

**ORDINANCE NO. 1477**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** relating to rental housing safety, repealing chapter 5.64 DMMC, and reenacting and codifying a new chapter 5.64 DMMC entitled *Rental Housing*.

**WHEREAS**, at the time of the adoption of Ordinance 1351 in 2004 (codified at chapter 5.64 DMMC, effective date December 11, 2009, hereinafter the "Rental Housing Ordinance") the City of Des Moines was having significant problems with crime and gang related activity throughout the City but in particular the Pacific Ridge Zone. As a result of the issues that were presented the City Council of the City of Des Moines adopted the Rental Housing Ordinance to make landlord more responsible for criminal conduct occurring on property that is not properly managed, and

**WHEREAS**, DMMC 5.64.120 states that "This chapter shall be brought before the City Council for a mandatory review no later than five years after its effective date", and

**WHEREAS**, the City Council having considered the current needs of the City and understanding that the Rental Housing Ordinance works in concert with the enforcement of criminal laws generally, the enforcement of nuisance ordinances generally, the enforcement of the City's Building and the authority granted to landlords in the Residential Landlord-Tenant Act chapter 59.18 RCW to deal with gang activity, and acknowledges the "criminal street gang" definitions in RCW 9.94A.030, as preempted by the State of Washington in RCW 9.101.010; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:**

**Sec. 1. Findings.**

(1) The citizens of the City have a right to safe rental housing and the City should assist rental property owners and managers to reduce the occurrence of criminal conduct on rental properties. The Des Moines City Council finds that it is a reasonable exercise of its police powers to require rental property owners to take reasonable steps to prevent the use of rental property for criminal purposes, and that rental property owners should be penalized in the event they take no action to discourage crime from recurring on their rental properties. The Des Moines City Council further finds that increased cooperation between property owners, tenants and the Des Moines Police Department is integral in reducing such crime.

(2) Existing City laws have proven ineffective in encouraging rental housing property owners who have criminal activity occurring on their property, to take the proper steps necessary to help the Des Moines Police Department in stopping crime.

(3) This ordinance has been developed to give the Des Moines Police Department and rental housing property owners the tools necessary to maintain and improve the safety, quality and appearance of the rental properties they own, and therefore, provide a safer living environment for renters and for the

surrounding community.

(4) Enforcement of this ordinance through issuance of civil infraction notices as provided in chapter 7.80 RCW and chapter 1.24 DMMC as presently constituted or subsequently amended will use procedures with which the Des Moines Police Department and the Des Moines Municipal Court are accustomed. The Des Moines Municipal Court will conduct hearings on infractions, with a police officer presenting evidence in support of the infraction notice. As provided by RCW 7.80.090, an Assistant City Attorney may, but need not, appear on behalf of the City. It is anticipated that most cases will not require appearance by an Assistant City Attorney.

## **Sec. 2. Definitions.**

(1) **Use of words and phrases.** As used in this ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

(2) "Criminal conduct" means reasonable and articulable suspicion by a sworn law enforcement officer that:

(a) A "most serious offense" has occurred as defined in RCW 9.94A.030;

(b) Drug-related activity pursuant to RCW 59.18.130 and or chapter 9.12 DMMC has occurred on the rental property;

(c) Furnishing liquor to persons under twenty-one years of age or furnishing to a premise of persons under twenty-one years of age to consume liquor pursuant to RCW 66.44.270(1) has occurred on the rental property.

(3) "Landlord" means:

(a) The owner, lessor or sublessor of the dwelling unit, or the rental property of which it is a part, and a person designated as a representative of the landlord;

(b) A person or business entity such as a corporation, limited liability corporation, partnership, or agency that owns, operates, or manages rental housing or rental property; and

(c) A person, designated by the landlord, who has authority to sign a lease or rental agreement.

(4) "Police Department" means the Des Moines Police Department or a law enforcement officer who has general authority, limited authority or specially commissioned Washington state peace officer, or any federal peace officer, as those terms are defined by chapter 10.93 RCW.

(5) "Reasonable steps to reduce the likelihood that criminal conduct will recur on the property" means that the landlord reports criminal conduct that occurs on the property

whenever the commission of criminal conduct on the rental property is known or suspected, and that the landlord takes steps to prevent the recurrence of crime, which may include, but are not limited to, one of the following:

(a) The landlord and on-site managers of the rental property show proof of attendance in at least a three-hour landlord training class. Training may be provided by local police departments, rental housing associations, on-line training or any other training program approved by the Des Moines Police Department. The training must be about rental property management, crime free properties, tenant screening or landlord-tenant law;

(b) The landlord pursues eviction to judgment of the tenant who is the subject of a notice issued in accordance with section 3(2). of this ordinance, and begins the eviction process within thirty days after the third notice is issued; or

(c) The landlord requests the City's assistance in accordance with section 4 of this ordinance.

(6) "Rental agreement" or "lease" has the same meaning as "rental agreement" defined in RCW 59.18.0301.

