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COMMUNITY DEVELOPMENT

**Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement**

Date: December 13, 2017
To: Mayor and City Council
From: Dave Gobin, Community Development Director
Cc: Gregg Mandsager, City Administrator
Re: Rewrite of Rental Property Codes & Definitions

INTRODUCTION: Since 2015, the Community Development Department has been adhering to a revised rental housing program that was approved by Council. Additionally, we have been trying to work within the existing code (Title 8: Chapter 5) and found there to be significant administrative corrections that needed to be updated.

BACKGROUND: Under my direction, I asked our City Attorney to draft new language from scratch to better reflect our intent with the revised rental housing program. He did and also provided an update to our definitions to make it even clearer for rental property owners.

RECOMMENDATION: Given that the code is a complete rewrite and not just ministerial changes, we are requesting that Council approve a Resolution to proceed with an ordinance to adopt the new language and definitions for the rental property codes under Section 8: Chapter 5.

8-5-4 License, Registration, and Inspection Requirements for Rental Facilities and Rental Units

- A. Purpose.** It is the purpose of this chapter to ensure that property owners, their agents and others, meet their responsibilities with respect to proper operation and maintenance of rental housing facilities and to provide for inspection as a means of compelling compliance therewith. It is not the purpose of this chapter to create any duty on the part of the city, its officers, agents, or employees, owing to any individual member of the public or to protect any particular or circumscribed class of persons. Specifically, it is not the intent of this chapter to create any duty or liability by the city, its officers, agents, or employees, to premises' occupants, owners, tenants, or any other person.
- B. Warning.** No person shall place reliance upon this chapter, any inspections performed or licenses or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor licenses nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use or occupancy of any premises. A license issued or certification that a premises has been inspected or registered pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of that premises.
- C. Indemnification.** The applicant for any Rental Facility License or registrant for any Rental Unit Registration Certificate issued under this chapter, by making such application or registration, assumes and agrees to pay for all loss or damage to property whatsoever, and injury to or death of any person or persons whomsoever, including all costs and expenses incident thereto, however arising from or in connection with or related to the issuance of such Rental Facility License or Rental Unit Registration Certificate or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant or registrant, to abide by or comply with any of the provisions of this chapter or any other ordinance of the city; and such applicant or registrant, by making such application or registration, forever indemnifies the city, its officers and employees and agrees to save it and them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, costs and expenses, by reason of the foregoing even though acts or omissions of the city, its officers or employees may have caused or contributed thereto. The foregoing provisions shall be deemed

to be a part of any license or certificate issued under this chapter whether expressly recited therein or not.

- D. Rental Facility License and Rental Unit Registration Required.** No owner or operator shall rent, or offer for rent, any Rental Facility or Rental Unit for use in whole or in part for human habitation, unless:
1. A valid Rental Facility License has been issued for the Rental Facility, and
 2. Each Rental Unit is registered annually and a valid Rental Unit Registration Certificate has been issued for the Rental Unit.

All residential Rental Facilities or Rental Units being let for rent and/or occupancy without a valid Rental Facility License or Rental Unit Registration with the City and fees paid may be ordered vacated and/or the owner shall be subject to a fine and/or municipal infraction, the amount of which shall be established by resolution of the city council and set out in Appendix D of this Code of Ordinances.

E. Rental Facility License.

1. **Definition:** "Rental Facility License" shall mean a license issued by the City of Muscatine for a structure containing one or more rental units subject to regulation under this Chapter, which, when issued, shall authorize the owner or operator to let the Licensed Rental Facility for rent, provided that all other provisions of this Code are complied with and remain complied with for the duration of the license.
2. **Application Requirements:** Application for Rental Facility License required by this Code shall be made to the Building Official at least thirty (30) days prior to initial occupancy as a rental property or at least thirty (30) days prior to expiration of an existing Rental Facility License. The Application shall be on such form and detail as prescribed by the Building Official.
3. **Rental Facility License Fees.** Rental Facility License fees shall be as set forth by resolution of the City Council and as set out in Appendix D to this Code of Ordinances and payment thereof shall accompany the application for Rental Facility License.
4. **Grounds for Issuance.** Following payment of all Rental Facility License Fees, submission of a proper Application, on forms provided by the Building Official, and an Initial Inspection by the City of the Rental Facility for compliance with provisions of this Chapter, the Building Official shall issue a valid Rental Facility License to the Owner.
5. **Grounds for Revocation or Denial of Rental Unit Registration Certificate.** Revocation of the Rental Unit Registration Certificate is at the discretion of

