



Memorandum

To: Code & Regulation Committee

From: Angela L. Hammer, Assistant City Attorney

Subject: Proposed Revisions to the Residential Quality Support Ordinance

Date: June 4, 2015

The Residential Quality Support Ordinance (the “Rental Registry”) was approved by City Council in February 2013. *City of Rockford Code of Ordinances Section 17-42, et seq.* The ordinance requires owners of residential rental property that is occupied to register said property and provide contact information. The deadline to register occupied rental property was April 1, 2014. As a result of the ongoing discussions over the course of the past several weeks, staff recommends several substantive amendments to the Residential Quality Support Ordinance.

Modify Definition of “Dwelling Unit” in Section 17-42(a)

Staff recommends striking “emergency shelters” from the definition of “dwelling unit”. In Section 17-42(b) emergency shelters are excluded from the definition of “residential rental property”, so this amendment is advised for consistency. Additionally, this amendment addresses the ACLU’s concern regarding registration requirements for emergency shelters. Staff also recommends changing the reference to “multi-family dwellings” to “multi-unit dwellings” to clarify the definition of “dwelling unit”.

The proposed amendments to Section 17-42(a) have not previously been presented to the Code and Regulation Committee.

Modify Definition of “Residential Rental Property” in Sections 17-42(b) and 17-42(n)

The first proposed amendment is to modify the definition of “residential rental property” in the ordinance. The current definition of “residential rental property” is “any property on which one or more dwelling units are located that the owner thereof rents, either entirely or in part, to another person for occupancy as a dwelling unit.”

In order to prove that the owner “rents” the residential property, we must provide evidence that the owner receives payment in exchange for the tenant’s use of the property. This is a difficult burden to meet with the information available in the prosecution of the violation. As such, we propose amending “rents” to “lets” in the definition of “residential rental property” in Section 17-42(b).

Additionally, staff proposes adding the following language to the definition of “residential rental property” in Section 17-42(b):

Residential rental property shall not include homeless or emergency shelters, domestic violence shelters, community-based housing, group homes for adjustment, independent living, assisted living/elderly housing, nursing/convalescent homes, hotels or motels as defined in the City of Rockford Zoning Ordinance.

This amendment exempts specific group living uses from registration under Section 17-43. The ACLU supports the proposed amendment to exempt specific group living uses from registration.

Staff proposes including the definition of “Let/Let for occupancy” in Section 17-42(n). “Let/Let for occupancy” means “to permit, provide or offer possession or occupancy of a dwelling unit by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to an unrecorded agreement of contract for the sale of land.” These proposed amendments will allow us to more effectively prosecute violations of the ordinance.

The Code and Regulation Committee previously approved modifying “rents” to “lets” in Section 17-42(b) and the addition of the definition of “Let/Let for occupancy” in Section 17-42(n). The exclusion of specific uses in the definition of “residential rental property” has not previously been presented to the Committee.

Broaden Definition of “Chronic Nuisance Activity” in Section 17-42(c)

The fourth proposed amendment is to broaden the definition of “chronic nuisance activity” in Section 17-42 (c). Staff recommends Section 17-42(c) read as follows:

Chronic nuisance means nuisance activity which occurs on three or more instances, on the same property or dwelling unit, during any 120-day period of any one or any combination of the activities listed below and as a result of any three separate factual events that have been independently investigated by any law enforcement agency or code enforcement personnel that have resulted in an arrest, issuance of a warrant for an arrest, or issuance of a ticket or citation.

- (1) Disorderly conduct as defined in Section 26-1 of the Criminal Code of 2012.
- (2) Any felony crime or class A misdemeanor; and/or
- (3) Violation of any municipal ordinance or State of Illinois statute controlling offensive use of property, including but not limited to the following violations:

- a. International Property Maintenance Code Section 302.1 and 308.1 Sanitation;
- b. International Property Maintenance Code Section 302.4 Weeds;
- c. International Property Maintenance Code Section 302.8 Motor Vehicles;
- d. International Property Maintenance Code Section 302.5 Rodent Harborage;
- e. International Property Maintenance Code Section 302.9 Defacement;
- f. International Property Maintenance Code Section 302.7 Accessory Structures;
- g. International Property Maintenance Code Section 304.2 Protective Treatment;
- h. International Property Maintenance Code Section 404.5 Overcrowding;
- i. City of Rockford Code of Ordinances Section 3-13 Public Drinking and Possession of Alcoholic Liquor with a Broken Seal;
- j. City of Rockford Code of Ordinances Section 4-59 Barking Dogs;
- k. City of Rockford Code of Ordinances Section 17-33 Miscellaneous Noise Sources;
- l. City of Rockford Code of Ordinances Section 17-34 Animal Noise;
- m. City of Rockford Code of Ordinances Section 17-35 Nuisance Noises;
- n. City of Rockford Code of Ordinances Section 19-3 Offensive Uses of Property;
- o. City of Rockford Code of Ordinances Section 19-4 Permitting Offensive Uses of Property;
- p. City of Rockford Code of Ordinances Section 19-19 Loitering;
- q. City of Rockford Code of Ordinances Section 19-20 Public Urination and Defecation Prohibited;

A continuing violation of the above-listed offenses in subsection (c) shall constitute one offense.

