a separate offense. **Fees applicable to this division are as follows:**

<u>FEES</u>	<u>COST</u>
<u>APPLICATION FEE FOR FIRST DWELLING UNIT</u>	<u>\$100.00</u>
<u>APPLICATION FEE PER ADDITIONAL DWELLING UNIT</u>	<u>\$15.00</u>
<u>LATE APPLICATION</u>	<u>\$50.00</u>
<u>MISSED INSPECTION</u>	<u>\$50.00</u>
<u>RE-INSPECTION</u>	
<u>MINOR INFRACTION</u>	<u>\$100.00</u>
<u>MAJOR INFRACTION</u>	<u>\$200.00</u>
<u>RE-INSPECTION</u>	<u>\$50.00</u>
<u>MISSED INSPECTION</u>	

Section 9 – Section 8-7208 is hereby repealed and replaced with the following (additions in **bold and underline** and deletions in **~~bold and strikethrough~~**):

“SEC. 8-7208. LICENSE SUSPENSION AND REVOCATION.

- (a) **A license may be suspended when violations of applicable codes have been identified by the building official and the property owner has been properly notified of the violations and given a reasonable period of time in which to correct violations, but failed to do so. A license may also be suspended when any information provided in the license application is determined by the building official to be false.**
- (b) **When a license is suspended, the building official shall send notice as provided by Section 107 of the Moline Property Maintenance Code to the property owner or the owner’s local agent.**
- (c) **The city finds that notice sent by certified mail to the owner or the local agent’s last address provided on the most recent license application is reasonably calculated to apprise the owner of the license suspension.**
- (d) **The owner is subject to all fines, fees, and penalties while the license is suspended. In addition, while the license is suspended, the owner is prohibited from renting dwelling units subject to the license until the license is reinstated.**
- (e) **A property owner that has a suspended may request a compliance inspection prior to revocation of the license. If, upon completion of the compliance inspection, the building official finds that the residential rental property in connection with the suspended license is now in compliance with this division, the building official may reinstate the license. The request for compliance inspection shall not stay the**

revocation of the license unless the property owner shows good cause and the building official grants a stay.

- (f) Any property owner than has a suspended license is entitled to appeal the suspension by filing a petition as set forth in Section 111 of the Moline Property Maintenance Code, which shall operate as a stay of the revocation until such time as the property maintenance appeals board renders a decision on the appeal.**
- (g) A license will be revoked when a petition for appeal has not been filed within 14 days following the date of issuance of an order of suspension, or when the suspension is sustained after appeal. A license will also be revoked when in the opinion of the building official emergency conditions exist in a residential rental property that require the immediate vacating of a structure as specified in the Moline Property Maintenance Code.**
- (h) Whenever a license is revoked, the building official shall send notice as provided by Section 107 of the Moline Property Maintenance Code to the property owner or the owner's local agent.**
- (i) The owner is subject to all fines, fees, and penalties after the license is revoked. In addition, the owner is prohibited from renting the dwelling units that were subject to the license.**
- (i) A revoked license shall not be reinstated; however, the property owner may obtain a new license after all violations have been corrected and by following the procedures for obtaining a new license as set forth in this division, including the payment of all applicable fees."**

Section 11 – That if any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 12 – That all prior ordinances and resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

Section 13 – That this ordinance shall be in full force and effect from and after passage, approval, and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____

City Clerk