

Review and Recommendations  
Conduct on Premises - 244.2020

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6/3/2013

# **Analysis of Conduct on Premises Ordinance**

## **Overview**

- Staff Direction
- Committee / Task Force Make Up
- Methodology / Meetings

## **Background**

- Ordinance Review (brief)
- Process Improvements past few years

## **Metrics and Analysis**

- Numbers of COP letters and Revocations
- Crime Stats
- Observations on how improvements impacted numbers

## **Best Practices Review**

- Brief Review of Methods
- Brief summary of findings
- Observations and high lights

## **Review of Tools**

- Summary of MP, Crime Free Addendum, Excessive consumption

## **Improvement Opportunities -- Gaps**

## **Recommendations**

- Possible Ordinance Amendments
- Possible Procedural / Policy Changes
- Coordination Opportunities

## **Conclusion**

## **OVERVIEW**

In December of 2012, the Regulatory Energy and Environment Committee directed staff from the Police Department and Regulatory Services to review and analyze the Conduct on Premises Ordinance to determine its current use and over-all effectiveness. Included in this action was a directive to look at options and outcomes such as crime free lease addendums, management plans, and other tools commonly used to improve the quality of rental properties and increase the accountability of rental property owners.

A team consisting of representatives of the Minneapolis Police Department, Regulatory Services, City Attorney's office, and Hennepin County Attorney's Office was assembled to conduct the research and evaluation. The Team met 8 times to:

- Review metrics
- Analyze the current ordinance and procedures
- Conduct Best Practices research
- Evaluate Gaps and Opportunities
- Develop recommendations

These preliminary recommendations were also shared with Rental Licensing Industry representatives at the Rental Property Owners Group. This group is comprised of individual owners, legal aid attorneys, Section 8 representatives and Multi-Housing Association members and Regulatory Services staff.

The following report summarizes our findings and sets forth possible next steps in terms of education, process changes, possible ordinance revisions and new collaborations.

## **BACKGROUND – ORDINANCE IMPROVEMENTS**

### *Ordinance Overview*

The COP ordinance was created in 1991 as part of the Rental Licensing Ordinance. It was designed to supplement the Rental Licensing standards by addressing negative behaviors of tenants and their guests that adversely impacted neighbors. The Police Department's Crime Prevention SAFE Unit has primary responsibility for administering this section of the Rental Licensing Ordinance (244.2020). Regulatory Services is the driver when a revocation action based on violation of 244.2020 is required.

The Ordinance covers seven categories of violations – which closely align with the State Statutes covering similar activities. The criminal or nuisance behavior covered by the ordinance are:

- (1) Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling;
- (2) Minnesota Statutes, Section 609.321 through 609.324, which prohibits prostitution and acts relating thereto;
- (3) Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances;
- (4) Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;
- (5) Section 389.65 of this Code, which prohibits noisy assemblies;
- (6) Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, and section 393.40, 393.50, 393.70, 393.80, 393.90 and 393.150 of this Code, which prohibit the unlawful possession, transportation, sale or use of a weapon; or
- (7) Minnesota Statutes, Section 609.72, and Section 385.90 of this Code, which prohibit disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least two (2) units on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation.

The ordinance requires the Police department to send a Conduct on Premises notice to owners of properties where a violation of the above provisions has occurred. Only validated instances of an offense will be used as evidence needed to send a notice. In addition, the violation or incident must have occurred on the property and must have been committed by the tenant or a legitimate guest of the tenant. Domestic abuse calls, medical calls, check welfare, or other emergency type incidents are not considered valid or qualifying instances.

The MANAGEMEN PLAN is the main plan in ordinance for addressing Conduct issues. Sections 2, 3 and 6 (the more serious crimes) require a management plan after the first notice and for the remaining categories, the management plan is required after a second notice. By ordinance, Management Plans must be submitted and approved within 10 days of receiving a Notice and must be implemented within 21 days of being approved. At any point where a management plan is required, if the owner fails to meet the requirements of the management plan or if a third qualifying incident occurs, Regulatory Services in consultation with the Police Department may initiate an adverse action against the rental license.

Details of the management plan are not spelled out in the ordinance, but at a minimum the owner must specify how they intend to respond to the incident that generated a Conduct Notice and how they intend to prevent further instances of unlawful behavior.

### *Improvements*

OVER the past several years great strides have been made in automation, centralization and standardization of the ordinance. In 2011, the police assigned one Crime Prevention Analyst the task of coordinating the Conduct on Premises program, including tracking crime statistics and providing timely information to the CPS team responsible for following up on Conduct Letters. The Analyst implemented key process improvements including daily review of data and consolidation of crime alerts with review of qualifying events.

In addition, the Police Department conducted an internal review of how the Conduct on Premises ordinance is implemented and looked for inconsistencies in application of the ordinance as well as opportunities for improvement. The 2011 internal audit of the Conduct Program evaluated number and frequency of use by different CPS, how cases were selected, how Management Plans were (or were not being effectively used) and how documentation and other tools were managed.

Based on the analysis, the MPD initiated several key improvements including:

- Increase in number and regularity of Rental Property Owners trainings
- Integrated and standardized approach to management plans – where a template and specific requirements are identified
- Increased block club organizing and door knocking on blocks where management plan was required.
- Increased outreach to owners for inclusion in action alerts – where owner is notified within days if a crime has occurred at their property – accelerated by including an email field on the Rental License application which is shared with the MPD

All of these improvements have made a big difference in the over-all responsiveness of owners.

