



CITY OF SPRING PARK
PLANNING COMMISSION AGENDA
MARCH 13, 2019 – 6:00 PM
SPRING PARK CITY HALL

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. ADOPT AGENDA
5. APPROVAL OF MINUTES
 - a. Planning Commission Meeting Minutes from February 13, 2019
6. CONSIDERATION/DISCUSSION ITEMS
 - a. Short-Term/Rental Licensing Ordinance Discussion
 - b. Public Hearing Schedule Discussion
7. COMMUNICATIONS
8. MISCELLANEOUS
9. ADJOURNMENT



CITY OF SPRING PARK
PLANNING COMMISSION MINUTES
FEBRUARY 13, 2019 – 6:00 PM
SPRING PARK CITY HALL

1. CALL TO ORDER - The meeting was called to order by Chair Hoffman at 6:00 p.m.
2. PLEDGE OF ALLEGIANCE – Chair Hoffman led the audience in the Pledge of Allegiance.
3. ROLL CALL

Planning Commissioners Present: Jeff Hoffman, Chair, Max Avalos; Bruce Homan, Michael Mason, and Pete Kaczanowski

Staff Present: Dan Tolsma, City Administrator; Al Brixius, City Planner; and Theresa Schyma, City Clerk.

Others Present: Pamela Horton, City Council Member/Planning Commission Ex-Officio Alternate

4. ADOPT AGENDA

M/Hoffman, S/Homan to approve the agenda.

Motion carried 5-0.

5. APPROVAL OF MINUTES

- a. Planning Commission Meeting Minutes from January 9, 2019

M/Mason, S/Homan to approve the minutes.

Motion carried 5-0.

6. CONSIDERATION/DISCUSSION ITEMS

- a. Short-Term/Rental Licensing Ordinance Discussion

City Planner Brixius presented the first draft of a rental housing ordinance for short-term and long-term rental properties in Spring Park. He provided an overview of each section and discussed the potential inspections and licensing process.

Rick Gorra, 8201 Stone Creek Drive, Chanhassen, and owner/landlord of Park Island Apartments, questioned the section regarding tenant behavior since he cannot control his tenant's behavior and

therefore does not believe a landlord should be held responsible for something out of his control. Mr. Gorra also questioned the wording in that section since it references a citation being issued and not an actual conviction for the questionable behavior.

City Planner Brixius responded that most lease agreements already have language to address tenant behavior and consequences when there are violations.

Commissioner Homan added that the language in the section is about addressing a pattern of disorderly behavior.

The Planning Commission consensus was that the language about citations was appropriate and did not need to be changed to address only convictions.

City Administrator Tolsma added that regardless of the violation, whether a citation or conviction, every police call represents a cost to the city so habitual disorderly behavior by a tenant is an important issue.

City Planner Brixius responded that he will discuss the language with the City Attorney and report back.

Chair Hoffman asked if staff receives calls regarding tenant vs. tenant disputes.

City Clerk Schyma responded no, the only calls the city receives regarding rental properties are from tenants who are in dispute with their landlords or from neighbors of rental properties experiencing issues with noise, trash, parking, etc.

City Planner Brixius stated the draft language regarding tenant behavior is to handle the most egregious behavior and the language should be clear and have measurable standards. He added that the Commission could also look at removing the section on tenant behavior altogether and focus more of the ordinance on building maintenance.

Chair Hoffman tabled the discussion regarding tenant behavior until the next meeting.

Mr. Gorra also questioned the inspection process stating that he has tenants that do not want their rental units to be inspected by the government.

City Planner Brixius asked Mr. Gorra if the buildings he manages in Minneapolis are allowed to opt-out of the inspections process if the renter has an issue.

Mr. Gorra responded no, because the City of Minneapolis has ordinances in place.

Chair Hoffman stated that the inspection process is to ensure that rental properties meet the minimum standards for the health, safety, and welfare of their tenants and the city cannot write an ordinance based on exceptions.

Commissioner Homan asked about the inspections process since the International Property Maintenance Code seems all-encompassing. He questioned if the Planning Commission could see a checklist that the inspectors would use because he does not want the inspections process to be onerous.

City Administrator Tolsma responded that he would contact Building Official Qualle to get an example of a checklist that could be used for rental inspections.

City Planner Brixius stated he will bring an updated draft ordinance to the next meeting after further examination the following items:

-) Habitual disorderly behavior of tenants
-) Language regarding process when denied access to a rental unit for inspection
-) Enforcement and license revocation procedure including the appeals process for landlords
-) Licensing fees
-) Remove homestead requirement for short-term rental properties
-) Clarify parking requirements for short-term rental properties
 - o Minimum of one space available specifically for renters
 - o Site plan included with license application must identify specific rental parking
 - o Maximum parking spaces limited to number of spaces on the property (e.g. no parking on grass, no on-street parking, must meet hardcover requirements)

7. COMMUNICATIONS – None.

8. MISCELLANEOUS – None.

9. ADJOURNMENT

M/Homan, S/Avalos adjourn the Planning Commission Meeting at 7:56 p.m.

Motion carried 5-0.

