

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

10-024-0

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTIONS 29A-38, 29A-39 AND 29A-40 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO MANDATORY RENTAL AGREEMENT DISCLOSURES.

BY COUNCILORS STAUBER AND GARDNER:

The city of Duluth does ordain:

Section 1. That Section 29A-38 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-38. Definitions.

Unless otherwise provided in this Section, the definitions contained in sections 29A-1 and 29A-27 of this Chapter shall apply to this Article. In addition, for purposes of this Article the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(a) Disorderly behavior. Any of the following activities:

(1) A nuisance event as defined in Section 40-10 of this Code; or

(2) A violation of Chapter 49 of this Code or any state statute or federal law related to the ownership, possession or use of a firearm; or

(3) Illegal drug related activity including, but not limited to the illegal 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 [21U.S.C. 802] or possession of drug paraphernalia as provided in Minnesota Statutes Section 152.092. A tenant shall be deemed to be in possession of a controlled substance if any amount is located in the tenant's rental unit even if the tenant denies knowledge of the controlled substance unless the tenant provides a notarized statement made under oath by a person, other than the

tenant or a member of the tenant's household, that the controlled substance was in their possession and the tenant had no knowledge of the controlled substance; or

(4) Any violation of Chapter 34 of this Code; or

(5) Any act that jeopardizes the health, safety and welfare of the landlord, the landlord's agent or other tenants, or guests of tenants of a licensed premise;

(6) Any act that is prohibited by the smoking policy for the premises on which the dwelling is located;

(7) The following circumstances shall be deemed to be exceptions to the definition of disorderly behavior:

(A) An "emergency call" within the definition of Minnesota Statutes Section 609.78 and Subd. 3, will not be considered an instance of disorderly behavior when 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 there exists a report of domestic abuse as defined in the Domestic Abuse Act, Minnesota Statutes Section 518B 01, Subd. 2 (a);

(B) An "emergency call" within the definition of Minnesota Statutes Section 609.78, Subd. 3, will not be considered an instance of disorderly behavior if the call is a result of a tenant or guest of a tenant taking action to seek emergency assistance that is protected by Minnesota State Statute 504B.205;

(b) Guest of the tenant. Any person present at the licensed premise by either the express or implied consent of a tenant;

(c) Licensed premise. A rental unit, all common areas of the building in which a rental unit is located, all accessory structures and improvements located upon the real property, and the real property upon which a rental unit is located;

(d) Tenant. The lessee pursuant to a rental agreement and any member of the lessee's household;

(e) Smoking policy disclosure. A disclosure of the smoking policy for the premises on which the dwelling is located. The disclosure must state whether smoking is prohibited on the premises, allowed on the entire premises (except where prohibited by other federal, state or local law) or allowed in limited areas on the premises. If the smoking policy allows smoking in limited areas on the premises, the disclosure must identify the areas on the premises where smoking is allowed.

Section 2. That Section 29A-39 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-39. Crime-free and smoking policy disclosure rental agreement provisions required; exceptions.

All rental agreements for any rental unit licensed as required by Article II, except for residential facilities licensed by the state, shall be assumed to contain the crime-free and smoking policy disclosure provisions of Section 29A-40.

Section 3. That Section 29A-40 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-40. Licensee duties; mandatory rental agreement terms.

(a) It shall be the responsibility of any tenant to ensure that all tenants and all guests of a tenant while on or about the licensed premise not engage in disorderly behavior;

(b) The licensee shall cause the commencement of an unlawful detainer or other eviction proceedings pursuant to the provisions of state law if a tenant violates the provisions of clause (c) of this Section on three or more occasions during a 12 month period;

(c) Except for rental agreements related to occupancy of a state licensed residential facility, and except as otherwise preempted by federal or state laws and regulations, all rental agreements for the occupancy of a rental unit entered into on or after January 1, 2009, shall be assumed to contain the following provisions:

(1) No tenant or guest of a tenant shall engage in disorderly behavior while on or about the licensed premise;

(2) No tenant or guest of a tenant shall aid or abet disorderly behavior occurring on or about the licensed premise;

(3) No tenant or guest of a tenant shall conspire with others to engage in disorderly behavior on or about the licensed premise;

(4) No tenant shall permit a guest of the tenant to engage in disorderly behavior on or about the licensed premise;

(5) Any violation of paragraphs 1-4, above, shall constitute a material violation of the rental agreement and shall constitute good cause for the immediate termination of the rental agreement;

(d) The licensee, prior to the commencement of the term of the rental agreement shall provide to the lessee(s) a written notice that contains the definition of disorderly behavior as provided by Section 29A-38(a), above, and the provisions of clause (c) of this Section and shall maintain a written acknowledgment signed by the lessee(s) acknowledging receipt of such notice;

(e) Prior to entering into any rental agreement, the licensee shall cause a criminal background check to be conducted on all prospective adult tenants. The criminal background check shall include a search for all misdemeanor, gross misdemeanor and felony

convictions as follows:

(1) A state criminal history check covering the last three years and which utilizes the most recent update of the state criminal history files; or

(2) A criminal history check covering the last three years from the prospective tenant's previous state of residence, if available, if the prospective tenant is moving directly from another state; or

(3) Criminal history check from this state and the prospective tenant's prior state(s) of residence, if available, covering the three year period prior to commencement of the tenancy if the prospective tenant's current period of residency in the state has been for less than a period of three consecutive years;

(f) The licensee, prior to the commencement of the term of any rental agreement beginning on or after July 14, 2010, must include a smoking policy disclosure as part of the rental agreement.

Section 4. That this ordinance shall take effect 30 days after its passage and publication.

Approved as to form:

\_\_\_\_\_  
Attorney

CCREQ/ATTY JS/SBH:cjk 5/10/2010

STATEMENT OF PURPOSE: This ordinance adds a requirement that all residential rental agreements commenced on or after July 14, 2010, must include a smoking policy disclosure. The smoking policy disclosure must state whether smoking is prohibited on the premises, allowed on the entire premises or allowed in limited areas on the premises. If the smoking policy allows smoking in limited areas on the premises, the disclosure must identify the areas on the premises where smoking is allowed. The ordinance also adds that noncompliance with the smoking policy is a disorderly behavior that can be grounds for a licensee to commence an unlawful detainer or other eviction proceeding against the tenant.