

**AN ORDINANCE AMENDING THE PROVISIONS OF CHAPTER 5.36  
OF THE CARPENTERSVILLE MUNICIPAL CODE  
CONCERNING RESIDENTIAL RENTAL LICENSING**

**WHEREAS**, the President and Board of Trustees have heretofore enacted Chapter 5.36 of the Municipal Code entitled “Rooming Houses and Residential Rental Property”; and

**WHEREAS**, the President and Board of Trustees have conducted a review of said Chapter 5.36 of the Municipal Code and have determined that it is the best interests of the village to amend said provisions as provided herein.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Carpentersville, Kane County, Illinois, as follows:

**SECTION 1:**

The Carpentersville Municipal Code, Chapter 5.36, “Rooming Houses and Residential Rental Property” is here by amended by repealing Articles I and II in their entirety.

**SECTION 2:**

The Carpentersville Municipal Code is hereby amended by adding a new Chapter 5.36, entitled “Residential Rental Licensing Program”, which shall read as follows:

5.36.010 Purpose

The purpose of this Chapter is to provide for the inspection and annual licensing of residential rental property so as to protect the public health, safety and welfare of the village including, but not limited to:

- A. To protect public health, safety and welfare by ensuring residential rental units comply with minimum standards for fitness for habitation, occupancy, construction, maintenance, operation, use and appearance;
- B. To protect the character and stability of residential neighborhoods and areas;
- C. To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying rental dwellings;
- D. To prevent the overcrowding of rental dwellings by requiring each unit to be in compliance with occupancy limitations;
- E. To facilitate the enforcement of minimum standards for the maintenance of residential rental structures and premises and thus preventing slums and blighting conditions; and
- F. To preserve the value of land and buildings throughout the village, and thus protect the village's tax base.

5.36.020 Definitions

As used in this Chapter the following terms shall have the meanings set forth:

“Building” means a single structure.

“Code official” means any officer, employee, or consultant of the village responsible for administering or enforcing provisions of this Chapter or provisions of this code that is administered pursuant to this Chapter. The term “code official” shall also mean “code enforcement officer” or “building inspector” and shall include the community development director, public works director, or the fire chief or their designees.

“Dwelling Unit” means a single unit providing complete independent living facilities for one or more persons, in accordance with occupancy limitations, including permanent provisions for living, sleeping, eating, cooking and sanitation. For purposes of establishment of residential licensing fees, the following applies:

“Apartment House” means a single building, under single ownership and control, that contains three or more dwelling units of varying layouts and sizes and operated as a Residential Rental Property.

“Condominium Unit” means one dwelling unit contained within a building that has been established in accordance with the Illinois Condominium Act. Each unit is considered a single residential rental property, unless all units within the building are under the same ownership and control.

“Apartment Unit” means a dwelling unit within a Residential Rental Property under single ownership and control and containing three or more dwelling units of substantially similar size and layout.

“Single-family dwelling” means one dwelling unit within a detached building or house designed to contain one dwelling unit.

“Townhome unit” means a multi-story dwelling unit within a building that contains two or more dwelling units. Each unit is considered a single residential rental property, unless all units within the building are under the same ownership and control.

“Two-unit dwelling” means a building containing two dwelling units where both dwelling units are under single ownership and control.

“Let” means to provide or offer for possession or occupancy a dwelling unit to a person who is not the legal owner of record thereof, without compensation.

“Minimum standards” means codes and ordinances adopted by the Carpentersville Village President and Board of Trustees concerning habitability, construction, maintenance, operation, occupancy, use, safety and sanitation of buildings, dwelling units or the premises, as set forth in Title 5 and Title 16 of the Carpentersville Municipal Code.

“Operate” means to own, manage, maintain, rent, lease, advertise, or offer for rent or lease any residential rental property or any dwelling unit therein for the purpose of renting to others.

"Owner" means the person or persons, jointly or severally, that hold legal or equitable title to a parcel of property, including a mortgage holder in possession.

"Person" means an individual, partnership, corporation, business trust, estate, trust, beneficial interest holder, association or any other legal or commercial entity.