Date Approved: March 13, 2019

Dan Tolsma, City Administrator

Theresa Schyma, City Clerk



NORTHWEST ASSOCIATED CONSULTANTS, INC.

4150 Olson Memorial Highway, Ste. 320, Golden Valley, MN 55422
Telephone: 763.957.1100 Website: www.nacplanning.com

PLANNING REPORT

TO: Dan Tolsma
FROM: Al Brixius / Ryan Saltis
DATE: 3/6/19
RE: Rental Housing Ordinances
FILE NO: 175.01 18.18

BACKGROUND

Rental properties in the city of Spring Park have been discussed at several Planning Commission meetings referencing long-term and short-term rentals and their regulations. Discussion between the City Planner, City Administrator and City Attorney have addressed the Planning Commission's comments towards the drafted rental housing ordinance and adjustments have been made accordingly. Planning Commission comments and responses by city staff have been outlined in the Analysis section of this report. There has also been discussion at Planning Commission meetings of adopting the International Property Maintenance Code (IPMC) as the building code for the city. The IPMC establishes minimum maintenance standards for existing structures in the city to ensure safe use of properties.

Attached for reference:

Exhibit A: Long-Term Rental Housing Ordinance Draft
Exhibit B: Short-Term Rental Housing Ordinance Draft
Exhibit C: IPMC Draft

ANALYSIS

The Planning Commission had comments and questions in their February meeting, specifically addressing disorderly behavior and insurance requirements for properties. These comments and questions have been addressed by city staff in the drafted ordinances

(Exhibit A and B) attached to this report. Responses addressing the Planning Commission's comments and questions are outlined by the City Attorney below.

Article V Rental Housing

Section 12-259 Disorderly Behavior

The planning commission questioned whether this section should be included in the ordinance for the following reasons:

1. When would we determine a violation has occurred? (complaint, police visit, police citation or arrest, or conviction of the offense?)
 -) The determination of an offense is left to the City Administrator, and the discussion questioned what would be the basis of the administrator determination. Violations can be made by either staff or law enforcement, and are made based on a preponderance of the evidence. The preponderance of the evidence standard is a legal standard that in essence means that occurrence of the violation was more likely than not. A determination can be made immediately after an incident occurs and does not require any type of criminal charge or conviction.
 -) The potential to have a landlord lose their license based on the behavior of the tenant also becomes an issue of fairness. The argument for this type of provision is that landlords should have some sort of level of responsibility when their tenants are repeatedly jeopardizing public health, safety, and welfare. The current draft provides landlords with quite a bit of leeway (three strikes) before adverse action is taken on their permit. Ultimately this is a policy decision for the council to make. Legally speaking, this is not problematic.
2. Eviction of the tenant for violations?
 -) Additionally, dealing with the disorderly issue can result in landlords having to evict the tenant, during which they would encounter eviction cost and potential retaliation damage to the rental unit by the evicted tenant. The ordinance stops short of requiring eviction (some cities actually require eviction, which is far more vulnerable to legal challenge). Again, I think you're generally okay to have this language in the ordinance but whether it remains is a policy question.

The City Attorney addressed legal questions regarding rental properties and disorderly conduct and whether this section of the ordinance should be eliminated entirely.

Comments:

-) There is minimal risk of the disorderly conduct section being challenged and this is far less strict than provisions that other cities have implemented.
-) The disorderly conduct section can be legally supported by the city's inherent police power authority to protect public health, safety, and welfare.
-) Whether the disorderly conduct section should or shouldn't be included in the ordinance is a matter of public policy-making for the council.

Article VI Short-Term Rental Housing

Section 12-270 (d) Insurance Requirement

This provision requires proof of insurance for any short-term rental unit. The Planning Commission questioned whether the city needs to require insurance for this use. The Planning Commission also asked if the city shares any liability for damage or injury through the issuance of the rental license.

The City Attorney addressed these concerns and provided comments to the insurance requirement.

Comments:

-) Concerned with potential damage to the rental home and also damage or injury to neighboring properties by short term transient residents.
-) Does not make sense to require insurance because most property/casualty insurance companies don't even offer any type of short-term rental rider on top of a homeowner's policy (that is a risk that the homeowner chooses to take on).
-) Many short-term rental websites do offer some form of insurance coverage but they are optional.
-) The city will not share any liability based merely on the creation of a licensing program

Spring Park is also seeking to adopt the International Property Maintenance Code (IPMC) as the building code for the city. The IPMC establishes minimum maintenance standards for basic equipment, light, ventilation, heating, sanitation, and fire safety. This will be the overall building code for the city and will include long-term and short-term rental properties. The draft for the IPMC can be found in Exhibit C attached to this report.

CONCLUSION

- 1) **Disorderly behavior:** Based on the comments of the City Attorney, whether to adopt disorderly behavior as part of the rental housing ordinance is a determination of the Planning Commission and the City Council. The determination comes down to a decision of who will enforce disorderly behavior and the judgement of fairness to the landlord for losing their license if multiple occurrences happen on the property.

- 2) **Insurance Requirement:** It is recommended that the insurance requirement from the long-term and short term rental housing ordinance drafts should be eliminated. Most property and casualty insurance companies don't even offer any type of short-term rental rider on top of a homeowner's policy, which is a risk that the homeowner chooses to take on. The liability shall be put solely on the property owner and not with the city.

