

## CHAPTER 96: FAIR HOUSING; RENTAL HOUSING

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### FAIR HOUSING

#### § 96.01 DECLARATION OF POLICY.

Discrimination with regard to housing on the basis of race, sex, creed, religion, marital status, HIV positive status, and disability adversely affects the health, welfare, peace and safety of the community. Persons subject to the discrimination suffer depressed living conditions and create conditions which endanger the public peace and order. The public policy of the city is declared to be to foster equal opportunity for all to obtain decent, safe and sanitary housing without regard to their race, creed, color, national origin, marital status, disability status or sex and strictly in accord with their individual merits

as human beings. It is also the policy of the city to protect all persons from all unfounded charges of discrimination.

(Prior Code, § 7.1-1) (Ord. 577, passed - -)

## **§ 96.02 PROHIBITED ACTS; EXCEPTIONS.**

(A) It is an unlawful discriminatory practice and unlawful:

(1) For any person to discriminate on grounds of race, creed, religion, color, sex, marital status, status with regard to public assistance, national origin, age, HIV positive status, or disability in the sale, lease or rental of any housing unit;

(2) For any broker, salesperson or other person acting in behalf of another to so discriminate in the sale, lease or rental of any housing unit belonging to such other person;

(3) For any person engaged in the business of financing the purchase, rehabilitation, remodeling or repair of housing units or in the business of selling insurance with respect to housing units to refuse to provide financing or insurance, or to discriminate with regard to the terms or conditions thereof, by reason of the race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age, HIV positive status, or disability of the applicant or because of the location of the units in areas of the city occupied by persons of a particular race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age, HIV positive status, or disability; or to discriminate by treating differently any person who desires to purchase, lease, acquire, construct, rehabilitate, repair or maintain real property in a specific urban area because of social, economic or environmental conditions of the area in granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges, of any financial assistance or in the extension of services in connection therewith. The bona fide programs of federal, state or local governmental units or agencies, however structured or authorized to upgrade or improve in any manner a specific urban area, shall not be deemed to be a violation of this section;

(4) For any person, having sold, leased or rented a housing unit to any person, to discriminate with respect to facilities, services or privileges of occupancy by reason of race, color, sex, creed, religion, national origin, age or disability, marital status, HIV positive status, or status with regard to public assistance;

(5) For any person to make or publish any statement evidencing an intent to discriminate, on grounds of race, creed, religion, color, sex, national origin or ancestry, marital status, status with regard to public assistance, age, HIV positive status, or disability, in the sale, lease or rental of a housing unit;

(6) For any person to make any inquiry regarding race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age, HIV positive status, or disability, or to keep any record or use any form of application designed to elicit the information, in connection with the sale, lease, rental or financing of a housing unit; and

(7) For any person, for the purpose of inducing a real estate transaction from which he or she may benefit financially:

(a) To represent that a change has occurred or will or may occur in the composition of the block, neighborhood or area in which the property is located, in respect of the race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age, HIV positive status, or disability of those living there; or

(b) To represent that this change will or may result in the lowering of property values, an increase in crime or antisocial behavior, or a decline in the quality of schools in the block, neighborhood or area concerned.

(B) Nothing in this section shall be construed to require any person selling, renting or leasing property to modify the property in any way or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this section be construed to relieve any person, regardless of any disability, in a written lease, rental agreement or contract or purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement or contract.

(C) The provisions of this section shall not apply to:

(1) The rental of a portion of a dwelling containing accommodations for two families, one of which is occupied by the owner; or

(2) The rental, by an owner or occupier of a one-family accommodation in which he or she resides, of a room in the accommodation to another person, if the discrimination is by sex, marital status, HIV positive status, status with regard to public assistance or disability.

(D) Nothing in this section shall be construed to require any person selling, renting or leasing property to modify the property in any way or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this section be construed to relieve any person of any obligations generally imposed on all persons, regardless of any disability, in a written lease, rental agreement or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement or contract.

