City Nuisance Ordinance

vs.

State Nuisance Statute

	ORDINANCE	STATUTE
CITATION	M.C.O. § 244.2020. Conduct on licensed premises.	Minn. Stat. §§ 617.80 to 617.87. Public Nuisances.
APPLICATION	Applies solely to rental dwelling property which is licensed or provisionally licensed, or which has an application submitted for a rental license.	Applies widely to all types of buildings: residential, rental, or commercial.
CAUSED BY	Tenant(s) and/or guest(s).	Not limited to tenants and guests, but the behavioral incident must occur on the property.
TRIGGERS	**For both:** Prostitution, illegal gambling, controlled substances, firearms, illegal sale of alcohol. **Ordinance only:** Noisy parties, disorderly conduct disturbing 2+ other units or households.	**For both:** Prostitution, illegal gambling, controlled substances, firearms, illegal sale of alcohol. **Statute only:** Public nuisances and permitting public nuisances (Minn. Stat. § 609.74. "condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public").
NUMBER OF INCIDENTS	For adverse license action to be taken need 3 incidents – the 2nd and 3rd of which must occur within 18 months for buildings with 6 or fewer units or within 12 months for buildings with more than 6 units year of each previous incident. Adverse license action may not be taken during pendency of diligently pursued eviction proceedings if based on conduct of tenant(s) and/or guest(s).	Two or more incidents within one year period.

INITIATION	CCP / SAFE documents incidents. **1st Qualifying Incident:** Notify licensee by mail ("1st Letter") directing to work with SAFE to take appropriate action. **2nd Qualifying Incident:** "2nd Letter" requiring submission of report of actions taken and proposed to be taken. **3rd Qualifying Incident:** Refer to Inspections to pursue adverse license action.	Referred to prosecuting attorney (Attorney General, County or City Attorney) by CCP / SAFE, other police or governmental agency or official, or through the community. Prosecutor serves notice upon defendant (owner, tenant, interested party, etc.) of nuisance giving 30 days to voluntarily abate.
REMEDIES & RELIEF	Administrative action to deny, suspend, not renew, or revoke license may be taken by Inspections Division of Regulatory Services. Licensee has 15 days to appeal proposed adverse license action to the Rental Dwelling Board of Appeals. If appeal is lost or if no appeal, recommendation goes to City Council which may accept or modify. After adverse license action has been taken, a $1,000 reinstatement fee may apply.	If required attempt at voluntary abatement fails, prosecutor may seek injunctive relief and an order of abatement (closing the building for one year) in district court. **If nuisance is based upon acts of tenants, the owner may assign to the prosecutor the right to pursue cancellation of the lease.
LEGAL STANDARD	"… shall be made upon substantial evidence to support such a determination." (Slightly lower burden than customary preponderance of the evidence standard; in effect the board must simply find credible evidence supporting the proposed adverse license action).	Preponderance of the evidence.