- 3) **IPMC:** It is recommended that The International Property Maintenance Code shall be adopted by reference as the building code for the city to provide the regulation and safe use of structures for the social and economic welfare of the community. This will include all types of housing, as well as long-term and short-term rental properties.

ARTICLE V. - RENTAL HOUSING**DIVISION 1. - GENERALLY.****Sec. 12-247. - Statement of policy.**

- (a) The City believes that promoting the public health, safety and welfare of its citizens mandates the existence of a rental dwelling unit registration permit and maintenance program that corrects substandard conditions and maintains a standard for rental dwelling units. It is the purpose of this article 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 dwelling units 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 crimes and criminal activity, nuisances or annoyances.
- (b) This article shall apply to all dwelling units that are leased in whole or in part as a rental dwelling unit for 30 consecutive days or more, including single-family and two-family townhomes or multiple family housing. It also shall apply to accessory structures such as garages and storage buildings and appurtenances such as sidewalks and retaining walls, which are on the property. This article does not apply to Minnesota Department of Health licensed rest homes, convalescent care facilities, residential group homes licensed by the state, nursing homes, hotels or motels, or owner-occupied dwelling units.

Sec. 12-248. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apartment building means, any building or portion thereof that contains three or more dwelling units, sleeping rooms, or a combination thereof but not including condominiums or townhomes.

Building official means the building official for the City, or his/her designee.

City shall mean the city of Spring Park, Minnesota.

City administrator means the city administrator of the City, or his/her designee.

City council means the city council of the City.

Condominium means a single dwelling unit in a multi-dwelling unit building that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property. Each individual owner may sell or encumber his/her own unit.

Dwelling unit means any building or portion thereof that contains living facilities, including

provisions for sleeping, eating, cooking and sanitation, for not more than one family.

Dwelling, single-family means a building or portion thereof containing one dwelling unit. For purposes of this article, a single-family dwelling includes a free standing single family residence, a single dwelling in a cooperative, an individual condominium or townhouse, a single dwelling unit in a non-residential structure or a dwelling unit offered for rent in a duplex in which the owner occupies the other dwelling unit.

Dwelling, two-family means a building containing two dwelling units.

Efficiency means a dwelling unit containing only one habitable room plus private bathroom facilities within the unit.

Family means one or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than three persons not so related maintaining a common household and using common cooking and kitchen facilities.

Lease means an oral or written, formal or informal, agreement between a dwelling unit owner and a tenant for temporary use of a rental dwelling unit, usually in exchange for payment of rent.

Owner means any person, agent, operator, firm or corporation having a legal or equitable interest in the property or the rental dwelling unit; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property or rental dwelling unit, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court, or any person representing the actual owner or holding a valid rental registration permit from the city.

Rent means the consideration paid by a tenant to the owner of a rental dwelling unit for temporary and exclusive use of the rental dwelling unit by the tenant. The consideration is not limited to cash.

Rental dwelling unit means a dwelling unit or sleeping room occupied and leased one or more tenants.

Rental registration permit means the formal approval of an activity specified on the rental registration certificate issued by the city.

Sleeping room means any room or rooms used or intended to be used by a tenant for sleeping purposes with or without meals and not licensed by the Minnesota Department of Health.

Tenant means any adult person granted temporary use of a rental dwelling unit or sleeping room pursuant to a lease with the owner of the rental dwelling unit.

Townhouse means a single-family dwelling constructed in a group of dwellings attached to each other and where each dwelling unit extends from the foundation to the roof and is separated from other dwelling units by property lines.

DIVISION 2. REGISTRATION PERMIT.

Sec. 12-249. - Required.

No person shall operate, let or cause to be let a rental dwelling unit which has not been properly registered by the city. A registration permit must be obtained for each residential dwelling unit except, two or more residential dwelling units located within a single building and having a common owner and a common property identification number shall require only a single permit. Upon receipt of the properly executed initial application for a rental registration permit, the applicant shall cause an inspection to be made of the rental dwelling unit(s) by the building official to determine whether the unit(s) is/are in compliance with all code requirements and the laws of the State of Minnesota. If compliance is determined, the City shall issue a registration permit. Every rental dwelling unit shall be re-inspected upon submission of a renewal application, as required by this article, to determine if it still conforms to all applicable codes and laws.

Sec. 12-250. - Application.

A registration permit application shall be submitted to the city administrator on forms furnished by the city and must contain all information contained thereon, including the following:

- (a) Name, address, and telephone number of the owner of the rental dwelling unit(s). This is the address to which the city will send all future correspondence. The applicant shall indicate if the owner is an individual, corporation, partnership or sole proprietorship;
- (b) Name, address, and telephone number of any owner's agent responsible for the management of the rental dwelling unit(s), if applicable;
- (c) Legal address of the rental dwelling unit(s) and, for apartment buildings or condominiums, the unit numbers for each rental dwelling unit; and
- (d) Number and type of rental dwelling units by bedroom count (efficiency, one bedroom, two bedrooms, etc.).