(Prior Code, § 7.1-2) (Ord. 577, passed - -)

### **§ 96.03 ENFORCEMENT.**

(A) The city is designated as the enforcement agency for this chapter and shall have the power to receive, hear and determine complaints as provided herein.

(B) The city shall promptly investigate, upon complaint or upon its own motion, any violations of this chapter.

(C) If, after investigation, it shall have reason to believe a violation has occurred, it may refer the matter to the City Attorney for criminal prosecution or enter into a settlement agreement which, when approved by the city, shall have the same force as a city order.

(Prior Code, § 7.1-3) (Ord. 577, passed - -)

### **§ 96.04 STATUTE OF LIMITATIONS.**

No action may be brought for civil enforcement or criminal prosecution, unless the charge of alleged discriminatory practice was filed with the city within 180 days from the occurrence of the practice.

(Prior Code, § 7.1-4) (Ord. 577, passed - -)

## **RENTAL HOUSING**

### **§ 96.20 REGISTRATION CERTIFICATE REQUIRED.**

(A) No owner shall allow another person to occupy, nor shall any person let to another for occupancy, any dwelling, or any apartment or rooming unit in any dwelling, without first obtaining a registration certificate as provided in this chapter, or at such time that the registration certificate, or the right to receive a registration certificate, is suspended or revoked. Any registration certificate obtained pursuant to this section shall be issued in the name of the owner. In the case of a multiple-unit dwelling, a registration certificate issued pursuant to this section includes and applies to both the entire dwelling as well as each individual rental unit within the dwelling. Any suspension or revocation

of the registration certificate or the right to receive a registration certificate may involve the entire dwelling or any individual unit or units within the dwelling.

(B) The occupancy or rental of any dwelling, or any apartment, or rooming unit in any dwelling for which a registration certificate is required, need not be interrupted or suspended for lack of a registration certificate if the same is due to the inability of the City Administrator to process the application in a timely manner.

(Prior Code, § 28-1) (Ord. 800, passed - -)

### **§ 96.21 APPLICATION; FORMS.**

(A) An application for a registration certification shall be filed by the owner with the City Administrator. An application for any dwelling to be converted to a use which would require a registration certificate shall be made and filed with the Director of Planning and Zoning at least 30 days prior to the conversion.

(Prior Code, § 28-2)

(B) (1) Forms of applications for registration certificates shall be supplied by the City Administrator and will be available at City Hall.

(2) Each application for registration certificate shall contain the following information:

(a) Name, residence, address, telephone number and date of birth of the owner of the dwelling. If the owner is a partnership, the name of the partnership, and the name, residence address, telephone number and date of birth of the managing partner. If the owner is a corporation, the name and address of the corporation, and the name, address, telephone number and date of birth of the chief operating officer. If the dwelling is being sold on a contract for deed, the name and address of the contract vendee. Where the word **OWNER** is used in any part of the city housing code, it shall include all persons as outlined in this section;

(b) Name, residence address, telephone number and date of birth of any agent appointed by the owner to accept service of process and to receive or give receipt for notices;

(c) Name, residence address, telephone number and date of birth of any operator or agent actively involved in maintenance or management of the dwelling;

(d) Legal street address of dwelling;

(e) Complete details of the number and kind of units offered for rent, classified as to the type of unit on the application and the facilities incorporated in the rental units; and

(f) Any person making application for a rental registration certificate must provide proof of identification by the user of a driver's license, state issued identification card, military identification card or other identification as is acceptable to the City Administrator. The identification provided must set forth the full name and date of birth of the person making the application.

(Prior Code, § 28-3)

(Ord. 800, passed - -)

### **§ 96.22 COMPLIANCE WITH ZONING REGULATIONS.**

Every application for registration certificate shall be accompanied by a certificate issued by the City Zoning Administrator indicating that the proposed use of the dwelling is in compliance with zoning requirements.