## **METRICS**

Since 2008 MPD has sent over 1000 First Notice Letters and required over 700 management plans. The vast majority of these resulted in behavioral shifts that did not go on to require additional letters or further enforcement.

Revocation actions based on Conduct on Premises violations have decreased significantly over the past few years. A total of 16 licenses were revoked between 2008 and 2013 due to 244.2020 violations. Revocation Actions range from a high of 9 in 2009 to zero in the past few years. 10 of the revocation actions were concentrated in 3 neighborhoods in the 4<sup>th</sup> precinct.

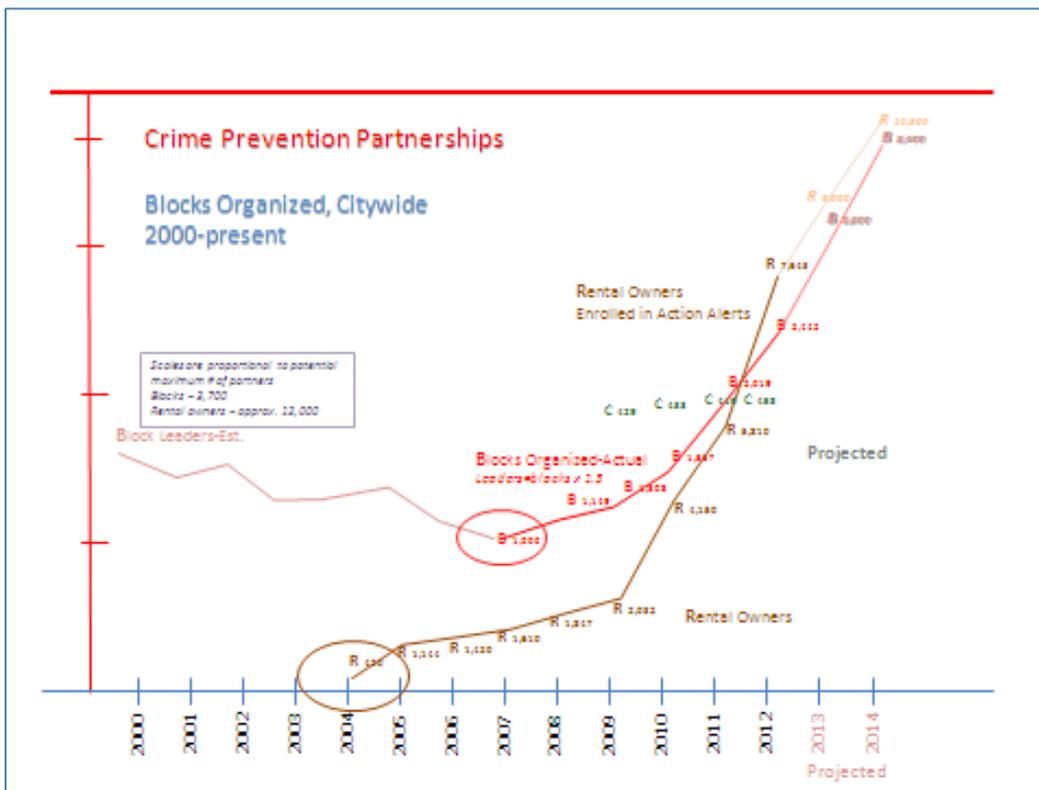
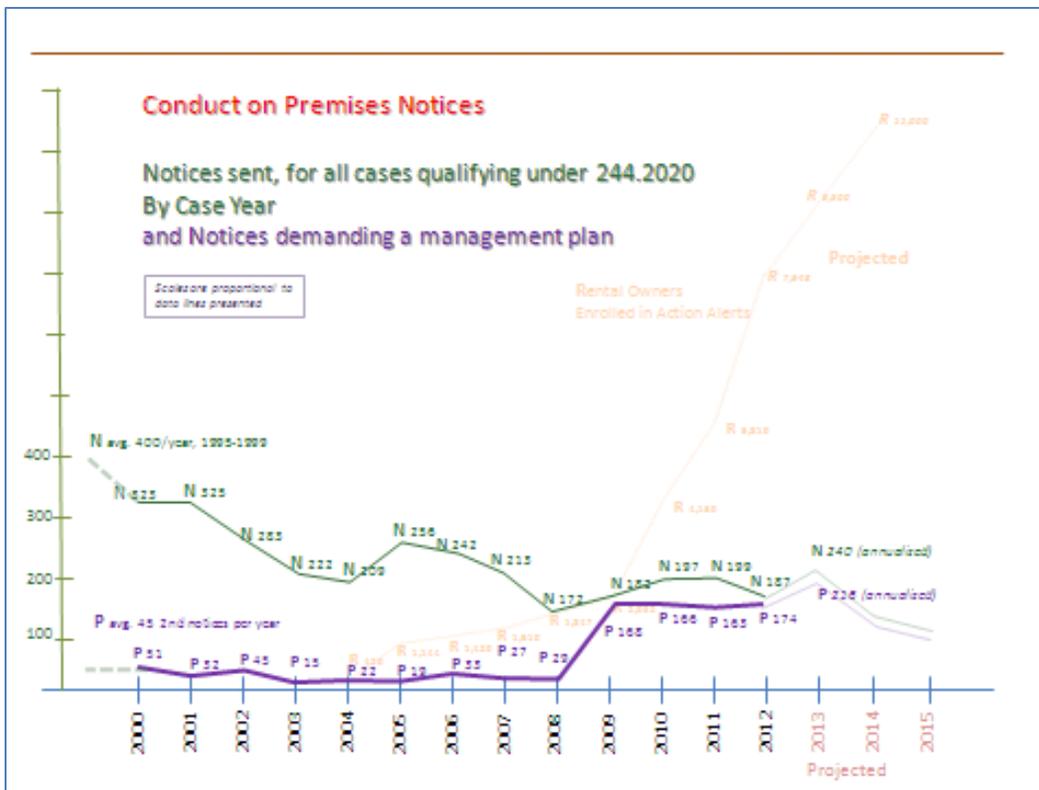
In terms of Conduct on Premises Notices – over the past 10 years -- while there has been a slight drop in first Conduct Letters from 283 notices sent in 2002 to 187 sent in 2012, the actual percentage of