Sec. 12-251. - Changes in Ownership and Amended Permits.

A registration permit is not assignable. Any changes occurring in the ownership of a rental dwelling unit(s) require a new registration permit. The new owner must obtain a new registration permit within 30 days of acquiring the property if continuing to operate a rental dwelling unit thereon. If any changes occur in any information required on the registration application, the owner must submit an amended registration application to the city within 30 days of the change. If any rental dwelling units are added to a current registration permit, the additional rental dwelling units must be registered by amendment of the current registration permit and must be accompanied by the fee required for the additional units.

Sec. 12-252. - Three Year Cycle Registration.

All rental dwelling units shall be registered before being let, in whole or in part; provided, however, that all rental dwelling units that are leased and occupied by tenants as of the effective date of this ordinance shall be registered no later than _____, 2019. Registration permits will expire at midnight on the third April 1st following its issuance. Registration permits must be renewed at least 30 days prior to the expiration of the current permit. Rental dwelling units must be registered as an efficiency, a single-family dwelling, a two-family dwelling, or an apartment building. Any unregistered rental dwelling units are subject to penalties as provided in this article or elsewhere in state or local law.

Sec. 12-253. - Fees.

A registration fee and per-unit inspection fee shall be adopted by the city council and included in the city's official fee schedule. All required fees must accompany the registration application and shall double when an application renewal is received more than 30 days after it was due.

Sec. 12-254. - Inspection.

Upon receipt of an application for registration, the building official shall coordinate an inspection to ensure compliance with this article. The building official shall provide reasonable notice to the owner or the owner's agent as to the date and time of the inspection. Each occupant of a rental dwelling unit shall give the owner, or the owner's agent, access to any part of such rental dwelling unit at reasonable times for the purpose of effecting the inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this article. If any owner, owner's agent or tenant of a rental dwelling unit fails or refuses to permit entry to the rental dwelling unit under his/her control for an inspection pursuant to this article, the city may obtain an administrative warrant authorizing such inspection. Upon inspection, the proposed rental property shall adhere to the following:

- (a) The Minnesota State Building Code, including mechanical, electrical, plumbing and other building systems, and previously constructed or installed components must be maintained in conformance with the requirements of the codes in effect at the time of construction or installation; and
- (b) All other requirements of other sections of this code, including, but not limited to, zoning, fire, building, and nuisances, and the International Property Maintenance Code; and

In cases where a conflict may occur between any two or more code requirements, the requirements providing the greatest degree of life safety, property maintenance and general welfare to the City shall govern. If re-inspections are necessary to determine compliance, the applicant shall pay a re-inspection fee, as adopted by the city council.

Sec. 12-255. - Issuance of Permit.

The City shall issue a registration permit if the rental dwelling unit(s) and the application are found to be in compliance with the provisions of this article and all required registration and inspection fees are paid. A registration permit will be issued for each residential dwelling unit except, two or more residential dwelling units located within a single building and having a

common owner and a common property identification number shall be issued a single registration permit. Rental registrations shall be conspicuously posted in all rental properties sharing a common entrance used by two or more rental dwelling units and the owner or agent for the owner must be able to present the registration permit if asked to do so.

Sec. 12-256. - Disorderly Behavior at Registered Rental Dwelling Units.

- (a) It shall be the owner's responsibility to assure that the tenants, the tenants' family members and the guests of any tenant or tenant's family member not engage in disorderly behavior in the rental dwelling unit. For the purposes of this section, rental dwelling unit shall include all common areas, both inside the building where the rental dwelling unit is located and outside.
- (b) For the purposes of this section, disorderly behavior may include but is not limited to any of the following:
 - (1) Drug-related illegal activity occurring in or near the rental dwelling unit. Drug-related illegal activity means the illegal possession or constructive possession, manufacture, sale, distribution, purchase, use or possession with intent to manufacture, sell or distribute a controlled substance, as defined in the Controlled Substance Act (21 U.S.C. § 802), or possession of drug paraphernalia per Minnesota Statutes, section 152.092.
 - (2) Any act of violence or threat of violence including, but not limited to, the discharge of firearms, prostitution, intimidation or any other act that otherwise jeopardizes the health, safety or welfare of the owner, agent, manager, other tenants, tenant's family members, guests or neighboring property owners.
 - (3) A violation of Minnesota Statutes, sections 609.75 through § 609.76, which prohibit gambling.
 - (4) A violation of Minnesota Statutes, sections 609.321 through § 609.324, which prohibit prostitution.
 - (5) A violation of Minnesota Statutes, section 340A.401, which prohibits the unlawful sale of alcoholic beverages.
 - (6) A violation of Minnesota Statutes, section 340A.503, which prohibits the underage use of alcoholic beverages.
 - (7) A violation of Minnesota Statutes, section 609.74 or Spring Park City Code, chapter 18, articles III and IV, which prohibit nuisances and noise violations.
 - (8) A violation of Minnesota Statutes, sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, which prohibit the unlawful possession, transportation, sale or use of a weapon.