A criminal act or violation of the City of Rockford Code of Ordinances in which the victim is the tenant or occupant shall not qualify as a nuisance activity under this section. An act that is related to domestic violence or sexual violence committed against a tenant or occupant shall not qualify as a nuisance activity under this section. If a tenant or occupant is an individual with a disability, then any contact with law enforcement or code enforcement that is related to that individual's disability shall not qualify as a nuisance activity under this section. The term disability will be defined in accordance with the federal statute, the "Americans with Disabilities Act".

A broader definition of "chronic nuisance activity" is expected to result in qualifying cases for referral to the Housing Board. The provisions exempting incidents in which the victim is a tenant or occupant as well as acts related to domestic violence or sexual violence committed against a tenant or occupant from qualification as nuisance activity are supported by the ACLU.

The Code and Regulation Committee previously approved expanding the definition of “chronic nuisance activity”. However, the amendments proposed in Section 17-42(c)(3) have not previously been presented to the Code and Regulation Committee.

Explicitly Exempt Owner Occupied Dwelling Units from Registration in Section 17-43

Under the proposed amendments, owner occupied dwelling units are not required to register. However, if one unit in a multi-unit complex is owner occupied, the remaining units must be registered.

The amendment proposed in Section 17-43 has not previously been presented to the Code and Regulation Committee.

Strike Requirement to Renew Registration in Sections 17-43(b) and (c)

Staff recommends an amendment is to strike the requirement to renew registration every two years. Section 17-43(b) currently requires the owners of residential rental property to renew their registration every two years. Staff suggests requiring owners of residential rental property to provide updated information within thirty days of any change in status.

The Code and Regulation Committee approved the proposed amendment to Sections 17-43(b) and (c).

Revise Fine Structure in Section 17-44(f)

Staff proposes an amendment to revise the fine structure to allow discretion in the imposition of the fine for failure to register. Currently, the ordinance mandates a minimum of \$50 per day of the violation until the property owner is in compliance. The minimum fine for failing to register under the current ordinance exceeds \$15,000. Staff suggests amending Section 17-42 to “a fine up to \$750 per day of the violation until the owner is in compliance.” The proposed amendment will allow staff to seek a reasonable fine for property owners that fail to register rental property.

The Code and Regulation Committee previously approved the proposed amendment to Section 17-44(f).

Nominal Amendments

In addition to the substantive amendments that staff proposes, there are several nominal amendments recommended to correctly refer to the current Criminal Code, proper subsections in the ordinance and the Community and Economic Development Department. Staff recommends the following amendments to correct references within the ordinance:

1. Section 17-42(c)(1) refers to the Criminal Code of 1961 and should be amended to refer to the Criminal Code of 2012.
2. Section 17-44(c) refers to Section 17-41(c) and should be amended to correctly cite Section 17-42(c).

3. Section 17-44(f) refers to Section 17-43(a) and should be corrected to refer to Section 17-44(a).
4. Section 17-45(a)(1) refers to Section 17-41(c), and should be amended to refer to Section 17-42(e).
5. Section 17-45(a)(2) incorrectly refers to Section 17-43 and should be amended to refer to Section 17-44.
6. Section 17-45(a)(3) incorrectly cites Section 17-43(a) and 17-43(b) and should be amended to refer to Sections 17-44(a) and 17-44(b) respectively.
7. Section 17-45(d)(4) incorrectly refers to Section 17-43(b), and should be amended to refer to Section 17-44(b).
8. Section 17-47 refers to the community development department and should be amended to the community and economic development department.

The Code and Regulation Committee previously approved the listed nominal amendments.

No modification to Section 17-44(f)(3)

A previously circulated draft of the RQSO reflected a proposed change to Section 17-44(f)(3). The modification to Section 17-44(f)(3) was published in error. Staff is not proposing any change to Section 17-44(f)(3).

Staff's Recommendation

Staff recommends approving the above-listed amendments to enhance enforcement efforts and address chronic nuisance activity. A red-lined draft of the recommended amendments is attached for your review.