the Building Official. The Building Official may revoke or deny renewal of any Rental Unit Registration Certificate issued under this Subchapter where any of the following applies:

- i. False statements on any application or information or report required by this Subchapter to be given by the applicant, registrant, or permit holder;
- ii. Conviction or judgment of the licensee for violation of any provision of this Housing Code;
- iii. Refusal by the owner to permit inspection by authorized personnel of the rental property or unit;
- iv. Failure to pay any application, penalty, re-inspection, or reinstatement fee required by this Chapter as set out in Appendix D of this Code of Ordinances;
- v. Failure to comply with the provisions of an approved mitigation/remediation plan by the Building Official;
- vi. Failure to comply with the provisions of the Title VIII of the Fair Housing Act of 1968 (as amended);
- vii. Declaration of status as a Dangerous or Unsafe Building or Structure pursuant to 9-3-3(R) of this Code of Ordinances;
- viii. Declaration of Status as dangerous or substandard building as defined by Section 8-5-9 of this Chapter; and
- ix. Frequent and recurrent noncompliance with the provisions of this Chapter.

The owner or agent of the affected property shall be notified in writing by certified mail of the license or registration revocation or denial.

6. Grounds for Emergency Revocation of License. If, at the discretion of the Building Official, an emergency exists which threatens the immediate health, safety or general welfare of the occupant or general public, the Building Official may immediately issue an order revoking the Rental Facility License. Upon issuance of the order, the occupant of the Rental Facility shall immediately vacate the premises until the Rental Facility License is reinstated. A Rental Facility License will apply to any Rental Unit within its Facility; however, authorization to rent a particular Rental Unit within a Rental Facility may be revoked without effect on the other units for which the License was issued if the Building Official revokes the Rental Unit Certificate of Registration as provided for in City Code section 8-5-4(C)(6).
7. Rental Facility License Term. Rental Facility Licenses will be issued for a term of three years, and shall be renewed by filing an application with the Building

Official as provided for herein no later than thirty (30) days prior to the expiration of the License, provided that an Initial Inspection as set forth in City Code section 8-5-4(E)(1) is completed and all other provisions of this Chapter are complied with.

8. Duty to Report Changes. The property owner is responsible for informing the Building Official of any subsequent changes to any information on the Rental Facility Application which has changed.

F. Rental Unit Registration.

1. Definition: "Rental Unit Registration" shall mean registration of any given dwelling unit with a duly licensed Rental Facility with the City of Muscatine, which, when filed with the City, shall authorize the owner or operator to let the dwelling unit which is the subject of the Rental Unit Registration for rent or occupancy, provided that all other provisions of this Chapter are complied with and remain complied with for the duration of the Rental Unit Registration Certificate.
2. Registration Form Requirements and Fees: Rental Unit Registration required by this Code shall be made to the Building Official at least thirty (30) days prior to initial occupancy as a rental unit or at least thirty (30) days prior to expiration of an existing Rental Unit Registration. If the Rental Unit Registration is for initial occupancy of a Rental Unit which does not have a valid Rental Facility License, the Rental Unit Registration shall accompany a Rental Facility License application as provided in City Code section 8-5-4(E) above. The Registration shall be on such form and detail as prescribed by the Building Official. If the Application is for a Rental Unit for which an Initial Inspection is not necessary as provided for in City Code section 8-5-4(H)(1), the Application shall be accompanied by a report of self-inspection as set forth in City Code section 8-5-4(F)(3).
3. Initial Inspection Requirements. After receiving a new Application for a Rental Unit Registration under this Chapter, the Building Official shall cause an Initial Inspection to be scheduled for the Unit as set forth in City Code section 8-5-4(H)(1).
4. Self-Inspection Requirements. During the interim years between issuance and renewal of a Rental Facility License (i.e., years two and three of the Rental Facility License), when annually registering a Rental Unit for which the Rental Facility License has not expired or been revoked, the property owner shall include, with its annual registration form and payment of fees, a signed Certificate of Self Inspection that states the property owner has inspected the rental property and he or she has determined that property to be in compliance