- (9) A violation of Minnesota Statutes, section 609.72, which prohibits disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation.
- (10) A violation of Minnesota Statutes, sections 609.185 through 609.205, which prohibit murder and manslaughter.
- (11) A violation of Minnesota Statutes, sections 609.221 through 609.2231, which prohibit assault.
- (12) A violation of Minnesota Statutes, sections 609.342 through 609.3451, which prohibit criminal sexual conduct.
- (13) A violation of Minnesota Statutes, section 609.52, which prohibits theft.
- (14) A violation of Minnesota Statutes, section 609.561 through 609.5632, which prohibit arson.
- (15) A violation of Minnesota Statutes, section 609.582, which prohibits burglary.
- (16) A violation of Minnesota Statutes, section 609.595, which prohibits damage to property.
- (17) A violation of Minnesota Statutes, section 609.33, relating to owning, leasing, operating, managing, maintaining or conducting a disorderly house or inviting or attempting to invite others to visit or remain in a disorderly house.
- (18) A violation of Minnesota Statutes, section 609.50, which prohibits obstructing the legal process.
- (19) A violation of Minnesota Statutes, section 609.713, which prohibits terroristic threats.
- (20) A violation of Minnesota Statutes, section 609.715, which prohibits presence of unlawful assembly.
- (21) A violation of Minnesota Statutes, section 609.71, which prohibits riot.
- (22) A violation of Minnesota Statutes, section 609.78, which prohibits interfering with "911" phone calls.
- (23) A violation of Minnesota Statutes, section 243.166 (predatory offender registration).

- (24) A violation of Minnesota Statutes, section 609.229, which prohibits gang-related crimes.
 - (25) A violation of Minnesota Statutes, section 609.26, subdivision 1(8), which prohibits contributing to a child being runaway.
 - (26) A violation of Minnesota Statutes, section 609.903, which prohibits racketeering.
 - (27) A violation of Minnesota Statutes, section 609.53, which prohibits possessing stolen property.
 - (28) A violation of Minnesota Statutes, section 609.749, which prohibits violating a restraining order or order for protection.
 - (29) A violation of Minnesota Statutes, sections 609.255 and 609.25, which prohibit false imprisonment and kidnapping.
- (c) Incidents will not be counted for purposes of determining whether a registration permit will be denied, suspended, non-renewed or revoked where the victim and suspect are “Family or household members” as defined in the Domestic Abuse Act, Minnesota Statutes, section 518B.01, subd. 2(b) and where there is a report of “Domestic Abuse” as defined in the Domestic Abuse Act, Minnesota Statutes, section 518B.01, subd. 2(a).
- (d) Incidents will not be counted for purposes of determining whether a registration permit will be denied, suspended, non-renewed or revoked where the call is a result of a tenant, a member of a tenant’s household, or guest taking action to seek emergency assistance that is protected by Minnesota State Statute 504B.205.
- (e) Instances of Disorderly Behavior.
- (1) First Incident. Upon a determination by city staff or law enforcement that a rental dwelling unit was the location of disorderly behavior, the city shall notify the owner and tenant of the violation by first class mail and direct the owner to take steps to prevent further violations.
 - (2) Second Incident. Upon a determination by city staff or law enforcement that a second incident of disorderly behavior occurs at a rental dwelling unit within three months of a first disorderly behavior incident, the city shall notify the owner and the tenant by first class mail of the violation and direct the owner to submit, within 10 days of the date of the notice, a written report of all actions taken by the owner since the first violation notice and what actions the owner intends to take to prevent further disorderly behavior.
 - (3) Third Incident. Upon a determination by City staff or law enforcement that a third incident of disorderly behavior occurs at a rental dwelling unit within three months after a second disorderly behavior incident, the rental dwelling

unit registration permit may be revoked, suspended or not renewed by the city council upon the recommendation of the city administrator and in accordance with section 12-257. The city administrator shall make its decision to recommend revocation, suspension or non-renewal of the registration permit and submit said recommendation to the city council within 30 days of the third incident.

- (4) For purposes of this section, second and third instances of disorderly behavior shall be those which:
- a. Occur at the same rental dwelling unit;
 - b. Involve tenants at the same rental dwelling unit;
 - c. Involve guests or invitees at the same rental dwelling unit;
 - d. Involve guests or invitees of the same tenant; or
 - e. Involve the same tenant.
- (f) No adverse registration permit action shall be imposed where the instance of disorderly behavior occurred during pending eviction proceedings against the tenant(s) that were the subject of the incidents (unlawful detainer), or within 30 days of notice to vacate given by the owner to the tenant(s) that were the subject of the incidents. However, adverse registration permit action may proceed when the owner fails to diligently pursue the eviction process. Further, an action to deny, revoke, suspend or not renew a registration permit based upon violations of this section may be postponed or discontinued at any time, at the discretion of the city, if the owner has taken appropriate measures which will prevent further instances of disorderly behavior which may include a failed eviction process.
- (g) For purposes of this section, a determination that the rental dwelling unit has been the location of a disorderly behavior incident shall be made by a preponderance of the evidence. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly behavior, nor shall the fact or dismissal or acquittal of such a criminal charge operate as a bar to adverse registration permit action under this article.
- (h) Enforcement actions provided throughout this article shall not be exclusive, and the city may take any action with respect to an owner, a tenant or the registered rental dwelling unit(s) as is authorized by this article or any other provision contained in state or local law.

