

ORDINANCE NO. 2365

ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF NEWTON, IOWA, 2016, TITLE XV, CHAPTER 151, "MINIMUM HOUSING CODE"

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWTON DOES ORDAIN AS FOLLOWS:

Section 1. The Code of Ordinances, City of Newton, Iowa, 2016, Title XV, Chapter 151, "Minimum Housing Code" is hereby amended by adding or deleting the following:

151.080 CRIME FREE MULTI-HOUSING PROGRAM PARTICIPATION

- (A) Participation in the crime free housing program is required for all residential property owners who own, operate or manage residential rental properties with four or more units.
- (B) The provisions of this chapter are supplementary and complementary to other provisions of this code and applicable laws. Nothing in this chapter may be construed to limit any existing right of the City to abate nuisances or to enforce any provisions of applicable law, statute or this code, including provisions of uniform codes adopted by reference in this code.

151.081 DEFINITIONS

As used in this subchapter, the following terms shall have the following meanings:

- (A) **Call for Service.** Any occasion on which one or more members of a law enforcement agency go to a property for purposes of investigating suspected criminal or nuisance activity. A call for service is not founded unless it meets the definition herein of "founded call for service."
- (B) **Corrective Action.** Action taken with respect to a nuisance property for the purpose of abating nuisance activity.
- (C) **Emergency Assistance.** Immediate intervention by first responders in order to prevent or stop further damage to person or property.
- (D) **Founded Call for Service.** Any occasion on which a call for service results in a finding of probable cause to believe nuisance activity occurred on or within one thousand feet of the property to which the call for service was made. A founded call for service shall not be applied if a victim of a crime or abuse is the party who reported the criminal activity that resulted in the call for service to the City.
- (E) **Owner.** Designates the rental property owner, property manager or duly authorized agent, responsible for landlord duties.
- (F) **Nuisance Activity.** Means conduct giving rise to the conditions, events, and/or situations described in Section 151.084
- (G) **Nuisance Property.** Property which meets the criteria set forth in Section 151.084
- (H) **Resident.** Designates the resident, any member of the resident's household, guest(s), or other person(s) under resident's control.
- (I) **Property.** Real estate, including land, and that which is affixed, incidental, or appurtenant to the real estate. For property consisting of more than one unit, the term property may refer to a particular unit or to the portion of the property on which nuisance activity has occurred or is occurring. Property may also include areas used in common by all units of the property, including without limitation, other structures erected on the property and areas used for parking, loading, and landscaping.
- (J) **One Thousand Feet.** The distance measured from the central point of any nuisance activity to the nearest point along the parcel line for the property with which the owner or resident is associated. For purposes of this chapter, the property of an owner or resident who is not responsible for the Founded nuisance activity shall not be subject to Section 151.084
- (K) **Victim of Abuse or Crime.** A person who has suffered harm as a result of abuse or crime that was perpetrated directly against that person.

151.82 PROGRAM REQUIREMENTS.

- (A) **Crime Free Lease Addendum.** All residential rental property owner with four or more rental units, entering into leases regarding residential rental property shall utilize the crime free lease addendum provided by the City. Property owners shall advise prospective tenants of the required crime free lease addendum prior to entering into any lease or rental agreement.

The crime free lease addendum shall make criminal activity a lease violation and will specify that criminal activity is not limited to violent criminal activity or drug-related criminal activity engaged in by, facilitated by, or permitted by the tenant, a member of the household, a guest or any party under the control of the tenant. The property owner shall take all reasonable action to enforce the terms of the crime free housing addendum, including eviction of the tenant in violation pursuant to the requirements of state law.

It shall constitute a violation of this subchapter for any residential rental property owner to knowingly permit any tenant to occupy any residential rental property without entering into a crime free lease addendum or to occupy any residential rental property in violation of any provision of the crime free lease addendum required under this section. Any failure to include a crime free lease addendum or similar approved language may result in penalty as set forth in subsection (F) of this division.

- (B) Training. All residential rental property owners with four or more rental units, shall have successfully completed mandatory crime free management training, administered or certified by the City, prior to issuance of occupancy permits. Recertification training will be required of all residential rental property owners every three years.
- (C) Property contact information. The residential rental property owner shall provide the City with emergency contacts for each rental property, who can provide the names of the residents in each unit and has authority to make decisions with respect to the property.
- (D) Tenant background checks. All residential rental property owners with four or more rental units shall check the criminal background of all perspective tenants through a screening program approved by the Police Department. Copies of the completed background check must be retained in the tenant's files and made available to the City upon request.
- (E) Chronic Law Enforcement Issues. Residential rental property owners with fewer than four rental units will be subject to program requirements of this chapter only if the rental unit(s) experience chronic law enforcement issues. In the event of chronic law enforcement issues, property owners shall remain subject to program requirements for a period of 24 months violation free, following the latest founded incident. Chronic law enforcement issues are unit specific, with occupants therein and defined as:
 - 1. One or more Founded Level 1 Violations as defined in Section 151.084(A)(2)(A) of this Chapter within a 12 month period.
 - 2. Two or more Founded Level 2 Violations as defined in Section 151.084(A)(2)(B) of this Chapter within a 12 month period.
 - 3. Three or more Founded Level 3 Violations as defined in Section 151.084(A)(2)(C) of this Chapter within a 12 month period.