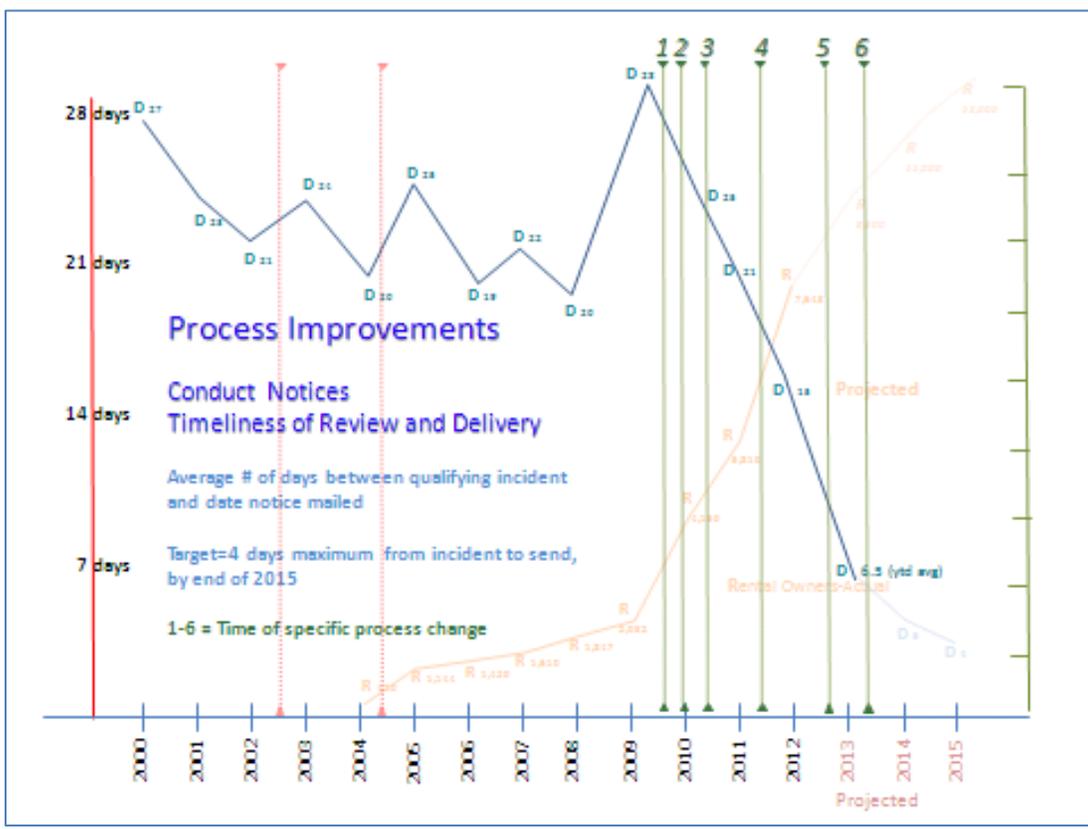
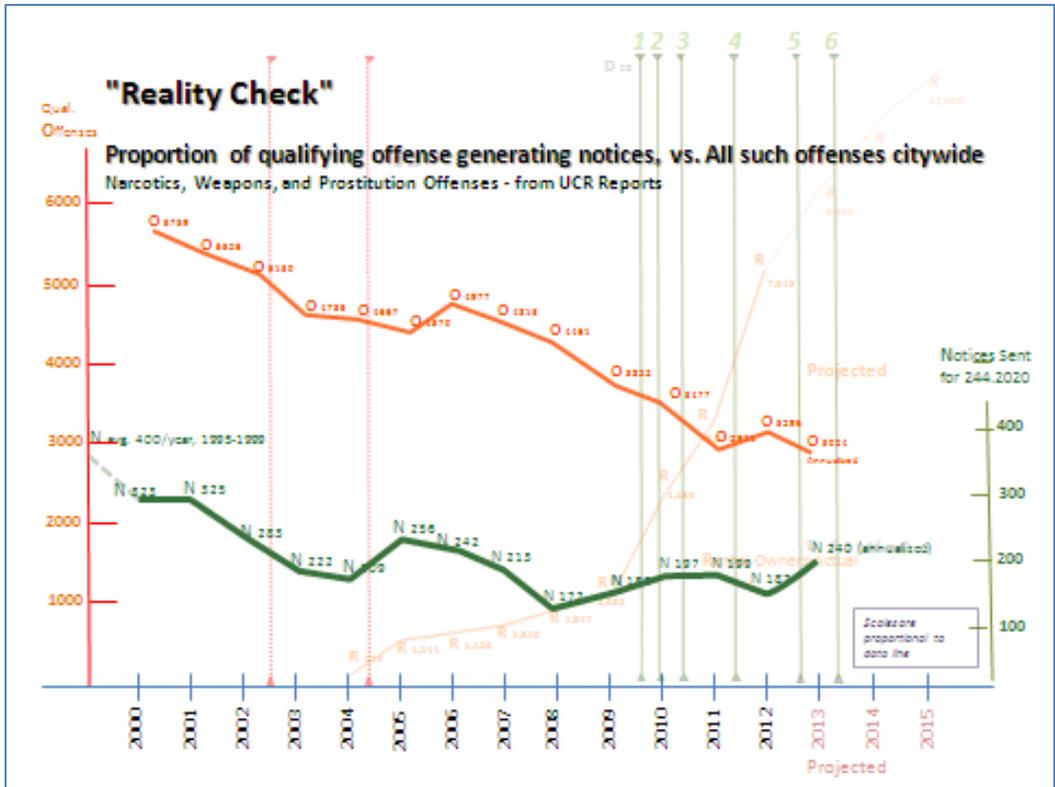
management plans required per notice has increased. In 2000 5 % of eligible violations required a management plan and in 2012 over 70% percent of eligible violations required a management plan.