Sec. 12-257. – Revoking, Suspending, Denying or Not Renewing a Registration Permit.

- (a) The city council may revoke, suspend, deny or decline to renew any registration permit issued under this article by following the process contained in this section. In buildings containing more than one rental dwelling unit, the revocation, suspension,

denial or declination may apply to one or more rental dwelling units at the reasonable discretion of the city council. The basis for such revocation, suspension, denial or non-renewal may include, but shall not be limited to, any of the following circumstances:

- (1) The registration permit was procured by misrepresentation of material facts with regard to the rental dwelling unit or the ownership of the rental dwelling unit.
 - (2) The applicant or one acting in his/her behalf made oral or written misstatements accompanying the application.
 - (3) The applicant has failed to comply with any condition set forth in any other permits granted by the city.
 - (4) The activities of the owner create or have created a danger to the public health, safety or welfare.
 - (5) The rental dwelling unit contains conditions that might injure or endanger the safety, health or welfare of any member of the public.
 - (6) Failure to pay any application fee or reinstatement fee required by this article.
 - (7) Failure to correct any code violations in the time period specified in the notice of violation.
 - (8) Following a third instance of disorderly behavior specified in section 12-256.
 - (9) Any violation of this article or any other state or local law related to the rental dwelling unit(s).
 - (10) Failure to continuously comply with any condition required of the applicant for the approval or maintenance of the registration permit.
- (b) Fines. In lieu of or in addition to revoking or suspending a registration permit for violations of this article, the city in its sole discretion may impose a civil fine pursuant to and in accordance with Spring Park City Code, section 1-14.
- (c) Notification. The city shall notify the owner or the owner's agent in writing of the basis for a revocation, suspension, denial or non-renewal and the date upon which the city council will review a recommendation to revoke, suspend, deny, or not renew the registration permit. The notice required by this section shall be mailed to the owner or the owner's agent at least 10 days before the city council hearing. Service shall be deemed sufficient if the notice is sent to the owner or the owner's agent by first class mail at the address provided in the registration application.

- (d) Hearing. The owner or the owner's agent shall be given an opportunity to be heard during the city council hearing. The city council shall hear all relevant evidence and arguments and shall review all statements, documents, and other evidence submitted.
- (e) Decision. The city council shall make findings based on the evidence presented and shall make a decision on the recommendation to revoke, suspend, deny, or not renew a registration permit based on the findings. The city council shall issue a written decision within 30 days following the date of the hearing and shall notify the owner of the decision by first class mail. The decision shall specify the rental dwelling unit or units to which it applies. Thereafter, and until a registration permit is reissued or reinstated, no rental dwelling units that have had their rental registration permit revoked, suspended, denied, or non-renewed may be let or occupied by tenants. Revocation, suspension, denial, or non-renewal of a registration permit shall not excuse the owner from compliance with all terms of this article for as long as any rental dwelling units in the building are occupied.
- (f) Permit Process after Revocation, Suspension, Denial or Renewal Declination. After the city council revokes, suspends, denies or declines to renew a registration permit, no registration permit will be issued for the affected rental dwelling unit(s) until the city determines that the applicant/owner has remedied the conditions identified by the city council as the basis for its action. An application to obtain a registration permit for a rental dwelling unit after the city council has revoked, suspended, denied or declined to renew a registration permit for the same rental dwelling unit(s) must be accompanied by all fees required by this article.

Sec. 12-258. – Effect of Revocation, Suspension, Denial or Non-Renewal.

If a registration permit is revoked, suspended, denied or not renewed by the city council, it shall be unlawful for the owner or the owner's agent to thereafter permit the occupancy of the then vacant or, thereafter vacated, rental dwelling unit(s), until such time as a valid rental registration permit is obtained for the rental dwelling unit(s). Issuance of a new registration permit after revocation, suspension, denial or non-renewal shall be made in the manner provided for in this article.

Sec. 12-259. - Posted to Prevent Occupancy.

Whenever any rental dwelling unit has been denied an initial registration permit, had its registration permit revoked, suspended, denied or not renewed, it may be posted by the building official to prevent further occupancy. No person other than the building official shall remove or alter any posting. The building official may post the date the rental dwelling unit shall be vacated, and no person other than the owner shall reside in, occupy or cause to be occupied that rental dwelling unit.

Sec. 12-260. – Penalties.

A person who violates the provisions of this article may be charged with a misdemeanor. Each day that a violation continues shall be deemed a separate offense. The building official may post the rental dwelling unit by appropriate signs or notices prohibiting occupancy and may act to cause the rental dwelling unit to be vacated or remain vacant until the code violations are

corrected.

Sec. 12-261. – No Warranty by City.

By enacting and undertaking to enforce this code, the city, city council, its agents, and/or employees do not warrant or guaranty the safety, fitness or suitability of any dwelling in the city. Owners and tenants should take whatever steps they deem appropriate to protect their interests, health, safety and welfare.