(Prior Code, § 28-4) (Ord. 800, passed - -)

### **§ 96.23 ISSUANCE OF REGISTRATION CERTIFICATE.**

Whenever the investigation of an application indicated that the dwellings, apartments or rooming units offered for rent comply with all provisions of this code, including any provisions of the zoning ordinances, the City Administrator shall issue a registration certificate.

(Prior Code, § 28-5) (Ord. 800, passed - -)

### **§ 96.24 NOTICE OF VIOLATION.**

Whenever the investigation of an application for registration certificate indicated that the dwelling, apartment or rooming unit offered for rent does not comply with the provisions of this code, the City Administrator shall serve a notice to the applicant at his or her address indicated on the application for registration certificate.

(Prior Code, § 28-6) (Ord. 800, passed - -)

### **§ 96.25 REJECTION OF APPLICATION.**

Whenever the investigation of an application for registration certificate indicated that the dwelling, apartment or rooming unit does not comply with the provisions of this code including any provisions of the zoning ordinances, the City Administrator shall return the application to the applicant stating the reasons for the rejection of the application.

(Prior Code, § 28-7) (Ord. 800, passed - -)

### **§ 96.26 FAILURE TO REGISTER.**

Every person required to register a dwelling, apartment or rooming unit offered for rent under the provisions of this subchapter and who fails to do so, or who allows the property to be occupied when the registration certificate or right to receive the registration certificate is revoked or suspended, shall be guilty of a violation of this code. Each day that a property is rented out without a valid rental registration certificate on file for that property is a separate violation.

(Prior Code, § 28-9) (Ord. 800, passed - -)

### **§ 96.27 CERTIFICATE OF RENEWAL AND NONTRANSFERABILITY.**

(A) Registration certificates will initially be required on or before 7-1-2004. All registration certificates shall expire on June 30 of the year following its issuance and must be renewed annually. All information required by § 96.21(B) of this chapter must be submitted at the time of renewal.

(B) Every person who transfers title to property registered under this chapter shall provide the City Administrator with the name, residence address, telephone number and date of the transfer of title to the new owner within ten days of the date of the transfer. Within 30 days of the date of the transfer, the new owner shall apply for a new registration certificate. In the case of an option contract where the holder of the option is collecting rents and/or is paying on the mortgage to the property while the option remains unexercised, the holder of the option shall be deemed to be the owner of the property for purposes of this section and shall be required to apply for a rental registration certificate in his or her name. The date the option contract is created shall be deemed to be the date the holder of the option becomes the "owner" for purposes of this section.

(C) Registration certificates may not be transferred or assigned.

(Prior Code, § 28-10) (Ord. 800, passed - -)

### **§ 96.28 SUSPENSION AND REVOCATION OF REGISTRATION CERTIFICATE.**

(A) Any registration certificate issued by the city pursuant to the provisions of this subchapter may be suspended or revoked upon a finding that the certificate holder, during the term of the certificate, failed to comply with any provision of this subchapter.

(B) A person's right to apply and receive a registration certificate may be suspended or revoked upon a finding that the applicant has let to another for occupancy any dwelling, or any apartment or rooming unit in any dwelling, without first obtaining a registration certificate as required by this subchapter and, during such time, the premises were involved in a disorderly use, as defined below.

(C) Whenever it appears to the Council that adequate grounds may exist for the suspension or revocation of a registration certificate, or the right to receive a registration certificate, the Council shall by resolution specify the nature of the alleged grounds and order that a hearing on the matter be held as provided below.

(D) No suspension or revocation shall be effective until the license or permit holder has been afforded an opportunity for a hearing under §§ 14.57 to 14.70 of the State Administrative Procedure Act.

(E) Upon a finding that the registration certificate holder or applicant has violated this subchapter, the Council may invoke any of the sanctions provided in this subchapter.