"Premises" means a lot together with all the building and structures thereon

"Property agent" means a person, operator, firm, partnership, corporation, or other entity under whose management or supervision the residential rental property will be operated and who can be contacted in case of an emergency, resides within fifty miles of said property, has the authority to cause repairs to be made and properties to be vacated and secured, and has the authority to receive and accept notices and citations. The property agent may be the owner of the residential rental property, provided that the owner resides within fifty (50) miles of the village.

"Re-inspection" means subsequent inspection(s) conducted for the purpose of verifying that all violations reported during an initial inspection are fully compliant with the Minimum Standards

"Rent" means to provide or offer for possession or occupancy a dwelling unit to a person who is not the legal owner of record thereof, pursuant to an agreement, written, oral or implied, for consideration or pursuant to articles of agreement for deed or similar agreement, if not recorded with the Recorder of Deeds of Kane County, Illinois.

"Residential rental property" means a dwelling unit that is rent or let to persons other than the person(s) holding legal or equitable title to the property. A dwelling unit occupied by a purchaser under the provisions of articles of agreement for deed or similar agreement shall be considered a residential rental property unless the articles of agreement or similar agreement have been recorded with the Recorder of Deeds of Kane County, Illinois.

"Single ownership and control" means that the legal owner of each dwelling unit within a building is the same person(s) or entity.

"Structure" means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, driveways and service walks.

"Tenant" means an occupant of residential rental property.

Words or phrases as used in this article and not herein defined shall be defined as provided by the village's property maintenance code and the village's building code.

#### 5.36.030 Annual Residential Rental License Required

No person shall operate a residential rental property, or shall rent or let any residential property, unless an annual license or temporary certificate is in effect for such property, as provided by this Chapter, and remains unexpired. Each license shall be issued only

for the premises and to the owner named in the application and shall not be transferable or assignable.

#### 5.36.40 Application Requirements for Residential Rental License

A. Each applicant for a new license to operate a residential rental property for the purpose of renting it to others or for a renewal of an existing license shall file a complete application on an application form provided by the Community Development Director.

B. All residential rental property applications shall contain at a minimum, the following information:

1. The name and street address of the applicant if an individual, and if a firm, partnership, limited liability corporation or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, state, or federal agency, the name and address of its chief executive officer or other official responsible for operation of the residential rental property.

2. The full legal name, street address, and home and work telephone number of each and every owner of the property, including beneficial interest holders, if applicable.

3. The name, street address, and telephone number of the property agent for the residential rental property. Post office box addresses shall not be acceptable.

4. The street address of the residential rental property.

5. The number of dwelling units within the residential rental property.

6. The total square footage of each dwelling unit and the total number of rooms, bedrooms and bathrooms in each dwelling unit.

7. Each application shall be accompanied by a proof of address for each person listed upon the application.

8. Each application shall contain an attestation that the information contained within the application is true and correct and shall be signed under penalty of perjury.

C. Whenever there is a change in the ownership, property agent, manager, or other responsible party of a residential rental property, the owners shall notify the Community Development Department within 30 days of such change and file an updated residential rental license application.

D. Zoning Approval shall be obtained from the Community Development Department prior to any change in the number or configuration of residential rental dwelling units.

E. Building permits shall be obtained from the Community Development Department for any construction activity to the residential rental property.

F. No application shall be accepted without the required payment of the annual license fee, as set forth in Chapter 20.02, "Fees," Section 20.02.010, "License and permit fees" of this code. License fees are thereafter payable annually on or before expiration of said license. No fee will be pro-rated. If an application for renewal of an existing license is received after the date of expiration, the license fee shall be subject to a late fee as provided in Chapter 20.02 "Fees," Section 20.02.010, "License and permit fees" of this code.

G. All persons applying for a license to operate a residential rental property shall successfully complete a mandatory crime-free housing seminar, administered by the Carpentersville Police Department, prior to issuance of the license.

H. All persons applying for a license to operate a residential rental property shall submit a copy of their lease agreement to the Community Development Department for

confirmation that the lease includes a crime-free housing lease addendum or have a clause in that lease substantially similar to the crime-free lease addendum.