This drop in Conduct Notices may be due to several factors including:

- Qualifying events have declined, for example, reports of narcotics, prostitution, and weapons offenses in the City have declined by more than 35% since 2000.
- There has been a drop in population in areas where crime has been highest; for example in some areas of the 4<sup>th</sup> precinct, the population has decreased significantly since 2000.
- There has been a dramatic increase in rental owners who receive information on crime at their properties in the form of action alerts. This has increased from slightly more than 1,800 in 2008 to nearly 8,000 owners on this list in 2013. This accounts for nearly 70 percent of all property owners in the city.
- There has also been a fairly significant increase in block club organization from around 1000 in 2006 to over 2000 in 2012
- Finally, changes in the narcotics trade from residentially based operations to street trade that is not necessarily associated with a property ( where criminals are avoiding use of their properties for illegal activities) has made it more difficult to tie an actual validated crime to a specific address.

Other factors influencing a reduction in Conduct Notices may be related to internal resource shifts in the Police Department including a reduction of 11 SAFE officers and 11 CPS's in 2003, and the return of SAFE Officers to Patrol in 2004.





## Other Indicators of Success

- 1) The number of 2<sup>nd</sup> notices in proportion to 1<sup>st</sup> letters has been decreasing – indicating that the first letters are creating adequate change.
- 2) There has been a reduction in owners with multiple flagged properties simultaneously.
- 3) There has been a reduction in 911 calls and CAPRS reports to properties given notice.
- 4) There has been an increase in the percentage of qualifying cases “captured” and notice sent.
- 5) The attendance by rental owners at our workshops has quadrupled.

## BEST PRACTICES

To further our understanding and analysis, staff conducted a best practices search. A survey was sent to MN Cities as well as 15 cities around the country that have a similar size and housing character. The questions asked centered around 3 areas:

- 1) Use of Conduct or conduct type language in ordinance – this included inclusion of crime free lease addendums
- 2) Education and outreach programs for rental property owners
- 3) Fees for excessive service

The team also interviewed staff from three Minnesota municipalities, St. Paul and Robbinsdale and Duluth who have excessive consumption provisions in ordinance.

### *Highlights and Observations*

Minneapolis continues to be a leader in its consistency and approach to working with Rental Property owners in educational outreach, ordinance compliance and enforcement using the State Nuisance Statute.

However, we did find some items that were unique and worth exploration. Most interesting findings in MN included the fact that:

- Several cities use a version of the Conduct on Premises ordinance and at least three cities (Robbinsdale, St. Louis Park and Brooklyn Park) require eviction of tenants after the 3<sup>rd</sup> Violation of the ordinance.
- At least three cities (St. Louis Park, Robbinsdale and Rochester) have mandated crime free lease addendums as a requirement of owning rental property
- Multiple cities also have mandatory classes for all rental property owners.

- Duluth, Robbinsdale and St. Paul have ordinances that outline financial penalties for excessive consumption of police services. In talking to these cities, we found that Robbinsdale and Duluth have small programs and St. Paul has found the due process and notice requirements of the ordinance eliminate the justification for imposing financial penalties.
- Duluth requires that owners conduct a background check on all tenants and if it is discovered that this was false, it is grounds for revocation.

## **REVIEW OF TOOLS**

### **Crime Free Lease**

Crime free leases provide one of the most useful tools in the tool kit of an owner. The Drug Free/Crime Free Lease Addendum was developed by HUD for Public Housing in 1992. It is a nationwide program designed to help tenants, owners, and the managers of rental property keep drugs and other illegal activity off their property. Public Housing and federally subsidized housing programs require the use of the addendum. Private owners adopted it or added the language contained in it to their leases after the US Supreme Court upheld the use and language of the addendum in 2002. The Supreme Court held that tenants can be evicted for crime/drug related activity conducted by themselves, any member of the tenant's household, or any guest or other person under the tenant's control.