(F) Enforcement/penalties.

1. Notice. Whenever the City determines that a violation of this section exists, the City shall give notice of violation and an order to correct to the property owner. The notice shall be in writing and shall describe with reasonable detail the violation(s) so that the property owner has the opportunity to correct said violation.

2. Violation. Any person who fails to comply with any provisions of this chapter after receiving written notice of the violations(s) and being given a reasonable opportunity to correct such violations(s) shall be deemed to be in violation of this chapter.

3. Penalty. Any property owner violating any provision of this chapter or other applicable code or regulation with regard to Crime Free Multi-Housing Program shall be subject to a fine as set forth in § 10.99 for each offense. A separate offense shall be deemed committed on each day a violation occurs or continues to exist. Permit renewals will not be approved unless all outstanding penalties are paid in full.

4. Suspension/revocation. Any failure of an owner to take reasonable action enforce the terms of the crime free lease addendum after having been notified by the City of activity or conduct occurring on the residential rental property in violation of the addendum, and after having been given a reasonable opportunity to remedy such activity or conduct, shall be sufficient grounds for the suspension of his or her residential rental permit for a period of up to 90 days. Repeated suspensions may be grounds for revocation. The property owner shall have the right to appeal any suspension as set forth in this chapter.

151.83 REQUIREMENTS; PUBLIC NUISANCE PROPERTY.

- (A) It shall be the responsibility of the owner of each dwelling unit that is subject to the provisions of this chapter to assure that the use and occupancy of such dwelling unit does not unreasonably interfere with or adversely affect the rights of nearby residents to the quiet enjoyment of their

property, and does not disturb the health, safety, comfort or general welfare of the occupants of surrounding properties.

- (B) Any use or occupancy, or allowing the use or occupancy, of any dwelling unit subject to the provisions of this chapter in violation of the requirements of division (A) above shall constitute a public nuisance as defined in Section 151.084.
- (C) Failure of the owner to comply with the requirements of this section with respect to any dwelling unit owned by the owner shall be grounds for the assessment of infraction points covering such dwelling unit as provided in 151.084 of this chapter

151.084 ASSESSMENT OF INFRACTION POINTS

(A) *Founded complaint of violations.*

- (1) In addition to the possibility of the issuance of a municipal infraction, the owner of any dwelling unit subject to the provisions of this chapter at which a founded complaint of a violation of any of the following provisions of this code occurs shall be assessed infraction points, in accordance with the following schedule.

(2) *Nuisance Property*

A Property shall be deemed a nuisance property upon a determination by the City that any one or more of the following subsections is true with respect to the property.

- (A) *Level 1 Violation:* One or more founded calls for service have been made concerning the following nuisance activities at or within one thousand feet of the property within a period of twelve consecutive months, whether committed by a resident, guest(s) or other person(s) under the resident's control:

- (1) Manufacture, delivery or possession of a controlled substance in violation of Iowa Code Chapter 124;
- (2) Kidnapping as defined in Iowa Code Chapter 710;
- (3) Arson as defined in Iowa Code Chapter 712;
- (4) Burglary as defined in Iowa Code Chapter 713;
- (5) Robbery as defined in Iowa Code Chapter 711;
- (6) Sex abuse as defined in Iowa Code Chapter 709;
- (7) Intimidation with a Dangerous Weapon as defined in Iowa Code Section 708.6;
- (8) Willful injury as defined in Iowa Code Section 708.4;
- (9) Sexual exploitation of a minor in violation of Iowa Code Section 728.12;
- (10) Felony gambling in violation of Iowa Code Chapter 725.7;
- (11) Felony criminal mischief as defined in Iowa Code Chapter 716;
- (12) Animal contests in violation of Iowa Code Chapter 717D;
- (13) Possessing or carrying a dangerous weapon as defined in Iowa Code Section 724;
- (14) Riot as defined in Iowa Code Section 723.1;
- (15) Prostitution as defined in Iowa Code Chapter 725.
- (16) Sex Offender registry violations as defined in Iowa Code Chapter 692A;
- (17) Owning, keeping or harboring a Dangerous Animal as defined in Newton Municipal Code Section 90.02 and prohibited by Section 90.04 thereof;

- (B) *Level 2 Violation:* Two or more Founded Calls for Service have been made concerning the following Nuisance Activities at or within one thousand feet of the Property within a period of twelve consecutive months, whether committed by a resident, guest(s) or other person(s) under the resident's control:

- (1) Serious or aggravated misdemeanor criminal mischief as defined in Iowa Code Chapter 716;
- (2) Serious or aggravated misdemeanor assault as defined in Iowa Code Chapter 708;
- (3) Serious or aggravated misdemeanor theft as defined in Iowa Code Chapter 714;
- (4) Misdemeanor gambling as defined in Iowa Code Chapter 725;