(Prior Code, § 28-11) (Ord. 800, passed - -)

#### **§ 96.29 FEES.**

(A) In addition to other fees as may be imposed by this code, a nonrefundable fee in an amount to be determined by City Council for each dwelling building containing less than four units, a fee in an amount to be determined by City Council for each dwelling building containing four to eight units, a fee in an amount to be determined by City Council for each dwelling building containing nine or more units, plus a fee in an amount to be determined by City Council for each apartment unit and each of the first four rooming units not occupied by the owner shall be paid when an application for a registration certificate or renewal is filed with the City Administrator as required by this subchapter. If an application for renewal is not made prior to the expiration of the certificate, an additional fee in an amount to be determined by City Council per day shall be charged for each day thereafter up to 20 days or until the application is filed, whichever occurs first. The fees set forth above may be adjusted from time to time by resolution of the City Council.

(B) The per-unit fee shall be waived for any premises actively enrolled/currently certified in the crime free multi-housing program conducted by the Police Department. At the time of registration, proof of enrollment is required in the form of a current crime free multi-housing gold certificate issued by the Police Department or a letter issued and signed by the officer assigned to the Police Department Crime Prevention Unit, indicating the premises' status in the program.

(Prior Code, § 28-12) (Ord. 800, passed - -)

#### **§ 96.30 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**APPROPRIATE ACTION.** The action which a reasonable rental property owner would take based upon the facts and circumstances of each case so as to prevent a reoccurrence of the disorderly use.

**CRIME FREE MULTI-HOUSING** or **CRIME FREE MULTI-HOUSING PROGRAM.** The program offered by the Police Department and conducted according to nationally recognized standards.

**DISORDERLY** or **DISORDERLY USE.** Conduct occurring on the "licensed premises" or "premises" which violates a provision of § 96.31(B).

**LICENSE.** A registration certificate or the right to receive a registration certificate as required by this subchapter.

**LICENSED PREMISES** or **PREMISES.** The property owned, operated or managed by a rental property owner and shall refer to an individual unit within a multi-unit complex when applicable.

**RENTAL PROPERTY OWNER.** One who holds the license or who is otherwise obligated to obtain and maintain the license as required by this subchapter.

(Prior Code, § 28-13) (Ord. 800, passed - -)

### **§ 96.31 CONDUCT ON LICENSED PREMISES.**

(A) Any rental property owner shall be responsible to take appropriate action against persons occupying specific units in the licensed premises or premises who conduct themselves in a manner as to cause the premises to be disorderly in violation of the statutes or ordinances listed in division (B) below. For purposes of this subchapter, the term **PERSONS OCCUPYING THE PREMISES** shall include residential tenants as defined by M.S. § 504B.001, as may be amended from time to time, and those persons on the licensed premises whose presence the tenant has invited or to which the tenant has acquiesced. Violations of this section apply to individual units within buildings or complexes containing multiple units when the conduct occurs within a unit. Violations of this section by persons occupying specific units that occur within a common area of the licensed premises shall apply both to the individual and the common area of the licensed premises.

(B) The following ordinances and statutes are applicable to this section:

(1) M.S. §§ 609.321 through 609.3241, as may be amended from time to time, prohibiting prostitution;

(2) M.S. § 609.33, as may be amended from time to time, which prohibits participation in a disorderly house;

(3) M.S. §§ 617.23 through 627.299, as may be amended from time to time, prohibiting obscenity;

(4) Sections 95.20 through 95.24 of this code of ordinances prohibiting loud parties or gatherings or other unnecessary loud noises;

(5) M.S. §§ 609.75 through 609.76, as may be amended from time to time, which prohibit gambling;

(6) M.S. §§ 152.01 through 152.025 and § 152.027, Subds. 1 and 2, as may be amended from time to time, which prohibit the unlawful sale or possession of controlled substances;

(7) M.S. Ch. 340A, as may be amended from time to time, which prohibits the unlawful sale, use or possession of alcohol beverages;

(8) M.S. §§ 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, as may be amended from time to time, which prohibit the unlawful possession, transportation, sale, or use of weapon;

(9) M.S. § 609.72, as may be amended from time to time, which prohibits disorderly conduct; or

(10) M.S. §§ 609.221, 609.222, 609.223, 609.2231 and 609.224, as may be amended from time to time, which prohibit assaults, except that domestic assaults, as the same are defined by state law, are not included herein.