ARTICLE VI. – SHORT-TERM RENTAL HOUSING

DIVISION 1: GENERALLY

Sec. 12-262. – Statement of Policy.

- (a) The City believes that promoting the public health, safety and welfare of its citizens mandates the existence of a limited short-term rental licensing and maintenance program that corrects substandard conditions and maintains a standard for short-term rental housing. It is the purpose of this article to only allow short-term rental housing in certain circumstances to ensure that it remains 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 short-term rental housing 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 housing may pursue the quiet enjoyment of the normal activities of life in surroundings that are: safe, secure and sanitary; free from crimes and criminal activity, nuisances or annoyances.
- (b) This article shall apply to all short-term rental dwelling units, as defined herein. It also includes accessory structures such as garages and storage buildings and appurtenances such as sidewalks and retaining walls, which are on the same property as the short-term rental dwelling unit. This article does not apply to Minnesota Department of Health licensed rest homes, convalescent care facilities, residential group homes licensed by the State, nursing homes, hotels or motels, or accessory apartments utilized by one blood relative or one on-site employee or servant.

Sec. 12-263. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bedroom means a habitable room within a primary residence which is used, or intended to be used, primarily for the purpose of sleeping, but shall not include any kitchen or dining room.

Building official means the building official for the City, or his/her designee.

City shall mean the city of Spring Park, Minnesota.

City administrator means the city administrator of the City, or his/her designee.

City council means the city council of the City.

Dwelling unit means any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one family.

Owner means any person, agent, operator, firm or corporation having a legal or equitable interest in the property or the rental dwelling unit; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property or short-term rental dwelling unit, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court, or any person representing the actual owner or holding a valid license issued under this article.

Primary residence means a dwelling unit with a homestead classification, as defined by Minnesota Statutes, section 273.124, and as determined by the Hennepin County Assessor.

Rent means the temporary occupancy, use, or possession of a dwelling or dwelling unit in exchange for compensation, in money or other consideration, given or offered in exchange for such use, whether or not received.

Short-term rental dwelling unit means a dwelling unit rented for a period of less than 30 consecutive days, for tourist or transient use.

DIVISION 2: LICENSING

Sec. 12-264. – General Requirements and License Issuance.

- (a) License Required. No person may operate a short-term rental dwelling unit in the city unless granted a license pursuant to this article.
- (b) Homestead Status Required. No dwelling unit in the city may be licensed or used as a short-term rental dwelling unit unless the property is a primary residence.
- (c) License Application. Any owner desiring to offer or use a short-term rental dwelling unit within a primary residence in the city must first apply for and obtain a license from the city. A license must be approved prior to operating. The license application request must be submitted on the form prescribed by the city and must include all the information requested on the application form.
- (d) Fees. The license application form must be accompanied by payment in full of the required license application fee and inspection fee. The fee amounts will be as determined by the city council and listed in the city's fee schedule. Fees for new licenses obtained for less than the three-year license term will be determined on a monthly pro-rated basis until the next full three-year term.
- (e) Issuance. All licenses shall be issued administratively by the city administrator pursuant to the terms contained herein.

(f) Criteria for Issuance. Prior to issuance of a license hereunder, the following criteria must be met:

(1) The licensee certifies on the application form that all applicable requirements found in this article are satisfied. Such items shall include, but not be limited to, the following:

a. Operating a short-term rental dwelling unit is a permitted use in the zoning district of the subject property;

b. The property complies with all of the performance standards found in this article; and

c. Compliance with all other provisions of state and local law.

(2) Prior to operating a short-term rental dwelling unit, the owner shall provide documentation that they have obtained a Hennepin County lodging license and State of Minnesota vacation home rental license.

(3) Upon receipt of a license application, the building official shall schedule an inspection with the owner to ensure compliance with this article. The building official shall provide reasonable notice to the owner as to the date and time of the inspection. The failure or refusal by the owner to permit entry to the property shall be grounds for denial of a license. Upon inspection, the proposed short-term rental dwelling unit shall adhere to the following:

a. The Minnesota State Building Code, including mechanical, electrical, plumbing and other building systems, and previously constructed or installed components must be maintained in conformance with the requirements of the codes in effect at the time of construction or installation; and;

b. All other requirements of other sections of this code, including, but not limited to, zoning, fire, building, and nuisances, and the International Property Maintenance Code; and

In cases where a conflict may occur between any two or more code requirements, the requirements providing the greatest degree of life safety, property maintenance and general welfare to the City shall govern. If re-inspections are necessary to determine compliance, the applicant shall pay a re-inspection fee, as adopted by the city council.

(g) Term. Licenses will expire at midnight on the third April 1st following its issuance, and applications for renewal must be submitted at least 30 days prior to the expiration of the

current license. Any unlicensed short-term rental housing is subject to penalties as provided in this article or elsewhere in state or local law.

- (h) No Vested Right. Licenses granted hereunder constitute a revocable, limited right. Nothing herein shall be construed as granting a vested property right.

Sec. 12-265. – General Performance Standards.

The following shall be the general standards for all short-term rental dwelling units within the city.