I. Each license shall be in effect for one year from the date on which the temporary certificate was issued and shall expire on the last day of the month in which the temporary certificate was issued the preceding year.

#### 5.36.050 Crime-free housing seminar

A. Any owner of residential rental property or residential rental property within the village, or their property agent, shall attend and complete a Village of Carpentersville crime-free housing program seminar within three months of submitting an application for a new license. An owner or agent shall thereafter attend the village of Carpentersville crime-free housing program seminar every four years.

B. In the event a village of Carpentersville crime-free housing program seminar is not available, the owner or property agent may attend an approved crime-free housing seminar provided by another municipality.

C. A property agent shall be considered an agent of the owner. If a new property agent is hired, the new agent shall have three months after hiring to attend the Village of Carpentersville crime-free housing program seminar.

D. The crime-free housing program coordinator, as designated by the Chief of Police, shall provide the Community Development Department with a list of owners, agents and/or designees who have attended the Village of Carpentersville crime-free housing program seminar, with the date of attendance and verification that the owner or property agent has complied with this chapter and is eligible to obtain, maintain or renew the license to rent.

#### 5.36.060 Crime-free lease addendum

Any owner or property agent entering into leases regarding residential rental property shall utilize a crime-free lease addendum or have a clause in the lease similar to a crime-free lease addendum. Samples of crime-free lease addendums are available from the Community Development Department. The department shall review any clauses within actual leases to determine if the clause is similar to the required crime-free lease addendum. The clause is to make criminal activity a lease violation and shall 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, guest or other party under the control of the tenant. The operator or property agent shall have authority under the clause to initiate an eviction proceeding as specified in the Illinois Forcible Entry and Detainer Statutes. Proof of a criminal violation shall be by a preponderance of the evidence. Failure to include a crime-free lease addendum or similar approved language may result in suspension or revocation of the license to rent property within the village.

#### 5.36.070 Licensing Inspection – Temporary Certificate

A. Each dwelling unit required to be licensed under the provisions of this Chapter shall be subject to a licensing inspection which shall be scheduled by the owner or property agent with the Community Development Department at the time the complete application is submitted. Thereafter, licensed dwelling units shall be subject to regular inspections every four years.

B. Upon receipt of a complete application and the scheduling of the required licensing inspection, the Community Development Department shall issue a temporary certificate indicating that a license has been duly applied for, and that the residential rental license shall be issued if and when the property has been inspected and is found to be in

compliance with the Minimum Standards of the village and the crime-free housing seminar has been completed.

C. Licensing inspections of all residential rental property shall include the building exterior, the premises, common areas, basement, and the interior of the dwelling units therein and shall be limited to inspections to determine compliance with the Minimum Standards of the village.

D. Nothing in this section shall preclude the inspection of any dwelling unit subject to this Chapter more frequently than as set forth in section A above based upon probable cause that a violation of village ordinances exist upon the dwelling unit.

#### 5.36.080 – License Issuance

A. When a licensing inspection of a residential rental property reveals any violation of the Minimum Standards of the village, the Owner shall comply with such Minimum Standards within 30 days of the licensing inspection.

B. The code official shall issue the correction notice in person or to the property owner or property agent by regular U.S. mail at the last address provided on the most recent license application. Said notice shall include the following:

1. The property address of the residential rental property;
2. A statement listing the violations of the Minimum Standards;
3. The date by which the owner or authorized representative shall complete the work and have the violations corrected, re-inspected and approved by the village; and
4. An explanation that, if the owner or property agent has not corrected the violations or scheduled a re-inspection within the deadline, the license may be denied, the temporary certificate revoked and enforcement actions taken in accordance with Section 5.36.140.

C. The license applicant shall schedule a licensing follow-up inspection on or before the compliance deadline.

D. If stated violations have been satisfactorily corrected and the crime –free housing seminar has been completed, a license shall be issued.

E. Failure to comply with the findings of any licensing inspection may result the license being denied, the temporary certificate being revoked and enforcement action in accordance with Section 5.36.140.