(C) The police or the City Administrator shall be charged with the responsibility of enforcing division (B) above.

(D) Upon determination by the police or City Administrator that the licensed premises were involved in a disorderly use, the police shall notify the license holder by certified mail of the violation and direct the license holder to take appropriate action to prevent further violations. Notice shall be effective if mailed to the license holder at that person's last known address. This and subsequent notices are collectively referred to as disorderly use notices.

(E) If another instance of disorderly use on the premises occurs within 12 months of an incident for which a prior disorderly use notice was given, the license holder shall be notified of the instance of disorderly use and shall also be required to submit a written report of appropriate actions taken by the rental property owner to prevent further disorderly use of the premises. This written report shall be submitted to the police in writing within five days of the notice of disorderly use of the premises within the preceding 12 months. Failure to submit the written report as required herein shall be a basis for the imposition of a fine and the revocation or suspension of the license or right to receive the license for the specific unit or units located on the licensed premises as otherwise provided for in this subchapter.

(F) If another instance of disorderly use of the premises occurs within 12 months of two or more prior disorderly use notices, the license or right to obtain a license may be revoked or suspended for a specific unit or units located on the licensed premises. If the notice of violation has been issued with respect to a common area of a building or complex of buildings, then the license or right to obtain such license as to all units in the building or complex may be suspended or revoked.

(G) If another instance of disorderly use of the premises occurs within 12 months of the expiration of a prior suspension issued pursuant to the provision of this subchapter, the license or right to obtain a license may be revoked or suspended for the specific unit or units located on the licensed premises. If the notice of violation has been issued with respect to a common area of a building or complex of buildings then the license or right to obtain a license as to all units in the building or complex may be suspended or revoked.

(H) No suspension or revocation or other sanctions shall be imposed where one or more of the three required disorderly use notices were mailed or delivered to the landlord after the rental property owner has filed an unlawful detainer action with the district court for the particular unit or units identified in the disorderly use notice. Calls to police made by rental property owners shall not be considered incidents of disorderly use in the implementation of divisions (D) through (G) above. The initiation of an unlawful detainer action shall not be a bar to sanctions, however, unless the action is diligently pursued by the rental property owner. Notice of and a copy of the unlawful detainer action shall be delivered to the Police Department. A determination that the licensed premises have been involved in a disorderly use as described in division (B) above shall be made upon a preponderance of the evidence. It shall not be necessary that criminal charges be brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of a criminal charge operate as a bar to adverse license action under this section.

(I) No suspension or revocation or other sanctions shall be imposed where one or more of the three required disorderly use notices were mailed or delivered to the landlord after the rental property owner has enrolled the premises in the crime free multi-housing program and is actively working with the Police Department to resolve the issues indicated in the disorderly use notices. This division (I) will not apply to any premises that was enrolled in the program, but failed to complete and maintain certification in all three phases within the time frame agreed upon by the property owner and the Police Department Crime Prevention Unit.

(J) This section applies to all leases, whether written or oral, and a landlord may consider any tenant's conduct listed in division (B) above to be both a material breach of the lease and grounds for termination in any unlawful detainer action. Additionally, all written leases executed after 10-1-2003, shall contain a clause providing that conduct that violates division (B) above constitutes both a material breach of the lease and grounds for termination of the lease.



(K) This subchapter is not intended to supersede criminal sanctions that may be applied to the individual who violates the statutes and ordinances listed in division (B) above.