- with the Housing Code. Such Certificate of Self Inspection shall also include an itemized list of items inspected so as to form the basis of the owner's representation that the property is in compliance with the Housing Code.
5. Registration Fees. Rental Unit Registration fees shall be as set forth by resolution of the City Council and as set out in Appendix D to this Code of Ordinances and payment thereof shall accompany the application for Rental Unit Registration.
 6. Grounds for Issuance of Rental Registration Certificate. Following payment of all Rental Unit Registration fees, submission of a proper Application, on forms provided by the Building Official, and initial inspection of the Rental Unit or a report of Self Inspection as provided for herein, the Building Official shall issue a valid Rental Unit Registration Certificate to the Owner.
 7. Grounds for Revocation or Denial of Rental Unit Registration Certificate. Revocation of the Rental Unit Registration Certificate is at the discretion of the Building Official. The Building Official may revoke or deny renewal of any Rental Unit Registration Certificate issued under this Subchapter where any of the following applies:
 - i. False statements on any application or information or report required by this Subchapter to be given by the applicant, registrant, or permit holder;
 - ii. Conviction or judgment of the licensee for violation of any provision of this Housing Code;
 - iii. Refusal by the owner to permit inspection by authorized personnel of the rental property or unit;
 - iv. Failure to pay any application, penalty, re-inspection, or reinstatement fee required by this Chapter as set out in Appendix D of this Code of Ordinances;
 - v. Failure to comply with the provisions of an approved mitigation/remediation plan by the Building Official;
 - vi. Failure to comply with the provisions of the Title VIII of the Fair Housing Act of 1968 (as amended);
 - vii. Declaration of status as a Dangerous or Unsafe Building or Structure pursuant to 9-3-3(R) of this Code of Ordinances;
 - viii. Declaration of Status as dangerous or substandard building as defined by Section 8-5-9 of this Chapter; and
 - ix. Frequent and recurrent noncompliance with the provisions of this Chapter.

The owner or agent of the affected property shall be notified in writing by certified mail of the license or registration revocation or denial.

8. Grounds for Emergency Revocation of Certificate of Registration. If, at the discretion of the Building Official, an emergency exists which threatens the immediate health, safety or general welfare of the occupant or general public, the Building Official may immediately issue an order revoking the Rental Registration Certificate for a particular Rental Unit. Upon issuance of the order, the occupant of the Rental Unit shall immediately vacate the premises until the Rental Unit Certificate is reinstated. Authorization to rent a particular Rental Unit within a Rental Facility may be revoked without effect on the other units for which a Rental Facility License was issued.
9. Rental Unit Certificate Term. Rental Unit Registration Certificates will be valid for a term of one year after the date of issuance, and shall be renewed by filing an application with the Building Official as provided for herein prior to the expiration of the Certificate, provided that an Initial Inspection as set forth in City Code section 8-5-4(H)(1) or a Report of Self Inspection as required by City Code section 8-5-4(F)(3) has been completed and all other provisions of this Chapter are complied with. The Rental Unit Registration may not be renewed unless all required fees have been paid in full for all rental units of which the applicant is an owner.
10. Duty to Report Changes. The property owner is responsible for informing the Building Official of any subsequent changes to any information on the Rental Unit Registration which has changed

G. Reinstatement of License and Registration Certificate. The Building Official will reinstate a revoked Rental Facility License or Certificate of Rental Unit Registration only after a regular inspection has been completed, reinstatement fees have been paid in full, and the Rental Facility or Rental Unit has been brought into compliance with the applicable standards of this Code. Reinstatement of the Rental Facility License or Rental Unit Registration shall not extend or change the next inspection date of the Rental Facility License or Rental Unit Registration.