Owner feedback indicates that the Addendum is a useful tool that is rarely used, but where the Drug Free/Crime Free Lease Addendum has been implemented, it has shown a reduction of crime. Other benefits enjoyed by landlords using the addendum are lower maintenance and repair costs, improved personal safety for tenants, landlords, and managers, a stable, more satisfied tenant base, and increased demand for rental units with a reputation for active management. The addendum is used in 44 states, 5 Canadian provinces, and over 2,000 U.S. cities require its use by their licensed rental owners; Minneapolis does not.

Currently, the MPD/City requires the Drug Free/Crime Free Lease Addendum use in an acceptable management plan only for those owners on notice for the serious crimes involving narcotics, prostitution, and weapons offenses occurring on their property. The vast majority of those properties on notice and utilizing the addendum have no significant incidents after the first one. The owners feel the language in the addendum presents the seriousness of crime/narcotics and their negative impact for the resident and on the rest of the community. At the MPD's Rental Property Owners Workshops, patterned after Crime-Free Multi-housing Program training nationwide, our presenting owners urge owners to adopt the addendum if they do not use it already. Most owners on notice already use it and agree to continue to use it, those that don't, agree to add it.

It appears for those that continue to use or begin to use the Drug Free/Crime Free Lease Addendum, it fills a gap in their management practices. Legal aid from several states recommend it for property owners by making all criminal activity a violation of the lease and that a conviction is not necessary to evict.

Based on informal surveys of owners working with the Police Department in a cooperative arrangement, they indicated that having this on their lease provides security for both the landlord and the tenant and sets the tone and ground rules for community living. According to the Industry, many landlords use a crime free lease addendum as a matter of course and it is strongly recommended during the Rental Property Owners workshops.

### **Management Plans**

The Management Plan is the primary tool used by the MPD to hold owners accountable for tenant and guest behavior and to ensure that repeat offenses do not occur at the same property. The Police Department has streamlined this product significantly in the past few years making it easier, more consistent and more reliable.

The current management plan was compiled using samples of quality plans and questionnaires looking for input into what are the most useful features of a management plan. Owners who are required to submit plans are emailed a template that they can use. The form is also distributed to owners attending the MPD's RPO Workshops. When an owner submits the form with their plan details, the Crime Prevention Analyst responds ASAP with responses illustrating better choices for plan policies for those points which are inadequate. All of these choices are taken from the workshop points presented as essential to a successful plan by veteran owners with 20+ years of experience with hundreds of units and a wide variety of properties under management.

### **Fee for Excessive Service**

The group spent a very brief period of time reviewing MN Cities that use or have an excessive consumption law. St. Paul and Duluth are the two cities in MN that have an excessive consumption ordinance. In St. Paul, according to staff, they rarely ever get to the point of charging for service and have found that the issues resolve themselves before the third qualifying notice.

Duluth has had the same experience and found an inconsistency in application of the ordinance and a limited ability to quantify the instances that qualify and the notice requirements make it difficult to enforce.

Robbinsdale was the one city staff could identify that used the tool consistently and uniformly. Robbinsdale has one dedicated police officer who monitors a total of 688 rental properties. Unpaid excessive use fees are collected through property taxes.

### **Contract with City Approved Management Company**

Currently a management company requirement is not part of accepted plans, but use of a screening company is. It would be simple to require the hiring of management company, though ordinance mandates would more likely leverage this kind of response. Also, owners of few or only one single-family homes may not be able to afford it. It could be included if the CPS and Regulatory Services believes it would be an effective tool.

## **IMPROVEMENT OPPORTUNITIES – GAPS**

In reviewing the data and procedures, we did identify places where closer scrutiny and additional improvements are needed. These gaps include:

### **Information Exchange**

- 1) Data sharing with Regulatory Services and Hennepin County. Information about Conduct letters is maintained on a police database and not attached to rental license information or county attorney records.
- 2) There is not a direct link between requirement for a management plan based on Conduct and the new “conditions” amendment recently passed. Exploration of how to integrate these two aspects of the Rental Licensing Ordinance is needed.

### **Use of Disorderly Conduct Section**

- 3) Moderate success at verifying and using the “7th” category of offenses, general disorderly conduct. This is a source of a great number of complaints by neighbors of problem properties and is the most difficult to identify and validate.

Issues with enforcing the “Disorderly provision”:

- a) Low level nuisance calls such as fights, gatherings, disturbances do not routinely result in a verifiable police incident or a police report. The result of calls are frequently – gone on arrival or All Ok. In other instances, because the participants do not want to press charges making it more complicated to validate the call.

- b) 911 documentation of information can impede validation of calls. We require two validated callers, the first caller is the one whose name and phone number appears, but if there are multiple callers, when it is noted, the extra callers' names and phone numbers are not recorded. Another problem occurs when the initial caller cancels the squad if the behavior has subsided, making the call moot.
- c) The behavior must be on the property or the police must witness leaving or going to the property in order for the violation to be valid and eligible for a conduct notice. Many of the disorderly type calls tend to happen in the vague public-private space of the front sidewalk or alley/driveway, and without the participants ID'd, making it difficult to tie the behavior to the address.

### **Management Plans**

- 4) Only three of the seven categories of offenses require a management plan on first notice. As indicated earlier in this report, Management Plans are an extremely useful tool to hold owners accountable and use as a basis for revocation action if appropriate.
- 5) About a quarter of the management plans are submitted late or not at all. Resources and systems are not in place to catch this and there is not an intermediate penalty available if the owner fails to supply the required management plan.