F. A re-inspection fee as set forth in Chapter 20.02, "Fees," Section 20.02.010, "License and permit fees" of this code shall be charged for each inspection conducted after the first re-inspection.

#### 5.36.090 License Renewal

It shall be the responsibility of each residential rental property owner or property agent to annually renew residential rental property licenses prior to expiration. Any application received after the date of expiration of the current license shall be subject to a late fee as provided in Chapter 20.02, "Fees", Section 20.02.010, "License and permit fees" of this code.

#### 5.36.100 Tenant Responsibilities

A. No tenant shall commit vandalism in the building in which the tenant's dwelling unit is located and no tenant shall permit vandalism to occur or shall violate any of the provisions of this code in the dwelling unit leased by the tenant.

B. No tenant shall cause the dwelling, premises, and other areas of the property to become unsafe or unsanitary.

#### 5.36.110 Right-of-Entry

A. The owners and their designated property agents shall be responsible for informing their tenants of any scheduled inspection or re-inspection of any residential rental property; and they shall be responsible for requesting permission from any person whose consent is necessary for village inspector to enter the property if that person is not home at the time of the inspection or re-inspection.

B. The village shall provide notice to both the owner and the tenant, on a form provided by the village, of their right to refuse consent to the residential licensing inspection and to require the village to obtain an administrative search warrant.

C. If any owner, property agent, occupant or other person in control and/or possession and whose consent to inspect is necessary concerning a residential rental property or a dwelling unit contained therein fails or refuses to consent to access and entry to the property or dwelling unit under his or her control for any residential licensing inspection required by this article, the code official or his or her designee may apply to the circuit court for an administrative search warrant. The application for the administrative search warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection shall be limited to a determination whether there are any violations of the Minimum Standards of the village.

D. Nothing set forth herein shall limit the right of a tenant to grant the village access to the dwelling unit.

#### 5.36.120 Appeals

A. Any person directly effected by a decision of the code official or notice or order issued under this Chapter shall have the right to file an appeal to the village manager. An application for an appeal shall be taken within 21 days of the action and shall be based on a claim that the true intent of this title, this code, or the rules adopted herein, has been incorrectly interpreted, or the provisions of this chapter do not fully apply.

B. An appeal stays all proceedings in furtherance of the action appealed from, unless the Community Development Director in his or her opinion, that by reason of facts, a stay would cause imminent peril to life or property.

C. The village manager shall set a reasonable time, not less than 10 days from the filing date of the appeal, for the hearing and give due notice thereof to the parties and decide the appeal within a reasonable time. Upon the hearing, any party may appear. The village manager may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in the village manager's opinion ought to be made in the premises and to that end has all the powers of the official from whom the appeal is taken.

### 5.36.130 Compliance with regulations

It is unlawful for any person or legal entity to operate a residential rental property in violation of any provision of this Chapter or any applicable rules and regulations of or adopted by the village pursuant to this Chapter, or to change occupancy of any residential rental unit unless in full compliance with the provisions of this code.

### 5.36.140 Enforcement procedures

A. Authority. Code officials are authorized to exercise the police power of the village in such manner and to such extent as any code official determines that the character of the violation and the interests of public health, safety and welfare warrant to secure compliance with the provisions of this title and this code.

B. Enforcement Actions. Code officials are authorized and shall demand compliance with the provisions of this Chapter and this code in pursuit of this Chapter through enforcement actions including, but not limited to, the issuance of a stop work order, a determination that the dwelling unit is uninhabitable and order the unit be vacated, notice of violation, citation or ticket, prosecution for violations, and to recover any penalty or fine and authorized attorney's fees and costs, the institution of the appropriate action of law or in equity to restrain, correct or abate such violation or to require the removal of the unlawful use or act and the filing of liens and judgments against property, as authorized by law. In addition, the code official may suspend and/or recommend revocation of any license issued hereunder if the licensee is in continuing violation of any law or ordinance, or that a nuisance violation pertaining to tenant activity on the premises has or continues to occur (See Section 8.20.040), or that the licensee is operating in a manner not conducive to the public health, morals or safety. Prior written notice of a violation shall not be required for the initiation of enforcement actions. The code official shall institute or cause to be instituted the appropriate legal proceedings to prosecute, restrain, correct or abate any violation or to require removal or termination of the unlawful use of the premises, building or structure in violation of the provisions of this title or of any order or direction made pursuant thereto.