H. Inspection of Rental Property

1. Initial Inspection Required. An initial inspection is an inspection of a Rental Facility or Rental Unit that has not previously received a Rental Facility License, and also for a Rental Facility that has previously received a license, but whose license is scheduled to or has expired. The initial inspection shall be scheduled with the Building Official or his or her designee following receipt of a Rental Facility License Application and is required before any Rental Facility or Rental Unit therein may be occupied.
2. Regular Rental Inspection. Regular rental inspections of rental facilities, rental units, and the common areas thereof, shall be inspected in accordance with a

program of rental inspections conducted not more frequently than yearly nor less frequent than every three (3) years per Rental Facility License and Rental Unit Registration.

3. **Other Rental Inspection.** Rental facilities and units may be inspected on a more frequent basis to ensure compliance with this code based upon one (1) or more of the following:
 - i. Information is received indicating that there is a violation of provisions of this Code, or any state or federal regulations;
 - ii. An observation is made by a Building Official, or police officer, or fire Building Official, or any other Government official of a possible violation of the standards or the provisions of this code or any state or federal laws;
 - iii. Information is received indicating that a rental facility or rental unit is unoccupied and unsecured or that a rental unit is damaged by fire, water, or other causes detrimental to the structure;
 - iv. A determination must be made whether there is compliance with a notice or an order issued by a Building Official;
 - v. A public health safety or welfare emergency is observed or is reasonably believed to exist;
 - vi. A tenant makes a request for an inspection. If a tenant requests a non-emergency inspection, then the City of Muscatine shall give a written notice to the owner. Fourteen (14) days after the written notification to the owner, an inspection may be conducted by the Building Official;
 - vii. A Rental facility's ownership is to be transferred to the City of Muscatine, Iowa;
 - viii. A property is declared a Dangerous or Unsafe Building or Structure pursuant to Section 9-3-3(R) of this Code of Ordinances; and
 - ix. A property is declared a Substandard Building pursuant to Section 8-5-9 of this Chapter.

- I. **Non-Transferability and Notification of Change.** Rental Facility Licenses and Rental Registration Certificates shall not be transferred from one owner to another. The owner of any rental facility or unit shall notify the Building Official within thirty (30) days of any change in the information required for Rental Facility License or Rental Unit Registration. If a rental facility or unit is sold, assigned, or otherwise transferred, the rental facility/unit must be re-licensed and re-registered within thirty (30) days of the transfer. The new owner shall notify the Building Official of any change in contact information for their designated local representative, including a change in name, mailing address, e-mail address, telephone number, mobile telephone

number, or facsimile number of the designated local representative within thirty (30) business days of the change.

- J. Provisional Approval.** The Building Official may grant owners of Rental Units and Rental Facilities provisional approval to let for rent or occupancy their rental facility or unit, as the case may be, while formal issuance of Rental Facility License or Rental Unit Registration Certificate is pending, provided that all requirements for issuance of the Certificate of Rental Facilities License or Rental Unit Registration are satisfied.
- K. Fee Schedule.** Fees shall be charged for services rendered in relation to this Section. These services include but are not limited to the following: registration, inspections, failure to appear for any scheduled inspections, and late cancellations. The amounts shall be established by resolution of the City Council and are set out in Appendix D of this Code of Ordinances. As a nuisance abatement remedial measure, the fee schedule shall include any unpaid nuisance abatement fees or costs that have been incurred by the City of Muscatine and a per tax parcel per response surcharge for police and fire department responses, excluding emergency medical responses, in an amount equal to the approximate cost of the response, plus a processing fee, for all responses above the nuisance threshold set forth immediately below within a calendar year. The nuisance threshold is exceeded if the number of responses is greater than three (3) times the number of units on the tax parcel. In the case of police, fire or rescue responses (excluding domestic violence calls), the number shall be based upon founded calls. Within ten (10) days of the date of a surcharge invoice, the owner may request the Community Development Department review the call log to verify the number of responses and provide the owner with the dates and nature of the responses included in the bill.