### **Education and Rental Property Owners**

- 6) Owners are not required to attend a Rental Property Owner workshop on the first notice, where information on tenant screening, crime free lease addendums and other mechanisms are promoted as tools to decrease or avoid criminal behavior at the property.
- 7) New rental property owners, who are often the most vulnerable and under-educated when it comes to rental property ownership are not aware of their opportunity to participate in the Rental Property Owner workshops – and could really benefit from the materials covered.

### **Noisy Assembly**

- 8) There is an inconsistent use of the Noisy Assembly Ordinance, that can be used in conjunction with the Conduct on Premises or Nuisance Statute to gain greater compliance and reduce problem behavior.

## RECOMMENDATIONS

After reviewing processes, the ordinance itself and gaps, the group identified the following recommendations for improvement:

### Possible Ordinance Amendments

#### Disorderly Conduct

1. Amend Conduct on licensed premises subsection 7: Reduce the threshold defined for disorderly offenses to trigger a COP notices, from two verified callers per incident, to one verified for two separate incidents within a defined period of time.

#### Management Plans

2. Include a \$500 fine to owners who do not submit the required Management Plan before the ordinance-mandated 10 day deadline and additional fines for owners who fail to implement provisions of an approved management plan.
3. Require a Management Plan after the first COP letter issuance, for all seven basic offense categories (gambling, prostitution, controlled substances, alcohol, noisy assemblies, weapons and disorderly conduct).
4. Require a Management Plan as a condition of a rental license reinstatement application.

#### Education and Outreach

5. Require owners with no rental license history to attend Rental License workshops conducted by the Police Department. Workshop fees are waived, if owners sign up for police email alerts.
6. Require Rental License owners to attend the Rental License workshop after the issuance of the first COP letter rather than the second issuance. Currently, only about a dozen owners are required each year. The change would increase the workshop participation to over 200 owners per year.

#### Consistency with and Link to other provisions of the RLIC Ordinance

7. Increase the period from 18 to 24 months, for 1-6 unit buildings, that rental revocation actions can be taken after the second COP letter is issued. The 24 month period would be consistent with Housing Inspection unpaid administrative assessments/contractor abatements that are subjected to rental license revocations.

8. Explore feasibility of linking Notice for Conduct as a possible trigger for conditions on a Rental License.

### **Possible Changes to Process/Procedures and Coordination**

1. Develop additional procedures and training for Police Officers at the scene of a 911 call to provide additional documentation that a violation of the Disorderly Conduct provision has taken place to increase the validation response and ability to use the Disorderly Conduct section.
2. Attach Management Plans electronically via KIVA. Also include a Management Plan alert in the internal Property Information website.
3. Implement an automated 10 day follow up for management plan submittal and 20-day due date follow-up with owners, who submitted accepted Management Plans, to verify the plan's implementation.
4. Connect rental owners with block leaders where they own property.
5. Increase collaboration with monitoring of Management Plans with the Regulatory Services Problem Properties Unit.
6. Implement new initiative between Police, Problem Properties Unit, Housing Inspections and Hennepin County to identify and synchronize enforcement action based on POLICE HOT SPOT data.
7. Continue to share data with Hennepin County Attorney on cases that qualify for Conduct Letters and implement state Nuisance Statute and Conduct on Premises simultaneously.
8. Coordinate with Regulatory Services on integrating management plans when appropriate into Conditions for adverse rental licensing actions, where appropriate.
9. Increase the use of the Noisy Assembly Ordinance, MCO 389.65, where appropriate.

## CONCLUSION

In general, staff believes that the Rental License Conduct Notice Process works well when given undivided attention and sufficient resources. The recommended changes to the process and the ordinance will undoubtedly improve on the program and assure that crime reduction connected to rental property is sustainable:

The overall response to Conduct Notices by qualifying owners appears to be positive--less crime, little recurrence of the qualifying crime or other nuisance activities.

Recommended ordinance changes should help further reduce crime at problem properties; the challenge will be to do this while increasing the trust level we have built with responsible owners whose properties may be flagged due to these changes.

Additional coordination between Housing, Police and the Problem Properties unit will ensure a more sufficient synchronization of our efforts internally (e.g., CP Analyst and PPU) and externally (MPD and Hennepin County Attorney). Finally by working together and sharing data more efficiently about properties that receive management plans and a new process with the Hennepin County Attorneys we will continue to make progress and create safe and vibrant neighborhoods.

## Attachment A – Conduct Ordinance

### 244.2020. - Conduct on licensed premises.

(a) It shall be the responsibility of the licensee to take appropriate action, with the assistance of crime prevention specialists or other assigned personnel of the Minneapolis Police Department, following conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of any of the following statutes or ordinances, to prevent further violations.

- (1) Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling;
- (2) Minnesota Statutes, Section 609.321 through 609.324, which prohibits prostitution and acts relating thereto;
- (3) Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances;
- (4) Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;
- (5) [Section 389.65](#) of this Code, which prohibits noisy assemblies;
- (6) Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, and [section 393.40](#), [393.50](#), [393.70](#), [393.80](#), [393.90](#) and [393.150](#) of this Code, which prohibit the unlawful possession, transportation, sale or use of a weapon; or
- (7) Minnesota Statutes, Section 609.72, and Section 385.90 of this Code, which prohibit disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least two (2) units on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation.