- (a) No Physical Alterations. No physical alterations of a primary residence shall be permitted in conjunction with the operation of a short-term rental dwelling unit, except that additional onsite parking may be provided, to the extent that such parking is otherwise permitted by the applicable provisions of the city code.
- (b) Non-Transferable. Licenses issued under this section are non-transferable. Each license shall automatically terminate upon the sale or other conveyance of the property to an unlicensed person or entity.
- (c) Number of Bedrooms. Each license shall indicate the number of bedrooms which are contained in the primary residence. No licensee shall advertise the primary residence as containing any more than the identified number of bedrooms.
- (d) Limit on the Number of Guests. The maximum number of transient guests permitted to stay within a short-term rental dwelling unit at any one time shall be the sum of the number of bedrooms contained in the primary residence multiplied by two, up to a maximum of 10. Such sum shall include both adults and children.
- (e) Signage. No commercial signage is allowed on the property of any short-term rental dwelling unit.
- (f) Events. Events are not allowed to be hosted by transient guests on the licensed property. For purposes of this prohibition, an event shall mean a gathering on the property of the total number of people permitted to stay on the premises plus five. Events hosted by the owner are exempt from this prohibition, but must otherwise abide by state and local law and policies.
- (g) Parking. A property with a short-term rental dwelling unit shall provide a minimum of two (2) off-street parking stalls for guests. The maximum amount of vehicles allowed at the property shall be limited to the number of off-street parking spaces provided. To be valid, off-street parking shall meet any applicable requirements set forth in the city code.
- (h) Occupant Eligibility. The primary overnight and daytime occupant of a short-term rental dwelling unit must be an adult 18 years of age or older. This adult must provide a

telephone number to the owner and shall be accessible to the owner by telephone at all times.

- (i) Advertising. All advertising for short-term rental dwelling units within the city shall include the city-issued license number.
- (j) House Number Visible. Property containing a short-term dwelling unit must have a visible house number that can be easily seen from the street at all times.
- (k) Disorderly Behavior. Disorderly behavior, as defined in Spring Park City Code, section 12-256(b), shall be prohibited.
 - (1) First Incident. Upon a determination by city staff or law enforcement that a property containing a short-term rental dwelling unit was the location of disorderly behavior, the city shall notify the owner by first class mail of the violation and direct the owner to take steps to prevent further violations.
 - (2) Second Incident. Upon a determination by city staff or law enforcement that a second incident of disorderly behavior occurs at a property containing a short-term rental dwelling unit within three months of a previous disorderly behavior incident at the same property, the city shall notify the owner by first class mail of the violation and direct the owner to submit, within 10 days of the date of the notice, a written report of all actions taken by the owner since the first violation notice and actions the owner intends to take to prevent further disorderly behavior.
 - (3) Third Incident. Upon a determination by city staff or law enforcement that a third incident of disorderly behavior occurs at a property containing a short-term rental dwelling unit within three months after a second disorderly behavior incident at the same property, the license issued under this article may be revoked by the city council upon the recommendation of the city administrator and in accordance with section 12-266(a).

For purposes of this section, a determination that a short-term rental dwelling unit has been the location of a disorderly behavior incident shall be made by a preponderance of the evidence. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly behavior, nor shall the fact or dismissal or acquittal of such a criminal charge operate as a bar to adverse registration license action under this article.

Sec. 12-266. – Enforcement and License Revocation.

- (a) Enforcement and License Revocation. Upon a finding that a licensee has violated the terms of this article, or any other applicable ordinance, law, or regulation, on two occasions within the license period, or upon the occurrence of a third incident of disorderly behavior under section 12-265, the city may revoke the license. Prior to such

revocation, the city administrator shall mail written notice of the applicable violations to the licensee and thereafter, the licensee shall have ten days to request a hearing, in writing, regarding such revocation before the city council. Failure to request such a hearing, in writing, shall constitute waiver of the right to be heard on such revocation.

- (b) Effect of Revocation. Upon revocation of a license under this section, such licensee shall be ineligible for applying for a new license for a period of 12 months from the date of revocation.
- (c) Violation a Misdemeanor. Any violation of any term of this article shall also constitute a misdemeanor. Each day that a violation continues shall constitute a separate violation.
- (d) Fines. In addition to any other remedy contained herein or authorized by law, the city may impose administrative fines for violations of this article in accordance with Spring Park City Code, section 1-14.
- (e) Remedies Not Exclusive. In the event of a violation of this article, the city, in addition to any and all other remedies provided by law, shall be entitled to seek injunctive relief or proceedings to prevent, restrain, correct, or abate such violations or threatened violations.

ARTICLE II. – BUILDING CODE

Sec. 10-37. – Rental Housing Building Code.

Any rental property within the City of Spring Park shall follow the 2018 International Property Maintenance Code (IPMC) for the purpose of establishing minimum maintenance standards for basic equipment, light, ventilation, heating, sanitation and fire safety. The IPMC provides for the regulation and safe use of existing structures in the interest of the social and economic welfare of the community.

Sec. 10-38. – International Property Maintenance Code Adopted.

The 2018 International Property Maintenance Code and its amendments is adopted by reference as the building code for the City. A copy of the code shall be kept on file in the office of the city administrator/clerk/treasurer.