~~GG. "Rental Property (Residential Rental Property) or Rental Unit (Residential Rental Unit)" shall mean a structure containing one or more dwelling units, rooming units, or sleeping units, or any structure or part of a structure used as a home, residence, or sleeping unit by a single person, household unit, or any person(s) other than the legal owner or other person in control of such unit(s), whether by day, week, month, year or any other term, regardless of monetary exchange. The term Rental Unit or Residential Rental Unit may refer to a unit within a rental property, as context requires.~~

~~HH. "Rental Property Registration" shall mean registration with the City of Muscatine of a structure containing one or more rental units subject to regulation under this Chapter.~~

~~II. "Rental Unit Registration" shall mean registration of any given dwelling unit within a duly registered rental property.~~

~~JJ. "Roomer." shall mean an occupant of a rooming house or rooming unit and shall also mean an occupant of a dwelling who is not a member of the family occupying the dwelling.~~

~~KK. "Rooming unit" shall mean any habitable room, or group of adjoining habitable rooms, located within a dwelling and forming a single unit with facilities which are used, or intended to be used, primarily for living and sleeping and contain no cooking equipment except that a properly connected and safely operated microwave shall be permitted. A rooming unit shall have a bath and toilet facilities available for exclusive use by the occupant(s) or for communal use in accordance with Sections 8-5-6(E)1 and 8-5-6(E)2.~~

~~LL. "Rubbish" shall mean inorganic waste material consisting of primarily noncombustible materials.~~

~~MM. "Supplied" shall mean paid for, furnished by, provided by, or under the control of the owner or operator.~~

GG. "Rental Facility (Residential Rental Facility)" shall mean a structure containing one or more dwelling units, rooming units, or sleeping units, or any structure or part of a structure used as a home, residence, or sleeping unit by a single person, household unit, or any person(s) other than the legal owner or other person in control of such unit(s), whether by day, week, month, year or any other term, regardless of monetary exchange.

HH. "Rental Facility License" shall mean a license issued by the City of Muscatine for a structure containing one or more rental units subject to regulation under this Chapter, which, when issued, shall authorize the owner or operator to let the Licensed Rental Facility for rent, provided that all other provisions of this Code are complied with and remain complied with for the duration of the license.

II. "Rental Unit (Residential Rental Unit)" shall mean a dwelling unit, rooming unit, or sleeping unit, or any structure or part of a structure used as a home, residence, or sleeping unit by a single person, household unit, or any person(s) other than the legal owner or other person in control of such unit(s), whether by day, week, month, year or any other term, regardless of monetary exchange. The term Rental Unit or Residential Rental Unit may refer to a unit within a Rental Facility, as context requires.

JJ. "Rental Unit Registration" shall mean registration of any given dwelling unit with a duly licensed Rental Facility with the City of Muscatine, which, when filed with the City, shall

authorize the owner or operator to let the dwelling unit which is the subject of the Rental Unit Registration for rent or occupancy, provided that all other provisions of this Chapter are complied with and remain complied with for the duration of the Rental Unit Registration Certificate.

KK. "Roomer." shall mean an occupant of a rooming house or rooming unit and shall also mean an occupant of a dwelling who is not a member of the family occupying the dwelling.

LL. "Rooming unit" shall mean any habitable room, or group of adjoining habitable rooms, located within a dwelling and forming a single unit with facilities which are used, or intended to be used, primarily for living and sleeping and contain no cooking equipment except that a properly connected and safely operated microwave shall be permitted. A rooming unit shall have a bath and toilet facilities available for exclusive use by the occupant(s) or for communal use in accordance with Sections 8-5-6(E)1 and 8-5-6(E)2.

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