(b) The police department and the inspections division shall be jointly responsible for enforcement and administration of [section 244.2020](#)

(c)

Upon determination by a crime prevention specialist, or other assigned police department employee, utilizing established procedures, that a licensed premises was used in a disorderly manner, as described in subsection (a), the responsible crime prevention specialist or other assigned police department employee shall notify the licensee by mail of the violation and direct the licensee to take appropriate action with the assistance of the Minneapolis Police Department to prevent further violations. If the instance of disorderly use of the licensed premises involved conduct specified in paragraphs (a)(2), (a)(3) or (a)(6) of this section the licensee shall submit a satisfactory written management plan to the police department within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall comply with the requirements established in paragraph (d) of this section. The licensee shall implement all provisions of the written management plan within twenty (20) days after acceptance of the management plan by the crime prevention specialist or other assigned police department employee. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform the licensee that failure to submit a written management plan or failure to implement all provisions of the management plan within twenty (20) days after its acceptance may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license. The established procedures manual is available to the public from the Minneapolis Police Department.

(d)

If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) distinct and separate residential units, of an incident for which a notice in subsection (c) was given, the crime prevention specialist or other assigned police department employee shall notify the licensee by mail of the violation. The licensee shall submit a satisfactory written management plan to the police department within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding twelve (12) months. The written management plan shall also detail all actions taken and proposed to be taken by the licensee to prevent further disorderly use of the premises. The licensee shall implement all provisions of the written management plan within twenty (20) days after acceptance of the management plan by the crime prevention specialist or other assigned police department employee. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform the licensee that failure to submit a written management plan or failure to implement all provisions of the management plan within twenty (20) days after its acceptance may result in

the city council taking action to deny, refuse to renew, revoke, or suspend the license. The licensee or the listed agent/contact person for the licensee shall also successfully complete a property owner's workshop at the direction of and in accordance with a schedule set forth by the police department. Any costs associated with that workshop will be the sole responsibility of the licensee. The notice provided to the licensee of the violation shall inform the licensee of the requirement of the licensee or the listed agent/contact person for the licensee of the requirement to successfully complete a property owner's workshop. That notice shall further inform the licensee that failure to successfully complete the property owner's workshop may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license.

(e)

When required by paragraph (d), the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed if the licensee fails to submit a written management plan that satisfies the requirements set forth in paragraph (d), or if the licensee fails to timely implement all provisions of an accepted written management plan, or if the licensee or the listed agent/contact person for the licensee fails to successfully complete a property owner's workshop after a minimum of two (2) approved workshops have been scheduled, offered and held. An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the director of inspections in the manner described in [section 244.1940](#), and shall proceed according to the procedures established in sections [244.1950](#), [244.1960](#), and [244.1970](#)

(f)

If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) distinct and separate residential units, after the second of any two (2) previous instances of disorderly use for which notices were sent to the licensee pursuant to this section, the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed. An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the director of inspections in the manner described in [section 244.1940](#), and shall proceed according to the procedures established in sections [244.1950](#), [244.1960](#), and [244.1970](#)

(g)

No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days after a notice is given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or his/her guests. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. A notice

to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the crime prevention specialist or other assigned police department employee within ten (10) days of receipt of the violation notice. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued by the director of inspections at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly use.

(h)

A determination that the licensed premises have been used in a disorderly manner as described in subsection (a) shall be made upon substantial evidence to support such a determination. It shall not be necessary that criminal charges be brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section. (90-Or-235, § 6, 9-14-90; 91-Or-071, § 1, 4-26-91; 92-Or-019, §§ 1, 2, 2-21-92; 95-Or-097, § 5, 6-30-95; Ord. No. 98-Or-142, § 1, 12-4-98; 99-Or-163, § 13, 12-17-99; 2004-Or-112, § 2, 10-8-04; 2005-Or-142, § 1, 12-23-05; 2008-Or-090, § 1, 11-21-08)

# Quick Guide to Rental License Conduct on Premises

- I. **Disorderly use which may result in the termination of a rental license**
  - A. Gambling
  - B. **Prostitution**
  - C. **Unlawful sale or possession of controlled substances**
    - 1. **A controlled purchase of a substance which tests positive for narcotics.**
    - 2. **Contraband seized pursuant to a search warrant, and/or an arrest.**
  - D. Unlawful sale of alcoholic beverages
  - E. Noisy assemblies (Parties)
    - 1. Three verified noisy assemblies within the last 12 months, the third one documented.
    - 2. Noisy assemblies must occur between the hours of 10:00 p.m. and 6:00 a.m.
    - 3. Documentation includes number of people in attendance, activity of people, location of disturbances on the premises, description of volume and type of noise.
    - 4. Items which may be used are witness/complainant statements, neighborhood impact statements, and any police action (arrests/citations).
  - F. **Unlawful possession, transportation, sale or use of a weapon**
    - 1. **A decision must be based on firm evidence of a weapons violation.**
  - G. Disorderly Conduct
    - 1. There must be three verified disorderly conducts within the last 12 months, with the third one documented.
    - 2. Documentation includes number of people in attendance, activity of people, location of disturbances on the premises, description of volume and type of noise.
    - 3. Items which may be used are witness/complainant statements, neighborhood impact statements, and any police action (arrests/citations).
- II. **Rental licensing procedure**
  - A. First Qualifying Incident - CCP/SAFE notifies licensee/s by certified mail of the violation and directs them to take the appropriate action. For narcotics, prostitution, and weapons offenses, the owner must submit a management plan to CCP/SAFE within 10 days. CCP/SAFE offers to assist and provides information to the licensee. County Attorney is able to assist landlords with eviction proceedings.
  - B. Second Qualifying Incident - If a second incident occurs within 12 months of the first incident, a second notice will be sent and the licensee is required to submit a management plan to CCP/SAFE within 10 days, and attend a workshop presented by the MPD.
  - C. Third Qualifying Incident - If a third incident of disorderly use occurs within 12 months of the previous two incidents the following occurs:
    - 1. The three incidents are reviewed by CCP/SAFE, the City Attorney's office and the Inspections Division to insure that they meet the criteria for the license revocation.
    - 2. If incidents meet the criteria, notice of recommendation to revoke the license is sent to the owner.
    - 3. The owner has 15 days to file an appeal.
    - 4. If the owner appeals the license action, a rental licensing hearing will be set.
    - 5. The rental licensing board will forward their recommendations City Council.
    - 6. Vote by the City Council to revoke the license.
    - 7. Revocation signed by Mayor.