(7) "Rental housing" or "rental property" means a rental housing facility that is rented or intends to be rented, is located on a single parcel or lot and for which a postal address exists or may exist for each individual unit, and the common areas and appurtenances to the rental housing facility. "Rental housing" or "rental property" includes any mobile home park or manufactured housing community as those terms are defined by RCW 59.20.030. "Rental housing" or "rental property" does not include the following:

(a) A retail, commercial or industrial rental;

(b) A registered and licensed nursing home; or

(c) A properly registered and licensed assisted living facility.

(d) A single-family home.

(8) "Tenant" has the same meaning as "tenant" in RCW 59.18.030 and 59.20.030.

**Sec. 3. Landlord-Duties-Notice by police chief-Infraction.**

(1) A landlord shall ensure that its rental property is not used for criminal conduct. If a landlord is notified by the Des Moines Police Department that criminal conduct has occurred on the property, the landlord shall take reasonable steps to reduce the likelihood that criminal conduct will reoccur on the rental property. Repeated criminal conduct committed by tenants or guests on the rental property shall result in a civil infraction chargeable to the landlord.

(2) Upon the occurrence of criminal conduct on the rental property, the police chief's office may cause notice to be sent to the landlord setting forth the date of the occurrence, the location of the occurrence, the nature of the occurrence and the name of the person who engaged in the criminal conduct. Notice may be sent whenever the police chief's office has probable cause to believe that criminal conduct has occurred on the rental property. Notice is deemed properly delivered when it is either served upon the landlord or a property manager of the rental property by certified mail to the last known address of the landlord. The issuance of the notice in this subsection is a prerequisite to the issuance of a notice of infraction under subsection (3) of this section, and the issuance of the civil infraction under subsection (3) of this section constitutes the notice of the fourth instance of criminal conduct.

(3) If a landlord receives more than three notices under subsection (2) of this section regarding instances of criminal conduct committed in the same dwelling unit or anywhere on the rental property by the same tenant or any guest of the tenant within any six-month period, the landlord is guilty of a civil infraction if they have not taken reasonable steps to reduce the likelihood that criminal conduct will reoccur on the rental property. If the criminal conduct is committed by guests of the tenant, the City need not establish that the criminal conduct was committed by the same guest. Each instance of criminal conduct committed in the same dwelling unit or anywhere on the rental property by the same tenant or any guest of the tenant in excess of three instances of criminal conduct in a six-month period is an additional civil infraction chargeable to the landlord.

**Sec. 4. Assistance-Request-Provision.**

(1) A request for the assistance of the City in accordance with this section is considered a reasonable step to reduce the likelihood that criminal conduct will recur for the next single violation on the rental property, but only if:

(a) The landlord cooperates with the City's assistance and takes reasonable measures to implement the suggested methods of the City to reduce the recurrence of criminal conduct on the rental property; and

(b) A request for assistance does not relieve the landlord of the duty to comply with this chapter.

(2) When criminal conduct occurs on rental property, or the occurrence of criminal conduct on the rental property is suspected by the landlord, the landlord may request the assistance of the Des Moines Police Department in taking steps to reduce the likelihood that criminal conduct will recur on the rental property. The City shall assist landlords when such a request is made. The assistance may include, but is not limited to, the following:

(a) Providing the landlord with disclosable information relating to the criminal conduct that occurred on the rental property;

(b) Having a law enforcement officer communicate with the tenant suspected of engaging in the criminal conduct regarding the ramifications of continued criminal conduct; and

(c) Providing the landlord with resources available to assist the landlord in pursuing eviction of the tenant.

(d) The Des Moines Police Department may work with other agencies providing advice to rental property owners or tenants in providing assistance under this section.

**Sec. 5.           Violations–Infraction–Proceedings–Appeals.**

(1) A violation of this chapter is a class 2 civil infraction for the first offense and a class 1 civil infraction for each offense after, punishable under RCW 7.80.120 and DMMC 1.24.190 as presently constituted or subsequently amended.

(2) Except as set forth in this ordinance, and except as other rules apply, the Infraction Rules for Court of Limited Jurisdiction (IRLJ) and all local rules and policies as promulgated by Des Moines Municipal Court shall govern infraction proceedings and appeals of infractions filed in accordance with section 3 of this ordinance.

**Sec. 6.       Repealer.** Chapter 5.64 DMMC and Ordinance No. 1351 are hereby repealed.

**Sec. 7.       Codification.** Sections 2 through 5 of this ordinance are codified as a new chapter in Title 5 DMMC entitled *Rental Housing*.

**Sec. 8.       Savings clause.** Chapter 5.64 DMMC and Ordinance No. 1351, which are repealed by this ordinance, shall remain in force and effect until the effective date of this ordinance.

**Sec. 9.       Severability - Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

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**Sec. 10. Effective date.** This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this 28th day of January, 2010 and signed in authentication thereof this 28th day of January, 2010.



M A Y O R

APPROVED AS TO FORM:

  
City Attorney

ATTEST:

  
City Clerk

Published: February 3, 2010

Effective Date: February 27, 2010

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO. 1477, Adopted January 28, 2010

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance relates to rental housing safety, repeals chapter 5.64 DMMC, and reenacts and codifies a new chapter 5.64 DMMC entitled *Rental Housing*.

The full text of the ordinance will be mailed without cost upon request.

Sandy Paul, C.M.C.  
City Clerk

Published: February 3, 2010