(Prior Code, § 28-14) (Ord. 800, passed - -)

### **§ 96.32 LICENSE SUSPENSION AND REVOCATION.**

(A) Upon a determination that a license or right to obtain the license may be suspended or revoked, or that a fine or other sanctions may be imposed, a public hearing shall be held before a body to be known as the Rental Housing Complaint Board. The Rental Housing Complaint Board shall consist of one City Council member, one member of the Police Department and one member who shall be a rental property owner. The members of the Rental Housing Complaint Board shall be appointed annually by the City Council. All parties shall be afforded an opportunity to appear at the hearing after receiving reasonable notice. The notice shall state the time, place and issues involved. At this hearing, rental property owners may present evidence of mitigating circumstances showing the absence of any need for a public hearing before the Council to consider the revocation or suspension of the license or right to receive a license, or the imposition of fines or other sanctions. The Board shall, in good faith, hear and consider this evidence in making a determination regarding whether or not to hold a public hearing. At the conclusion of the hearing, the Board shall make a recommendation to the Council regarding whether a need exists for a public hearing. The Board's recommendation must be submitted to the City Council for consideration. If the Council determines to call for a public hearing to consider the issue of suspension or revocation, or the imposition of a fine, the Council shall follow the procedures described in division (B) below.

(B) No suspension or revocation shall be effective until the rental property owner has been afforded an opportunity for a hearing under §§ 14.57 to 14.70 of the State Administrative Procedure Act. Should the City Council hold a public hearing pursuant to the recommendation of the Rental Housing Complaint Board, all parties shall be afforded an opportunity to appear at the hearing after receiving reasonable notice. The notice shall state the time, place and issues involved. At this hearing, license holders may present evidence of mitigating circumstances that would allow a rental property owner to retain his or her license or the right to obtain a license. The City Council shall, in good faith, hear and consider this evidence in making a determination to revoke or suspend the license or right to receive a license, impose civil penalties or impose other reasonable conditions based upon violations of this subchapter. The City Council may postpone or discontinue the proceedings if it appears that the licensee has taken appropriate measures that will prevent further instances of disorderly use.

(C) The City Council reserves the right to impose any of the following sanctions for violations of § 96.31(B):

- (1) Suspend the license or right to receive a license for up to 60 days;
- (2) Revoke the license or right to receive a license and establish the time period after which an application for a new certificate for the premises may be made;
- (3) Impose a civil fine not to exceed an amount equal to one-month rent for each violation found as a result of the hearings; and
- (4) Impose other reasonable conditions intended to limit future incidents of disorderly use (including but not limited to requiring the property owner(s) and manager(s) to attend at least one phase 1 session for crime free multi-housing).

(D) Upon expiration of the suspension or revocation period, a license holder shall pay to the city a reinstatement fee equal in an amount to be determined by City Council for the first unit re-licensed and a fee in an amount to be determined by City Council for each additional unit. These fees may be adjusted periodically by resolution of the City Council.

(Prior Code, § 28-15) (Ord. 800, passed - -)

### **§ 96.33 PROSPECTIVE TENANT BACKGROUND INVESTIGATIONS.**

(A) The City Council has determined that there are persons residing in rental property in the city engaging in disorderly conduct which results in a hostile environment for other city citizens living in or close to the rental property. It is the declared purpose and intent of this section to protect and preserve the city's neighborhoods and the public health, safety, welfare and morals of its citizens by providing a system at the local level for criminal history/background investigations of prospective tenants.

(B) Any owner of rental property may request that the Police Department conduct a criminal history/background investigation of a prospective tenant. The request shall be on a form provided by the Police Department. The rental applicant shall pay an investigation fee as established by resolution of the City Council.

(Prior Code, § 28-16) (Ord. 800, passed - -)

### **§ 96.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Every person violates a provision of §§ 96.01 through 96.04 when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful, or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by §§ 96.01 through 96.04 and, upon conviction thereof, the person shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.

(Prior Code, § 7.1-5)

(C) A violation of § 96.26 shall be a misdemeanor punishable by up to a \$1,000 fine, 90 days in jail or both.

(Prior Code, § 28-9)

(Ord. 577, passed - -; Ord. 800, passed - -)