For buildings with 6 or less units, 12 month periods referred to above are extended to 18 months.

**III. Documentation used for revocation**

- A. Police Reports for arrests and/or search warrants executed at premises
- B. Citizen complaints
- C. CODEFOR listing of 911 calls regarding illegal activity
- D. Photographs or video-tapes of drug traffic and sales
- E. Any other pertinent documentation or information that a tenant or guest used the premises in a disorderly manner

**Rental licensing conduct on premises deals with public nuisance offenses. In order for the nuisance to qualify, neighborhood residents must be negatively impacted. This process depends on residents to call in to voice their concerns to resolve the issues.**

## CRIME FREE LEASE ADDENDUM

In consideration of the execution or renewal of the lease of the dwelling unit identified in the attached lease, Property Owner/Manager and Resident agree as follows:

1. Resident, any members of the resident's household, a guest or other person under the resident's control, shall not engage in criminal activity, including drug-related criminal activity, on or near the said premises. "Drug-related criminal activity" means the **illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use of a controlled substance** (as defined in Section 102 of the Controlled Substance Act [21 U.S.C. 802]).
2. Resident(s), any member of the resident's household, a guest or other person under the resident's control, shall not engage in **any act intended to facilitate criminal activity**, including drug-related criminal activity, on or near the said premises.
3. Resident or members of the household **will not permit the dwelling unit to be used for, or to facilitate criminal activity**, including drug-related criminal activity regardless of whether the individual engaging in such activity is a member of the household, or a guest.
4. Resident, any member of the resident's household, a guest, or another person under the resident's control, shall not engage in the **unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance** at any location, whether on or near the dwelling unit or otherwise.
5. Resident, any member of the residents' household, a guest or another person under the resident's control, shall not engage in any criminal activity, including **prostitution, criminal street gang activity, threatening, intimidating, or assaultive behavior** including but not limited to the **unlawful discharge of firearms**, on or near the dwelling unit premises, or any breach of the lease agreement that otherwise jeopardizes the health, safety, and welfare of the landlord, his agent or other residents and/or involving imminent or actual serious property damage.
6. VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF TENANCY.
7. In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of this addendum shall govern.
8. This lease addendum is incorporated into the lease executed or renewed this day between Property Owner/Manager and Resident(s).

It is understood and agreed that a single violation shall be good cause for termination of this lease. Unless otherwise provided by law, proof of violation shall not require criminal conviction, but shall be by the preponderance of the evidence.

\_\_\_\_\_  
Management Signature

\_\_\_\_\_  
Resident Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Minnesota Crime Free Multi-Housing program

## **Nuisance Ordinance vs. Nuisance Statute**

The following is a comparison of the nuisance ordinance (M.C.O. 244.2020) and the nuisance statute (Minn. Stat. 617.80-89):

### **ORDINANCE**

**Application:** Applies only to rental property, and only to property with either a license; a provisional license, or an application submitted for a rental license. Tenant or guest must cause nuisance.

**Triggering events:** Noisy party, 3 incidents in 12 months (unless diligently previously noticed tenant to vacate). Prostitution, drugs, weapons (in accordance with Minneapolis Statute 244.2020), illegal liquor, gambling; a single incident may trigger.

**How initiated:** The MPD's Crime Prevention Staff documents incident, sends letter to owner informing owner of incident.

**Consequences:** Administrative action to revoke license for 1 year. Recommendation is made by Inspections to Regulatory Services, Energy, and Environment Committee. Owner has 15 days to appeal to the Rental Dwelling Board of Appeals. If no appeal, or if lose appeal, recommendation goes to Council for action.

### **STATUTE**

**Application:** Applies to all property. Also applies to "nuisance" persons. Tenant or guest need not commit nuisance, but such nuisance must have a nexus to the building.

**Triggering events:** Prostitution, disorderly house, drugs, weapons (in accordance with Minneapolis Statute 244.2020), illegal liquor, gambling. Need proof of 2 or more separate behavioral incidents committed within the building within the previous 12 months.

**How initiated:** Often comes to prosecuting attorney's attention through Crime Prevention staff, other units of the Police Department, or community. Prosecuting attorney (attorney general, county attorney, or city attorney) sends owner notice of nuisance letter. After attempts at voluntary abatement fail, prosecuting attorney seeks injunctive relief through the courts.

**Consequences:** Prosecuting attorney may file a complaint in district court that could result in enjoining the use of the building for any purpose 1 year. Prosecuting attorney may also pursue unlawful detainer actions against tenants.