C. Service. Written notice of enforcement actions shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the condition that is the subject of the enforcement action violation. Such notice shall be served either by delivering a copy of same to such person or persons by ordinary mail to the last known post office address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or in case such person is not found upon the premises and reasonable attempts to locate the individual or a valid address have been unsuccessful, by affixing a copy thereof, in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed equivalent of personal notice.

### 5.36.150 Fines—Penalty

A. Any person, firm, or corporation who fails to obtain a license when required or operates a residential rental property and violates, disobeys, omits, neglects or refuses to comply with the provisions of this article shall be issued a ticket, citation or notice to appear and will be fined.

B. Fines. Any person or legal entity who violates any provision of this Chapter or provisions of this code pursuant to this Chapter title or the codes adopted hereunder, or

fails to comply with any of the requirements thereof shall be subject to a fine for each offense of not less than one hundred fifty dollars (\$150.00) nor more than one thousand dollars (\$1,000.00). Each day that a violation continues shall be deemed a separate offense.

C. Pre-court compliance and payment of fines. Any person charged with any violation of this Chapter who has since come into compliance or who desires to pay the applicable fine in advance of a court or administrative adjudication hearing may contact the village and request a re-inspection or shall fully comply with the residential rental licensing provisions of this Chapter. Upon verification of compliance, the village may accept pre-payment of any fine, or may otherwise agree to dispose of the matter in advance of a court or administrative adjudication hearing, subject to the following conditions:

1. No pre-court payment shall be made more than ten days from the date on the ticket that set forth the court hearing;
2. A receipt shall be issued for any pre-court payment;
3. Any violation for which the fine or penalty is paid in full by pre-court-payment as provided in this subsection shall not be subject to further prosecution;
4. If more than two violations are issued for the same property in any thirty (30) day period, only the first two violations may be subject to the pre-court or administrative adjudication hearing payment pursuant to this subsection;
5. Any violation for which a fine is sought shall be confirmed by the code official to be in compliance no less than five days before the date of a court hearing set for such violation at the request of the person receiving the citation alleging the violation.

**SECTION 3:**

The Carpentersville Municipal Code, Chapter 20.02, ""Fees," Section 20.02.010, "License and permit fees" is hereby amended, in part, as follows:

34b	Late Fee – Residential Rental License	\$100.00	Sections 5.04.110 & 5.36.040E
75	Apartment House, per unit	\$25.00	Section 5.36.030
75a	Apartment Unit, per unit	\$18.75	Section 5.36.030
76	Single-family Dwelling	\$125.00	Section 5.36.030
76a	Condominium Unit, per unit	\$50.00	Section 5.36.030
77	Townhome Unit , per unit	\$75.00	Section 5.36.030
77a	Two Unit Dwelling (Duplex), per unit	\$62.50	Section 5.36.030
78	Re-inspection (per unit)	\$50.00	Section 5.36.080E

**SECTION 4:**

The provisions of this Ordinance shall be in full force and effect upon its passage, approval and publication, in accordance with law. No person currently issued a Residential Rental License shall be required to renew their license or to pay the fees set forth in Section 3 herein, until the expiration of their current license.

**SECTION 5:**

Those sections, paragraphs, and provisions of the Village of Carpentersville Municipal Code which are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Village of Carpentersville Municipal Code other than those expressly amended or repealed in Sections 1, 2 and 3 of this Ordinance.

**SECTION 6:**

The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Motion made by Trustee \_\_\_\_\_, seconded by Trustee \_\_\_\_\_, that the Ordinance be passed.

**ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES** of the Village of Carpentersville, Illinois at a regular meeting thereof held on the 15<sup>th</sup> day of June, 2010, pursuant to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** by me this 15<sup>th</sup> day of June, 2010.

\_\_\_\_\_  
Village President

(SEAL)

ATTEST:

\_\_\_\_\_  
Village Clerk