- (5) False imprisonment as defined in Iowa Code Section 710.7;
 - (6) Unlawful discharge of any device in violation of section 130.08 and 135 of the Newton Municipal Code;
 - (7) Engaging in conduct prohibited by Section 94.02(C)(26) of the Newton Municipal Code concerning Houses of Ill Fame;
 - (8) Failure to disperse from an unlawful assembly as defined in Iowa Code Section 723.3;
- (C) Level 3 Violation: Three or more Founded Calls for Service have been made concerning the following Nuisance Activities at or within one thousand feet of the Property within a period of twelve consecutive months, whether committed by a resident, guest(s) or other person(s) under the resident's control:
- (1) Unlawful assembly in violation of Iowa Code Section 723.2;
 - (2) Simple misdemeanor assault in violation of Iowa Code Chapter 708;
 - (3) Owning, keeping, harboring or knowingly permitting an animal to create such noise as to constitute a violation of Section 90.08 of the Newton Municipal Code;
 - (4) Disturbing the peace in violation of Newton Municipal Code Section 130.02;
 - (5) Consumption or intoxication in public places in violation of Iowa Code Section 123.46;
 - (6) Disorderly conduct in violation of Iowa Code Section 723.4;
 - (7) Persons under legal age in violation of Iowa Code Section 123.47;
 - (8) Making, continuing or causing the making or continuance of a Noise Disturbance as limited by Newton Municipal Code Chapter 93;
 - (9) False reports or communications to public safety entities in violation of Iowa Code 718.6;
 - (10) Violation of any other General Provisions not specifically listed, but prohibited in Chapter 130 "General Provisions" of the Newton Municipal Code.
 - (11) Violation of any Public Nuisance not specifically listed, but prohibited in Chapter 94 "Public Nuisances" of the Newton Municipal Code.
- (D) Notwithstanding the foregoing, Chapter 151, shall not apply to calls for service made by a caller seeking law enforcement assistance or other emergency assistance for a victim of crime or abuse, or seeking law enforcement assistance or other emergency assistance for an individual in any other emergency situation, if the caller had a reasonable belief that emergency assistance was necessary to prevent the perpetration or escalation of the abuse, crime or other emergency or, in the event of abuse, crime or other emergency, the emergency assistance was actually needed. Notwithstanding the foregoing, no penalty shall be imposed under this chapter against a resident, owner, tenant or landlord because the resident, owner, tenant or landlord was a victim of abuse or crime.
- (E) Conduct within the scope of this chapter may arise out of a mental health condition and that, accordingly, any documented mental health condition of which City officials are made aware may be taken into account when applying the terms of this chapter.
- (F) Except where otherwise specified, the references in Section 151.084 to provisions of the Iowa Code or the Newton Municipal Code shall not be construed to mean that prosecution of the specific charge is required to proceed under this chapter, nor shall it be construed to mean the nuisance activity must be proven beyond a reasonable doubt. Rather, in determining whether a property is a nuisance property, the City shall apply the criteria of this section using a preponderance of evidence as the standard of proof. Any determination pursuant to this section shall be subject to administrative appeal and/or Court review as set forth in this chapter.
- (G) Penalty. The City may issue a municipal infraction citation to the owner or any occupant of a dwelling unit, or both, for a violation of any of the provisions of this subchapter or of this code, in addition to the assessment of infraction points against such dwelling unit hereunder for the same conduct or incident which forms the basis of the municipal infraction citation or citations against the owner or occupant of such dwelling unit.
- (H) Suspension. In the event any dwelling unit that is covered by this subchapter is assessed one (1) Level 1 infraction point, two (2) Level 2 infraction points, three (3) Level 3 infraction points or a combination of Level 1,2,3 infractions points in rolling 12-month period under the provisions of this subchapter, the minimum rental housing occupancy permit covering such dwelling shall be subject to suspension as provided in this section for a period of six months if

the occupancy permit has not been previously suspended, or for 12 months, if the dwelling unit's occupancy permit has previously been suspended under this subchapter. For purposes of this division (A), any points assessed against a dwelling unit shall be deemed to have been assessed as of the date that the conduct upon which the founded complaint which led to the assessment of points actually occurred.

151.085 APPEALS AND VARIANCES

Any person affected by any written notice or order issued under the provisions of this chapter may appeal such notice or order to the Newton Building and Trades Board pursuant to Section 151.065.

Section 2. Repealer Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Severability Clause. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. Effective. This ordinance shall be effective on _____, 2019, after the final passage, approval and publication as provided by law.

PASSED this 3rd day of September, 2019.

APPROVED this 3rd day of September, 2019.

(SEAL)

ATTEST:

Katrina Davis
Katrina Davis, City Clerk

Craig Trotter
Michael L. Hansen, Mayor

Craig Trotter, Mayor Pro Tem

I, Katrina Davis, City Clerk of the City of Newton, Iowa, do hereby certify that the foregoing Ordinance was passed and approved by the City Council of the City of Newton, Iowa on the ___ day of _____, 2019 and was published in the Newton Daily News, a newspaper of general circulation in the said City of Newton on the ___ day of _____, 2019.

Dated this ___ day of _____, 2019.